

ISIDORE FALEK, PLAINTIFF AND APPELLLEE VS. NATIVIDAD GANDIONGCO DE SINGSON AND JUAN SINGSON, DEFENDANTS AND APPELLANTS.

G. R. No. L-3495. May 23, 1951

Ponente: PARAS, C.J.

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PARAS, C.J.:

On May 28, 1947, the plaintiff, Isidore Falek, instituted in the Municipal Court of Cebu an action for forcible entry against the defendants, Natividad Gandiongco de Sing-son and Juan Singson, for the purpose of securing an order for the ouster of the defendants from a parcel of land situated at D. Jakosalem Street, Cebu City, known as lot No. 1391-B, subdivision of lot No- 1391. The complaint alleges that in April, 1947, the defendants entered said land by force, strategy and stealth, and constructed thereon a house of light materials. The defendants filed an answer, setting up the special defenses that they are the owners of the lot described in the complaint, that they have never conveyed it to anybody, and that the municipal court has no jurisdiction over the case which involved question of ownership. After hearing, the municipal court absolved the defendants from the complaint. In arriving at this decision, said court stated as follows: "The plaintiff seems to be well provided with torrens title but inasmuch as the question of ownership is outside the jurisdiction of this Court, the said question is ignored. The Court, in deciding only the question of who has the prior material possession of the premises, is forced to conclude that the defendants are entitled to the possession of the premises in view of the evidence adduced during the trial." Upon appeal by the plaintiff to the Court of First Instance of Cebu and after trial, said court rendered a decision declaring the plaintiff to be entitled to the possession of the land, ordering the defendants to remove at their expense the house built by them thereon and to vacate the land within thirty days from receipt of the decision, and assessing the costs against the defendants. From this decision the defendants appealed to the Court of Appeals which certified the case to the Supreme Court on the ground that the jurisdiction of the trial court is in issue, it appearing that the appellants contend, in their second assignment of error, that the trial court erred in assuming jurisdiction as appellate court over the present case taking into consideration the fact that the Municipal Court of Cebu had no jurisdiction at all to try and decide it, and, under their third assignment of error, that the trial court erred in not declaring that there is a serious question of ownership involved in the present case.

We are of the opinion that the Municipal Court of Cebu had no original jurisdiction and the Court of First Instance of Cebu had no appellate jurisdiction over the present action on the ground that the complaint for forcible entry was filed more than one year after the alleged unlawful entry of the defendants.

The evidence for the appellants shows that the land in question was purchased by them way back in 1919, building thereon a house of strong materials. Before the last war the house and lot were mortgaged by the appellants to the Agricultural and Industrial Bank. On August 6, 1942, the appellants leased the premises to the Colegio de la Inmaculada Concepcion which paid the corresponding rentals to the appellants until August or September, 1943, when the appellants left Cebu City due to the dangers of war, returning to said City only in the month of August, 1945. Since then they have held possession of the land after having constructed thereon a small

house in September, 1945.

On the other hand, the evidence for the plaintiff tends to show that he was absent from Cebu from 1944 to November, 1946, having come to Cebu only in December, 1946. It is true that the plaintiff alleges that Antonio Paulin held the land in his behalf, but the latter testified that in April, 1944, he ceased to take charge thereof because he joined the guerrillas, coming back to Cebu City only in November, 1946. It is true also that, as testified by Clara Vda. de Rivera, she administered the property after Antonio Paulin had left, but she also admitted that from August, 1944, nobody took charge of the property which was occupied by the Japanese.

There is every reason, therefore, to hold that if the defendants in fact intruded into the land in question, it was some time in August, 1945. The present action for forcible entry having been filed in the Municipal Court of Cebu on May 28, 1947, said court had no original jurisdiction there over, and the Court of First Instance of Cebu, accordingly, did not acquire any appellate jurisdiction.

Wherefore, the appealed decision is hereby set aside and plaintiff's complaint dismissed, without costs.

So ordered.

Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo and Bautista Angelo, JJ., concur.

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