

ENRICO S. ZAFRA, FRANCISCO B. BATAL AND MARLYN M. BANGCONG, PETITIONERS, VS. CARLOS R. CRUZ AND FRANCISCO SANTIAGO, JR., RESPONDENTS.

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GONZALES-SISON, M., J:

Before the Court is a Petition for Review under Rule 42 of the Revised Rules of Court assailing the April 19, 2013 Decision[1] of the Regional Trial Court Court (RTC), Third Judicial Region, Malolos City, Bulacan, Branch 83 in Civil Case No. 600-M-201.

As culled from the records, the following are the antecedent facts:

On November 12, 2009, plaintiffs, herein respondents, filed a complaint[2] for forcible entry with prayer for preliminary mandatory injunction against defendants, herein petitioners with the MTC, Bocaue, Bulacan, docketed as Civil Case No. 09-4761. Plaintiffs claimed that they are the owners of a private market known as the Santiago-Cruz Private Market, covered by Transfer Certificate of Title No. T-3852 of the Register of Deeds of Bulacan. They alleged that on May 6, 2009, the defendants through the help of a certain Deputy Sheriff Virgilio Robles, Jr., with the aid of laborers, workers and goons, forcibly entered the subject property. Thereafter, the latter removed the market's enclosure and installed their own barbed wire. Further, the plaintiff claimed that defendant Zafra forcibly drove a dump truck and forcibly created an opening in the market and the defendants entered the premises. Thereafter, defendant Bangcong erected a building on the property to operate a beerhouse. All the above, according, to the plaintiffs, have been committed by the defendants through stealth, force and intimidation.[3]

Plaintiffs likewise alleged that despite demand upon the defendants to vacate the premises, they refused to do so.[4]

Answering defendants averred that defendant Enrico Zafra is the owner of a parcel of land registered in his name as TCT No. EP-484. He acquired this property after his father, Simeon Zafra, died on September 16, 2000. The late Simeon Zafra was the declared bona fide tenant of the landholding of the questioned property as per decision of the Department of Agrarian Reform Adjudication Board (DARAB) dated February 16, 1998 in DARAB CASE No. 4690, and affirmed by the Supreme Court in G.R. No. 141806 on January 17, 2005.

The case is now in its last and final stage-execution of the decision but by some clever and corrupt maneuverings of plaintiffs, they have succeeded in blocking the final execution of the decision of the DARAB by (1) filing the instant harassment case, and (2) causing the dispossession of defendant Enrico Zafra of his landholding last June 1, 2010 by virtue of Joint Resolution issued by the DAR Provincial Adjudicator Joseph Noel C. Longboan even as the instant case for alleged forcible entry was already heard by the MTC. As a result, plaintiffs continue to possess the property on the strength of the Resolution dated September 2, 2010, issued by the DAR Regional Adjudicator Erasmo Cruz.[5]

With the foregoing, defendants set up the following as their defenses, to wit: (1) plaintiffs' simultaneous filing of the instant case and Motion Ad Cautelam before PARAD Longboan is an evidence that they are guilty of forum

shopping; (2) res judicata in reference to a DARAB case; (3) the case involves agrarian tenancy and is, therefore, beyond the court's jurisdiction to try; (4) the plaintiff's failure to prove their ownership of the property, thus resulting in lack of cause of action, and (5) the defendants' entry was by virtue of a writ of execution issued by the DARAB.[6]

By decision[7] dated July 6, 2011, the MTC ruled in favor of the plaintiffs, the dispositive portion of which, reads as follows:

WHEREFORE, all the foregoing, considered, judgment is hereby rendered:

a. Ordering the defendants, Marlyn Bangcong, and all those deriving possessory claims from her, to VACATE that lot occupied by the Santiago-Cruz Private Market, and covered by TCT No. T-3852 of the Registry of Deeds of Bulacan, and to peacefully surrender possession thereof to the plaintiffs;

b. Ordering the defendant, Marlyn Bangcong, to pay the plaintiffs, reasonable compensation for her occupation of the subject premises at P10,000.00 per month, beginning from October 27, 2009 until she finally vacates the premises.

c. Ordering the defendants Enrico Zafra and Francisco Batal, to pay the plaintiffs reasonable compensation for their occupation of the subject premises, from October 27, 2009 to June 1, 2010, at the rate of P10,000.00 per month.

SO ORDERED.”[8]

In rendering its decision, the MTC ratiocinated that there was insufficient proof that the subject property was included in the DARAB case; that there was no proof of agrarian complexion in the present case; that subject property was owned by plaintiffs, and the forcible entry of defendants to the subject property entitled the plaintiffs to pay them reasonable compensation of P10,000.00 per month beginning October 27, 2009 until defendant Marlyn Bagcong vacates the premises or June 1, 2010 in the case of defendants Enrico Zafra and Francisco Batal, and attorney's fees.

On appeal by defendants, the RTC affirmed the decision of the MTC, the fallo thereof reads as follows, to wit:

“WHEREFORE, premises considered, the instant appeal is hereby DISMISSED and the decision of the Municipal Trial Court of Bocaue, Bulacan dated July 16, 2011 is AFFIRMED IN TOTO.

xxx

SO ORDERED.”[9]

Hence, the appellant now petitioners, lodged the present petition for review which assigns the following issues to be resolved by Us, to wit:

I.

EVIDENCE SUBMITTED BEFORE THE MTC AND THE RTC CLEARLY ESTABLISHED THAT THE FORCIBLE ENTRY CASE FILED BY RESPONDENTS WAS AN “AGRARIAN DISPUTE” BETWEEN THE PARTIES AND IT WAS PLAINLY AN ABUSE OF DISCRETION FOR THE LOWER COURTS TO HAVE CONCLUDED OTHERWISE AND TO HAVE ASSUMED JURISDICTION OVER THE DISPUTE.

II.

EVIDENCE CLEARLY ESTABLISHED FORUM SHOPPING COMMITTED BY THE RESPONDENTS.

III.

RES JUDICATA CLEARLY BARRED THE RESPONDENTS FROM FILING THE “FORCIBLE ENTRY” CASE BEFORE THE MTC AND THEREIN RAISE ANEW REHASHED AND OLD ARGUMENTS TO CONTEST A FINAL AND EXECUTORY DARAB DECISION. RESPONDENT FRANCISCO SANTIAGO, JR. AND ALL PERSONS OCCUPYING THE AGRARIAN LAND ON HIS INSTRUCTION OR AUTHORITY WERE ALREADY BARRED BY THE PRINCIPLE OF RES JUDICATA FROM RE-OPENING A LONG-CONCLUDED AGRARIAN DISPUTE.[10]

The appellee vehemently opposed the petition. They maintain that the RTC did not commit reversible error in affirming the finding of the MTC that there is no forum shopping in this case.[11]

The issues raised by petitioners boil into two, to wit: (1) Whether or not the MTC has validly assume jurisdiction over the complaint filed by respondents, and (2) Whether respondents are guilty of forum shopping on the ground that res judicata has already set in.

THE PETITION FAILS.

On the first issue, it is a basic rule that jurisdiction over the subject matter is determined by the allegations in the complaint. It is determined exclusively by the Constitution and the law. It cannot be conferred by the voluntary act or agreement of the parties, or acquired through or waived, enlarged or diminished by their act or omission, nor conferred by the acquiescence of the court. Well to emphasize, it is neither for the court nor the parties to violate or disregard the rule, this matter being legislative in character.[12]

Under Batas Pambansa Blg. 129,[13] as amended by R.A. No. 7691,[14] the MTC shall have exclusive original jurisdiction over cases of forcible entry and unlawful detainer. The Revised Rules on Summary Procedure (RRSP)[15] governs the remedial aspects of these suits.

Under Section 50[16] of R.A. No. 6657, as well as Section 34[17] of Executive Order No. 129-A,[18] the DARAB has primary and exclusive jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes involving the implementation of the Comprehensive Agrarian Reform Program, and other agrarian laws and their implementing rules and regulations.

An agrarian dispute refers to any controversy relating to, among others, tenancy over lands devoted to agriculture. For a case to involve an agrarian dispute, the following essential requisites of an agricultural tenancy relationship must be present: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvest or payment of rental.[19] All the requisites must concur in order to establish the existence of tenancy relationship, and the absence of one or more requisites is fatal.[20] In here, none of the aforementioned requirements are present. The allegations and reliefs prayed by respondents in their complaint clearly made an action for forcible entry, hence, the MTC did not commit reversible error when it assumed jurisdiction over the case.

Whilst petitioners averred tenancy in their answer and other pleadings, this did not automatically divest the MTC of jurisdiction over the complaint. It continued to have the authority to hear the case precisely to determine whether it had jurisdiction to dispose of the ejectment suit on its merits. After all, jurisdiction is not affected by the pleas or the theories set up by the defendant in an answer or a motion to dismiss. Otherwise, jurisdiction would become dependent almost entirely upon the whims of the defendant.[21]

On the second issue - forum shopping is the institution of two (2) or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes and/or to grant the same or substantially the same reliefs. There is forum shopping when as a result of an adverse decision in one (1)

forum, or in anticipation thereof, a party seeks favorable opinion in another forum through means other than appeal or certiorari.[22]

Under paragraph 2, Section 5,[23] Rule 7 of the 1997 Rules of Civil Procedure, as amended, if the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

In determining whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of *litis pendencia* are present, or whether a final judgment in one case will amount to *res judicata* in another.[24] The doctrine of *res judicata* provides that "a final judgment or decree on the merits rendered by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits and on all points and matters determined in the previous suit." [25]

From the foregoing, it is clear that for the principle of *res judicata* to apply, the following elements must be present: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second actions, identity of parties, subject matter, and cause of action.[26]

After revisiting the evidence at hand, We found that the controversy falls short of the elements cited to constitute *res judicata*. For one, the parties in DARAB Case No. 4690 (where the Motion Ad Cautelam arises) and the instant case are entirely different. In the former case, the parties are Simeon Zafra vs. Municipality of Bocaue, Bulacan, Maria Rosario Batungbacal, Consoria L. Santiago, Celso Lazaro and Rodolfo Lazaro. These are not parties in this case. For another, even if herein respondent Francisco Santiago, Jr. was one of the respondents in the DARAB case, the subject property involved therein has an area only of 3,678 sq. ms. covered by EP-484 whilst in the instant case, the subject property is covered by TCT No. 141667 with an area of 22,727 sq. ms. Still for another, the causes of action between Motion Ad Cautelam and the instant are different. As aptly ruled by the RTC and which We hereby quote verbatimly, to wit:

[T]he allegation that the filing of a complaint for ejectment produces forum shopping by the mere previous filing of a Motion Ad Cautelam in separate forum is untenable. Said motion ad cautelam can hardly be considered as *litis pendencia* in the complaint for ejectment for the former motion is merely questioning the execution effected by the deputy sheriff in a writ of execution issued by different forum while the recovery of possession, if so included, will merely be an incidental effect thereto. Necessarily, the court finds no justifiable reason to further discuss the issue of *res judicata* for being untenable."

Indeed, the Court finds the conclusion of the two courts adequately supported by the evidence on record. Hence, We find no compelling reason to doubt the veracity of their findings and conclusions. The long and standing truism is factual findings of the trial court are entitled to respect and are not to be disturbed on appeal, unless some facts and circumstances of weight and substance, having been overlooked or misinterpreted, might materially affect the disposition of the case.[27] The RTC, in affirming the findings and conclusions of the MTC did not overlook, misapprehend, or misapply any fact or value for us to overturn its findings. Corollary, its findings of fact and conclusions of law are binding upon this Court.

Moreover, considering that petitioners did not raise as an issue the matter regarding the judgment of the forcible entry case, the Court holds and rules that the conclusion of the lower courts on the said matter should now be deemed as conclusive.

WHEREFORE, the petition is, in light of the foregoing discussions, is hereby **DISMISSED** The April 19, 2013

Decision of the RTC, Third Judicial Region, Malolos City, Bulacan, Branch 83 in Civil Case No. 600-M-201 is AFFIRMED.

SO ORDERED.

Carandang, (Chairperson) and Sorongon, JJ., concur.

[1] Rollo, Annex "A", pp. 31- 36.

[2] Id., Annex "C", pp. 47-51.

[3] See note 1, at p. 33.

[4] Id.

[5] Id., Annex "L", Position Paper for Defendants, pp. 111-118 at pp. 111-112.

[6] Id., at pp. 112-113 and see note 2 at p. 37.

[7] Id., Annex "B", pp. 37-45.

[8] Id., penned by Judge Luis Enriquez Reyes.

[9] Id., penned by Judge Guillermo P. Agloro.

[10] Id., pp. 10-30 at p. 13.

[11] Id., pp. 271-279.

[12] *Mendoza vs. Geronimo, et al.*, G.R. No. 165676, November 22, 2010.

[13] The Judiciary Reorganization Act of 1980, approved on August 14, 1981.

[14] An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending For The Purpose Batas Pambansa Blg. 129, Otherwise Known as the "Judiciary Reorganization Act of 1980," approved on March 25, 1994.

[15] Took effect on November 15, 1991.

[16] Sec. 50. Quasi-Judicial Powers of the DAR. – The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

[17] Sec. 34. Implementing Authority of the Secretary. — The Secretary shall issue orders, rules and regulations and other issuances as may be necessary to ensure the effective implementation of the provisions of this Executive Order.

[18] Modifying Executive Order No. 129 Reorganizing and Strengthening the Department of Agrarian Reform and for Other Purposes.

[19] *Mendoza vs. Geronimo, et al.*, id.

[20] *Adriano vs. Tanco, et. al.* G.R. No. 168164, July 5, 2010.

[21] Id.

[22] *Saludaga vs. COMELEC, et al.*, GR. Nos. 189431 & 191120, April 7, 2010.

[23] Sec. 5. Certification against forum shopping.- The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

[24] *Saludaga vs. COMELEC, et al.*, *supra*.

[25] *Ceron vs. COMELEC, et al.*, G.R. No. 199084, September 11, 2012.

[26] *Id.*

[27] *Coscolla vs. People*, G.R. No. 176566, April 16, 2007.

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