

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY FRAN-CISCO F. SAGUIGUIT, IN HIS CAPACITY AS COMMISSIONER OF THE AGRICULTURAL PRODUCTIVITY COMMISSION, PETITIONER VS. HON. ALEJANDRO ...

G.R. No. L-35621. July 30, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal by certiorari from the Order of respondent Judge dismissing Civil Case No. 288, of the Court of First Instance of Davao del Norte, ruling that the complaint therein is actually one of forcible entry and not an action for injunction (prohibition) with preliminary injunction, and consequently, the said court has no jurisdiction, over the subject matter of the action.

On June 19, 1972, the petitioner filed with the lower court a complaint for injunction (preliminary and permanent) against the respondents Mayor and Municipal Council of Tagum, Davao del Norte. The complaint, among others alleges:

"(1) That the plaintiff is a sovereign political entity with capacity to sue, represented by the Commissioner of the Agricultural Productivity Commission, an instrumentality of the national government under the executive branch created pursuant to Republic Act 3844, as amended, otherwise known as the Code of Agrarian Reforms of the Philippines, with office address at Elliptical Road, Diliman, Quezon City, and which Commission by virtue of the re-organizational set up embodied in the Code has absorbed the functions of the Bureau of Agricultural Extension of the Department of Agriculture and Natural Resources organized under Republic Act 680; the respondents Mayor and Municipal Council of the Municipality of Tagum, Davao del Norte, sued in their official capacity together with all persons acting upon their orders, and may be served with summons at the Municipal Hall of Tagum, Davao del Norte;

"(2) That the national government is the owner of two (2) parcels of public land situated in Magugpo, Tagum, Davao del Norte, containing a total land area of approximately 74,527 square meters more particularly described as follows: (Description of property)

"(3) That since 1938, the above parcels of land have been continuously used as demonstration station, otherwise known as nursery, occupied openly, publicly, peacefully, adversely and uninterruptedly as such demonstration station, first by the Bureau of Plant Industry, later by the Bureau of Agricultural Extension by virtue of Republic Act 680 and now by the Agricultural Productivity Commission under Republic Act 3844, as amended (Code of Agrarian Reforms of the Philippines) serving its purpose as a demonstration center for the farm and rural population of the then undivided province of Davao;

"(4) That on March 2, 1972 the Municipal Council of Tagum, Davao del Norte, passed Resolution No. 78 approving the partition and segregation to different government offices for various purposes. Having been enacted without or in excess of jurisdiction of the Municipal Council, the aforesaid resolution is a patent nullity. Copy of said resolution is hereby attached as Annex 'A' to form an integral part hereof;

“(5) That the Commissioner of the Agricultural Productivity Commission dispatched a telegram to the Provincial Agriculturist of Davao del Norte dated April 4, 1972 advising the retention of the property by the Agricultural Productivity Commission as the rightful occupant of the area and requested that the respondent Mayor be advised of this position. Copy of the telegram is hereto attached as Annex 'B' and made a part of this complaint;

“(6) That notwithstanding the Agricultural Productivity Commission objection, the respondent Mayor gave orders to start bulldozing the site and commence other allied activities towards the development of the area for the purposes mentioned in the resolution of the Council and acting upon his order, men under his command have been bulldozing the area in question;

“(7) That under the Revised Administrative Code, specifically Sec. 1760 it is so provided that the Director of Plant Industry shall exercise general supervision over all agricultural work in nurseries. This function relating to the provincial agricultural nurseries had been transferred to the Bureau of Agricultural Extension under Republic Act 600 and later to the Agricultural Productivity Commission by virtue of Republic Act 3844, as amended, hence is now vested on the Commissioner of the Agricultural Productivity Commission;

“(8) That the bulldozing of the area for the purposes mentioned in the said resolution will cause the destruction of the layout of the nursery causing the waste of a sizeable amount of government funds. The efforts exerted in the development of the premises as a show-window and a seed propagation site for the farmers in the province will be negated and necessarily set at naught;

“(9) That there is a continuing need for the operation of the nursery in the area, it being a significant factor in the agricultural and economic development of the province. The nursery is needed to show and disseminate information on the different aspects of agricultural and home activities and for selling and distributing planting materials to the people. Thus a continuing public need will be curtailed and frustrated, most unfortunately at a time when the country is in turmoil and urgently in need of basic tool for agricultural development and economic stability, if the acts of respondents are not timely abated;”

and prayed that pending determination of the petition, the respondents be enjoined from continuing with the acts complained of and after hearing "to render judgment declaring void the aforesaid resolution of the Municipal Council of Tagum, Davao del Norte, and to restore plaintiff's possession of the area in question, making the preliminary injunction permanent. . .”

On July 5, 1972, respondent Mayor filed with the lower court a motion to dismiss, alleging that petitioner has no capacity to sue; that the complaint states no cause of action; that the petition (complaint) is not prosecuted in the name of the real parties in interest (Annex "B", Petition).

On August 11, 1972, respondent Mayor and Municipal Council of Tagum, Davao del Norte, filed with the lower court an amended answer, raising as special defenses that plaintiff has no cause of action; that the lower court has no jurisdiction over the subject matter of plaintiff's action against the municipality (Annex "C", Petition). The thrust of respondent Mayor's motion to dismiss as well as the special defenses in the amended answer of respondents are that (a) there is a presumed grant of the land in favor of the municipality by the State, and (b) the action is one of forcible entry, hence beyond the jurisdiction of respondent court.

On September 14, 1972, the lower court issued an order dismissing petitioner's complaint, ruling that said complaint is actually one for forcible entry with preliminary injunction, and consequently, said court has no jurisdiction over the subject matter of plaintiff's action (Annex "D", Petition, Annex "A", Brief).

The sole assignment of error is — whether the lower court erred in ruling that petitioner's action is one of forcible entry and, therefore, beyond its jurisdictional competence.

We must commence by a restatement of the settled rule that "the subject matter of a given case is determined, not by the nature of the action that a party is entitled under the facts and the laws to bring but by the nature and character of the pleadings and issues submitted by the parties to the court for trial and judgment." [1] To ascertain then the jurisdiction of the trial court over the subject matter, We have to rely on the allegations of the complaint, the truth of which is to be theoretically admitted in considering the motion to dismiss. [2]

The allegations of the complaint show that the action is not one for forcible entry under Rule 70 but rather an ordinary action to nullify Resolution No. 78 of the Muni-cipal Council of Tagum, which was allegedly enacted in excess of its authority and to restrain during the pendency of the suit said municipality from interfering with the use of said property, which is owned by the national govern-ment, as an agricultural nursery and a demonstration sta-tion by the Agricultural Productivity Commission; and to make such injunction permanent.

The main thing to be proven in an action for forcible entry is prior possession and that the same was lost through force, intimidation, threat, strategy or stealth, so that it behooves the court to restore possession regardless of title or ownership. [3] In the present case, while, petitioner prays for the restoration of the possession of the property to the Agricultural Productivity Commission, this is merely in-cidental to the principal purpose of the action which is to nullify the aforesaid Resolution of the Municipal Council of Tagum and to prevent said municipal authority from inter-fering in the administration or use of said property. The power and authority of the municipality to administer or dispose of the said property by allocating and distributing portions thereof to the District Land Office and the Provincial Engineer, to be used by them for the purposes mentioned in the Resolution, preventing thereby the Agri-cultural Productivity Commission from using said property, would logically depend on the resolution of the question whether or not there is a presumed grant of Lot No. 485 of the Tagum Cadastre in favor of the municipality by the State, since it is not denied that the said parcel is a public land. Two requisites are necessary in order that a grant of land to a municipal corporation by the State could be pre-sumed, namely, that the land is one which the municipality itself can exclusively own; and that the land is used to meet a public necessity. [4] In other words, the determination of the question of possession is inextricably linked with the resolution of the question as to whether or not the land in question is a property of the Municipality of Tagum, or a public land under the exclusive control and authority of the national government. It being impossible to decide the question of mere possession without first settling the question of ownership over said property, the said action could not, therefore, be the summary action for forcible entry under the exclusive jurisdiction of the Municipal Court.

WHEREFORE , in view of the foregoing, the chal-lenged Order of respondent Judge of September 14, 1972, in Civil Case No. 288, is hereby set aside, and the case remanded to the court a quo for trial on the merits. No special pronouncement as to costs.

Barredo and Martin, JJ., concur.

Concepcion, Jr., J., on leave.

[1] Philippine Association of Free Labor Union (PAFLU) v. Padilla, 106 Phil. 591, 593, citing Belandrez v. Lopez Sugar Central Mill Co., 97 Phil. 100.

[2] Richards v. Gonzales, 109 Phil. 423, citing Rosario v. Carandang, 96 Phil. 845; Fernandez v. Gala-Sizon, 96 Phil. 282; Arches v. Prov. Fiscal of Capiz, 81 Phil. 190; Bay View Hotel, Inc. v. Manila Hotel Workers Union, 18 SCRA 947, 951.

[3] Section 1, Rule 70, Revised Rules of Court.

[4] 'The benefit granted by section 54 of Act No. 926, for the purpose of fostering agriculture and increasing the wealth of the country, can not be deemed to be granted, according to economic principles, to municipal corporations which, on account of their special conditions, the idiosyncrasy and character of the functions which they exercise, and, because of the administrative mission which they have to fulfill in the name of the Government in representation of the people who elected them, can not engage in agriculture and other industries nor can they attend to the administration of agri-cultural land and give particular attention to strictly private business, without serious detriment to the interests of the community.'

"In another decision of this Supreme Court, in the case of Municipality of Luzuriaga vs. Director of Lands and Roman Catholic Bishop of Jaro (24 Phil. Rep., 193), cited in the aforementioned decision, and also in the case of Municipality of Catbalogan vs. Director of Lands (17 Phil. Rep., 216), we said:

" 'It is apparent from these quotations that, as we have said: before, in order that the municipality may rely upon a presumed grant from the State in its favor, the land concerning which the grant is to be presumed must have been used by the municipality for the purposes specified in said quotations, namely, to meet a public necessity, and therefore must be land which would have been originally granted by the State for such purposes. In other words, the land susceptible of this presumption cannot be agricultural or commercial lands; they must be lands which the municipality itself can exclusively own, i e., they must be lands used to meet a public necessity.'" (Municipality of Tigbauan v. Director of Lands 35 Phil. 798, 802; Municipality of Luzuriaga v. Director of Lands, 24 Phil. 193, 202).

CONCURRING

BARREDO, J.:

The mere fact that persons are bulldozing portions of the land in dispute does not amount to taking possession of the subject land for purposes of the procedure of ejectment under Rule 70. The action of the State here is one of prohibition with preliminary injunction.

CONCURRING

AQUINO, J.:

The State's action involves a matter which is not capable of pecuniary estimation. Hence, it falls within the exclusive original jurisdiction of the CFI (*Artacho vs. The Province of Pangasinan*, 4 Phil. 670).

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