

**JOSEPH FELDMAN, PETITIONER, VS. DEMETRIO B. ENCARNACION,
JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL; RAMON L.
CORPUS, ADMINISTRATOR OF THE ESTATE OF TEODORO R.
YANGCO; VICTOR...**

G.R. No. L-4494. September 24, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

In his lifetime, the now deceased Teodoro R. Yangco was the owner of a shipyard for the repair of ships, called "Varadero de Navotas de Teodoro R. Yangco" situated in Navotas, Rizal. The shipyard consisted of machineries and equipment valued at P20,026.45, buildings worth P10,500, and the land consisting of three parcels with a total value of P19,473.55. As such owner, Yangco by a contract (Annex A) leased the shipyard or "Varadero" to Judge Rafael Corpus with option to purchase for a period of five years from May 16, 1938. After the expiration of said period of five years, the lease was renewable from year to year. The rent agreed upon was P300 a month, from September 1, 1938 to December 31, 1938; P400 from January 1, 1939 to December 31, 1939; and P500 a month from January 1, 1940 and thereafter. The option to purchase was coextensive with the period of lease of five years. The purchase price was fixed at P50,000, minus the amount of rentals that may have already been paid. On March 20, 1939, Judge Rafael Corpus with previous authority of Yangco transferred or assigned his rights and interests over the shipyard to his son Rafael Marino Corpus and Joseph Feldman (the present petitioner). Feldman took possession of the premises and began operating it.

On April 24, 1941, R. Marino Corpus sold and transferred his one-half (1/2) interests and rights over the shipyard to his covendee Joseph Feldman; the latter, however, for lack of capital sold one-half (1/2) of all his rights and interests over the shipyards to Clemente Hidalgo for P8,000. The two partners (Feldman and Hidalgo) were in possession of the shipyard and were operating it when the last Pacific war broke out. They had not paid rentals to Yangco from November, 1941.

It seems that as soon as the Japanese Armed Forces occupied Manila and the surrounding areas, the Japanese Imperial Navy commandeered the shipyard and operated it for its needs and benefit.

On July 4, 1942, Judge Rafael Corpus acting as special administrator of the properties of Teodoro R. Yangco who had already died, by a deed of sale (Annex F) sold the shipyard to Joseph Feldman for P53,300 which after deducting the rentals already paid, left a balance of P39,100. Of this balance P10,000 was paid down, the remaining P29,100 to be paid upon approval of the deed of sale by the probate court.

On May 5, 1943, Judge Rafael Corpus still acting as special administrator of the properties of Yangco was said to have been compelled through threats and intimidation to execute a deed of sale of the shipyard to one Mr. Mori representing the Japanese Imperial Navy. On the same date, May 5, 1943, Peldman also sold his rights and interests and claims to the shipyard to the same Mr. Mori representing the Japanese Imperial Navy for P55,000 (Annex 2). From this amount, P30,000 was given to Glemente Hidalgo (Feldman's partner) who on May 10, 1943

renounced and waived all his rights and interests over the shipyard.

After liberation Ramon L. Corpus acting as a coadministrator of the Estate of Yangco brought an action, civil case No. 7568, in the Court of First Instance of Rizal against Mr. Mori to whom Judge Rafael Corpus as special administrator of the Estate of Yangco had previously sold and transferred the shipyard as a representative of the Japanese Imperial Navy. After hearing in said case No. 7568 judgment was rendered by the Court of First Instance of Rizal (Pasay Branch), declaring null and void the deed of sale executed by Judge Corpus on May 5, 1943, transferring the shipyard to Mr. Mori and also declaring null and void the transfer certificates of title of the three lots or parcels of land included in the shipyard. The basis of the annulment was that the sale and conveyance was made involuntarily (under threats and intimidation by the Japanese Imperial Forces and their representative).

After the war the Enemy Property Custodian took possession of the shipyard as enemy property and on December 20, 1945, leased it to one Henry Pile who, with Joseph Feldman and his brother George Feldman had entered into a partnership known as the Manila Shipyard Drydock and Engineering Company, with Pile as the general manager and chief engineer (Annex 3). The rental was P750 a month. On May 31, 1946, the Enemy Property Custodian entered into a contract of custodianship over the shipyard with Henry Pile (Annex 4).

After the Court of First Instance of Rizal had in civil case No. 7568 annulled the sale of the shipyard by Judge Rafael Corpus in favor of the Japanese Imperial Navy through Mr. Mori, the Enemy Property Custodian practically recognized the Estate of Teodoro R. Yangco as the rightful owner of the shipyard and waived in favor of said Estate the rentals of said shipyard from Henry Pile. Furthermore, said Enemy Property Custodian terminated the contract of custodianship executed by it in favor of Henry Pile and directed him to turn over the possession of the shipyard to the Administrator of the Estate of Yangco, advising him that any negotiation for the continued use of the premises and for the accrued rentals for the period of custodianship should be made directly with said administrator (Annex 10).

On November 28, 1946, the Estate of Yangco through its attorney requested Pile to vacate the shipyard within 15 days and to pay the accrued rentals therefor at the rate of P2,000 a month from June 1, 1946, until he vacated the premises, unless he decided to negotiate for the continued use of the said shipyard and pay the accrued rentals therefor (Annex 11).

In the meantime, on January 5, 1946, Feldman had filed civil case No. 7799 against Ramon L. Corpus, a coadministrator of the Estate of Yangco and the Register of Deeds of Rizal, the Alien Property Custodian, Victorio Lachenal, Ildefonso Lachenal, and Jose Villaflor, alleging among other things that in April, 1942, he had exercised his right of option to buy the shipyard and that the Estate of Yangco has executed a deed of sale in his favor; that the sale of his rights to the property in question in favor of the Japanese Imperial Navy through its representative Mr. Mori was null and void because it was done through force, duress and intimidation, and that for the same reason that the deed of sale executed by Judge Rafael Corpus in favor of said Japanese Imperial Navy was annulled by the Court of First Instance of Rizal, because of intimidation and duress, his sale to the same Japanese Imperial Navy should also be declared null and void; that during the war the buildings, machineries and other equipment of the shipyard were totally burned or destroyed so that under the terms of the agreement or lease, only the land valued at P19,473.55 remained to be purchased by him and inasmuch as the Estate of Yangco had already received the sum of P15,200 in rentals, even excluding the P10,000 received by said Estate under the deed of sale to him by Judge Corpus representing the Estate, he needs pay only the additional sum of P4,273.55 to complete the payment of the purchase price, and he was making a tender of said amount of P4,273.55; that he (Feldman) was willing to pay any amount above P4,273.55 that the court may deem still due the Estate; and that since Liberation he had been occupying the property and has rehabilitated its business as a drydock and shipyard and had spent for improvements consisting of buildings, machineries, etc. in the amount of P118,400.12 and that

he has established a goodwill to the business of the drydock, which may be valued at P200,000. Defendants Victorio Lachenal, Ildefonso Lachenal and Jose Villafior were included as parties-defendants for they were supposed to have received an assignment of the rights and interests of the Estate over the property in question. In his prayer plaintiff Feldman asked that the deed of sale executed by him in May, 1943, in favor of the Japanese Imperial Navy be declared null and void, and that the drydock be ordered transferred to him upon payment of the sum tendered by him.

Answering the complaint, defendants in their second counterclaim alleged that despite the advice given plaintiff Feldman by the Enemy Property Custodian that the contract of custodianship of the shipyard was being terminated and that he should turn over the possession thereof to the Estate of Yangco, and notwithstanding the repeated demands by the defendants for the return of the "varadero" to them and for payment of rentals from June 1, 1946, Feldman had failed and refused to vacate the premises and to pay the rentals long due. Defendants prayed that plaintiff be sentenced to pay P70,000 as reasonable damages for the use and occupation of the shipyard from June 1, 1946 to May 1, 1949, and P2,000 monthly thereafter until he vacated the "varadero".

After hearing, the Court of First Instance of Rizal (Caloocan Branch) in a decision dated September 30, 1950, found that the deed executed by Feldman in favor of the Japanese Imperial Navy of the shipyard was voluntarily and was not due to force or intimidation; that Feldman in the exercise of his option to buy the property from the Estate of Yangco really never bought the same for the reason that Judge Rafael Corpus never secured the consent or authority of the probate court to make the sale; neither was the purchase price paid by Feldman; the title to the property in the name of Estate of Yangco was never cancelled in order to transfer it to the name of Feldman and for this reason, the Japanese Imperial Navy required the Estate of Yangco to execute the deed of sale in its favor; and as proof that Feldman had never bought said shipyard, after Liberation he negotiated and obtained a lease" thereof from the Enemy Property Custodian and negotiated with the Estate of Yangco to continue occupying the property under the contract of lease with option to purchase. The trial court ordered Feldman and his partners Henry Pile and George Feldman to vacate and to surrender to the defendants the property known as the "Varadero de Navotas de Teodoro R. Yangco" together with the improvements found thereon and to pay the defendants by way; of rentals P1,000 a month from June 1, 1946, until the physical possession of the whole property shall have been actually returned to and duly received by the defendants.

On the basis of said judgment, defendants in said civil case No. 7799 moved for the immediate execution of the judgment on the ground that the counterclaim filed by them in said case was in the nature of an action for illegal detainer under Rule 72, Sections 8 and 9 of the Rules of Court, under which judgment in favor of the owner of the property becomes immediately executory. Joseph Feldman opposed the motion for immediate execution. He claims that neither the suit in said civil case No. 7799 nor the counterclaim filed by the defendants was an action for illegal entry or detainer but that it was an action for specific performance wherein ownership of the property in dispute was raised, and that although the defendants in their counterclaim asked for the possession of the land, said claim for possession is almost always included in every kind of action involving property. Over this opposition of plaintiff Feldman, the trial court presided over by Judge Demetrio B. Encarnacion, evidently considering the counterclaim as an action for detainer as claimed by defendants, granted the motion for immediate execution, unless within five days from receipt of said order (dated December 12, 1950) Feldman posted a supersedeas bond sufficient to cover the amount of rentals fixed by the court from June 1, 1946 up to the rendition of the judgment on September 30, 1950. A motion for reconsideration of this order was denied by respondent Judge Encarnacion in his order of January 10, 1951. Joseph Feldman has now filed the present petition for certiorari to annul and revoke the orders of December 12, 1950 and January 10, 1951.

Is the question involved in this case as presented and raised by the complaint of Feldman and the counterclaim of

defendants, merely of possession so as to come under the provisions of Rule 72 regarding illegal detainer? If so, then the winning party, the defendants, have a right to immediate execution of the judgment pending appeal. After a careful study of this case, we entertain grave doubts that the action involved even under the counterclaim is one of illegal detainer. In the first place, proceedings in forcible entry and detainer are wholly summary in nature. The question of ownership is almost invariably ignored: The purpose of the action is merely to restore possession to the one from whom it was taken by force, intimidation, threat, strategy or stealth, or from whom it is being withheld after the right to possession had ended. Said proceedings are required to be initiated within one year. The jurisdiction over the case is vested in the justice of the peace or municipal court. None of those facts and conditions obtains in the present case. The defendants herein who filed the counterclaim although they claim to be the owners of the property have allowed the plaintiff since 1946 to continue in its occupation without paying any rentals according to the decision now being appealed. In fact, said defendants have never initiated any proceedings in court intended to transfer possession of the premises from the plaintiff to them. They filed their claim to possession of the shipyard only when they were sued in court by Feldman in civil case No. 7799. And, that claim or counterclaim was filed in the Court of First Instance and not in the justice of the peace or municipal court which has original and exclusive jurisdiction over forcible entry and detainer cases.

Although the case between Feldman and the defendants herein naturally and eventually involves possession, still, the real and immediate question in issue is ownership of the shipyard. Feldman insists that he exercised his right of option and so became the owner of the shipyard together with his partners, and that since he also insists that his deed of sale of his rights to the shipyard to the Japanese Imperial Navy should be declared null and void because it was involuntary, in the same way that the deed of sale by Judge Rafael Corpus to the same Japanese Imperial Navy on the same date (May 5, 1943) had been declared null and void by the Court of First Instance of Rizal, he is still the owner of the shipyard together with the improvements he had introduced thereon at his own expense, subject to the completion of the purchase price of which according to him he had made valid tender. Just as a defendant in a forcible entry and detainer case in a justice of the peace court may not quash it and convert the suit to one of revindicacion cognizable only by the Court of First Instance, by claiming in his motion or answer that the case involves ownership or title, so a defendant in a case like the present involving title to property, may not convert it into a suit for ejectment or illegal detainer by merely asking for possession of the property by means of a counterclaim. Consequently, we believe and hold that the provisions contained in sections 8 and 9 of Rule 72 of the Rules of Court are not applicable. The immediate execution of judgment will have to be effected under Rule 39, Section 2 thereof, wherein it is provided that although the issuance of immediate execution is discretionary with the trial court, still it must be with good reasons to be stated in the order.

Finding that the order of December 12, 1950, granting immediate execution of the judgment, and the order of January 10, 1951, denying the motion for reconsideration of said order do not satisfy the requirement of section 2, Rule 39 of the Rules of Court, the petition for certiorari is granted and the two orders in question are hereby set aside. The respondents with the exception of Judge Encarnacion will pay costs.

Paras, C. J., Pablo, Bengzon, Padilla, Jugo, and Bautista Angelo, JJ., concur.

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