

**LORNA ALFON NACION, PETITIONER, VS. RAUL T. TAN,
RESPONDENTS.**

Ponente: LOPEZ, J.

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LOPEZ, J.:

This is a Petition for Review under Rule 42 of the Rules of Court where petitioners seek the reversal of the Omnibus Resolution[1] of the Regional Trial Court (RTC), Branch 4, Dolores, Eastern Samar, which granted respondent's Motion for Reconsideration of the RTC Decision[2] and remanded the case to the Municipal Circuit Trial Court (MCTC) of Dolores-Maslog for further proceedings.

THE FACTS

Petitioner filed a complaint for ejectment against respondent, alleging that she is the owner and possessor of a parcel of land with a warehouse situated in Barangay 2, Poblacion, Dolores, Eastern Samar. The property was previously leased by one Helen Espeso at a monthly rental of P8,000.00. Sometime in the last quarter of 2004, respondent offered to occupy a portion of the property for a monthly rental of P4,000.00, which offer was accepted by petitioner. It was understood that respondent would be occupying on a temporary basis. On May 21, 2010, petitioner notified respondent of the termination of his lease and asked him to vacate after a period of one (1) month. However, respondent did not vacate the premises and continues to occupy the same.

Respondent contended that since February of 2008, he has been in peaceful occupation of the subject property. It was in December 2007 when he approached petitioner and asked if he could occupy the whole lot for a monthly rental of P4,000.00, to which the petitioner agreed. His occupation of the lot was not on a temporary and tolerance basis as he paid rental obligations from February 2008 until March 2009. No rentals were paid beginning April 2009 after petitioner executed a private document acknowledging that she is indebted to respondent in the amount of P250,000.00. Petitioner indicated in the said document that no interest shall be charged on the loan because she will not be charging respondent for rental payments. Petitioner even made the warehouse as collateral for her loan. Respondent refused to vacate the premises as petitioner had not yet paid her monetary obligation to him.

On September 2, 2010, the MCTC Dolores-Maslog rendered its Decision, the dispositive portion of which states:

“WHEREFORE, judgment is rendered in favor of defendant and against the plaintiff, declaring defendant Raul T. Tan entitled to the possession of the property in dispute until he is fully paid by plaintiff of her debt.

SO ORDERED.”

Petitioner appealed to the RTC, Branch 4, Dolores, Eastern Samar which, at first, rendered a Decision reversing that of the MCTC. On respondent's Omnibus Motion,[3] the RTC issued its Omnibus Resolution now subject of this Petition for Review before this Court.

The Petition is anchored on the following:

I

THAT THE HONORABLE COURT GRAVELY ERRED IN SUSTAINING RESPONDENT'S OMNIBUS MOTION;

II

THAT THE HONORABLE COURT GRAVELY ERRED IN REFUSING TO RECONSIDER ITS OMNIBUS RESOLUTION CONSIDERING THAT, CONTRARY TO RESPONDENT'S CONTENTION, HIS COUNSEL WAS PROPERLY NOTIFIED OF THE SCHEDULED PRELIMINARY CONFERENCE;

III

THAT THE HONORABLE COURT GRAVELY ERRED IN HOLDING THAT THE REMEDIES OF NEW TRIAL/RELIEF FROM JUDGMENT ARE AVAILABLE TO RESPONDENT;

IV

THAT THE HONORABLE COURT GRAVELY ERRED IN ORDERING THE REMAND OF THE CASE TO THE TRIAL COURT; and

V

THAT THE HONORABLE COURT GRAVELY ERRED IN TAKING COGNIZANCE OF RESPONDENT'S OMNIBUS MOTION DESPITE LACK OF AN AFFIDAVIT OF MERIT.

OUR RULING

Petitioner asserts in the main that the RTC should not have given credence to respondent's claim that he was not properly notified of the scheduled preliminary conference and should not have ordered the remand of the case to the MCTC for further proceedings.

The petition is without merit.

Contrary to petitioner's contention, the RTC correctly passed upon the issue of whether or not respondent was duly notified of the scheduled preliminary conference despite the fact that respondent did not raise it in an appeal memorandum.

Section 18, Rule 70 of the Rules of Court specifically allows the RTC to render judgment based on the entire records of the case and not merely be limited to those raised in the appeal memoranda. Thus:

"The judgment or final order shall be appealable to the appropriate Regional Trial Court which shall decide the same on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Court. "

The RTC in this case, which exercised appellate jurisdiction over the Decision of the MCTC was not limited to the errors raised in the appeal memorandum.

Section 21 of the 1991 Revised Rules on Summary Procedure also specifically states:

"Section 21. Appeal. – The judgment or final order shall be appealable to the appropriate Regional Trial Court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the Regional Trial Court in civil cases governed by this Rule, including forcible entry and unlawful detainer shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed."[4]

Later on, the 1997 Rules of Civil Procedure were promulgated and incorporated in Section 7 of Rule 40 thereof the directive to the RTC to decide appealed cases "on the basis of the entire record of the proceedings had in the

court of origin and such memoranda as are filed,”viz:

“Section 7. Procedure in the Regional Trial Court. –

(a) Upon receipt of the complete record or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.

(b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant’s memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.

(c) Upon the filing of the memorandum of the appellee, or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed.”[5]

Consequently, the RTC presently decides all appeals from the MTC/MTCC/MCTC based on the entire records of the proceedings had in the court of origin.

In this case, the RTC correctly considered, based on the entire records of the case, that respondent’s counsel was not properly served the Order of pre-trial which Order also contained the directive for him to submit his pre-trial brief. Hence, while respondent appeared during the scheduled pre-trial conference, his counsel was not. Expectedly, no pre-trial brief was submitted by respondent.

No error can be imputed to the RTC when it ordered the remand of the case to the court of origin for further proceedings. Based on the records before it, the RTC aptly held that plaintiff had to prove her case for unlawful detainer against respondent considering that even in the allegations in her Complaint, she referred to the fact that respondent was paying rentals to her for the use of her property. Based also on respondent’s answer, he appears to have a meritorious defense which may properly be ventilated through further proceedings in the court of origin.

WHEREFORE, the petition is DENIED. The October 6, 2011 Omnibus Resolution of the RTC, Branch 4, Dolores, Eastern Samar in Civil Case No. 913 is hereby AFFIRMED.

SO ORDERED.

Delos Santos, J., Chairman, and Lagura-Yap, JJ., concur.

[1] Rollo, page 53.

[2] Rollo, page 30, the dispositive portion stating:

“WHEREFORE, the DECISION of the MCTC, Dolores-Maslog dated September 2, 2010 is hereby REVERSED and SET ASIDE.

Defendant and all other persons claiming title under him is hereby ORDERED to vacate from the subject premises and surrender the possession of the same to the plaintiff; to reimburse to plaintiff the amount of P3,000.00 as legal expenses and the amount of P20,000.00 as attorney’s fees; to pay to plaintiff the monthly rental of P4,000.00 from December 2004 to February 2006; and to pay the monthly rental of P8,000.00 from March 2006 until the time defendant surrenders to plaintiff possession of the subject premises.”

[3] Rollo, page 35.

[4] Emphasis supplied.

[5] Emphasis supplied.

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