

BORMAHECO, INC., PLAINTIFF-APPELLANT, VS. ELEUTERIO V. ABANES, SILVESTRE ANSELMO, JUAN P. ESTRELLA, ESTER JAVINIAS, PETRA LAYSON, BASILIO MAGTOTO, ENRIQUE MERCADO, CONRADO NICOL...

G.R. No. L-28087. July 13, 1973

Ponente: FERNANDO, J.

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FERNANDO, J.:

The dispute in this case had its origin when appellant Bormaheco, Inc. acquired, on June 26, 1964, from the then National Shipyard and Steel Corporation, hereinafter to be referred to as Nassco, a parcel of land in Santa Ana, Manila, and found that the defendants[1] were occupying portions thereof. On April 10, 1965, it filed a complaint for ejectment alleging that it informed the defendants of its purchase and notified them to vacate the premises, but they failed to do so. The answer admitted that such a demand was made, but it was not heeded as defendants, as far back as 1949, had been in possession, occupying their respective areas wherein their houses were constructed under valid contracts with the Alien Property Administration, the predecessor-in-interest of Nassco. It is their submission then that not only was their occupancy valid and legal in all respects but that also under Republic Act No. 477,[2] they were entitled to preferential rights in the sale thereof. While plaintiff prevailed in the municipal court, it was unsuccessful in the Court of First Instance. In its decision, now subject of this appeal,[3] it held that the former had no jurisdiction as there was no prior physical possession and that to the extent that the question raised would require the determination as to rights of ownership, it likewise declined to do so, "because the same is squarely raised before another branch of this Court in a separate proceeding." [4] While, strictly speaking, there might have been a slight inaccuracy in the statement that the question is really one of title, still, in view of the explicit provision of Republic Act No. 477 as to the preferential right given bona fide occupants that yields some plausibility to the defense set up by defendants, and with such an issue having been squarely raised in a case pending before another branch, it is easily understandable why the objection to the exercise of the original jurisdiction of the Court of First Instance in an appealed ejectment case beyond the competence of the municipal court is tenable. It could happen that even had there been no other such suit in existence where the legal question could be ventilated with both parties accorded all the opportunity to set up their respective claims, an action for ejectment hardly lends itself as the appropriate mode for the enforcement of legislation enacted pursuant to the social justice principle. There is thus no valid reason for a reversal.

In the decision now on appeal, Judge Agustin P. Montesa, now retired, set forth the facts in this ejectment suit thus: "Plaintiff acquired a portion of a parcel of land situated at Punta, Sta. Ana, Manila, which was sold by the Nassco at the public bidding on June 26, 1964. The defendants had been occupying the different portions of this property before and after the execution of the deed of sale in favor of the plaintiff. They claim, however, in their answer, that they have the option to buy this property, under Section 3 of Republic Act 477, * * *. Since the plaintiff contends that the law relied upon does not apply to the property in question, and the defendants claim otherwise, the latter have raised an issue of title to the said property, which is squarely being raised in a separate

civil action filed before this Court, as Civil Case No. 62097 on August 5, 1965. It is admitted by the parties that the plaintiff herein has never taken possession of the property and filed this action for ejectment before the City Court mainly on the strength of its title to the property by virtue of the sale to it by public auction. It is, however, a well-established principle of law on jurisdiction that 'a mere assertion of title to the property in question by a defendant in a forcible entry or unlawful detainer in his answer or at the hearing, is not, of itself, sufficient to oust jurisdiction of a justice of the peace or municipal court; but if, at the hearing he makes a sufficient showing to evidence good faith and merit in his claim, so that it appears that adjudication or determination of title is essential to determining right to possession, the inferior court lacks jurisdiction to proceed further and should dismiss this action.[5]" For the lower court then, "the issue is not one of possession." [6]

Then the appealed decision continued: "The plaintiff had never been in possession of the property in question and there is no allegation in the complaint that the same was filed by reason of unlawful detainer or forcible entry by the defendants upon the property. This is not a case of unlawful detainer, because the plaintiff and the defendants never had a contract by which the defendants were allowed to take possession of the property. Neither is there forcible entry in detainer, because the defendants herein had been lawfully occupying the property prior to the sale of the same at the public auction to the plaintiff. Their claim that they have No. 1 and No. 2 preference under Sec. 3 of Republic Act 477 is not an empty gesture, for they had been bona fide occupants of the property on or before December 12, 1946 and at least one of them is a veteran of the last war. The issue that they raised, therefore, is made in good faith based on a bona fide claim of preference. Whether that claim is true or not is a matter of evidence, but in the stipulation of facts submitted to the City Court and adopted in this Court, it is admitted by the parties, in Paragraph 7, that all the defendants were already occupants of the portions of the property in question each presently occupies prior to the acquisition of the same by plaintiff. There is, therefore, ample showing supporting their claim to preference." [7] Why the complaint for ejectment had to be dismissed and the municipal court reversed was succinctly set forth in the last paragraph thereof before its dispositive portion: "In view thereof, the City Court had no jurisdiction to try this case on that issue involving title, for the same falls within the exclusive jurisdiction of the Court of First Instance. As a consequence, all the proceedings had before the City Court are null and void, since its jurisdiction was only limited to the act of dismissing the said complaint. Neither can this Court now pass upon the question of title, because the same is squarely raised before another branch of this Court in a separate proceeding." [8]

The above decision speaks for itself. The care and circumspection taken by respondent Judge Agustin P. Montesa, who arrived at a conclusion with full support in the law on the undisputed facts, is quite evident. It is well-settled that without prior possession being shown, a suit for ejectment would not prosper. Nor could there be any valid objection to a dismissal, as there was no justification for the lower court exercising its original jurisdiction not only because of the absence of the consent of the parties to such a procedure, but also because the situation analogous to a defendant's claiming title under a statute with social justice overtones did not fit into the traditional mold of such summary proceedings. If it were otherwise, there would be the possibility of frustrating a statutory objective to aid the actual bona fide occupants. Nor could appellant nurse any genuine dissatisfaction as it is undoubted that there was in existence another action between the parties, the proper one at that, where the judicial power to determine their respective rights over the property in question could come into play. Hence, as noted at the outset, we affirm.

- Appellant in its brief failed to blunt the force of the categorical declaration of the lower court that it has "never taken possession of the property and filed this action for ejectment before the City Court mainly on the strength of its title [to it] by virtue of [its acquisition at a sale] by public auction." [9] All that it did say was that such a finding was "not borne by the records." [10] This is to invite us to go into a factual matter, hardly appropriate when the direct appeal to us, at a time the Judiciary Act allowed it, could raise only questions of

law. On that point, the relevance of the holding in *Raymundo v. Santos*[11] is quite clear. An action for ejectment requires as an indispensable requisite prior possession. Necessarily then, the Court of First Instance could not exercise appellate jurisdiction as the City Court had no competence to entertain this complaint for unlawful detainer. That was the law at the time the decision was rendered by Judge Montesa on February 23, 1967. Nor could appellant, even if he were minded, derive support from the 1972 decision of this Court in *Pangilinan v. Aguilar*[12] where reliance on title could, under certain circumstances, be justifiable to show prior physical possession. For as therein made clear by Justice Makasiar, who wrote the opinion for the Court: "Prior physical possession in the plaintiff is not an indispensable requirement in an unlawful detainer case brought by 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 and therefore the allegation of the same in the complaint, is not necessary. As heretofore stated, possession of a possessor by tolerance becomes unlawful the moment the owner demands that he vacate the land." [13] In a case like the present, therefore, where defendants-appellees were in possession not by mere tolerance but precisely with occupancy that could ripen into title under a legislative act,[14] the above doctrine penned by Justice Makasiar does not call for application. What other conclusion can there be then than that what was done by the lower court certainly is in accordance with law.

- Appellant could not have been unaware of the weakness of a case for ejectment. It is thus understandable why appellant, invoking certain decisions of this Court[15] would in vain seek to remedy what was a fatal infirmity by alleging that there was no objection on the part of the parties, however, to the exercise of the lower court of its original jurisdiction. The reliance on the above doctrine is misplaced. There is no such consent on the part of the parties. If it were otherwise, the lower court would have said so in its decision. As a matter of fact, the brief for appellees did place matters in their true light: "To start with, the pertinent portion of the Stipulation of Facts (p. 21, Record on Appeal) they submitted to the City Court states: '10. That it is understood that the defendant (appellees herein) are not waiving their special and affirmative defenses stated in their answer dated May 17, 1965 and by reason of which the defendants shall be allowed to adduce evidence thereon and on all other points not covered by these stipulations' (pp. 21-22, Record on Appeal). And one of appellee's special defenses is that—'18. The Honorable Court (City Court of Manila) has no jurisdiction over the nature of this action inasmuch as it necessarily involves questions other than that of mere physical possession over real property' (par. 18, Answer, p. 17, Record on Appeal). Obviously, the above special defense needs must be viewed in conjunction with appellee's special defense that served as its basis — that they have a preferential right to acquire the portions of the subject property they have been respectively occupying, pursuant to Republic Act No. 477, as amended." [16] From which, appellees could correctly conclude: "Thus viewed, it is quite clear that from the very start appellees questioned the jurisdiction of the City Court of Manila to try the instant case. And since the aforesaid Stipulation of Facts was indubitably re-submitted to the Court of First Instance of Manila (CFI Decision, p. 33, Record on Appeal), the necessary implication is that appellees continued to question *pari passu* said jurisdiction of the City Court, and in turn, the jurisdiction of the Court of First Instance of Manila to try the instant ejectment case sitting as an appellate court. Indeed, the very statement of the pivotal issue in this case as it appeared in appellees memorandum, submitted to the Court of First Instance of Manila, belies the claim of appellant that appellees practically abandoned its special defense of want of jurisdiction on the part of both courts." [17] Appellant could have refuted the above if there were any inaccuracy. It failed to do so. Witness the resolution of this Court of August 20, 1968: "The appellant having failed to file a reply brief within the period which expired on June 30, 1968, case G.R. No. L-28087 (*Bormaheco, Inc. vs. Eleuterio V. Abanes, et al.*) is hereby considered submitted for decision [without appellant's reply brief]." [18] It is thus manifest that there is no merit to the main error assigned to the effect that the lower court ought to have exercised its original jurisdiction, the parties having agreed that it should do so.

- There is this further support to the decision reached by the lower court. It could very well be that strictly viewed, the question is not really one of title. If it were thus, the authoritative pronouncements of this Tribunal would demonstrate even more persuasively the rightness of the decision reached by the lower court.[19] While

not controlling, however, they are not without relevance because appellees, as occupants, as noted in the decision, certainly could be expected to resist this ejectment suit because of what they believed is the statutory preference in their favor to acquire the lots in question under Republic Act No. 477. That, at any rate, is a plausible claim. This is not to say that they are justified. Nor are we called upon to do so in disposing of this appeal. It merely emphasizes that the lower court rightly did not close its eyes to such an aspect of the litigation before it. It ought not to have done so as the matter involved is one that falls clearly within the social justice provision of the Constitution.[20] A summary proceeding such as an action for ejectment is hardly the proper litigation for a thorough inquiry into how the beneficent aims of welfare legislation could best be achieved. The lower court is thus to be commended in refusing to act precipitately on a question that was better left for resolution in a pending suit between the same parties.

- There is thus, it would appear, an element of obduracy and stubbornness on the part of appellant. Its rights over the property in question, assuming that they in fact exist, could have been adjudicated in a suit already pending between the parties. Why this insistence on having the matter decided by an inferior court, usually overburdened with trifling suits and thus naturally predisposed to act, if not with haste, at least with much less opportunity for deep reflection, at times then without full consideration of the serious legal questions that may be involved? Moreover, such a court could, with deceptive plausibility, assert that a complaint in ejectment must be speedily disposed of. Appellant certainly could not hope to succeed by conjuring errors out of thin air, when a more careful appraisal of the matter ought to have convinced its counsel on appeal that on the face thereof, the complaint as filed in the city court by the original counsel Almacen, Navarra and Amores was hardly impressed with merit. To repeat, the outcome could not be in doubt. The lower court merely applied the law on the undisputed facts.

WHEREFORE, the appealed decision of February 23, 1967 is affirmed.

Makalintal, Actg. C.J., Zaldivar, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.
Ruiz Castro, J., no part.

[1] The defendants are Eleuterio V. Abanes, Silvestre Anselmo, Juan P. Estrella, Ester Javinias, Petra Layson, Basilio Magtoto, Enrique Mercado, Conrado Nicolas, Victor Ocampo, Alberto Regoso, and Carmen Ruzgal.

[2] Section 3 of Republic Act No. 477 (1950), insofar as pertinent, reads: "All lands so subdivided except commercial and industrial lots shall be sold by the National Abaca and Other Fibers Corporation without the sales application, publication and the public auction required in sections 24, 25 and 26 of Commonwealth Act No. 141, as amended, to persons who are qualified to acquire public agricultural lands: Provided, however, That sales of such lands heretofore made by the National Abaca and Other Fibers Corporation without the sales application, publication and public auction as provided in the above-mentioned sections of the Public Land Law are hereby authorized, ratified and confirmed: Provided, further, That preference shall be given first to bona fide occupants thereof on or before December 12, 1946 and second to veterans of the last war, and to members of the guerilla organizations and other qualified persons who entered the land after December 12, 1946, but not later than December 31, 1948 and who shall be limited to the area they have actually improved and maintained: Provided, finally, That the subdivided lots which may still be unoccupied shall be disposed of by drawing lots among qualified persons who may apply for said lots."

[3] This appeal was taken on May 9, 1967, prior to the effectivity of Republic Act No. 5440 in September 9, 1968, which granted the Court certiorari jurisdiction.

[4] Decision of the lower court, Record on Appeal, 37.

[5] Decision of the lower court, Record on Appeal, 33-35. The cases cited follows *Fabie v. David*, 75 Phil. 536

(1945); *Facundo v. Santos*, 77 Phil. 736 (1946); *Torres v. Peña*, 78 Phil. 231 (1947); *Peñalosa v. Garcia*, 78 Phil. 245 (1947); *Canaynay v. Sarmiento*, 79 Phil. 36 (1947); *Savinada v. J. M. Tuason & Co.*, 83 Phil. 840 (1949); *Centeno v. Gallardo*, 93 Phil. 63 (1953); *Dy Sun v. Brillantes*, 93 Phil. 175 (1953); *Po v. Moscoso*, 93 Phil. 427 (1953); *Andres v. Soriano*, 101 Phil. 848 (1957).

[6] *Ibid*, 35.

[7] *Ibid*, 35-36.

[8] *Ibid*, 37.

[9] *Ibid*, 34.

[10] Brief for Appellant, 5.

[11] 93 Phil. 395 (1953).

[12] G.R. No. L-29275, January 31, 1972, 43 SCRA 136.

[13] *Ibid*, 144.

[14] Republic Act No. 477 (1950).

[15] *Amor v. Krummer*, 76 Phil. 481 (1946); *Torres v. Peña*, 78 Phil. 231 (1947); *Zapanta v. Bartolome*, 83 Phil. 433 (1949); *Aureo v. Aureo*, 105 Phil. 77 (1959).

[16] Brief for Appellees, 4-5.

[17] *Ibid*, 5-6.

[18] Resolution dated August 20, 1968.

[19] Cf. *Angcao v. Punzalan*, G.R. No. L-20521, Dec. 28, 1964, 12 SCRA 706; *Deveza v. Montecillo*, G.R. No. L-23942, March 28, 1969, 27 SCRA 822; *Vencilao v. Camarenta*, G.R. No. L-24308, Sept. 30, 1969, 29 SCRA 473; *Bautista v. Fernandez*, G.R. No. L-24062, April 30, 1971, 38 SCRA 548; *Pangilinan v. Aguilar*, G.R. No. L-29275, Jan. 31, 1972, 43 SCRA 136.

[20] According to Art. II, Sec. 5 of the 1935 Constitution: "The promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State." This provision has been even more stressed in the present Constitution thus: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits." Art. II, Sec. 6 of the Revised Constitution.

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