

GREGORIO LORENO AND FELISA LAVILLA, PETITIONERS, VS. THE HON. NUMERIANO G. ESTENZO, AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF ILOILO, BRANCH III, ANA GONZALES, SALVAC...*G.R. No. L-43306. October 28, 1976*

Ponente: MARTIN, J.

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This is another petition[1] questioning the actuation of the same respondent Judge[2] for rendering a summary judgment on the pleadings submitted by the parties in the case.

On September 12, 1975, private respondents filed a complaint with the Court of First Instance of Iloilo dated August 29, 1975[3] claiming that their two parcels of land covered by Tax Declaration No. 6304 and Tax Declaration No. 6305 (with .4397 hectares and 1.6969 hectares area, respectively) situated in Lambunao, Iloilo were being unlawfully detained by petitioners-spouses as lessees of the same. According to private respondents sometime in 1961, the petitioners induced private respondent Ana Gonzales to lease the land to them for ten years for a consideration of P3,000.00 of which P1,000.00 was paid by petitioners as advance payment leaving a balance of P2,000.00 which was never paid notwithstanding repeated demands; that petitioners being in possession of the lands in question during the cadastral survey of the lands in Lambunao, Iloilo, and claiming the two lots as theirs filed their answers to the cadastral proceedings. In the cadastral survey the two parcels of land in question turned out to be three (3) lots, (Lot No. 4455, Lambunao Cadastre, for Tax Declaration No. 6304 and Lots Nos. 5525 and 5528, Lambunao Cadastre, for Tax Declaration No. 6305), for which petitioners were able to obtain title in their names. In 1971, private respondents demanded from petitioners the return of the lands in question as well as the payment of the balance of P2,000.00 as consideration for its lease but the latter failed. In view of their failure to return the lands in question private respondents allegedly suffered lost income of P10,000.00 for the last five years, the sum of P2,000.00 yearly income after the year 1976 and attorney's fees in the amount of P2,000.00.

On October 20, 1975, petitioners denied that the lands subject matter of the complaint were leased by them from private respondent Ana Gonzales in 1961. They insisted that the same were sold to them on December 30, 1961 by means of a definite sale as evidenced by Doc. No. 672, Page 46, Book No. IV, Series of 1961 in the Notarial Register of Notary Public Felipe L. Vacante, Justice of the Peace of Lambunao, Iloilo. They admitted that during the cadastral survey in 1963 in Lambunao, Iloilo, they were already in possession of the lands in question not as lessees but as absolute owners thereof. On February 6, 1964, the cadastral court rendered a decision awarding the ownership of the lands in question in favor of the petitioners. Accordingly pursuant to said decision a final decree was issued over said lands and based on said decree Original Certificates of Titles Nos. 0-6000 (covering Lots Nos. 5525, 5528 and 5531) and 0-6003 (covering Lot No. 4455) were issued in their favor on March 23, 1966 and registered in the registration books of Iloilo on April 19, 1966. Petitioners insisted that since the issuance of the final decree upon which the original certificates of titles were issued, more than one year has already elapsed

without the private respondents filing the necessary petition for review; and the decision awarding ownership to petitioners was promulgated on February 6, 1964, or more than ten years before the private respondents filed their action for reconveyance, the action of private respondents had already prescribed. As counterclaim, petitioners demanded that because of private respondents' wrongful act in filing the complaint against them they have suffered P20,000.00 in the concept of moral damages, P3,000.00 for attorney's fees and P1,000.00 incidental expenses.

On December 9, 1975, the trial court set the case for pre-trial for January 7, 1976 (Annex "C" to Petition). At the pre-trial, both parties and their counsel appeared. Petitioners claimed that at the pre-trial, the respondent Judge merely asked the parties to submit their respective affidavits and memoranda as basis of judgment on the pleadings and thereafter set the consideration of said documents on the next scheduled date of pre-trial on January 27, 1976. On the other hand, private respondents claimed that on January 7, 1976, the parties agreed in open court that upon submission of their affidavits and documentary evidences, they would leave the matter to the Court either to set the case for trial on the merits or decide the case on the evidence presented. After the pre-trial on January 7, 1976, the respondent trial court, acting on the joint motion of the parties to make their affidavits and memoranda as well as documentary evidences, submitted as the basis of the judgment of the court on the pleadings, set the motion for hearing on January 27, 1976. On January 26, 1976, private respondents submitted to the trial court their "position papers" with the attached affidavits of private respondents Ana Gonzales and Salvacion Luceño (Annex "D" to Petition). On January 27, 1976, petitioners and counsel attended the hearing with their written pre-trial guide (Annex "E" to Petition) but did not file any documentary evidence nor affidavit.

Based on the position papers of private respondents as well as the pre-trial guide of petitioners and their respective affidavits and memoranda, the respondent Court considered the case submitted for summary judgment or judgment on the pleadings pursuant to Section 3, Rule 20 of the Rules of Court[4] and on January 28, 1976 rendered its decision in favor of private respondents (plaintiffs) and against the petitioners (defendants), the dispositive portion of which reads as follows:

"WHEREFORE, decision is hereby rendered in favor of the plaintiffs:

- (a) ordering the defendants to reconvey the lands in question to the plaintiffs and to return possession thereof to the plaintiffs, hereby ordering the defendants to respect the possession and ownership of the plaintiffs in and to the parcels of land in question;
- (b) ordering the defendants to pay to the plaintiffs the sum of P2,000.00 with legal rate of interest from the time of the filing of the complaint until fully paid;
- (c) ordering the defendants to pay to the plaintiffs the sum of P2,000.00 as the lawful share of the plaintiffs from the produce of the land in question for the last five years and the further sum of P500.00 a year beginning with the year 1976 until the parcels of land shall have been delivered to the plaintiffs;
- (d) ordering the defendants to pay the sum of P1,000.00 as attorney's fees; and
- (e) ordering the defendants to pay the costs.

SO ORDERED."

The main issue in this case is whether or not the respondent Court committed a grave abuse of discretion in rendering a summary judgment based on the position papers of private respondents and the pre-trial guide of petitioners as well as their respective affidavits and memoranda.

There can be no quarrel that under Section 3 of Rule 20 of the Rules of Court "if at the pre-trial the court finds

that facts exist upon which a judgment on the pleadings or a summary judgment may be made, it may render judgment on the pleadings or a summary judgment as justice may require." However, judgment on the pleadings is justified where the answer to a complaint fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading,[5] and a summary judgment, intended to expedite or promptly dispose of cases, could be resorted to where the facts in a case appear to be undisputed and certain from the pleadings, disposition, admission and affidavits.[6] But if there is a doubt as to such facts and there be an issue or issues of fact joined by the parties neither one of the parties can pray for a summary judgment. Where the facts pleaded by the parties are disputed or contested, the proceedings for a summary judgment cannot take the place of a trial.[7] A summary judgment can only be entertained where there are no questions of fact in issue or where the material allegations of the pleadings are not disputed.[8] An examination of the pleadings, documents and affidavits submitted by the parties in Civil Case No. 10330 immediately reveals that there is controversy as to the claim of private respondents that private respondent Ana Gonzales, illiterate and ignorant, was made to believe that the contract she was made to sign in 1961 by petitioners was an agreement of lease involving the two parcels of land in question, when actually it was a deed of sale which she was made to sign by petitioners, thus enabling them to later on register the said two parcels of land and obtain titles to the same in subsequent cadastral proceedings as opposed to the claim of petitioners that they acquired ownership over the properties in question when private respondent Ana Gonzales sold the same to them on December 30, 1961 in a deed of absolute sale. Thus, there are issues of fact pleaded by the parties which are in dispute rendering the case unripe for a decision on the pleadings. The respondent Court should have tried the case on the merits. The bad faith imputed by respondent Court to the petitioners cannot just be pre-sumed. It must have to be proven during the trial. Until such time as the trial on the merits of the case is done, it would be premature on the part of respondent Court to render a summary judgment on the case without hearing the parties on the merits of their respective sides.

WHEREFORE, the decision dated January 28, 1976 (Annex "H" to Petition) and the trial court's order dated February 25, 1976 (Annex "J" to Petition) are hereby reversed and set aside; the record of this case is remanded to the respondent trial court for trial on the merits. Costs against private respondents.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Concepcion, Jr., JJ., concur.

[1] Treated by the Court as special civil action as per its Resolution dated May 19, 1976.

[2] Judge Numeriano G. Estenzo, Presiding Judge of the Court of First Instance of Iloilo, Branch III over Civil Case No. 10330, entitled "Ana Gonzales, Salvacion Luceño, Marina Luceño, Rosela Luceño, Carina Luceño, Esperanza Luceño and Loreto Luceño, plaintiffs versus Gregorio Loreno and Felisa Lavilla (spouses), defendants," dated January 28, 1976.

[3] Docketed as Civil Case No. 10330.

[4] "SECTION 3, Rule 20, Rules of Court. Judgment on the pleadings and summary judgment at pre-trial. - If at the pre-trial the court finds that facts exist upon which a judgment on the pleadings or a summary judgment may be made, it may render judgment on the pleadings or a summary judgment as justice may require."

[5] "SECTION 1. Rule 19, Rules of Court. Judgment on the pleadings. - Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. But in actions for annulment of marriage or for legal separation the material facts alleged in the complaint shall always be proved."

[6] "SECTION 1. Rule 34, Rules of Court. Summary judgment for claimant. - A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits for a summary judgment in his favor upon all or any part thereof."

[7] Singleton vs. Phil. Trust, No. L-7555, 99 Phil. 91.

[8] Ibañez, et al. vs. United Negros Sugar Co., et al., 96 Phil. 980; see also Auman, et al. vs. Estenzo, L-40500, February 27, 1976; Constantino vs. Estenzo, L-40403, July 31, 1974.

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