

**MARIANO UMALI AND TEODORA UMALI-MENDOZA,
PLAINTIFFS-APPELLANTS, VS. FLORO, HERMOGENES, LOPE, LUCILA,
ROSALITO, NATALIA, ALL SURNAMED CAPLI CRUZ,
DEFENDANTS-APPELLEES.**

G.R. No. L-30686. December 03, 1980

Ponente: FERNANDO, J.

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FERNANDO, J.:

It admits of no doubt that the failure to abide by the Latin maxim *Audi alteram partem*, enshrined in the due process clause[1] suffices to call for a reversal. It is on that basic principle that plaintiffs-appellants would pin their hopes in this appeal from a decision of the then Court of First Instance Judge, now retired Justice, Cecilia Muñoz Palma, sustaining an order of dismissal of a Municipal Court. The decision speaks for itself: "This is an appeal from an Order dated September 9, 1965 of the Municipal Judge of Teresa, Rizal dismissing plaintiffs' complaint for forcible entry for lack of jurisdiction. Basis for the Order of dis-missal was defendants' answer and Special Affirmative Defense that plaintiffs' claim that they are owners and in possession of the property in litigation is not true as they, the defendants, are the owners thereof as said property is registered in the names of their deceased parents under T.C.T. No. 40292 of the Register of Deeds of Rizal and that they have always been in possession of the property, and on the further reason that there is now a pending civil action filed by plaintiffs herein for Quieting or Annulment of Title, Civil Case No. 8571, before the Court of First Instance of Rizal. In this appeal the issue raised is, whether or not, the allegation of ownership by defendants in their Answer divested the Municipal Court of Teresa, Rizal of its jurisdiction over the case which is one for forcible entry, and by agreement of the parties they submitted the issue for resolution on the basis of their memorandum. From the pleadings of both parties filed in the Municipal Court, it is evident that plaintiffs pretended right to the possession of the property in question ultimately rests upon their claim of ownership, a claim founded upon the inheritance from their mother, Olympia Sto. Domingo. That fact is, however, denied by defendants on the ground that plaintiffs' mother had already sold the land in question to their parents, Juan Capli Cruz and Isidora Ramirez since 1925 and that the latter have registered the land in their names under T.C.T. No. 40292 and they have been in possession of said property since 1925. As this Court sees it, the question of possession cannot be properly determined without first resolving the question of ownership of the parcel of land in litigation. As a matter of fact, plaintiffs filed Civil Case No. 8571 for 'Quieting and/or Annulment of Title' which is now pending before the Court of First Instance of Rizal. * * * 'From the answer filed by the defendants in the Court of First Instance and plaintiff's reply thereto, it is evident that plaintiff's pretended right to the possession of the property in dispute ultimately rests upon a purported contract of sale with right of repurchase admittedly signed by defendants but claimed by them to be mere simulation to cloak a mortgage obligation tainted usury. If this contract was really a sale subject to repurchase and the repurchase, has, as alleged by the plain-tiff, not been made within the time stipulated, plaintiff would already be the owner of the pro-property sold and, as such entitled to its possession. On the other hand, if the contract was, as defendants claim, in reality a mere mortgage, the defendants would still be the owner of the property and could not, therefore, be regarded as mere lessees. In the final analysis then the case hinges on a

question of ownership and is for that reason not cognizable by the justice of the peace court." [2] Plaintiffs-appellants sought to have such decision reversed in the Court of Appeals which thereafter referred this case to this tribunal as only questions of law were involved.

For reasons to be set forth, the decision of the then Judge Muñoz Palma is affirmed.

1. The alleged denial of procedural due process by plaintiffs-appellants was worded in this wise: "Although evidence was submitted by both parties during the trial in the Municipal Court of Teresa, Rizal, the inferior court did not consider such evidence and instead dismissed the complaint merely on the ground that the question of ownership is involved therein." [3] As clarified though in the brief for defendants-appellees, such allegation is devoid of truth. It was admitted that evidence was presented before the Municipal Court of Teresa. No due process question as to the proceedings therein is thus involved. Appellants, however, would impugn the then Judge Muñoz Palma for not considering such evidence. Her decision is the best refutation. Nor was there any need to call the witnesses anew, because plaintiffs-appellants agreed expressly that such be the case. There was a waiver on their part as so clearly set forth in this portion of the brief of defendants-appellees: "Moreover, even in the Court of First Instance of Rizal, the parties again agreed to submit for resolution the legality of the order of dismissal of the Municipal Court of Teresa, Rizal, without further hearing. For ready reference, we quote hereunder the order of the Court of First Instance of Rizal dated November 5, 1966: 'Upon agreement of the parties, they are submitting to this Court for resolution without further hearing the propriety of the Order of Dismissal of the Municipal Court of Teresa, Rizal which is the subject of plaintiffs' appeal, and for this purpose plaintiffs are given 5 days from today to file their memorandum, and defendants are given 5 days from receipt of the latter to file their Reply Memorandum.'" [4] There is no merit, therefore, to the first assigned error raising the issue of denial of procedural due process.

2. The application of the ruling in *Teodoro v. Balatbat*, [5] by the then Judge Muñoz Palma was likewise assigned as error. Here, again, the appealed decision would show how unwarranted is such an assertion. Thus: "The case of *Teodoro vs. Balatbat* (94 Phil. 247) is similar to the case before us. In said case Pedro Teodoro filed a complaint against Balatbat for recovery of possession of two parcels of land and a house thereon which were allegedly leased by plaintiff to defendant and which the latter refused to vacate after the expiration of the lease despite repeated demands. Answering the complaint, defendants denied the alleged lease, and setting up title in themselves, alleged that the house and land in question were merely mortgaged by them to plaintiff as a security for a usurious loan, but that to cover up the usury the transaction was given the form of a fictitious and simulated contract of sale with right of repurchase, which they consented to sign on the assurance that it was to be mere evidence of indebtedness and would not be enforced as a true pacto de retro sale. After hearing the evidence presented by the parties, the Justice of the Peace rendered his decision dismissing the case for want of jurisdiction on the theory that the question of possession could not be resolved without first deciding that of ownership. From this decision plaintiff appealed to the Court of First Instance of Bulacan. The defendant filed a motion to dismiss, alleging that the Court has no jurisdiction to try the case on the merits. But the motion was denied and when the case came up for hearing defendants in open court again raised the question of jurisdiction, but the court rendered an Order holding that the justice of the peace had jurisdiction and remanded the case to that court for trial on the merits. It is from that Order that defendants appealed to the Supreme Court which held as follows: 'It has been held time and again that the defendant in a case of forcible entry and detainer in a justice of the peace court may not divest that court of its jurisdiction by merely claiming ownership of the property involved. It is, however, equally settled that it appears during the trial that, by the nature of the proof presented, the question of possession cannot properly be deter-mined without settling that of ownership, then the jurisdiction of the court is lost and the action should be dismissed. (II Moran, Rules of Court, 1925 ed., p. 299, and cases therein cited) So it is held that where plaintiff's claim to possession is predicated upon a deed of sale alleged to have been executed by the

defendant, who in turn alleges said document to be fictitious and fraudulent, and there are no circumstances showing that this claim of defendant is unfounded, the justice of the peace loses its jurisdiction." [6]

3. There is no need to discuss the third assigned error in the light of the foregoing. Clearly, the allegation that the issue of ownership was not involved in the instant suit is on its face belied by the facts of record.

WHEREFORE, the appealed decision is affirmed. Costs against plaintiffs-appellants.

Barredo, Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

[1] According to Article IV, Section 1 of the Constitution: "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

[2] Record on Appeal, 59-64.

[3] Brief for Plaintiffs-Appellants, 5.

[4] Brief for the Defendants-Appellees, 9-10.

[5] 94 Phil. 247 (1954).

[6] Record on Appeal, 61-63.

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