

VICENTE DY SUN, PETITIONER, VS. RICARDO BRILLANTES AND THE COURT OF APPEALS, RESPONDENTS.

G. R. No. L-4478. May 27, 1953

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for review of a decision of the Court of Appeals holding in effect that plaintiff has no cause of action to institute the present case for unlawful detainer against defendant.

On September 11, 1947, petitioner filed a complaint for unlawful detainer in the Justice of the Peace Court of Caloocan, Rizal, against respondent over a parcel of land situated in said municipality. The complaint was dismissed on the ground that petitioner, being a Chinese citizen, has no right to acquire the land in question.

The Court of First Instance of Rizal affirmed the judgment of the Justice of the Peace Court, from whose decision petitioner appealed to the Court of Appeals.

The Court of Appeals rendered judgment on November 29, 1950, affirming the decision of the lower court on two main grounds:

(1) Because "admittedly Ricardo Brillantes was in possession of the land under dispute long before Vicente Dy Sun had supposedly acquired it through purchase", it is "obvious that Dy Sun could not have been deprived of the possession of the land by force, intimidation, strategy, or stealth, as he never was in occupancy thereof"; and

(2) Because Dy Sun was a Chinese national, "he could not have acquired the land in question" and hence "he cannot validly allege that the possession of the land under dispute was being unlawfully withheld from him."

The issues now raised by petitioner are:

(a) Is prior physical possession a condition precedent before a vendee or other person against whom the possession of any land is unlawfully withheld after the expiration or termination of a right to hold possession can file an action for unlawful detainer? Can not the vendee contemplated by Rule 72 section 1 of the Rules of Court offer proof of his possession predicated upon a deed of sale?

(b) Where the fact of the sale is admitted, although the validity of the sale is questioned on the ground of the alienage of the vendee, cannot the question of possession be decided without first settling the question of title—so that the court may continue to exercise jurisdiction over the unlawful detainer action filed by the vendee?

(c) May the defendant-occupant in a detainer action question the validity of the sale on the ground of the alienage of the vendee, when neither the vendor nor the State questions the validity of that sale?

(a) The Court of Appeals in effect holds that before petitioner could file the present case of unlawful detainer, he should allege that he had prior physical possession of the land in dispute, as otherwise he could not have been

deprived of its possession by force, intimidation, threat, strategy, or stealth. This evidently is an error. Under the law (section 1, Rule 72), a person has two causes of action: (1) Forcible entry, in which defendant's possession of the property is illegal from the beginning and (2) Unlawful detainer, wherein defendant's possession was originally lawful but it became unlawful by the expiration of his right to possess (Moran, Vol. II, Comments on the Rules of Court, 1952 ed., p. 291). Under the first, the action may be brought by a person who is deprived of the possession of the land by force, intimidation, threat, strategy, or stealth, and under the second, by a landlord, vendor, vendee or other person against whom the possession of the land is unlawfully withheld after the expiration or termination of the right to hold it (Rule 72, section 1, Rules of Court).

The action filed by petitioner is not forcible entry but unlawful detainer as can be clearly inferred from the allegations of the complaint. Petitioner claims to have bought the land in question, a fact admitted by respondent. As such vendee, petitioner could not allege prior physical possession of the land as against respondent. In an action for unlawful detainer, such allegation is not required upon the theory that the vendee steps into the shoes of the vendor and succeeds to his rights and interests. In contemplation of law, vendee's possession is that of vendor. The Court of Appeals evidently confused the action of petitioner into one of forcible entry, which accounts for its mistake on the matter.

(b) Respondent admits the fact that the land in question was acquired by petitioner in the year 1944, but disputes its validity on the ground that petitioner is a Chinese citizen. Can respondent raise this issue in the present case?

The peculiar nature of these actions is that they are merely quieting processes, not processes to determine the actual title to a estate. They are summary actions intended to provide an expeditious means of protecting actual possession or right to possession of property. Title is not involved (Moran, Vol. II, Comments on the Rules of Court, 1952 ed., pp. 289-290). The only issue in these actions is the physical possession of the real property—possession de facto and not possession de jure.[1] Physical possession being the only issue in a detainer case, may an allegation of ownership divest the justice of the peace court of its jurisdiction over the case? Stated—a different way, may respondent herein throw the case out by pleading that petitioner cannot acquire the property because he is a Chinese citizen?

The early decisions of this court on this matter were conflicting, but the conflict has now been settled. It has been held that, "in considering this problem the averments of the complaint and character of the relief sought are primarily to be consulted; but it would be a mistake to suppose that an action involves a question of title merely because the plaintiff may allege in his complaint that he is the owner of the land. Just as the plaintiff may introduce, proof of his title in order to show the character of his prior possession, so he may allege ownership in himself as a material and relevant fact in the case, and the insertion of such an allegation in the complaint cannot by any possibility place the cause beyond the jurisdiction of the magistrate's court, provided it otherwise sufficiently appears that what the plaintiff really seeks is the restoration of the possession as against an intruder who has seized the property within the period of one year. Much less can the defendant in such an action defeat the jurisdiction of the magistrate's court by setting up title in himself. In this connection, it should be borne in mind that the factor which defeats the jurisdiction of the court of the justice of the peace is the necessity to adjudicate the question of title. The circumstance that proof of title is introduced at the hearing or that a claim of ownership is made by either or both of the parties is not material." [2]

On the other hand, while as a general rule a mere allegation by defendant claiming ownership of the property does not and cannot divest the court of its jurisdiction, yet if it appears during the trial that, by the nature of the proof presented, the question of possession cannot properly be determined without settling that of ownership, then the jurisdiction of the court is lost and the action should be dismissed.[3]

The case before us can be determined without the necessity of passing upon the validity of the acquisition made by petitioner of the land in question. That issue should be determined in a separate action. That issue is not involved here. Respondent admits the fact of sale of the land to petitioner and unless that sale is disputed in a proper action and rendered invalid, petitioner is entitled to be recognized as owner or is entitled to the possession of the property. Respondent does not claim to be owner of the property. Admittedly, he is but a mere tenant who holds no definite tenure. Whether he is entitled to its possession, or is unlawfully withholding it, is now the issue in this case. This can be determined without looking into the validity of the sale affecting the property.

(c) Granting arguendo that the validity of the sale can now be disputed, can respondent do so? The answer is no for the simple reason that he is not a party to the sale either principally or subsidiarily (Article 1302, Spanish Civil Code). And if it is true that the sale took place in 1944, as alleged in the complaint, then the same cannot be disputed under the ruling of the Krivenko case for at that time our Constitution was not in force [Cabauatan, et al. vs. Uy Hoo et al., 88 Phil. 103; Peralta vs. Director of Prisons 75 Phil. 285. Respondent's claim cannot therefore be maintained even from this point of view.

Wherefore, the decision appealed, from is hereby reversed. It is ordered that this case be remanded to the lower court for further proceedings, with costs against respondent Ricardo Brillantes.

Paras, C. J., Feria, Bengzon, Tuason, Montemayor, Reyes and Jugo, JJ., concur.

DISIDENTE

PABLO, M.,

En mi opinion, debe confirmarse la decision dictada por el Tribunal de Apelacion.

Vicente Dy Sun reclama la posesion del terreno que habia comprado en 1944. Si un extranjero no puede legalmente comprar terreno en Filipinas segun manda la Constitucion de la Republica organizada bajo el regimen del ejercito japones, ¿como puede el demandante reclamar la posesion de un terreno que no compro legalmente? Riñe con la logica la teoria de que el que no puede bajo la Constitucion comprar un terreno tiene derecho a poseerlo, y reclamar su posesion por medio de los tribunales.

El articulo 4 delCodigo Civil y articulo 5 delCodigo Civil de Filipinas disponen que son nulos los actos ejecutados contra lo dispuesto en la ley. La Constitucion no es una simple ley: es la ley fundamental del Estado.

De un contrato nulo no puede nacer el derecho de demandar ante los tribunales. El comprador de opio no puede pedir de los tribunales el cumplimiento del contrato de venta, ni puede pedir la posesion del contrabando. No se establecieron los tribunales para hacer cumplir contratos nulos o anticonstitucionales.

Si se concede a Vicente Dy Sun el remedio a que tienen derecho los que adquieren terreno de acuerdo con la ley, entonces no se podra impedir en el futuro la adquisicion de bienes inmuebles por extranjeros mediante maquinaciones mas o menos ingeniosas; ellos continuarian acaparando bienes inmuebles que estan reservados para los nacionales, porque, despues de todo, obtienen proteccion de los tribunales.

[1] Caballero vs. Abellana, 15 Phil., 534; Fuentes vs. Justice of the Peace of Pila, 40 Off. Gaz., 1271; 67 Phil., 364; Lizo vs. Carandang, Vol. 2 Off. Gaz., p. 302, March, 1943; 73 Phil., 649; Mercado vs. Go Bio, 44 Off. Gaz., (No. 8) 2735; 78 Phil., 279.

[2] Mediran vs. Villanueva, 37 Phil., 752, 759-760. Also Medel vs. Militante, 41 Phil., 526; Villaroman vs.

Esmundo, G. R. No. 37104; Fuentes vs. Justice of the Peace of Pila, 39 Off. Gaz., p. 1271, 67 Phil., 364; Lizo vs. Carandang, 2 Off. Gaz., 302, March 1943, 73 Phil., 649; Fabie vs. Gutierrez David, 42 Off. Gaz., 511, 517, 75 Phil., 536; Baguioro vs. Barrios, 43 Off. Gaz., 2031, 77 Phil., 120; Facundo vs. Santos, 44 Off. Gaz., No. 3, p. 860, 77 Phil. 733.

[3] Torres, et al. vs. Peña, et al., 44 Off. Gaz., (No. 8) 2699, 78 Phil. 231; Peñalosa vs. Garcia, 44 Off. Gaz., (No.8) 2709, 78 Phil. 245; Cruz vs. Garcia, 45 Off. Gaz., (No. 1) 227, 79 Phil. 1; Canaynay vs. Sarmiento, 45 Off. Gaz., (No. 1) 252, 79 Phil. 36.

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