

**JUAN SAVINADA, PETITIONER, VS. J. M. TUASON & CO., INC.,
REPRESENTED BY ITS MANAGING PARTNER, GREGORIO ARANETA,
INC., AND PRUDENCIO M. ENCOMIENDA, JUDGE OF MUNICIPAL
COURT OF QU...**

G.R. No. L-2132. May 30, 1949

Ponente: OZAETA, J.

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OZAETA, J.:

This is a petition for certiorari to annul an order of the respondent judge of the municipal court of Quezon City denying the petitioner's motion to quash a complaint for unlawful detainer on the alleged grounds (1 that the court had no jurisdiction of the subject matter of the action and (2) that the complaint stated no cause of action.

It appears that the respondent J. M. Tuason & Co., Inc. filed an action against the petitioner Juan Savinada for unlawful detainer, alleging, insofar as pertinent to the issue herein, as follows:

"3. That the plaintiff is the absolute and lawful owner of that certain real estate known as the Sta. Mesa Heights Subdivision situated in Quezon City and covered by Transfer Certificate of Title No. 37686 issued by the register of deeds of the City of Manila;

"4. That the defendant is unlawfully withholding from the plaintiff the possession of a portion of the above-mentioned property, paid portion being described as follows:

"A ricefield and vegetable tract situated in Barrio Tatalon, Quezon City, being a portion of the Sta. Mesa Heights Subdivision, covered by the above-mentioned Transfer Certificate of Title No. 37686. Bounded on the N., by a vacant ricefield cultivated by a certain person known only as Kiener; on the S., by a vacant ricefield cultivated by Hermogenes Placido; on the W., by a ricefield cultivated by Jorge Placido; and on the E., by Espana Street, containing an area of three hectares, more or less."

The herein petitioner filed a motion to dismiss that complaint contending (1) that he is the exclusive owner of the land in question and (2) that the complaint does not allege the date when the defendant entered the premises in question nor the manner of such entry.

In his order of February 14, 1948, the respondent judge sustained the second ground of the motion and dismissed the complaint. But upon motion for reconsideration filed by the plaintiff in which it invoked the decision of this court in the case of *Co Tiauico vs. Diaz* (75 Phil, 672), the respondent judge reconsidered and set aside the order of dismissal and required the defendant to answer the complaint.

The main issue involved herein is the sufficiency of the allegation of paragraph 4 of the complaint hereinabove quoted. It is apparent that said allegation is patterned after Form No. 1 prescribed by this court as a model of a "complaint for ejectment" and appended to the Rules of Court. In the above-cited case of *Co Tiamco vs. Diaz* the same question was raised, and this court sustained the sufficiency of such allegation in the following language:

"There is no fairness in holding a form to be insufficient after all the litigants were told by our Rules to follow

it. It is said that a form is but an illustration, a guide, or an outline containing a general idea of what may be done. But obviously, it cannot be a good illustration when it leaves something in the dark. It cannot be a right guide when it misguides. And it cannot be an honest outline when it is incomplete and is deceitful. A form provided by law is a part of that law and, as such, it must be respected, regardless of what we might desire as to how it should be. After all, our duty is to construe the law and not our will, for in administering the law we have no will but the will of the law. In the instant case, the form provided by the rules is not a figment of the mind but a practical expression of a fundamental policy. It discloses that -in an action for forcible entry a simple allegation in the complaint that defendant turned the plaintiff out of possession is sufficient, for, undoubtedly, the words 'turned out' imply force in the taking: of the possession. (*Mediran vs. Villanueva*, 37 Phil., 752, 756.) And in an action for unlawful detainer, a simple allegation that defendant is unlawfully withholding possession from plaintiff is made sufficient, for the words 'unlawfully withholding' imply possession on the part of the defendant, which was legal in the beginning having no other source than a contract, express or implied, possession which has later expired as a right and is being withheld by defendant. Thus, a form of a pleading is devised which is brief and concise, and though apparently too general, it is so worded as clearly to apprise the defendant of the substance of the claim. Other details like the one-year period within which the action should be brought, and the demand when required to be made by the Rules, must be proved but need not be alleged in the complaint." (42 Off. Gaz., 1179.)

In the absence of compelling reasons, we are not inclined to disturb that ruling.

With regard to petitioner's contention that the municipal court had no jurisdiction of the subject matter of the action because the defendant alleged in his answer that he is the owner of the land in question, suffice it to advert to the well-settled jurisprudence that the mere filing of an answer, in an unlawful detainer case, claiming title to the premises involved or raising a question of ownership will not divest the justice of the peace or municipal court of its jurisdiction over the subject matter of the action. (*Supia vs. Quintero*, 59 Phil., 312.) Said court would lose jurisdiction only if the evidence presented during the trial should show that the question of title is necessarily involved in the litigation and that by the nature of the proof presented the question of possession cannot be properly determined without adjudicating the question of title. (*Torres vs. Peña*, 78 Phil., 231; *Penalosa vs. Garcia*, 78 Phil., 245; *De los Reyes vs. Elepano*, 83 Phil., 691, and cases therein cited.)

The petition is denied, with costs against the petitioner. So ordered.

Paras, Pablo, Perfecto, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.
Feria, J., dissents.

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