

RODULFO N. PELAEZ, PETITIONER, VS. THE HONORABLE LUIS B. REYES, MAMA D. BUSRAN, NESTOR B. ALAMPAY, ALL OF THE COURT OF APPEALS (THIRD DIVISION), AND HONORATO AND VIRGINIA SALAZA...

G.R. No. L-48168. August 31, 1978

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for prohibition to declare the respondent Court of Appeals without jurisdiction to entertain the petition for certiorari, prohibition and mandamus filed by private respondents against the judge of the Court of First Instance of Misamis Oriental and the judge of the City Court of Cagayan de Oro City seeking to nullify the order of the said court of first instance which holds inter alia that in a case of unlawful detainer filed in a city court and wherein the question of title is involved, the appeal from an adverse decision of the city court should be to the court of first instance and not to the Court of Appeals.

Petitioner and private respondents are parties, the former, as plaintiff, and the latter, as defendants, in Civil Case No. 4126 of the City Court of Cagayan de Oro City, an action for unlawful detainer. The pivotal issue in this case before Us relates to the appeal of private respondents from the decision of the city court sentencing them to vacate the premises in dispute. While it is commonly agreed that the pleadings raise the issue of ownership there is disagreement as to where the appeal should be made. It is respondents' contention that under the pertinent laws, the appeal in an ejectment or desahucio case coming from a city court is directed to the Court of Appeals when the issue of ownership is involved, while the position of petitioner is that it should nevertheless go to the court of first instance.

As to whether or not ownership is involved in the instant case,[1] the "decision" of the Court of First Instance of Misamis Oriental of March 13, 1978, is to the following effect:

"The question, therefore, may be asked: Was the question of ownership brought in issue in the pleadings filed in the City Court, Branch II? The answer is yes.

"The following pleadings in the City Court are pertinent.

"The complaint filed in the City Court (pp. 8-9 records of this case), dated April 14, 1975, shows that under paragraph one, the plaintiff claims that the parcel of residential land and building located at No. 30 Rizal Street, Cagayan de Oro are owned by plaintiff. Paragraph 2 of said complaint states that the plaintiff is the owner and in possession of a parcel of residential land together with its improvements located in said Rizal

Street, described in said par. 2. (*Italics supplied.*)

"The original answer filed by the defendants (p. 17 of the record) dated April 25, 1975 shows that the defendants placed the question of ownership in issue in the pleadings. Thus, paragraph one thereof states that they deny the allegations wherein plaintiff claims ownership over the residential building, because in truth and in fact the residential building occupied by defendants is owned by DELFINA JAVIER, mother of defendant, VIRGINIA JAVIER DE SALAZAR.

"Paragraph 2 of said answer states that in truth and in fact the existing residential building was constructed and built by DELFINA JAVIER, mother of defendant, VIRGINIA SALAZAR, who had been in actual and legal, peaceful, continuous possession and enjoyment of the said residential building as absolute owner thereof. (*Italics supplied.*) Paragraph 8 thereof (Affirmative and Special Defenses) states that plaintiff and defendants are apparently claiming ownership over the residential building constructed on the lot of the plaintiff by DELFINA JAVIER, mother of defendant, VIRGINIA SALAZAR.

"The Answer to the Counterclaim and Affirmative defenses filed by the plaintiff (p. 23 of the records) dated April 28, 1975, in fact, states that as early as in the year 1945 the plaintiff and his family were the ones who constructed and resided in said house, now unlawfully, unashamedly, and falsely claimed by defendants as theirs. (*Italics supplied.*)

"The Second Amended Answer filed by defendants (p. 63 of the records) dated May 21, 1975, which was allowed by the City Court to be filed by defendants, states under paragraph one thereof, that the residential building occupied by the defendants is owned by DELFINA JAVIER, mother of defendant, VIRGINIA JAVIER DE SALAZAR and declared for tax purposes under Tax Declaration No. 35959.

"Paragraph 2 thereof, also states that the existing residential building was constructed and built in 1952 by DELFINA JAVIER, mother of defendant, VIRGINIA SALAZAR who had been in actual, legal, peaceful, continuous possession and enjoyment of the said residential building as absolute owner thereof; and in lawful possession of the lot belonging to the plaintiff on which such residential building is located as lessee since 1947 and together with defendants, VIRGINIA SALAZAR, her husband HONORATO SALAZAR and their family. Paragraph 8 thereof, under Affirmative and Special Defenses, states that plaintiff and defendants are apparently claiming ownership over the residential building constructed on the lot of the plaintiff by DELFINA JAVIER, mother of defendant VIRGINIA SALAZAR.

"During the actual trial of this case before the City Court, Branch II of Cagayan de Oro, presided over by Judge Rolando Villaraza, the defendants presented as witness Delfina Javier herself the alleged original owner of the building who identified Exhibit 6 which is Tax Dec. No. 35959, which is her Tax Declaration as owner of said building. (Of course the plaintiff also submitted evidence that the building was owned formerly by his mother), Exhibit 6 (Tax Declaration No. 35959 found on page 311 of the records, shows that the owner is Delfina Y. Javier, 30 Rizal St., Cagayan de Oro City -- Building only, Two Storey Residential Building -- constructed on the lot No. 52 owned by Atty. Rodolfo N. Pelaez.

"Exhibit 8 (p. 315 of the records) is a Confirmation of Transfer of Rights and Ownership signed and executed by Delfina Javier dated September 1975, whereby she as absolute owner of the said two storey building admitted and confirmed that the administration as well as possession of the said property was transferred by her to her daughter Virginia Javier, married to Honorato Salazar since her marriage in 1964, who administered, maintained, improved and possessed the same together with her husband and family during their occupancy until the present in her behalf and under her control and that 'for and in consideration of the love, affection, liberality and as motherly assistance to my said daughter I hereby cede, transfer, and convey unto and in favor of Virginia Javier de Salazar, her heirs and assigns the above described property and improvements thereon by virtue of these presents I do hereby confirm and ratify said previous transfer since 1964 to make the same absolute in favor of Virginia Javier de Salazar, including whatever lease rights or other legal rights appurtenant thereto.' Thus, while the defendants in their answer stated that the building in question was owned by Delfina Javier, the mother of defendant wife Virginia Salazar, during the actual trial, defendants presented evidence that Delfina Javier had already ceded the ownership of the said building to her daughter Virginia Javier de Salazar as early as 1964. And, of course, this evidence was met and rebutted by plaintiff with his own exhibits and witnesses. The above exhibits of defendants were admitted as exhibits by the City Court.

"It is clear, therefore, that the question of ownership has been brought in issue in the pleadings and also during the actual trial of the case. The defendants later during the trial claimed ownership over the building in their own right by presenting the document of Confirmation (exh. 8) executed by the mother of defendant Virginia Salazar and this exhibit was admitted by the Court. Thus, in effect, even if the answer of defendants was not so amended to state that they were already the owners of the building, since the issue was tried by implied consent of the parties, the issue (of ownership by defendants themselves) shall be treated, in all respects as if it has been raised in the pleadings and the failure to so amend did not affect the result of the trial of this issue, pursuant to Sec. 5, Rule 10 of the Rules of Court. In short, at first they (defendants) raised the issue in the pleading that it was the mother Delfina Javier who was the owner of the building in question. Later during the trial they raised the issue that they were already the owner of the building in question.

"The plaintiff insists that the question of ownership has been raised by him in another case now pending before Branch I of the Court of First Instance of Misamis Oriental (p. 325 of the records) which is an Action for Quieting of Title, Recovery of Possession, Damages, etc., entitled 'Rodolfo N. Pelaez, vs. Delfina Javier and Leeson Javier' -- Case No. 5210. But this case was filed by plaintiff himself on November 11, 1976, long after the issue of ownership had already been raised in the ejectment case in the City Court. Thus the City Court had already taken cognizance of the case, allowing the issue of ownership over which it has concurrent jurisdiction with the Court of First Instance. In cases of concurrent jurisdiction the court that first takes cognizance of the case should try the case (People vs. Honorable Rolando Villaraza, et al., L-46228 promulgated on January 17, 1978)." (Pp. 184-190, Rec.)

On the basis of the foregoing conclusion that the issue of title is involved in the case, in said "decision", the court held at first that it had no appellate jurisdiction, but upon motion for reconsideration of petitioner, it reversed itself and proceeded to take cognizance of the appeal. Respondents moved for reconsideration, and when this was denied, they filed the aforementioned petition for certiorari, prohibition and mandamus docketed as CA-G. R. No. SP-07900 in the Court of Appeals, asking therein for the issuance of a restraining order or a writ of preliminary injunction. Acting on said petition, the Court of Appeals issued the following resolution:

"BUSRAN J.:

"Upon consideration of the instant petition for certiorari, prohibition and mandamus with preliminary injunction, and finding the same to be sufficient in form and substance, we resolve to give it due course. The respondents are hereby required to answer (not to file motion to dismiss) the petition within ten (10) days after receipt of the summons.

"As prayed for, and upon the filing by the petitioners of a bond of P1,000.00 and our approval thereof, let a writ of preliminary injunction issue enjoining the respondent City Judge of Cagayan de Oro City, Branch II, from conducting further proceedings in Civil Case No. 4126, and the respondent Judge of the Court of First Instance of Misamis Oriental, Branch VIII at Cagayan de Oro City, from taking cognizance of the said civil case, presently pending before him, until further order from this Court.

"SO ORDERED.

"May 19, 1978.

(Sgd.) MAMA D. BUSRAN
Associate Justice

WE CONCUR:

(Sgd.) LUIS B. REYES
Associate Justice

(Sgd.)NESTOR B. ALAMPAY
Associate Justice"

(Page 27, Record.)

After being served with this resolution, rather impatiently and without waiting for further action of the Court of Appeals on the merit of respondent's petition, petitioner has filed the instant recourse with this Court.

We could have immediately dismissed the petition herein if only to enable the Court of Appeals to properly dispose of the petition before it on its merits. Indeed, in many ways, the instant petition is premature. But, to start with, We are not certain that the jurisdiction of the Court of Appeals to take cognizance of said petition will not be eventually questioned, considering it is not very clear that the matter involved in the undocketed case in the Court of First Instance is of such nature as would make the recourse to the Court of Appeals one in aid of its appellate jurisdiction. What was before the Court was not the appeal of the respondents on its merits but curiously, the motion of petitioner to dismiss the respondents' appeal which was intended instead for the Court of Appeals. Moreover, the main case below is an unlawful detainer suit which is supposed to be summary and must be disposed of without unnecessary loss of time. Then also, the pivotal point in this controversy relates to the proper allocation of appellate jurisdiction between the courts of first instance and the Court of Appeals, a matter which

this Court has the exclusive prerogative to settle. For these reasons, We have opted to resolve the said principal issue here and now.

In Our view, the issue raised by petitioner presents no difficulty. We agree with respondent judge, on the basis of the allegations of the pleadings of the parties, as discussed by him in his order under review, that the question of ownership is involved in the main ejectment case, Civil Case No. 4126. On that premise, it is unquestionable that the City Court of Cagayan de Oro City had jurisdiction to pass on both the issues of possession and of ownership therein.

Section 3 of Republic Act 5967, approved June 21, 1969, amending correspondingly Section 88 of the Judiciary Act (RA 296), provides as follows:

"SEC. 3. Besides the civil cases over which the City Courts have jurisdiction under Section eighty-eight of Republic Act Numbered Two hundred ninety-six, as amended, it shall likewise have concurrent jurisdiction with the Court of First Instance over the following:

(a) Petition for change of name of naturalized citizens after the judgment of naturalization has become final and executory;

(b) Cancellation or correction of entries in the City Civil Registry where the corrections refer to typographical errors only; and

(c) In ejectment cases where the question of ownership is brought in issue in the pleadings. The issue of ownership shall therein be resolved in conjunction with the issue of possession. "

At the same time, Section 5 of the same Act specifies where an appeal from the decisions of a city court should thereafter be made thus:

"SEC. 5. Except in offenses punishable by arresto mayor or imprisonment not exceeding six months or fine not exceeding two hundred pesos or both, or violation of municipal ordinance or in civil actions falling under the original exclusive jurisdiction of the City Court which are appealable to the Court of First Instance, proceedings in the City Court shall be recorded and judgment or decision rendered shall be directly appealable to the Court of Appeals or Supreme Court, as the case may be, in accordance with the Rules of Court applicable to appeal from judgment of the Court of First Instance. "

In the light of these provisions, petitioner insists that respondents should have appealed to the Court of First Instance. Specifically, his contention is that the inclusion of the issue of ownership in the pleadings did not change the character of the proceeding as an action of unlawful detainer over which city and municipal courts have original exclusive jurisdiction. He claims that his contention is supported by the very provision of Section 3, just quoted, to the effect that when ownership is brought in issue in the pleadings in an ejectment case before the city courts, said courts are to resolve the issue of ownership only "in conjunction with the issue of possession. " In other words, he posits that since the action is one of unlawful detainer, the main issue to be settled by the city court remains to be possession, and that to resolve the issue of ownership "in conjunction with the issue of possession" is not the same as resolving it in a judicial litigation where it is the sole issue.

We are not impressed. Regardless of the juridical value of the significance petitioner is trying to thus draw from the rather peculiar language of the statute, We are of the considered opinion that the evident import of Section 3 above is to precisely grant to the city courts concurrent original jurisdiction with the courts of first instance over the cases enumerated therein, which include "ejection cases where the question of ownership is brought in issue in the pleadings. " To sustain petitioner's contention about the meaning of the last phrase of paragraph (c) of said section regarding the resolution of the issue of ownership "in conjunction with the issue of possession" is to disregard the very language of the main part of the section which denotes unmistakably a conferment upon the city courts of concurrent jurisdiction with the courts of first instance over ejection cases in which ownership is brought in issue in the pleadings. It is to Us quite clear that the fact that the issue of ownership is to be resolved "in conjunction with the issue of possession" simply means that both the issues of possession and ownership are to be resolved by the city courts. And the jurisdiction is concurrent with the Courts of First Instance precisely because usually questions of title are supposed to be resolved by superior courts. In other words, this grant of special jurisdiction to city courts is to be distinguished from the power ordinarily accorded to municipal courts to receive evidence of title only for the purpose of determining the extent of the possession in dispute.

It being clear, therefore, that in the main ejection case, Civil Case No. 4126 of the City Court of Cagayan de Oro City, the issue of ownership is involved as shown by the pleadings therein filed by the parties, and that under Section 3 of Republic Act 5967, said city court exercised original jurisdiction over the same concurrently with the Court of First Instance of Misamis Oriental, the appeal of respondents was rightly made by them to the Court of Appeals.

WHEREFORE, the petition is dismissed, and to avoid further unnecessary proceedings, respondent Court of Appeals should declare the petition in CA-G. R. No. SP-07900 moot and academic and dismiss the same. The Court of First Instance of Misamis Oriental should desist taking cognizance of the appeal of herein private respondents from the decision in Case No. 4176 aforementioned in favor of allowing them to prosecute the same in the Court of Appeals, and to that end should order the return of the records to the court of origin. Accordingly, the City Court of Cagayan de Oro City should, upon the return of the records thereto, act on respondents' record on appeal and otherwise give due course to their appeal to the Court of Appeals, unless there is any other legal ground for not allowing the same. Costs against petitioner.

Fernando, (Chairman), Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] The incident decided by the Court of First Instance of Misamis Oriental came a rather unusual manner. While the respondents' notice of appeal expressly said they are appealing to the Court of Appeals, the city court ordered that the case should be forwarded to the court of first instance. As this was done, petitioner filed a motion to dismiss the appeal for being out of time, as indeed no appeal had yet been made to that court. On the other hand, the respondents insisted the appeal should be sent to the Court of Appeals. So, the Court of First Instance undertook to resolve the issue of where the appeal should go without requiring that the case be docketed. The resolution appears in a "decision". Incidentally, the decision of March 13, 1978 was later on reversed on legal grounds, and this reversal is the subject of the petition in the Court of Appeals.

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