

FORTUNATO BANAYOS, CONSTANTE BANAYOS AND FEDERICO BRINGAS, PETITIONERS, VS. SUSANA REALTY, INC., HONORABLE AMADOR GOMEZ, IN HIS CAPACITY AS JUDGE, COURT OF FIRST INSTANCE OF RIZ...

G.R. No. L-30336. June 30, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

In this petition for Certiorari and Prohibition with Preliminary Injunction, the Court holds that on the basis of the allegations of the complaint in Civil Case No. 7373,[1] the aforesaid case could not be one of forcible entry or unlawful detainer within the exclusive competence of the municipal court, but an accion publiciana which is for the recovery of the right to possess and is a plenary action within the jurisdictional competence of respondent court.

The following facts may be gleaned from the records of this petition: The Susana Realty, Inc. (plaintiff in the court a quo), as the registered owner of two (2) parcels of land situated at Mandaluyong Rizal, covered by Transfer Certificates of Title Nos. 28350 and 28351, sought the recovery of the possession of its properties, thus:

“3. That PLAINTIFF is the registered owner of two (2) parcels of land situated at Mandaluyong, Rizal, and more particularly described as follows:

* * * * *

“4. That DEFENDANTS, without the knowledge, much less the consent of herein PLAINTIFF, by means of strategy and stealth, entered the aforesaid premises, built their respective houses thereon and occupied the said lots for at least three (3) years prior to this date and are still occupying the same up to the present; * * *

“5. That the PLAINTIFF, upon learning of DEFENDANTS' unlawful and illegal occupancy of its above-described lots, immediately, thru letters sent to each and everyone of them demanded that they vacate the respective portions of the lots they are occupying, and remove therefrom any and all structures which they may have built thereon, but defendants have ignored plaintiff's demands and have failed and refused, and still fail and refuse to vacate the premises they are occupying, up to the present;

"6. That the plaintiff intends to utilize these lots in the furtherance of its corporate purposes in order that they may yield a fair income, however, due to the presence of the defendants thereon and their continued refusal to vacate the premises, herein plaintiff has not been able to utilize said lots, to the great damage and prejudice of herein plaintiff;"

The plaintiff further alleged that as a result of the illegal occupancy, it has lost income conservatively estimated at about P27,600.00 per annum. Consequently, plaintiff prayed for judgment ordering defendants (petitioners) to (1) vacate the premises and remove therefrom whatever structures they may have built thereon, and, if they refuse to do so, ordering the Provincial Sheriff of Rizal to forcibly eject them and demolish the aforesaid structures, at the

expense of petitioners; (2) pay damages to respondent corporation in the amount of P0.50 per month per square meter of the respective portions occupied by them, from the date of the filing of the complaint to the date the land is completely vacated; and (3) pay the costs of suit.

For filing their answer with counterclaim several years out of time, petitioners were declared in default. Their answer with counterclaim was stricken from the records on January 19, 1968. Respondent corporation was ordered to present its evidence against the defendants.

On July 9, 1968, respondent court rendered judgment ordering defendants (petitioners) to vacate the premises and remove whatever improvements they may have constructed thereon, and to pay back rentals from October 1, 1959 to June 30, 1968, within a period of thirty (30) days from the date of receipt of a copy of the decision. On August 14, 1968, petitioners filed an urgent ex parte motion for extension of time to appeal. On August 21, 1968, petitioners filed their notice of appeal, appeal bond and record on appeal. A motion to fix supersedeas bond was also filed by petitioners, respondent corporation having, on August 1, 1968, filed an ex parte motion for execution of the judgment on the ground that said judgment is immediately executory under Section 8, Rule 70 of the Rules of Court, and the said motion having been granted by respondent court on August 13, 1968. On August 23, 1968, petitioners' motion for extension of time to appeal was denied. On September 5, 1968, respondent corporation filed a motion to dismiss petitioners' appeal, but said motion is still presently unresolved. On September 4, 1968, the writ of execution prayed for was issued commanding the Provincial Sheriff of Rizal to eject the petitioners from the premises and to remove therefrom the improvements they have introduced therein and to levy execution upon their properties to satisfy the judgment for the back rentals. Petitioners filed a motion for reconsideration, dated August 27, 1968, alleging that the order of August 13, 1968, granting the motion for immediate execution "modifies, amends and alters the decision of July 9, 1968 which ordered expressly that the same was executory only 30 days after receipt of copy thereof." On September 14, 1968, respondent court issued an order staying the execution of the decision until after the pending incidents in the case shall have been resolved.

A Motion to Set Aside Judgment and/or to Dismiss, dated September 24, 1968, was likewise filed by petitioners, on the ground that, the case being one for ejectment, respondent corporation committed a fatal error in not alleging physical possession of the premises prior to the occupation thereof by petitioners by means of stealth, and, furthermore, again considering that this is an ejectment case, respondent Court of First Instance had no jurisdiction over the same. An Opposition thereto was filed by respondent corporation on October 1, 1968. On the same date, a motion for demolition was filed by the respondent corporation but the resolution thereof was deferred by respondent court. Petitioners' motion of September 24, 1968 was denied by respondent court for lack of merit on March 11, 1969.

In the instant petition, it is alleged:

"38. That while it is true that whenever the allegations of a complaint fail to plead a complete case of forcible entry and detainer, the same is under the jurisdiction of the Court of First Instance (Tenorio vs. Gomba, 81 Phil. 54), such ruling is not controlling in this case because the complaint at bar alleges 'stealth and strategy' as the causes of dispossession but said complaint does not contain any specific allegation as to when was the precise date the demand to vacate was made. * * *[2]

and that "the allegations in the complaint to the effect that the defendants, thru strategy and stealth, occupied the premises for at least three (3) years before the filing of said complaint did not convert the case into an accion publiciana inasmuch as mere occupation is not illegal per se for the same may be tolerated." [3]

On the strength of the foregoing allegations, petitioners pray that this Court render judgment declaring respondent court to be without jurisdiction over Civil Case No. 7373 and nullifying all the proceedings taken thereunder, and

in the interim to restrain the respondent court and the Provincial Sheriff from enforcing the writ of execution issued therein.

On June 26, 1970, this Court issued a writ of preliminary injunction restraining respondent court from issuing the special order of demolition prayed for.

The issue presented in the case at bar is - whether Civil Case No. 7373 is a forcible entry case, within the jurisdiction of the inferior courts, or an accion publiciana, within the jurisdiction of respondent Court of First Instance.

The general rule is that what determines the jurisdiction of a particular court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.[4]

The complaint in the court below alleges that defendants, by means of stealth and without the knowledge and consent of plaintiff-corporation, took possession of the premises in question, built their houses thereon, and occupied the same for a period of three (3) years prior to the filing of the complaint. It appears that the allegation of stealth was what prompted petitioners to label the action as one for forcible entry and insist that jurisdiction over the same property pertains to the inferior courts. There is, however, no allegation of plaintiff's prior physical possession.

We have consistently held that a complaint for forcible entry, as distinguished from that of unlawful detainer, in order to vest jurisdiction upon the inferior court, must allege plaintiff's prior physical possession of the property, as well as the fact that he was deprived of such possession by any of the means provided in Section 1, Rule 70 of the Rules of Court, namely: force, intimidation, threats, strategy and stealth, "for if the dispossession did not take place by any of these means, the courts of first instance, not the municipal courts, have jurisdiction." [5]

We deem it advisable, at this point, to reiterate the essential differences between three kinds of actions for the recovery of possession of real property, namely: (1) the summary action for forcible entry and unlawful detainer; (2) the accion publiciana; and (3) the accion de reivindicacion.

The action for forcible entry may be brought where dispossession of real property had taken place by any of the means provided for in Section 1 of Rule 70 of the Revised Rules of Court, and in the case of unlawful detainer, where the possession is withheld after the expiration or termination of the right to hold possession, by virtue of any contract express or implied. These two actions must be filed within one (1) year after such unlawful deprivation or withholding of possession with the municipal or city court. These actions in their essence are mere quieting processes by virtue of which a party in possession of land may not be, by force, dispossessed of that land, the law restoring to him such possession in a summary manner, until the right of ownership can be tried in due course of law. They are, therefore, intended to provide an expeditious means of protecting actual possession or right to possession of property. The aforesaid Rule 70 does not, however, cover all of the cases of dispossession of lands. Thus, "whenever the owner is dispossessed by any other means than those mentioned he may maintain his action in the Court of First Instance, and it is not necessary for him to wait until the expiration of twelve months before commencing an action to be repossessed or declared to be owner of the land." [6] Courts of First Instance have jurisdiction over actions to recover possession of real property illegally detained, together with rents due and damages, even though one (1) year has not expired from the beginning of such illegal detention, provided the question of ownership of such property is also involved. In other words, if the party illegally dispossessed desires to raise the question of illegal dispossession as well as that of the ownership over the property, he may commence such action in the Court of First Instance immediately or at any time after such illegal dispossession. If he decides to raise the question of illegal dispossession only, and the action is filed more than one (1) year after such

deprivation or withholding of possession, then the Court of First Instance will have original jurisdiction over the case.[7] The former is an accion de reivindicacion which seeks the recovery of ownership as well as possession, while the latter refers to an accion publiciana, which is the recovery of the right to possess and is a plenary action in an ordinary proceeding in the Court of First Instance.[8]

This case, having been filed more than one (1) year after private respondent's deprivation of possession, is, therefore, actually an accion publiciana.[9]

In connection with the question raised by petitioners on the propriety of the writ of execution issued by respondent court, it appears that there is a pending motion filed by petitioners for the reconsideration of the order granting the same, and that execution had been stayed by respondent court. Inasmuch as the motion is still unresolved, the same cannot be reviewed in this petition for certiorari. Moreover, whether or not petitioners shall be permitted to appeal the decision in Civil Case No. 7373 is still under consideration by respondent court, as there is a pending motion filed by respondent corporation to dismiss appeal for having been filed out of time.

WHEREFORE, the instant petition is hereby dismissed, and the writ of preliminary injunction issued by this Court on June 26, 1970 is hereby dissolved. No special pronouncement as to costs.

Fernando, (Chairman), Barredo, Aquino, and Martin, JJ., concur.

Concepcion, Jr., J., is on leave.

Martin, J., was designated to sit in the Second Division.

[1] Entitled "Susana Realty, Inc. vs. Amado Reyes, et al."

[2] Amended Petition, p. 20.

[3] Ibid., p. 21.

[4] Pasaqui, et al. vs. Villablanca, et al., G.R. No. L-21998, November 10, 1975, 68 SCRA 18.

[5] Pasaqui, et al. vs. Villablanca, et al., supra; Valderama Lumber Manufacturer's Co., Inc. vs. L.S. Sarmiento, 5 SCRA 287; Maddammu vs. Judge of Municipal Court of Manila, 74 Phil. 230.

[6] Gumiran vs. Gumiran, 21 Phil. 174, 179. Cf. Medina, et al. vs. Valdellon, 63 SCRA 278.

[7] Bishop of Cebu vs. Mangaron, 6 Phil. 286; Catholic Church vs. Tarlac and Victoria, 9 Phil. 450; Ledesma vs. Marcos, 9 Phil. 618; Medina, et al. vs. Valdellon, supra.

[8] Sec. 88, Rep. Act No. 296; Rule 70, Rules of Court, Manila Railroad Co. vs. Attorney General, 20 Phil. 523; Lim Cay vs. Del, 55 Phil. 692; Central Azucarera de Tarlac vs. De Leon, 56 Phil. 169; Navarro vs. Aguila, 66 Phil. 604; Luna vs. Carandang, 26 SCRA 306; Medina, et al. vs. Valdellon, supra; Pasaqui, et al. vs. Villablanca, et al., supra.

[9] Secs. 44[b] and 88, Rep. Act No. 296 and Sec. 1, Rule 70, Rules of Court; Buenaventura vs. Phil. Trust Co., 105 Phil. 978; Firmeza vs. David, 92 Phil. 733.

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