

**ARSENIO UY, PETITIONER, VS. J.M. TUASON & CO., INC.,
RESPONDENT.***G.R. No. L-21525. January 30, 1970*

Ponente: DIZON, J.

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Appeal by certiorari taken by petitioner from the decision of the Court of Appeals in G. R. No. 29691-R affirming in toto the one rendered by the Court of First Instance of Rizal (Quezon City Branch) in Civil Case No. Q-4319, ordering the therein defendant, Arsenio Uy (petitioner herein) and all persons claiming under him "to vacate the premises in question and to remove his house and other constructions therefrom" and ordering, him further "to pay the plaintiff J. M. Tuason and Co., Inc. (respondent herein) the sum of P30.00 per month from August 1949 until the plaintiff is completely restored to the possession of the land in question, as well as to pay the costs".

Respondent is the registered owner of an extensive parcel of land in Quezon City covered by T.C.T. No. 42774 of the Register of Deeds of said city, issued on July 24, 1958. On or about August 1949 petitioner, without the consent of respondent, occupied a portion thereof with an area of about one hundred square meters, the same being indicated as Exhibit B-1 on the plan PCS-3824 (Exhibit B). On May 7, 1959 respondent filed against him an action for recovery of possession of the afore-mentioned area and for damages. In his amended answer to the complaint, petitioner denied respondent's title to the land in question and claimed, further, that he was and had been in possession thereof in good faith.

After due trial upon the issues thus joined, the court of origin rendered the judgment mentioned here-tofore, later affirmed by the Court of Appeals.

In the Court of Appeals petitioner claimed that the court a quo had no jurisdiction over the action; the area in question was not a portion of plaintiff's land, and (3) he was a possessor and builder in good faith. All these issues were resolved by the Court of Appeals against him.

In his petition for certiorari now before us he contends: (1) that the Court of Appeals erred in affirming the appealed decision of the court of origin because its decision was premised on a misapprehension of facts; (2) that the Court of Appeals, in deciding the case, departed from the accepted and usual course of judicial proceeding.

Both issues are entirely without merit.

In connection with the first - which raises a question of fact not supposed to be reviewed by us petitioner's real contention is that neither the decision of the Court of First Instance nor that of the Court of Appeals indicated what particular portion of the land consisting of six hundred square meters occupied by him belongs to respondent and, therefore, is allegedly being usurped by him. Contrary to this contention, however, the evidence clearly shows that what petitioner had been occupying was only a portion of one hundred square meters, and that the same is clearly identified with the mark Exhibit B-1 on the plan PCS-3824 (Exhibit B).

The second question raised by petitioner is merely a corollary to the first. Having arrived at the conclusion that

said first question is without merit, We see no further need for the consideration of the second.

WHEREFORE, the decision appealed from being in accordance with law, the same is hereby affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Castro, Teehankee, and Barredo, JJ., concur.

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