

JOSE ORELLANO, PLAINTIFF-APPELLANT, VS. ROMUALDO ALVESTIR, DEFENDANT-APPELLEE.

G.R. No. L-22412. April 29, 1977

Ponente: BARREDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/54b75cbfetc2/>

BARREDO, J.:

Appeal from the order of the Court of First Instance of Manila in Civil Case No. 55129, Jose Orellano vs. Romualdo Alvestir, dated November 18, 1963 dismissing appellant's action of unlawful detainer against appellee upon the ground that there is another action pending between the same parties, Civil Case No. 53664, also in the Court of First Instance of Manila, entitled Romualdo N. Alvestir et al. vs. Jose Orellano et al., as well as the order of December 12, 1963 denying reconsideration of the previous order of dismissal.

Appellee Alvestir is the occupant of a lot partly previously owned by the Roman Catholic Archbishop of Manila, who sold the same to appellant Orellano. Upon consummation of this sale, Orellano wrote letters to Alvestir to formalize his occupancy of the part of appellant's land he was occupying by agreeing to pay corresponding rentals. Alvestir promised to do so, but even after several years had passed, he made no definite arrangement as requested. Apparently tired of waiting for appellee, appellant filed an ejectment suit in the City Court of Manila on June 4, 1963. On August 21, 1963, Alvestir filed his answer with affirmative defenses and a counterclaim as follows:

"And by way of SPECIAL AND AFFIRMATIVE DEFENSES, the defendant alleges:

"A. That defendant hereby incorporates and repleads all the grounds in the Motion to Dismiss dated July 30, 1963, namely:

- (1) That the complaint does not state a cause of action;
- (2) That the plaintiff has no legal capacity to sue; and
- (3) That this Honorable Court has no jurisdiction to hear the case.

"B. That defendant's house has been partly constructed on a piece of land, described as Road Lot No. 34, situated in what is known as the 'HACIENDA NUESTRA SEÑORA DE LOS REMEDIOS' situated along Leveriza Street, District of Malate, Manila, the registered owner of which is The Roman Catholic Archbishop of Manila as per Transfer Certificate of Title No. 48101, issued by the Register of Deeds of Manila, and partly on a piece of land owned by Dr. Enrique Esquivel, Sr., where he has actually been occupying for the last ten years.

"C. That defendant, through his spouse Ernestina E. Alvestir and jointly with other occupants of Road Lot No. 34, wrote on October 26, 1958 a letter-petition to the owner, The Roman Catholic Archbishop of Manila, making known their desire to buy the area on which their respective houses had been constructed, and one day later on October 27, 1958, defendant's spouse who again together with other occupants of said Road Lot No. 34 wrote a letter to the owner's agents and administrators, The Philippine Realty Corporation, to its manager, offering to buy the area on which they built their respective houses, but which letters were never answered or

acted upon, copy of said letters are hereto attached as Annexes 'A' and 'B', which clearly shows that defendant has been longer in possession of the property subject of this action than the plaintiff;

"D. That this case is Sub Judice in view of a pending suit in the Court of First Instance of Manila, Civil Case No. 53664 for partial rescission and conveyance and/or damages, entitled 'Romualdo N. Alvestir and Ernestina E. Alvestir, Plaintiffs, versus The Roman Catholic Archbishop of Manila, The Philippine Realty Corporation, and the Spouses Jose Orellano and Lorenza Aparis--Orellano, Defendants', and that whatever be the decision in Civil Case No. 53664 above will greatly affect this case.

"And By Way of COUNTERCLAIM against the plaintiff, defendant alleges:

"I. That when plaintiff improved his house near defendant's house in October and November, 1962, he not only closed an existing 2-1/2 meters wide passageway between defendant's house and plaintiff's house but also encroached and continues to encroach upon defendant's backyard, tore down the wooden fence, deprived the defendant totally of the use of the said backyard, put-up structures which presenting ugly sight thereof to the public, and placed other obstructions to the damage, prejudice and great discomfort of defendant and his family, and as a result of the plaintiff's acts of encroachment, depredation, obstructions and deprivation of defendant's use of his holdings, defendant and his family has been subjected to ridicule and contempt and for which he now claims for moral damages and injury in an amount to be proven and given at the discretion of this Honorable Court;

"II. That because defendant has to defend his right, he has engaged the services of the undersigned counsel and has obligated himself to pay the amount of P500.00 as and for attorney's fees, and so stands to suffer the said amount, and for which plaintiff should be made liable." (Pp. 11-14, Record on Appeal.)

From an unfavorable decision of the City Court which made no reference at all to the above affirmative defenses and counterclaim, Alvestir appealed to the Court of First Instance of Manila, wherein upon reproduction of Orellano's complaint, he filed a motion to dismiss on two grounds: (1) "That the lower court has no jurisdiction over the subject matter of the instant case for ejectment filed by plaintiff; and (2) That there is a pending action between the same parties involving the same subject matter, namely, the better right of possession."

The trial court sustained the jurisdiction of the City Court and its own, but granted the motion to dismiss on the second ground in an order dated November 18, 1963 as follows:

"Paragraph 5 of the complaint alleges that the defendant failed to keep his 'several promises to voluntarily move out his improvements or pay the rentals due.' These promises legalized the occupancy of the land until the final demand made on the defendant on April 30, 1963 (Cruz v. Hon. Gregorio A. Atencio, SC-G.R. No. L-11276, February 28, 1959). The case cited by the defendant (Oppen vs. Bayer, CA-G. R. No. 483-R, Jan. 28, 1948) is not controlling as the ruling therein made is inconsistent with a decision later rendered by our Supreme Court in the aforesaid case.

"There is, however, merit in defendant's contention that there is a pending action between the same parties involving the same subject matter. Thus in Civil Case No. 53664 pending before Branch VI of this Court, the plaintiff Romualdo N. Alvestir there (defendant here) alleges that among others, the defendant Jose Orellano there (plaintiff here) has encroached upon and continue to encroach upon the land involved in both cases in view of the contract to sell, dated March 4, 1959, questioned in said Civil Case No. 53664. As the last mentioned case was filed ahead of the instant case, it is obvious that the matter here sought to be litigated is already being litigated and can be decided in said case. There is, therefore, no sense in two branches of this Court considering the same dispute as to right of possession of the land involved.

"WHEREFORE, this Court sustains the second ground advanced by the defendant and dismisses the instant case, leaving the matter for decision in Civil Case No. 53664 of Branch VI of this Court.

"Without finding as to costs.

"SO ORDERED." (Pp. 100-101, Rec. on Appeal.)

A motion for reconsideration was filed by appellant on December 4, 1963, and after the appellee had filed his opposition, the trial court denied said motion on December 12, 1963 thus:

"Defendant's motion to dismiss, dated October 21, 1963, taken as a whole, alleges that there is a pending action between the same parties involving the same cause (erroneously referred to as subject matter). There is merit in this contention.

"Thus, in Civil Case No. 53664 filed in Branch VI of this Court, ahead of the filing of the instant illegal detainer case before the Municipal Court of Manila, the cause of action was the purported violation of the alleged superior right of herein defendant Romualdo N. Alvestir to the possession of the 70 square meters of land involved in said Civil Case No. 53664, in view of the provisions of Sec. 5 of Republic Act No. 1162, which it is contended, renders invalid the contract to sell executed by and between the herein plaintiff Jose Orellano and the Catholic Archbishop of Manila; while in the instant case the action for ejectment alleges, as a cause the violation of plaintiff's alleged superior right as against the defendant to the possession of said 70 square meters, premised on the same contract to sell the validity of which is in question in Civil Case No. 53664.

"WHEREFORE, plaintiff's motion for reconsideration, dated December 3, 1963, is hereby denied, and the Order of this Court of November 18, 1963 is hereby reiterated as here clarified.

"SO ORDERED." (Pp. 137-138, Rec. on Appeal.)

In brief, what happened here is this: Before Orellano could file his unlawful detainer case against Alvestir in the city court, the latter had already commenced Civil Case No. 53664 in the Court of First Instance, alleging as cause of action substantially the matters alleged by him in his affirmative defenses in the case before the city court. In other words, in his action in the Court of First Instance, Alvestir claimed the right to continue in possession of the land in dispute for according to his theory, he, being an occupant of said land, long before the sale thereof to Orellano, is entitled to priority over Orellano in purchasing the same from the Archbishop of Manila, pursuant to the provisions of Republic Act 1162 as amended by Republic Act No. 1599 to the effect that: "That no lot or portion thereof actually occupied by a tenant or occupant shall be sold by the landowner to any other person than such tenant or occupant, unless the latter renounces in a public instrument his right under this Act." He prayed for the rescission of the Archbishop's sale to Orellano. As already stated in his answer in the ejectment case, he already pleaded the pendency of this action as an affirmative defense. Later, in the Court of First Instance to where he appealed from the adverse decision of the city court, he made the same matter as a ground for a motion to dismiss, invoking in effect Section 1, par. (d) of Rule 8 of the Rules of Court of 1940, that is, "that there is another action pending between the same parties for the same cause." The trial judge sustained his motion and dismissed the complaint of Orellano.

We hold that His Honor acted correctly. In the final analysis, the real bone of contention between the parties is the right of possession over the land in controversy. In his complaint for ejectment appellant predicates his right to such possession on the sale to him of the said land by the Archbishop. On the other hand, appellee claims that that sale is violative of existing law which grants him, as occupant thereof, a right to priority in the purchase thereof, hence the sale to Orellano should be rescinded. Undoubtedly, as to who between appellant and appellee has the better right of possession depends on whether or not the sale to Orellano may be rescinded for being violative of the legal provisions relied upon by Alvestir.

It must be borne in mind that here the original action in the City Court of Manila was one of unlawful detainer,

not of forcible entry. In the latter kind of action, the only issue is who has prior possession de facto. In unlawful detainer, however, the issue of rightful possession is the one decisive, for in such action, the defendant is the one in actual possession, and the cause of action of the plaintiff is the termination of defendant's right to continue in possession. Of course, it is elementary, in actions of forcible entry, that mere allegation of ownership by defendant in his answer does not deprive the inferior court of jurisdiction, but the moment it appears at the trial that the question of possession is inextricably connected or intertwined with the issue of title or ownership, the inferior court is ousted of jurisdiction to continue the case as one of unlawful detainer only. (3 Moran, Comments on the Rules of Court, p. 308, 1970 ed.) Similarly, when the defendant contends in his answer to a complaint of unlawful detainer that the claim of superior right of possession of the plaintiff is legally baseless or unfounded, the inferior court can continue trying the case only if at the trial, the matter on which such defense is grounded or predicated is one within its jurisdiction; otherwise, it must dismiss the case in order that the defendant's defense may be passed upon by a court of proper jurisdiction. (Cf. *Aquino v. Deal*, 63 Phil. 582.)

In the instant case, outside of the allegations in the answer of Alvestir to the complaint in the city court, there is no indication in the record on appeal as to what happened at the trial. All that We can see is that the city court did not pass on the affirmative defenses of the defendant. Apparently, the city court paid no heed to the defendant's allegation that the issue of better right of possession was already being litigated in the Court of First Instance.

It is Our considered opinion that as held by the trial court, Orellano's claim of better right of possession in his complaint for ejectment is already in issue in Alvestir's action for rescission pending in the Court of First Instance. It does not matter that Orellano is defendant in that case whereas he is plaintiff in the city court, as long as the issues raised in the pleadings by either of the parties require the resolution of the same cause. There is no question here that the same parties are involved in both cases, albeit in Civil Case No. 53664, there are other parties who are not parties in the ejectment suit. (*Alzua vs. Johnson*, 21 Phil. 308; *Juan vs. Go Cotay*, 26 Phil. 328.) The subject matter is possession of the identical land in dispute. And the cause of Alvestir in the Court of First Instance case is the same cause he alleged as affirmative defense in the detainer case. In any event, it is beyond cavil of doubt that until the question of whether or not Alvestir has a right of priority, under the laws invoked by him, over Orellano to purchase the land in dispute is decided, the matter of who between appellant and appellee has the better right of possession over it cannot be determined. We are not in any way suggesting that appellee's action for rescission is clearly meritorious. What is apparent is that it is not on its face groundless. The contention of appellant that Alvestir cannot have any standing in law, even under the provisions of Republic Act 1162, as amended, invoked by him is a matter that We cannot resolve here. It is but proper, therefore, from any point of view, that Civil Case No. 53664 be allowed to follow its course and the ejectment suit be dismissed.

IN VIEW OF ALL THE FOREGOING, the orders appealed from are affirmed, with costs against appellant.

Fernando, (Chairman), Antonio, Aquino, and Martin,* JJ., concur.
Concepcion, Jr., J., did not take part.

* Mr. Justice Ruperto G. Martin was designated to sit in the Second Division.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.