

**GENERAL INSURANCE AND SURETY CORPORATION,
PLAINTIFF-APPELLANT, VS. LEANDRO E. CASTELO AND JOSEFA
PAYUMO CASTELO, DEFENDANTS-APPELLEES.**

G.R. No. L-19330. April 30, 1965

Ponente: REGALA, J.

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REGALA, J.:

On October 22, 1950, the plaintiff-appellant, General Insurance and Surety Corporation, filed with the Municipal Court of Quezon City an ejectment suit against the herein appellees, spouses Leandro E. Castelo and Josefa Payumo Castelo. The complaint alleged that the plaintiff was the owner of a lot located at Quezon City, known as No. 34 Bulusan, Quezon City" and that the defendants were persisting in occupying the said property without paying for the corresponding rentals therefor despite the plaintiff's repeated demands. On October 29, 1959, the defendants' spouses filed a motion to dismiss the above complaint on the grounds that the same did not state a cause of action and that the Municipal Court of Quezon City had no jurisdiction over the case. On November 3, 1959, however, the said motion was denied on the explanation that "this court (Municipal Court of Quezon City) finds that the complaint against the defendant has a cause of action."

On November 9, 1959, the defendants filed their "Answer with Counterclaims" to the aforementioned complaint. In their answer, the defendants specifically denied the plaintiff's claim of ownership over the lot in dispute. They claimed that the "plaintiff never acquired ownership over the lot in question, and it (the plaintiff) is holding the title if ever one is issued in its name, as trustee and for the benefit of the defendants, who are owners thereof." The same answer likewise specifically alleged that contrary to the plaintiff's assertion, they, the defendants, "are the owners of the lot in question." On November 14, 1959, the plaintiff filed its "Reply and answer to Counterclaim."

With the issues thus joined, the parties entered into trial and in due time, the lower court rendered a decision dismissing the complaint "for lack of jurisdiction to determine the same." In support of its dismissal on the above ground, the said court ruled that the issue presented by the pleadings and at the trial "hinges on a question of ownership and for that reason is not cognizable by an inferior court."

Thereupon, the plaintiff appealed the above decision to the Court of First Instance of Quezon City where it was docketed as Civil Case No. Q-5126. Once more, the defendants moved for the dismissal of the appealed case on the ground that the said court had no jurisdiction over the suit by virtue of the express provision of Section 11 of Rule 40 of the Rules of Court. To this motion, the plaintiff-appellant filed an opposition which argued for the said Court of First Instance's jurisdiction "either by way of appeal or under its original jurisdiction." After two postponements of the hearing on the above motion, the same was finally denied by the above court "for lack of merit and for failure of the movant to appear."

The defendants-appellees then filed a timely motion for reconsideration of the above order. Again, the plaintiff-appellant filed an opposition thereto. Instead of scheduling a hearing on the said motion for reconsideration, however, the Court of First Instance set the case for a pre-trial conference or hearing on

September 1, 1960. Unfortunately, the pre-trial proceedings did not bring the parties to any agreeable understanding so that on October 14, 1960, the trial court issued an order setting the case for hearing on the merits for October 21, 1960, at 2:80 in the afternoon. This same order denied the defendants' motion for reconsideration "for lack of merit."

On October 19, 1960, the defendants filed a "Petition to Suspend Trial" on the ground that there was another civil case between the same parties involving the question of ownership of the lot in dispute. This was opposed by the plaintiff-appellant.

Without ruling on the above petition, the Court of First Instance of Quezon City rendered a decision on February 2, 1961 dismissing the complaint on the ground that "after carefully going over the records of the instant case and examining the, memoranda submitted by both parties, this Court concludes that this case should be dismissed because of the insistent objection to the exercise of original jurisdiction registered by the defendants from the very beginning." From this decision, the plaintiff-appellant perfected an appeal to the Court of Appeals which, however, certified the case to this Court.

Both the appellant and the appellees recite in their respective briefs what they allege to be the "facts" of this case. The appellant adverts to various incidents and documents tending to establish its ownership of the lot in question. More specifically, the appellant points to an instrument purporting to be a deed of sale with a right of repurchase in its favor as well as to the alleged title over the disputed realty issued in its name. On the other hand, the appellees insist that the above-mentioned deed of sale was in fact a mere equitable mortgage land by no means, an instrument which conveyed title over the lot in question to the appellant.

It must be stated in connection with the above dispute as to the "facts" of this case, however, that there has not been any finding on them by the court below, the Court of First Instance of Quezon City, since no trial or hearing on the merits was ever held therein. The decision under appeal pertains solely to the ruling of the said court that it lacks the jurisdiction to try the case.

It is evident and conclusive upon the pleadings filed in this case that the dispute between the parties hereto extends beyond the ordinary issues raised in ejectment cases. For, as earlier pointed out, both the appellant and the appellees assert ownership over the lot in question. In the complaint filed by the plaintiff-appellant, the latter categorically claims ownership of the disputed property. So do the defendants in the answers they filed with both the Municipal Court and the Court of First instance of Quezon City. The Municipal Court, therefore, was perfectly correct in ruling that the resolution of the dispute "hinges on a question of ownership and for that reason is not cognizable by an inferior court." (Rivera vs. Balili, G. R. No. L-15159, September 30, 1963).

It only remains, therefore, to determine whether the Court of First Instance of Quezon City could have acquired jurisdiction over the case at bar either upon its appellate or original jurisdiction.

Under Section 11 of Rule 40 of the Rules of Court, it is provided that:

"Sec. 11. Lack of Jurisdiction.-A case tried by an inferior court without jurisdiction over the subject matter shall be dismissed on appeal by the Court of First Instance. But instead of dismissing the case, the Court of First Instance in the exercise of original jurisdiction, may try the case on the merits if the parties therein file their pleadings and go to the trial without any objection to such jurisdiction" (Italics supplied)

In the case under consideration, the inferior court (Municipal Court of Quezon City) which originally tried the complaint for ejectment dismissed the same on the ground of lack of jurisdiction. The said court found that the litigation involved not merely the question of possession but also the issue of ownership over the disputed parcel of land. Beyond any doubt, though only implicitly, the Court of First Instance concurred with the above ruling of

the said inferior court when the case was elevated to it on appeal. Consequently, under the above-mentioned rule, The Court of First Instance of Quezon City could have assumed jurisdiction over the said case only in the exercise of its original jurisdiction and not on its appellate jurisdiction. Furthermore, it could have done so only had the parties herein filed their pleadings and gone to trial without any objection to such exercise of the Court of First Instance's original jurisdiction.

It should be recalled, however, that the above requisite to the effect that neither party must object to the exercise of the Court of First Instance's original jurisdiction never obtained in this instance. The pleadings and records bear out the fact that the defendants have been most vigorous and insistent in their objection to such exercise of jurisdiction by the Court of First Instance. Upon the elevation of the case from the inferior court, the defendants forthwith filed a motion to dismiss questioning the jurisdiction of the Court of First Instance to try the same. When this-motion was denied, they filed a timely motion for reconsideration. These are recorded evidence of the defendants' objection to the Court of First Instance's exercise of original jurisdiction. Quite rightly, therefore, the said Court of First Instance had no alternative but to dismiss the case as it did.

In the above-cited case of *Rivera vs. Halili*, supra, this Court had already explained the operation of Section 11 of Rule 40 when it said:

"Pursuant to the above rule (Sec. 11, Rule 40), therefore, the Court of First Instance of Bulacan could have tried the case on the merits only had the parties therein filed their pleadings and gone 'to trial without any objection to such jurisdiction.' That was, however, a condition which could not have been met for the reason that a party thereto has precisely 'objected to such jurisdiction.' "

IN VIEW OF ALL THE FOREGOING, the decision appealed from is hereby affirmed in full, with costs against the appellant. This decision is without prejudice to the filing by the appellant of whatever claims it may have under the controverted deed of sale.

Bengzon, C.J., Bautista Angelo, Concepcion, Paredes, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.
Dizon, J., separate concurring opinion.

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