

CONSUELO ROXAS AND SALVADOR GOMEZ, PLAINTIFFS AND APPELLANTS, VS. JUAN YSMAEL & CO., INC., DEFENDANT AND APPELLANT.*G.R. No. L-7559. September 27, 1955*

Ponente: MONTEMAYOR, J.

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On January 16, 1950, Consuelo Roxas and her husband Salvador Gomez filed an action for illegal detainer in the Municipal Court of Manila against Juan Ysmael & Co., Inc., a local corporation, seeking to eject the latter from a parcel of land registered in their name, located on Calle Conception and bordering the Pasig River, near or next to the Ayala Bridge, and the payment of the sum of P37,700 as back rentals. It would appear that sometime in 1948, portion of the parcel in question were being occupied and rented by one Louis B. Varney and Jose Barredo for the deposit of scrap iron; that the defendant corporation later bought Varney's and Barredo's scrap iron and continued the occupation of the premises or at least a portion of the same for the same purpose; that sometime before the filing of the complaint the defendant corporation notified the plaintiffs that it was vacating the premises, but that as a matter of fact, according to plaintiffs, although it had removed a portion of the scrap iron deposited, still, it retained a portion of the premises of about 1,000 square meters in area where it kept what was termed "Mostly Old Stock" (materiales viejos), by reason of which the plaintiffs could not make use of the land. The Municipal Court rendered judgment in favor of the plaintiffs and sentenced the corporation to pay the former the sum of P37,700 for rents plus interest. The Municipal Court made a finding that the defendant had vacated the premises on January 8, 1950, that is, eight days prior to the filing of the action for illegal detainer.

Upon the case being elevated to the Court of First Instance where the complaint filed in the Municipal Court was reproduced, the defendant filed a motion to dismiss for lack of jurisdiction on the theory that inasmuch as the suit for ejectment was filed in the Municipal Court about eight days after the premises had been vacated, it was evident that there was no case of illegal detainer and that consequently, the suit was one to collect a sum of money—P37,700—over which the Municipal Court had no jurisdiction; and the Municipal Court being without jurisdiction, neither had the Court of First Instance jurisdiction on appeal. The trial court denied the motion for dismissal on the ground that the jurisdiction of a court to try a case was determined by the allegations of the complaint and that according to said allegations, at the time it was filed the defendant was still occupying about 1,000 square meters of the land in question.

The Court of First Instance eventually rendered judgment in favor of the plaintiffs and, against the defendant but reduced the amount of said judgment to P12,813.32 "for the use and occupation of plaintiffs' land, with costs against the defendant." The trial court found as a fact that the defendant vacated the remaining 1,000 square meters only on February 14, 1950, that is to say, about a month after the filing of the action in the Municipal Court. Both parties appealed to the Court of Appeals but the latter court in a resolution found that the question of jurisdiction was involved in the appeal and so certified it to us. The theory of the Court of Appeals in making the certification is that inasmuch as the Municipal Court in its decision found that the land was vacated on January 8,

1950 and the suit for ejectment was filed about eight days later, there no longer was a case for illegal detainer but only for the collection of a sum of money (P37,700) in the form of back unpaid rentals, and that the Municipal Court had no jurisdiction because of the amount; and neither had the Court of First Instance on appeal; and that although the parties do not raise this point of jurisdiction before the Court of Appeals, nevertheless, the parties cannot with their silence or even by their express consent or agreement confer jurisdiction on a court; and so considering jurisdiction to be in issue, it held that only this Tribunal can entertain the appeal.

In the first place, when the parties themselves do not raise the question of jurisdiction on appeal, ordinarily the appellate courts will not pass upon the same. In the present appeal the defendant-appellant in its brief says that it is not raising and it does not wish to raise the question of jurisdiction and that it desires to have this case terminated as soon as possible, and that it is willing to pay reasonable rents for the land it had occupied. It is true that in its decision the Municipal Court found that the defendant had vacated the premises on January 8, 1950. But it should be remembered that on appeal to the Court of First Instance this decision of the Municipal Court was vacated. As far as the Court of First Instance was concerned, said decision did not exist because the case was to be tried de novo. To determine its jurisdiction the Court of First Instance had to rely on the allegations of the complaint in the Municipal Court, reproduced in the Court of First Instance, and according to said complaint at the time of the filing of the suit on January 16, 1950, the defendant was still occupying about 1,000 square meters of the land; in other words, there was illegal detainer. And, what is more, as already stated, the Court of First Instance found as a fact that defendant corporation continued occupying this portion up to February 14, 1950.

In view of the foregoing, and because we are of the opinion that not only was the question of jurisdiction not raised in the present appeal but that it would appear that the court below had jurisdiction to entertain and decide the case, it is hereby ordered that the present appeal be returned to the Court of Appeals for decision.

Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

Case returned to the Court of Appeals for decision.

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