

HEIRS OF MANUEL AND PAULA BORJA, NAMELY: LUMEN BORJA SCHILLING, AMELIA BORJA ECLAVEA AND ELEONOR BORJA MENDOZA REPRESENTED BY MARY JOY BORJA AS ATTORNEY-IN-FACT, PETITIONERS, VS...

Ponente: GARCIA, R. R. J.

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GARCIA, R. R. J.:

Before Us is a Petition for Review[1] under Rule 42 of the Revised Rules of Court assailing the Decision[2] dated April 10, 2014 of the Regional Trial Court, Branch 5, Tuguegarao City, Cagayan dismissing Civil Case No. 7836 for ejectment and damages, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court holds that the court a quo did not have jurisdiction over that ejectment case and so the proceedings therein are void.

SO ORDERED.[3]

THE FACTS

This case involves a 14,082 square meter parcel of land located at Carig Norte, Tuguegarao City formerly owned by the spouses Manuel and Paula Borja. When the said spouses died, the property was inherited by their three (3) children, herein petitioners, namely: Lumen Borja Schilling, Amelia Borja Eclavea and Eleonor Borja Mendoza. The land was then registered under their names and is now covered by Transfer Certificate of Title (TCT) No. T-117651 of the Register of Deeds of Cagayan.[4]

On March 20, 2012, herein petitioners, represented by Mary Joy Borja as attorney-in-fact, filed before the Municipal Trial Court in Cities (MTCC) of Tuguegarao City, Cagayan, a Complaint for Ejectment and Damages[5] against respondents spouses Estelito and Consesa Tagacay. It was alleged that sometime in the latter part of 2010, Atty. Mila Lauigan, then administrator of petitioners' properties in the Philippines, discovered that respondents were illegally occupying a portion of the subject property having erected a structure thereat for dwelling purposes. Petitioners advised Atty. Lauigan that they need the property and asked that possession thereof be surrendered to them. Consequently, a demand letter was sent to respondents asking them to vacate the land in question. Respondents, however, refused to heed the demand of petitioners.

In their Answer[6] dated April 10, 2012, respondents averred that the MTC does not have jurisdiction over the case. The controversy is agrarian in nature as it involves tenurial arrangements between the parties. Respondents were acknowledged as tenants thereof by one Rotillo Ballad. The latter has been the administrator of the property since 1974. A certificate of tenancy was also issued by the Barangay Captain in favor of Mamerto Tagacay, father of respondent Estelito Tagacay. Hence, by operation of law, respondents also became tenants of the property.

Respondents, however, failed to state the exact year when they had been designated as tenants of the subject landholding as well as the exact area being occupied by them.

On June 22, 2012, the MTCC, Branch 2, Tuguegarao City, Cagayan issued an Order holding that there exists no

tenancy relationship between the parties.[7]

On August 22, 2012, the MTCC ordered the parties to submit their respective position papers. Only petitioners complied with the court's order.

In their Position Paper[8], petitioners denied that respondents are tenants over the subject landholding. They claimed that Rotillo Ballad, who allegedly acknowledged respondents as tenants, was never designated as an administrator of the subject landholding. Accordingly, he is not authorized to acknowledge and create a tenancy between his person and respondents. In fact, Rotillo Ballad and his wife Rosita Ballad had earlier filed before the National Labor and Relations Commission (NLRC) a complaint for illegal dismissal and money claims against petitioners. The Labor Arbiter's decision, which had become final and executory, held that the Ballad spouses were employed by petitioners' predecessors-in-interest as overseers of the latter's properties. One of their responsibilities was the collection of the rentals being paid by tenants over the properties. The Ballad spouses were then awarded P5,049.00 as backwages, P30,294.00 as 13[th] month pay, P100,000.00 as moral damages and P50,000.00 as exemplary damages. On October 29, 1999, the land in dispute was the subject of a levy by virtue of a writ of execution issued by the NLRC in favor of the Ballad spouses. The Notice of Levy was annotated at the back of TCT No. T-117651 on April 11, 2006.[9]

In a Judgment[10] dated September 18, 2012, the MTCC, Branch 2, Tuguegarao City, Cagayan ruled in favor of respondents and dismissed the case. It was held that the levy of the subject property in favor of Rotillo Ballad interdicted the rights of petitioners and placed the beneficial use, enjoyment, occupation and possession thereof to the former. Since Ballad acquired the beneficial use over the subject property, it is safe to assume that respondents were placed as tenants thereof. As such, their possession was not by mere tolerance on the part of petitioners. The pertinent portions of the Judgment are quoted:

We must rule in favor of the defendants.

In as much as this Court would like to proceed and determine who between the plaintiff/attorney-in-fact and defendants vis-a-vis the subject property alone, we cannot but find it imperative to include in the discussion the rights of Rotillo Ballad over the said property by virtue of the writ of execution issued by the NLRC that subsequently resulted to the levy of the same xxx

The writ of execution (Exhibit "9") and alias writ of execution (Exhibit "7") issued by virtue of the decision of the NLRC (Exhibit "6") that caused the levy of the subject property in favor of Rotillo Ballad by virtue of a notice of levy (Exhibit "2") addressed to the Register of Deeds of the Province of Cagayan, in effect interdicted the rights of the Heirs of Manuel and Paula Borja over the titled property (TCT No. 117651) and did place the beneficial use, enjoyment, occupation and possession and all rights related thereto, to and in favor of Rotillo Ballad – even to the exclusion of the present administrator even without the benefit of transferring ownership over it.

In effect, Rotillo Ballad replaced the rights of the owner/s by virtue of his legal right of possession.

From these beneficial rights over the property, it is safe to assume that defendants spouses Tagacay were placed as tenants for and on behalf of Rotillo Ballad. It is for this reason that defendants have enjoyed possession over the subject property – not by tolerance on the part of the Heirs of Manuel and Paula Borja.

As have been discussed, the beneficial use, possession and enjoyment over the subject property was supplanted by Rotillo Ballad, who placed the defendants as tenants. Plaintiff's only proof, aside from her appointment as administrator by the Heirs of Manuel and Paula Borja over the subject property, is the deposition of Francisco Borja, Jr. and the title (TCT No. 117651) , which bears the annotation of levy that remains in force and effect in the absence of evidence to the contrary.

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the defendants and hereby orders the DISMISSAL of the case for lack of merit.[11]

Aggrieved, petitioners filed an appeal to the RTC. In the assailed Decision[12] dated April 10, 2014, the RTC, Branch 5, Tuguegarao City, Cagayan ruled that the proceedings before the MTCC are void due to lack of jurisdiction. The case should have been referred by the MTCC to the DAR for proper determination of the tenancy relationship of the parties. The issue in the ejectment case is an agrarian dispute that belongs to the jurisdiction of the DAR or its agencies. The pertinent portions of the Decision read:

The issue of jurisdiction was never refuted by the appellants. In fact in their Position Paper jurisdiction was not raised as an issue.

The court fully agrees with the defendants-appellees considering that the court a quo has no jurisdiction over this instant case. Qua vs. Court of Appeals, 298 SCRA 236 (1991) enumerates the elements of an agricultural tenancy, namely:

x x x

There is no question that in the relationship of appellants and appellees in regard to the land in dispute a tenancy relationship and the issue on the ejectment case being one that affects that tenancy of the tenants.

It being an agrarian dispute, the Department of Agrarian Reforms or its agencies have primary jurisdiction over the suit.

This conclusion is based on the provision of Section 50-A of R.A. No. 6657 or the Amended R.A. No. 9700, to wit:

Sec. 50-A. Exclusive jurisdiction on Agrarian Dispute – No Court or Prosecutor's Office shall take cognizance of cases pertaining to the implementation of the CARP except those provided under Section 57 of R.A. No. 6657. If there is an allegation from any of the parties that this case is agrarian in nature and one of the parties is a farmer, farm worker or tenant, the case shall be automatically referred by the judge or prosecutor to the DAR, which shall determine and certify within fifteen (15) days from referral whether an agrarian dispute exist. xxx

and OCA Circular No. 62-2010 which provides:

“All courts and judges concerned are hereby enjoined to strictly observe Section 50-A of R.A. No. 6657, as amended by R.A. No. 9700, and refer all cases before it alleged to involve an agrarian dispute to the DAR for the necessary determination and certification.”[13]

A Motion for Reconsideration[14] was filed by petitioners but the same was denied in an Order[15] dated July 18, 2014.

Hence, the instant petition for review in which petitioners raised the following Assignment of Errors[16], to wit:

I.

THE RTC GRAVELY ERRED IN DISMISSING THE APPEAL AND IN FINDING THE EXISTENCE OF TENANCY RELATIONS BETWEEN THE PARTIES DESPITE THE FACT THAT THE MTCC BRANCH 2 ALREADY RULED THAT NO SUCH TENANCY RELATIONS EXISTS AND THE SAME WAS NEVER RAISED AS AN ISSUE ON APPEAL.

II.

THE RTC GRAVELY ERRED IN DISMISSING THE APPEAL. IF THE RTC WANTED TO SETTLE THE ISSUE OF TENANCY, IT SHOULD NOT HAVE RULED OUTRIGHT THE EXISTENCE OF SUCH RELATIONSHIP BUT SHOULD HAVE REFERRED THE MATTER TO THE DAR PURSUANT TO EXISTING CIRCULARS OF THE SUPREME COURT.

III.

THE RTC GRAVELY ERRED IN DISMISSING THE APPEAL AND IN FINDING THE EXISTENCE OF TENANCY RELATIONS BETWEEN THE PARTIES DESPITE THE TOTAL ABSENCE OF EVIDENCE PROVING TENANCY.

IV.

THE RTC GRAVELY ERRED IN DISMISSING THE APPEAL AND IN RULING THAT THE PROCEEDINGS BEFORE THE MTCC, BRANCH 2, TUGUEGARAO CITY ARE NULL AND VOID.

THE ISSUE

The pivotal issue to be resolved is whether or not the court a quo gravely erred in dismissing the complaint for ejectment for lack of jurisdiction.

THE RULING

The petition is meritorious.

Petitioners contend that the RTC erroneously concluded that it is the DAR or any of its agencies which has jurisdiction over the instant action. Instead, the allegations in the complaint make out a case for ejectment the jurisdiction of which properly belongs to the trial court. There is total absence of evidence to show that an agrarian dispute exists that would have called for the jurisdiction of the DAR or any of its agencies. Respondents indubitably failed to prove that an agricultural tenancy relationship exists between them and petitioners. Rotillo Ballad who allegedly acknowledged respondents as tenants was merely an overseer who is not duly authorized to appoint anyone as tenant over the subject property. Hence, the dismissal of the case for alleged lack of jurisdiction was not proper.

We agree.

Jurisdiction of a tribunal over the nature and subject matter of a petition or complaint is determined by the material allegations therein and the character of the relief prayed for, irrespective of whether the petitioner or complainant is entitled to any or all such reliefs. Jurisdiction over the nature and subject matter of an action is conferred by the Constitution and the law, and not by the consent or waiver of the parties where the court otherwise would have no jurisdiction over the nature or subject matter of the action.[17] In *Romullo vs. Samahang Magkakapitbahayng Bayanihan Compound Homeowners' Assoc., Inc.*[18], the Supreme Court held that jurisdiction in ejectment cases is determined by the allegations pleaded in the complaint. It cannot be made to depend on the defenses set up in the answer or pleadings filed by the defendant. Neither can it be made to depend on the exclusive characterization of the case by one of the parties.

After reviewing carefully the allegations in petitioners' complaint, specifically paragraphs 2, 4, 6, 7, 8 and 9, We find that indeed the complaint satisfied the jurisdictional requirements of a valid cause for ejectment. All that petitioners prayed for was the ejectment of petitioners from the portion of the landholding they illegally occupied. Petitioners alleged that as owners, they are in prior physical possession of the property but was deprived of it by respondents' intrusion. The latter merely claimed that they were acknowledged as tenants by Rotillo Ballad who was a mere overseer over the properties of petitioners. When petitioners demanded that respondents vacate the premises, the latter vehemently refused. While respondents alleged in their answer that they were tenants over the subject property, the same does not automatically divest the MTC of jurisdiction over the complaint. It is well-settled that the regular court does not lose its exclusive original jurisdiction over an ejectment case by the simple expedient of a party raising as a defense therein the alleged existence of a tenancy relationship between the parties.[19]

In order for the DARAB to have jurisdiction over the case, there must be an agrarian dispute and tenancy

relationship between the parties.[20] Under Section 50 of Republic Act (R.A.) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, "the DAR is vested with the primary jurisdiction to determine and adjudicate agrarian reform matters and shall have the exclusive jurisdiction over all matters involving the implementation of the agrarian reform program". The DARAB was created, thru Executive Order No. 109-A, to assume the powers and functions with respect to the adjudication of agrarian reform cases. Only the DARAB, as the DAR's quasi-judicial body, can determine and adjudicate all agrarian disputes, controversies, and matters or incidents involving the implementation of the CARP.[21]

An agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship, or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements. It includes any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowner to farmworkers, tenants, and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.[22]

In *Mateo, et al. vs. Court of Appeals, et al.*[23], the Supreme Court held that in order for a tenancy agreement to take hold over a dispute, it is essential to establish all the indispensable elements, as follows:

- 1) that the parties are the landowner and tenant or agricultural lessee;
- 2) that the subject matter of the relationship is an agricultural land;
- 3) that there is consent between the parties to the relationship;
- 4) that the purpose of the relationship is to bring about agricultural production;
- 5) that there is personal cultivation on the part of the tenant or agricultural lessee; and
- 6) that the harvest is shared between the landowner and the tenant or agricultural lessee.

Here, the evidence failed to show the existence of all the aforesaid elements to establish a tenancy relationship. It may be well to state that tenancy relationship cannot be presumed. There must be evidence to prove this allegation. It is not a purely factual relationship dependent on what the alleged tenant does upon the land. It is also a legal relationship.[24] In *Soliman, et al. vs. Pampanga Sugar Development Co., Inc., et al.*[25], the Supreme Court held that the principal factor in determining whether a tenancy relationship exists is intent.

A careful scrutiny of the records show that intent or clear consent on the part of petitioners to allow respondents to occupy the land as tenants thereof was not duly proven. For one, respondents were merely designated as tenants by Rotillo Ballad who is a mere overseer of the property. As an overseer employed by the Sps. Manuel and Paula Borja, he was only tasked to collect the rentals due on the property and remit the same to the appointed administrator. He does not have the authority to appoint anyone as tenant over the property. The fact that Rotillo Ballad was not an administrator but a mere overseer of the subject property was clearly established when he and his wife Rosita filed an illegal dismissal case against petitioners as heirs of the Sps. Manuel and Paula Borja. The Labor Arbiter's Decision dated October 29, 1999 finding the Ballad spouses to have been illegally dismissed from their employment as overseers in the property had become final and executory with the denial of the petition for review filed by petitioners before the Supreme Court in G.R. No. 152550[26] entitled *Borja Estate and/or the Heirs of Manuel and Paula Borja and Atty. Mila Lauigan in her capacity as the Estate Administrator v. Spouses Rotillo Ballad and Rosita Ballad*.

Then too, no adequate proof was presented to show the personal cultivation of the property on the part of respondents. There was even no clear showing as to the exact year respondents occupied and tilled the land in question. Respondents also failed to show the exact area of the land being cultivated by them. The rule is well-settled that he who alleges must prove his allegation.[27] Mere allegation of cultivating the land without

sufficient proof does not amount to personal cultivation.

Respondents likewise failed to substantially prove the existence of a sharing agreement with petitioners. Respondents' allegation that they were remitting the share in the harvest to Rotillo Ballad was not substantially corroborated by any concrete evidence. There was even no evidence of any payment made by respondents to Ballad nor to any of the administrators of the properties of petitioners.

Consequently, having failed to prove the existence of an agrarian dispute and in view of the absence of the necessary elements for a tenancy relationship to exist, the DAR nor the DARAB does not have jurisdiction over the case. The RTC erroneously concluded that it lacks jurisdiction over the subject matter on the premise that the case before it is purely an agrarian dispute.

We now delve into the merits of the case.

The only issue for resolution in an ejectment case is physical or material possession of the property involved, independent of any claim of ownership by any of the party litigants. Ejectment cases are designed to summarily restore physical possession to one who has been illegally deprived of such possession, without prejudice to the settlement of the parties' opposing claims of juridical possession in appropriate proceedings. It has also been held that the question of ownership may be provisionally ruled upon for the sole purpose of determining who is entitled to possession de facto.[28]

In the case at bench, respondents based their claim of right of possession of a portion of the subject property on the theory that they were designated as tenants thereof by Rotillo Ballad. As already discussed, Rotillo Ballad was a mere overseer in the subject property and he was not designated as an administrator thereof. While the records show that a levy on execution was favorably obtained by the Ballad spouses in the NLRC case, the MTCC was not correct in its presumption that the beneficial use of the entire property may be placed upon the hands of the Ballad spouses. The levy on the disputed property merely created a lien in favor of respondents. The same did not divest petitioners of ownership nor of the beneficial use of the property. The records show that no public auction has yet been held after the levy was annotated at the back of the title. It failed to consider that the landholding consists of a vast area of land of about 1.4 hectares while the judgment award in favor of the Ballad spouses was only around P200,000.00. The MTCC also erroneously concluded that Rotillo Ballad was justified in passing on the possession thereof to respondents considering that no writ of possession has ever been issued in favor of the former. Verily, respondents did not acquire any valid title nor interest from the subject property under the guise that Rotillo Ballad made them as tenants thereof.

We thus find that petitioners have the better right to possess the subject property. It is undisputed that petitioners are the lawful and registered owners thereof. Petitioners inherited the subject landholding upon the demise of their parents. By right of succession, they acquired the ownership thereof and the property was titled under their names. Since possession is one of the attributes of ownership, petitioners clearly are entitled to its physical or material possession.[29] The registered owners' superior right to possess the property in unlawful detainer cases has been consistently upheld by the courts. It is an age-old rule that the person who has a Torrens Title over a land is entitled to its possession.[30]

Moreover, petitioners are entitled to their claim for damages. The concept of damages in an action for ejectment means "rents" or "the reasonable compensation for the use and occupation of the premises," or "fair rental value of the property." [31] The Court finds that the amount of P1,000.00 per month is reasonable under the circumstances considering that the subject property is agricultural situated in Tuguegarao City, Cagayan and that respondents are merely occupying a portion of the same.

In all, We find compelling reason to depart from the ruling of the court a quo.

WHEREFORE, premises considered, the instant petition for review is hereby GRANTED. The Decision dated April 10, 2014 of the Regional Trial Court, Branch 5, Tuguegarao City, Cagayan dismissing petitioners' complaint on the ground of lack of jurisdiction is REVERSED AND SET ASIDE. In lieu thereof, a new judgment is hereby rendered as follows:

1. Respondents spouses Estelito and Consesa Tagacay and all persons claiming right under them are ORDERED to vacate the subject landholding covered by Transfer Certificate of Title No. T-117651 and to surrender the possession thereof to petitioners heirs of Manuel and Paula Borja, namely: Lumen Borja Schilling, Amelia Borja Eclavea and Eleonor Borja Mendoza, represented by their Attorney-in-Fact Mary Joy Borja; and
2. Respondents spouses Estelito and Consesa Tagacay are ORDERED to pay reasonable rents in the amount of One Thousand Pesos (P1,000.00) per month from the time of filing of the complaint on March 20, 2012 until the premises are vacated.

SO ORDERED.

Dimagiba, L. R., and [*]Sempio Diy, M. E., JJ., concur.

[*] Acting Junior Member per Office Order No. 15-15-ABR dated January 20, 2015.

[1] Rollo, pp. 4-17.

[2] Rollo, pp. 20-23.

[3] Rollo, p. 23.

[4] Vide: Complaint dated February 21, 2012, Rollo, p. 85; MTC Judgment dated September 18, 2012, Rollo, p. 89.

[5] Rollo, pp. 85-88.

[6] Answer with Motion for Referral under DAR A.O. No. 04 s. of 2009 and OCA Circular No. 62-2010, Rollo, pp. 81-84.

[7] Vide: Petition for Review dated August 1, 2014, Rollo, p. 8

[8] Rollo, pp. 68-76.

[9] Vide: MTCC Decision dated September 18, 2012, Rollo, p. 90.

[10] Rollo, pp. 89-92.

[11] Rollo,, pp. 91-92.

[12] Supra at note 2.

[13] Rollo, pp. 21-22.

[14] Rollo, pp. 65-67.

[15] Rollo, p. 24.

[16] Rollo, pp. 9-10.

- [17] Heirs of Nisperos vs. Nisperos-Ducusin, G.R. No. 189570, July 31, 2013; Del Monte Philippines, Inc., et al. vs. Sangunay, et al., G.R. No. 180013, January 31, 2011; Laresma vs. Abellana, G.R. No. 140973, November 11, 2004.
- [18] G.R. No. 180687, October 6, 2010.
- [19] Vda de Victoria vs. Court of Appeals, et al., G.R. No. 147550, August 16, 2005; Laresma vs. Abellana, G.R. No. 140973, November 11, 2004.
- [20] Mateo, et al. vs. Court of Appeals, et al., G.R. No. 128392, April 29, 2005.
- [21] Del Monte Philippines, Inc., et al. vs. Sangunay, et al., G.R. No. 180013, January 31, 2011; Mateo, et al. vs. Court of Appeals, et al., G.R. No. 128392, April 29, 2005.
- [22] SEARBEMCO vs. DOLE Philippines, Inc., G.R. No. 154048, November 27, 2009; Mateo, et al. vs. Court of Appeals, et al., G.R. No. 128392, April 29, 2005.
- [23] G.R. No. 128392, April 29, 2005.
- [24] Soliman, et al. vs. Pampanga Sugar Development Co., Inc., et al., G.R. No. 169589, June 16, 2009; Ambayec et al. vs. Court of Appeals, et al., G.R. No. 162780, June 21, 2005. [25] G.R. No. 169589, June 16, 2009.
- [26] June 8, 2005.
- [27] Soliman, et al. vs. Pampanga Sugar Development Co., Inc., et al., G.R. No. 169589, June 16, 2009; Martin vs. Court of Appeals, G.R. No. 82248, 30 January 1992.
- [28] Keppel Bank Philippines, Inc. v. Philip Adao, G.R. No. 158227, October 19, 2005; Iglesia Evangelica Metodista En Las Islas Filipinas v. Juane, G.R. No. 172447, September 18, 2009; Heirs of Olarte v. Office of the President, G.R. No. 177995, June 15, 2011
- [29] Spouses Macasaet vs. Spouses Macasaet, G.R. Nos. 154391-92, September 30, 2004.
- [30] Dela Rosa, et al. vs. Roldan, et al., G.R. No. 133882, September 5, 2006; Go v. Looyuko, G.R. No. 196529, July 1, 2013.
- [31] Herrera, et al. vs. Bollos, et al., G.R. No. 138258, January 18, 2002.

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