

RAOULITO GAYOTIN, PETITIONER, VS. VERMONT ANG, RESPONDENT.

Ponente: BATO, JR., J.

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BATO, JR., J.:

Before this Court is a Petition for Review[1] dated August 4, 2014, filed under Rule 42 of the Rules of Court, assailing the Decision[2] dated February 28, 2014 issued by the Regional Trial Court (RTC) of Quezon City, Branch 224, in R-QZN-13-00789-CV, which affirmed, with modification, the Decision[3] dated December 14, 2012 issued by the Metropolitan Trial Court (MeTC) of Quezon City, Branch 42, in Civil Case No. 40989, ordering petitioner Raoulito Gayotin to vacate the apartment situated at No. 141 Roosevelt Avenue, San Francisco Del Monte, Quezon City, to return the possession thereof to respondent Vermont Ang, and to pay P55,000.00 per month for the continuous use of the subject property.

Also filed with the Court is a Motion for Intervention and To Admit Attached Petition-in-Intervention[4] dated September 15, 2014 filed by Venson R. Ang, Virginia Ang Ting and Venhart R. Ang, the siblings of respondent. The motion alleges that the intervenors are co-heirs of the property subject of the lease and they have legal interest over the property as well as in the outcome of the case.

We shall first resolve the motion for intervention.

After serious consideration of the allegations of the motion for intervention and the applicable rules, the Court resolves to deny the same.

According to Section 1, Rule 19 of the Rules of Court, an intervenor is a person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof. The would-be intervenors in this case have no separate legal interest in the property or in the outcome of the case, for they are co-owners with the respondent. They cannot assert a cause independent or separate from that of the respondent, at least insofar as possession of the subject property is concerned. It must be stressed that the subject matter of the ejectment case is possession, not ownership.[5] So, assuming, for the sake of argument, that the intervenors have a cause of action against the respondent, with respect to the true ownership of the subject property, the same should be ventilated in a separate action.

Another reason for denying the motion for intervention is its late timing. According to Section 2, Rule 19 of the Rules of Court, the motion to intervene may be filed at any time before rendition of judgment by the trial court. It has been held that intervention is allowed "before or during the trial", the term "trial" being used in its restricted sense, that is, the period for the introduction of evidence by both parties.[6] Thus, where the petition for intervention was received after trial and after decision has already been rendered, or after the case is already submitted for decision in the appeal, denial of the petition for intervention was proper.[7]

Going now to the petition for review, a cursory examination thereof shows that it is defective in that it failed to comply with the requirement under Section 2, Rule 42 of the Rules of Court, on submission of copies of pleadings

and other material portions of the record as would support the allegations of the petition. Said Rule provides:

SEC. 2. Form and contents.—The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

x x x (Emphasis supplied)

According to Section 3 of the same Rule, failure to comply with the requirement regarding the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

With respect to the petition for review now under consideration, petitioner failed to submit a copy of his and the respondent's Memoranda of Appeal, his Motion for Reconsideration, his and the respondent's Position Papers, the Complaint and the Answer thereto. Petitioner's failure to attach said pleadings to his petition is fatal because, without them, petitioner has failed to make out a prima facie case. As explained in *Atillo vs. Bombay*:^[8]

The phrase "of the pleadings and other material portions of the record" in Section 2 (d), Rule 42 is followed by the phrase "as would support the allegations of the petition" clearly contemplates the exercise of discretion on the part of the petitioner in the selection of documents that are deemed to be relevant to the petition. However, while it is true that it is petitioner who initially exercises the discretion in selecting the relevant supporting documents that will be appended to the petition, it is the CA that will ultimately determine if the supporting documents are sufficient to even make out a prima facie case. x x x (Emphasis supplied)

Therefore, pursuant to Section 3, Rule 42 of the Rules of Court, the petition for review should be dismissed.

At any rate, even if the Court were to relax the application of Section 2, Rule 43 of the Rules of Court, under Section 6, Rule 6 of the 2009 Internal Rules of the Court of Appeals, "[b]efore requiring comment on, or giving due course to, a petition for review x x x, the Court may dismiss the petition if it finds the same to be patently without merit or prosecuted manifestly for delay or the questions raised therein are too unsubstantial to require consideration."

According to petitioner, the RTC erred:

- A. In not applying RA No. 9653, otherwise known as Rent Control Act of 2009;
- B. In not finding that the respondent/plaintiff lacks the legal personality to institute the ejectment case, without proof of being the legal heir of the leased premises owner Peregrina Dela Rosa Ang;
- C. In granting the Motion for Execution of Judgment Pending Appeal despite the compliance of the requirements to stay the same under appeal;
- C.1 In not finding the Decision of the Lupong Tagapamayapa as the compliance of the agreement under Section 19 of Rule 70, 1997 Civil Rules of Procedures (sic);

D. In not finding that the petitioner was religiously paying his monthly rentals despite clear and preponderant evidence of payments;

E. In not dismissing the suit and awarding the reliefs prayed for by the petitioner.[9]

The foregoing arguments are, on its face, devoid of merit.

First, Republic Act No. 9653, otherwise known as the Rent Control Act of 2009, is inapplicable because, as admitted by the petitioner in his petition for review, the stipulated rental was P45,000.00 a month in January 2002, which was increased to P50,000.00 a month a year later. This is way beyond the coverage of Republic Act No. 9653, Section 5 of which provides:

SECTION 5. Coverage of this Act.—All residential units in the National Capital Region and other highly urbanized cities, the total monthly rent for each of which ranges from One peso (P1.00) to Ten thousand pesos (P10,000.00) and all residential units in all other areas, the total monthly rent for each of which ranges from One peso (P1.00) to Five thousand pesos (P5,000.00) as of the effectivity date of this Act shall be covered, without prejudice to existing contracts. (Emphasis supplied)

Second, petitioner cannot take inconsistent positions with respect to the legal personality of respondent Vermont Ang. On the one hand, he claims that Vermont Ang is unlawfully exercising rights of ownership to the detriment of his siblings—children of the late Peregrina Dela Rosa Ang—and on the other hand, he says that there is no proof that Vermont Ang is a legal heir of the deceased. Under the rule on judicial admissions, a party who judicially admits a fact cannot later challenge that fact as judicial admissions are a waiver of proof and production of evidence is dispensed with.[10]

Thus, respondent being a child and legal heir of the late Peregrina Dela Rosa Ang, he is deemed a co-owner of the subject property, and being a co-owner, respondent may bring an action in ejectment, pursuant to Article 487 of the Civil Code.

Third, petitioner failed to show that the RTC erred in granting the motion for execution of judgment pending appeal. Petitioner is ranting about the requirement of supersedeas bond and the payment of rent due from time to time as provided under Section 19, Rule 70 of the Rules of Court. However, petitioner is bashing at the wrong rule. The decision on appeal is that of the RTC. So, the applicable rule is Section 21, Rule 70 of the Rules of Court which provides:

SEC. 21. Immediate execution on appeal to Court of Appeals or Supreme Court.—The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. (Emphasis supplied)

Clearly, the RTC was correct in ordering the execution pending appeal because it is mandatory and ministerial on its part, pursuant to Section 21, Rule 70 of the Rules of Court.

Lastly, on the issue of the termination of the lease, the petitioner himself admitted that his contract of lease with the late Peregrina Dela Rosa Ang had expired on December 31, 2003 and was renewed verbally on a monthly basis.[11] That being the case, the renewed lease was subject to termination upon demand by the lessor. As held in *Uy Hoo and Sons vs. Court of Appeals*,^[12] cited by the MeTC in its decision, "a month to month lease under Art. 1687 [of the Civil Code] is a lease with a definite period, the expiration of which, upon previous demand to vacate, can justify judicial ejectment.

Therefore, in sum, the Court found no error on the part of the court a quo when it affirmed, with modification as to the amount of the rent, the MeTC's decision ordering the petitioner to vacate the subject property and turn it over to the respondent.

WHEREFORE, premises considered, the Petition for Review dated August 14, 2014 and the Motion for Intervention dated September 15, 2014 are both DENIED outright.

SO ORDERED.

Zalameda, and Diy, JJ., concur.

[1] Rollo, p. 3.

[2] Rollo, p. 27.

[3] Rollo, p. 32-39.

[4] Rollo, p. 68.

[5] Section 18, Rule 70, Rules of Court.

[6] Vigan Electric Light Co. vs. Arciaga, L-29207 &L-29222, July 31, 1974.

[7] Ibid.

[8] G.R. No. 136096, February 7, 2001.

[9] Petition for Review, pp. 5-6; Rollo, pp. 7-8.

[10] Alfelor vs. Halasan, G.R. No. 165987, March 31, 2006.

[11] Petition for Review, p. 3.

[12] G.R. No. 83263, June 14, 1989.

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