

NOEL OLASCO, JOINED BY HIS FATHER-IN-LAW RODRIGO PEÑAFLOR, PETITIONERS-APPELLANTS, VS. THE METROPOLITAN TRIAL COURT OF QUEZON CITY, BRANCH 36, REPRESENTED BY THE PRESIDING JUDGE...

Ponente: CRUZ, R.A., J.

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CRUZ, R.A., J.:

THE CASE

This is an ordinary appeal under Rule 41 of the Rules of Court, alleging that the Regional Trial Court of Quezon City, Branch 77 (“RTC”), erred in its Decision dated January 26, 2011[1] for dismissing petitioners' petition for annulment of judgment of the Metropolitan Trial Court of Quezon City, Branch 36, (“MeTC”) Decision dated March 22, 2004[2] which ordered petitioners and all persons claiming a right and interest under them to vacate the subject premises and pay rental and attorney's fees in an unlawful detainer case filed by Private Respondent Perfecto Gutierrez against Petitioners Noel Olasco and Rodrigo Peñaflor.

THE ANTECEDENTS

Perfecto Gutierrez (“Gutierrez”) is the registered owner of a residential lot located at Sampaguita St., U.P. Site, Barangay Pasong Tamo, Quezon City, as evidenced by Transfer Certificate of Title No. RT-10731 (8463)[3] of the Registry of Deeds for Quezon City.

Noel Olasco (“Olasco”) and Rodrigo Peñaflor (Peñaflor), with their families, were occupying the said lot.

In a letter dated May 7, 2003,[4] Gutierrez formally demanded Olasco and Peñaflor to vacate the subject property. Olasco and Peñaflor received the letter on May 27, 2003 but they refused to vacate the premises despite the lapse of the grace period given to them.

Peñaflor brought a complaint for ejectment before the barangay authorities but no amicable settlement was reached between the parties. Thus, a Certificate to File Action dated July 25, 2003 was issued by the Lupon.[5]

Gutierrez filed a Complaint[6] for ejectment against Olasco and Peñaflor which was docketed as Civil Case No. 31603 and raffled to the Metropolitan Trial Court of Quezon City (“MeTC”), Branch 36.

On March 22, 2004,[7] the MeTC decided in favor of Gutierrez, ruling, thus:

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“WHEREFORE, premises considered, this Court hereby renders its judgement by ordering defendants and all persons claiming rights and interest under them to vacate the subject premises situated at Sampaguita Street, U.P. Site, Barangay Pasong Tamo, Quezon City and to peacefully surrender the same to the plaintiff.

Defendants are likewise ordered to pay plaintiff the following amounts:

- 1) the amount of Php1,000.00 per month from the date of demand as a reasonable compensation for the illegal use and occupation of the subject premises until the same is finally vacated;
- 2) the amount of ten thousand (Php10,000.00) as Attorney's fees; and
- 3) the cost of suit.

SO ORDERED.”

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Olasco and Peñaflor appealed the said MeTC Decision by way of a Notice of Appeal[8] which was received on January 5, 2006 and raffled to the Regional Trial Court of Quezon City, Branch 98, (“RTC, Br. 98”). In an Order dated December 28, 2006,[9] RTC, Br. 98 dismissed the appeal because Olasco and Peñaflor failed to file their memorandum as required by Section 7 (b), Rule 40 of the Rules of Court. An Entry of Judgment dated April 26, 2007[10] was issued by the same court.

On October 21, 2008, Olasco and Peñaflor filed a Petition for Annulment of Judgment[11] which was raffled to the RTC of Quezon City, Branch 77 (“RTC, Br. 77”) and docketed as Civil Case No. 08-63650. The petition pertained to the MeTC Decision dated March 22, 2004 which ruled in favor of Gutierrez and ordered Olasco and Peñaflor to vacate the property and pay Gutierrez rent, until they have vacated the property, and attorney's fees.

In its Decision dated January 26, 2011,[12] the RTC, Br. 77, dismissed the Petition for Annulment of Judgment for lack of merit. It held that jurisdiction over the subject matter is conferred by law and that unlawful detainer cases fall within the jurisdiction of the MeTC. The RTC, Br. 77, likewise found that in Olasco and Peñaflor's Answer in the ejectment case, they did not raise the issue of lack of jurisdiction. Moreover, they actively participated in the proceedings before the MeTC.

Dissatisfied, Olasco and Peñaflor filed a Notice of Appeal[13] of the January 26, 2011 RTC Decision on June 1, 2011, raising the following as posers:

THE ASSIGNMENT OF ERRORS

I

WHETHER OR NOT THE REGIONAL TRIAL COURT OF QUEZON CITY COMMITTED AN ERROR IN DISMISSING THE PETITION UPON THE MISPLACED APPLICATION OF THE THEORY THAT (AN) UNLAWFUL DETAINER CASE FALLS WITHIN THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS AND MUNICIPAL TRIAL COURTS SUBSCRIBING TO THE VIEW OF THE RESPONDENT-APPELLEE THAT THE HEREIN PETITIONERS-APPELLANTS ARE STAYING IN THE PLACE BY MERE TOLERANCE WHICH IS NOT SO;

II

WHETHER OR NOT THE REGIONAL TRIAL COURT OF QUEZON CITY COMMITTED AN ERROR IN FAILING TO SPECIFICALLY ADDRESS THE ISSUE OF LACK OF JURISDICTION OF THE MTC (should be, MeTC) WHICH WAS BEING ASSAILED AND RAISED BY THE HEREIN PETITIONERS-APPELLANTS AND IN RELYING UPON THE THEORY THAT EVERY LITIGATION MUST COME TO AN END, DISREGARDING THE FACT THAT A PROCEEDINGS (SIC) UPON A CASE WITHOUT COURTS' JURISDICTION IS NULL AND VOID FROM THE VERY BEGINNING?

Noel Olasco and Rodrigo Peñaflor, as Our petitioners-appellants, allege that tolerance should precede or come

first before the entry of a person is made upon the land. In his case, however tolerance never existed because Gutierrez acknowledged that petitioners-appellants were already in the subject property many years ago.[14]

On the other hand, Perfecto Gutierrez, as the respondent-appellee, asseverate that petitioners-appellants' sole ground for lack of jurisdiction under Rule 47 of the Rules of Court had already been determined and passed upon by the MeTC. No new matters were raised in their appeal.[15]

OUR RULING

We AFFIRM the RTC Decision and DISMISS this appeal.

The main issue is whether the MeTC which tried the ejectment case had jurisdiction over the subject matter of the case. It has.

An unlawful detainer case is under the jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts under Sec. 33 (2) of Batas Pambansa Blg. 129 (Judiciary Reorganization Act of 1980) which provides that:

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“Sec. 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Cities. – Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:

xxx (2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession; and

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We disagree with petitioners-appellants' contention that the respondent-appellee's tolerance of the former's possession of the subject property never existed. From the allegations in the Complaint,[16] it is clear that he tolerated the petitioners-appellants' use of the property until May 2003 when he planned to utilize the subject lot for his own purpose.

Furthermore, petitioners-appellants cannot raise lack of jurisdiction by the MeTC over the subject matter of the claim only after they have received unfavorable ruling from the MeTC notwithstanding their active participation in the proceedings before the said trial court. We affirm the assailed Decision by the RTC, Br. 77, on this matter, to wit:

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“This Court notes that, in their Answer to the Complaint filed in Civil Case No. 36-31603, the herein petition and his co-defendant therein, Rodrigo Peñaflor, did not raise lack of jurisdiction as a defense. In fact, in the prayer of their Answer, they asked:

'WHEREFORE, it is most respectfully prayed of the Honorable Court that judgement (sic) be rendered in favour of the defendant as against the plaintiff, as follows:

- ordering the dismissal of the instant complaint for lack of cause of action;
- ordering plaintiffs to compensate defendants of their counterclaim by way of damages x x x'

Besides, the petitioner and his co-defendant actively participated in the proceedings before the trial court. In fact, they even filed a Notice Of Appeal, notifying the public respondent that they are appealing the decision of the latter, but the appeal was dismissed by the RTC, Branch 98, Quezon City, because the defendants-appellants failed to file their Memorandum as required by Section 7 (b), Rule 40 of the 1997 Rules of Civil Procedure. Petitioner still had the remedy of appealing the Order of dismissal of the RTC, Branch 98, but he failed to do so. Consequently, having failed to avail of the said remedy provided under the rules through his own fault, he should no longer be allowed to avail of the remedy of annulment of judgment.”[17]

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Still, in the landmark case of *Tijam v. Sibonghanoy*,[18] it was held that a party may be barred from raising the question of jurisdiction when it did not do so during the earlier stage, in this manner:

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It has been held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (*Dean vs. Dean*, 136 Or. 694, 86 A.L.R. 79). In the case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or of the parties was not important in such cases because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice cannot be tolerated — obviously for reasons of public policy.

Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court (*Pease vs. Rathbun-Jones etc.* 243 U.S. 273, 61 L. Ed. 715, 37 S. Ct. 283; *St. Louis etc. vs. McBride*, 141 U.S. 127, 35 L. Ed. 659). And in *Littleton vs. Burgess*, 16 Wyo. 58, the Court said that it is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty.

Upon this same principle is what We said in the three cases mentioned in the resolution of the Court of Appeals of May 20, 1963 (*supra*) — to the effect that we frown upon the "undesirable practice" of a party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction, when adverse — as well as in *Pindañgan etc. vs. Dans et al.*, G. R. L-14591, September 26, 1962; *Montelibano et al. vs. Bacolod-Murcia Milling Co., Inc.*, G. R. L-15092; *Young Men Labor Union etc. vs. the Court of Industrial Relations et al.*, G. R. L-20307, Feb. 26, 1965, and *Mejia vs. Lucas*, 100 Phil. p. 277.”[19]

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Quite obviously, petitioners-appellants only filed a petition for annulment of judgment, seeking to set aside the MeTC Decision which ordered them to vacate the subject property and pay rentals and attorney's fees to respondent-appellee, only after they had lost the remedy of ordinary appeal due to their own fault; they failed to file a Memorandum as required by Sec. 7(b), Rule 40 of the Rules of Court, and as a result thereof, their appeal was dismissed. It bears stressing that a petition for annulment of judgment is not a substitute for a lost remedy of appeal.[20] In *Mercado v. Security Bank Corporation*,[21] this principle was explained, viz:

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“The Resolution of the Third Division of this Court dated September 15, 2004 denying Mercado's motion for reconsideration is well explained. A principle almost repeated to satiety is that "an action for annulment of judgment cannot and is noton for relief before an action for annulment can prosper. Its obvious rationale is to prevent the part a substitute for the lost remedy of appeal." A party must have first availed of appeal, a motion

for new trial or a petition from benefiting from his inaction or negligence. Also, the action for annulment of judgment must be based either on (a) extrinsic fraud or (b) lack of jurisdiction or denial of due process. Having failed to avail of the remedies and there being a clear showing that neither of the grounds was present, the petition must be dismissed. Only a disgruntled litigant would find such legal disposition unacceptable.”xxii (Citations omitted.)

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Petitioners-appellants miserably failed to show that the RTC erred in dismissing their petition for annulment of judgment.

WHEREFORE, premises considered, the appeal is DISMISSED. The Decision of the RTC dated January 26, 2011 is AFFIRMED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Abdulwahid, H.S., Chairperson and Barza, R.F., JJ., concur.

[1] Penned by Hon. Vivencio S. Bacug; Rollo, 70-72.

[2] Penned by Hon. Edgardo B. Bellosillo; Records, 22-26.

[3] Records, 134-137.

[4] A copy of this letter is not found in the case records.

[5] Records, 107.

[6] Records, 9-12.

[7] Rollo, 99-103.

[8] The exact date of the Notice of Appeal is unknown because no copy is found in the case records.

[9] Records, 120.

[10] Records, 122.

[11] Records, 2-5.

[12] Supra, at note 1.

[13] Records, 176.

[14] Appellants' Brief (originally entitled as Memorandum for the Petitioners-Appellants) dated November 12, 2011, 8; Rollo, 20.

[15] Appellee's Brief (originally entitled as Memorandum) dated December 2, 2011; Rollo, 33.

[16] Records, 10.

[17] Decision, 2-3; Rollo, 71-72.

[18] G.R. No. L-21450, April 15, 1968.

[19] Ibid.

[20] Mercado v. Security Bank Corporation, G.R. No. 160445, February 16, 2006.

[21] Ibid.

[22] Ibid.

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