

**DOUGLAS B. ALVIR, PETITIONER, VS. HON. RIZALINA B. VERA, AS
PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, BRANCH
XXIII, BERNARDO MOLLAT AND TERESA MOLLAT, RESPONDENTS.**

G.R. No. L-39338. July 16, 1984

Ponente: RELOVA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b65d656ecd64/>

RELOVA, J.:

Records show that petitioner Douglas B. Alvir filed a complaint for unlawful detainer against private respondents Bernardo Mollat and Teresa Mollat, before the then Municipal Court of San Juan, Rizal. Basis of the complaint is that petitioner is the registered owner of a residential lot, together with the improvements thereon situated at No. 299 Verdun Street, San Juan, Rizal and covered by Transfer Certificate of Title No. 328543 of the Registry of Deeds of Rizal. After said property had been adjudicated to him as its new owner during the settlement of the estate of his late father Dr. Antonio B. Alvir, plaintiff (herein petitioner) wrote private respondents to vacate the premises as he and his family are in need of a place to live. This was followed by another letter reiterating his request which, however, the private respondents ignored.

In their answer, private respondents alleged that in November 1961 the late Dr. Antonio B. Alvir entered into a contract of sale with Mr. Howard J. Weber whereby the latter was given the right to pay the full purchase price of the property within two (2) years from the date of the contract of sale; that private respondents were allowed by Mr. Weber to occupy the premises before the latter left for the United States; and that they have been occupying the property as tenants of said Mr. Weber.

After trial, the inferior court rendered judgment in favor of herein petitioner Douglas B. Alvir, ordering private respondents Bernardo and Teresa Mollat "to vacate the premises occupied by them at No. 299 Verdun Street, San Juan, Rizal and to return possession thereof to the plaintiff; to pay to the plaintiff the monthly rental of P300.00 per month from May 25, 1972 until the said defendants completely vacate the said premises; [and] to pay to the plaintiff an additional sum of P500.00 for attorney's fee plus the cost of this action." (p. 77, Rollo)

Appeal from the decision of the inferior court was taken by private respondents to the then Court of First Instance of Rizal which set aside the decision of the then municipal court of San Juan, Rizal and dismissed the complaint.

Hence, this petition for review by way of certiorari.

As found by respondent court, subject property with an area of 502 square meters is situated in San Juan, Rizal and covered by Transfer Certificate of Title No. 328543 in the name of petitioner Douglas B. Alvir as of May 25, 1971 when the estate of his father who died in 1951 was settled.

As its owner, petitioner contends that he is entitled to the possession of the premises against the private respondents with whom he has no contract and, notwithstanding, refused to vacate the same.

On the other hand, the private respondents claim that they were authorized to stay in the property by Mr. and Mrs. Howard Weber who purchased it from the Alvirs in 1961. On this point, respondent court said:

"x x x As early as 1966, the Alvirs and Weber seemed not to agree as to the amount still due the Alvirs from Weber which prompted Weber to deposit the amount which he believed was the maximum amount still due the Alvirs with the Associated Banking Corporation. On December 1, 1967, Weber wrote Antonio Alvir, brother of the plaintiff, with respect to the fencing of the property covered by the deed of sale between the Alvirs and Webers Exhibit 6-A). As testified to by Antonio Alvir, Weber has been pressing Catalina Alvir to deliver the title to the property but Mrs. Alvir refused to do so on the ground that the payment made by Weber was delayed.

"From the evidence presented by the defendants, it appears that defendants are claiming the right to possess the property by virtue of the authority of Weber who claims to be the owner of the property as per deed of sale executed by the Alvirs in his favor. The contention of the Alvirs that they are not duty bound to surrender the title to the property on the ground that Weber has not complied with the conditions of the sale are matters which should be threshed out in a separate proceedings and only until these matters have been clarified can it be said that Weber has no right to the property and, therefore, the possession of the defendants under Weber's authority is not lawful.

"x x x x x x x x

"As a general rule, a mere allegation by the defendant in an ejectment case, that he is the owner of the real property involved therein, does not and cannot divest the inferior court of its jurisdiction over the ejectment suit. However, if it appears during the trial that by the nature of the proof presented, the question of possession cannot be properly determined without settling that of ownership, then the jurisdiction of the court is lost and the action should be dismissed. (Torres vs. Peña, 78 Phil. 231; Peñalosa vs. Garcia, 78 Phil. 245; Cruz vs. Garcia, 79 Phil. 1; Ganaynay vs. Sarmiento, 79 Phil. 36; Raymundo vs. Santos, 93 Phil. 395; Dy Sun vs. Brillantes, 93 Phil. 175; Andres vs. Serrano, 101 Phil. 848; Songahid vs. Cinco, L-14341, January 29, 1960 as cited in 16 SCRA 677). Plaintiff admitted that before this case was filed, he came across the deed of sale by the Alvirs in favor of Weber while sorting out papers relevant to this case (tsn, April 6, 1973, pp. 16-17). It is surprising that Weber was not made a party defendant he being a party in interest." (pp. 73-74, 75, Rollo)

In actions of forcible entry and detainer, the main issue is possession de facto, independently of any claim of ownership or possession de jure that either party may set forth in his pleading. As incidents of the main issue of possession de facto, the inferior court can decide the questions of (a) whether or not the relationship between the parties is one of landlord and tenant; (b) whether or not there is a lease contract between the parties, the period of such lease contract and whether or not the lease contract has already expired; (c) the just and reasonable amount of the rent and the date when it will take effect; (d) the right of the tenant to keep the premises against the will of the landlord; and (e) if the defendant has built on the land a substantial and valuable building and there is no dispute between the parties as to the ownership of the land and the building, their rights according to the Civil Code. Defendants' claim of ownership of the property from which plaintiff seeks to eject him is not sufficient to divest the inferior court of its jurisdiction over the action of forcible entry and detainer. However, if it appears during the trial that the principal issue relates to the ownership of the property in dispute and any question of possession which may be involved necessarily depends upon the result of the inquiry into the title, previous rulings of this Court are that the jurisdiction of the municipal or city court is lost and the action should be dismissed.

We have at bar a case where, in effect, the question of physical possession could not properly be determined without settling that of lawful or de jure possession and of ownership and hence, following early doctrine, the jurisdiction of the municipal court over the ejectment case was lost and the action should have been dismissed. As a consequence, respondent court would have no jurisdiction over the case on appeal and it should have dismissed the case as appealed from the municipal court. However, in line with Section 11, Rule 40 of the Revised Rules of Court, which reads -

"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 its 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."

this Court held in *Saliwan vs. Amores*, 51 SCRA 329, 337, that dismissal "on the said ground of lack of appellate jurisdiction on the part of the lower court flowing from the municipal court's loss of jurisdiction would lead only to 'needless delay and multiplicity of suits in the attainment of the same result' and ignores, as above stated, that the case was tried and heard by the lower court in the exercise of its original jurisdiction by common assent of the parties by virtue of the issues raised by the parties and the proof presented by them thereon." In a similar case, the Court ruled that-

"As the justice of the peace court of Hagonoy had no jurisdiction to try the case on the merits, the order appealed from remanding the case to that court must be, as it is hereby, revoked; and, in accord with the precedent established in *Cruz et al. vs. Garcia et al.*, 45 Off. Gaz., 227, and the decisions therein cited, the case is ordered returned to the Court of First Instance of Bulacan for that court to proceed with the trial in the exercise of its original jurisdiction." (*Teodoro vs. Balatbat, et al.*, 94 Phil. 247, 250).

ACCORDINGLY, the judgment of respondent judge is hereby REVERSED and the case is remanded to the Court of First Instance of Rizal for that court to proceed with the trial in the exercise of its original jurisdiction. SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.