

MANUEL L. FLOR, JR., PETITIONER, V. SPS. JOHNNY LOMOTAN AND OFELIA LOMOTAN, RESPONDENTS.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Filed pursuant to Rule 42 of the 1997 Rules of Civil Procedure, the Petition for Review at bench seeks the reversal and setting aside of the Decision[1] dated July 10, 2012 rendered by the Regional Trial Court of Malolos City, Bulacan, Branch 11 (RTC), in Civil Case No. 154-M-2012, affirming the Decision[2] dated December 9, 2011 of the Municipal Trial Court of Malolos City, Bulacan, Branch 1 (MTC), in Civil Case No. 10-06, which, in turn, granted respondents' complaint for ejectment and ordered petitioner to vacate the property subject of the case.

The Facts

The pertinent facts and antecedent proceedings, as borne by the records, show that petitioner Manuel Flor Jr. is the original applicant of a low-cost housing loan over the property located at Lot 19, Block 15, Alido Heights Subdivision, Malolos, Bulacan, that was approved by the Government Service Insurance System (GSIS) in 1982. When petitioner failed to fulfill the terms and conditions of the housing loan, GSIS offered the subject property for sale to the public. In the meantime, petitioner remained in possession of the property with the tolerance of GSIS.

Later, respondents Spouses Johnny and Ofelia Lomotan offered to purchase the subject property, which the GSIS approved on June 29, 2009.[3] On November 19, 2009, GSIS executed in favor of respondents Spouses Johnny and Ofelia Lomotan a Deed of Conditional Sale[4] over said property described in Transfer Certificate of Title (TCT) No. 227310[5] of the Registry of Deeds for the Province of Bulacan. Under the terms of the contract, respondents shall have the right to manage, administer and possess the property.

With petitioner's obstinate refusal to surrender possession of the subject property despite written demand[6] by respondents, the latter were constrained to file a complaint for ejectment[7] docketed as Civil Case No. 10-06 before the MTC.

In his answer with special and affirmative defenses and compulsory counterclaim,[8] petitioner sought for the dismissal of the complaint on the grounds of improper venue and lack of cause of action. On the issue of venue, petitioner invoked paragraph 22 of the Deed of Conditional Sale which states that "any and all actions arising from the said Deed that any party may institute shall be brought exclusively before the proper court in the City of Pasay to the exclusion of other courts".[9] Petitioner also contended that the presentation of a registry return receipt, by itself, is not proof of his actual receipt of the demand to vacate.

On May 26, 2010, petitioner filed a Motion for Leave of Court to Amend Answer with Special and Affirmative Defenses and Compulsory Counterclaim[10] with attached Amended Answer.[11] In his amended answer, petitioner primarily assailed the jurisdiction of the MTC on the ground that the action instituted by respondents is actually a complaint for accion reivindicatoria. In its Order[12] dated September 6, 2010, the MTC considered

petitioner's motion as one for additional time to file answer which is a prohibited pleading under Section 19 (e) of the Rules on Summary Procedure, hence, denied the same. Petitioner sought for reconsideration[13] but the MTC denied it in its Order[14] dated December 27, 2010.

After due proceedings, the MTC rendered a Decision dated December 9, 2011 granting the respondents' complaint for ejectment and disposing thus:

“WHEREFORE, judgment is hereby rendered Ordering defendant MANUEL L. FLOR, JR. and all persons claiming rights under him to:

- VACATE property subject of this case;
- PAY plaintiff a reasonable rent of two thousand five hundred pesos (Php 2,500.00) a month, reckoned from November 20, 2009 until the time possession of the subject property is surrendered to plaintiffs;
- PAY plaintiff the amount of twenty thousand pesos (Php 20,000.00) for and as attorney's fees; and;
- PAY the cost of suit.

SO ORDERED.”[15]

Meanwhile, on February 15, 2011, petitioner filed a petition for certiorari[16] docketed as Civil Case No. 71-M-2011 before Branch 84 of the Regional Trial Court in Malolos City, Bulacan, assailing the MTC's Orders dated September 6, 2010 and December 27, 2010. Being a prohibited petition under the Rules on Summary Procedure, the petition for certiorari was dismissed by the RTC in an Order[17] dated April 5, 2011.

On March 2, 2012, petitioner appealed the December 9, 2011 Decision of the MTC to the RTC of Malolos City, Bulacan, Branch XI (RTC). During the pendency of said appeal, petitioner also filed a letter-complaint[18] before the GSIS, seeking for the cancellation of the Deed of Conditional Sale the latter had executed in favor of the respondents. With the filing of the complaint before the GSIS, petitioner filed before the RTC a Motion to Suspend Proceedings on the ground of prejudicial question.[19]

In a Decision[20] dated July 10, 2012, the RTC affirmed the MTC's Decision, to wit:

“Accordingly, the instant appeal is hereby DISMISSED. The affirmed decision is hereby AFFIRMED IN TOTO.

Further, the motion to suspend proceedings is likewise DENIED. Prejudicial question, as basis for a suspension of proceedings, under existing laws, presupposes the pendency of a criminal action between the parties which, needless to state, is wanting in this case.

SO ORDERED.”

Undeterred, petitioner filed this Petition for Review.

The Issues

Petitioner urges the reversal and setting aside of the assailed decision and resolution of the RTC on a negative ruling on the following issues:

“I.

WHETHER OR NOT VENUE HAS BEEN IMPROPERLY LAID BASED ON THE PROVISIONS OF THE DEED OF CONDITIONAL SALE.

II.

WHETHER OR NOT THE PLAINTIFFS HAVE A CAUSE OF ACTION FOR EJECTMENT AGAINST THE DEFENDANT.

III.

WHETHER OR NOT THE MOTION WITH LEAVE OF COURT TO AMEND ANSWER WITH SPECIAL AND AFFIRMATIVE DEFENSES IS A PROHIBITED PLEADING UNDER THE REVISED RULES ON SUMMARY PROCEDURE.

IV.

WHETHER OR NOT THE CIVIL ACTION SHOULD BE SUSPENDED ON THE GROUND OF PREJUDICIAL QUESTION.”[21]

The Court's Ruling

We find the petition devoid of merit.

On the issue of venue, petitioner contends that the action should have been filed in the City of Pasay pursuant to the mandatory stipulation on venue found in the Deed of Conditional Sale instead of in the City of Bulacan where the property subject of the case is situated.

We are unswayed by petitioner's contention.

Stipulations limiting venue have been held valid and binding on the contracting parties pursuant to Rule 4, Section 3 of the Rules of Court which provides:

Venue by agreement. — By written agreement of the parties, the venue of an action may be changed or transferred from one province to another.

However, such agreement on venue, like paragraph 22 of the herein Deed of Conditional Sale which provides that “any and all actions arising from this DEED that any party may institute shall be brought EXCLUSIVELY before the proper court in the City of Pasay to the exclusion of other courts”, can be invoked only by parties who are privy to the execution of the said agreement. Such stipulation cannot be invoked by or against third parties to the contract, like petitioner herein. This is based on the civil law principle of relativity of contracts, which provides that contracts can only bind the parties who entered into it, and cannot favor or prejudice a third person, even if he is aware of such contract and has acted with knowledge thereof.[22] Consequently, not being privy to the contract between GSIS and respondents, petitioner cannot invoke and enforce the stipulation regarding venue as it applies only in an action where the adversaries are GSIS and respondents.

On the issue of proof of demand to vacate, petitioner argues that respondents' failure to present an affidavit of the person mailing of facts showing compliance with proof of service warrants the dismissal of the case for lack of cause of action.

Petitioner's argument deserves scant consideration. As borne by the records, respondents were able to present the registry return receipt showing that petitioner had personally received the demand letter to vacate.[23] Proof of receipt having been sufficiently established, there is no need to adduce additional evidence in the form of an affidavit of proof of service.

Petitioner further argues that the MTC committed grave abuse of discretion in considering his Motion with Leave of Court to Amend Answer with Special and Affirmative Defenses and Compulsory Counterclaim as a motion to amend answer and denying it for being a prohibited pleading. Petitioner insists that that a motion to amend answer is not one of the prohibited pleadings under Section 19 of the Revised Rules on Summary Procedure.

A perusal of petitioner's amended answer discloses that it is essentially in the nature of a motion to dismiss based on lack of jurisdiction over the subject matter. Therein, petitioner sought for the dismissal of the complaint for ejectment on his claim that the material allegations thereof make out a complaint for accion reivindicatoria, exclusive jurisdiction over which pertains to the RTC.

It is true that a motion to dismiss the complaint on the ground of lack of jurisdiction over the subject matter is not a prohibited pleading under Section 19 of the Revised Rules on Summary Procedure, which states:

“Sec. 19. Prohibited pleadings and motions. — The following pleadings, motions or petitions shall not be allowed in the cases covered by this Rule:

(a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;

xxx” (emphasis supplied)

Hence, instead of treating the amended answer as a motion for additional time to file an answer, the MTC would have done well had it treated the motion as a motion to dismiss on the ground of lack of jurisdiction over the subject matter, and simply proceeded to resolve the primordial issue of jurisdiction. Be that as it may, since a remand of the case at this stage to the court of origin would serve no other purpose than to unduly delay the disposition of the case, this Court shall proceed to resolve the issue of jurisdiction.

In this jurisdiction, there are three kinds of actions for the recovery of possession of real property, viz:

1. Accion interdical, or an ejectment proceeding which may be either that for forcible entry (detentacion) or unlawful detainer (desahucio), which is a summary action for recovery of physical possession where the dispossession has not lasted for more than one year, and should be brought in the proper inferior court;
2. Accion publiciana or the plenary action for the recovery of the real right of possession, which should be brought in the proper Regional Trial Court when the dispossession has lasted for more than one year; and
3. Accion reivindicatoria or accion de reivindicacion, which is an action for the recovery of ownership which must be brought in the proper Regional Trial Court.[24]

Based on the foregoing distinctions, the material element that determines the proper action to be filed for the recovery of the possession of the property in this case is the length of time of dispossession. Under the Rules of Court, the remedies of forcible entry and unlawful detainer are granted to a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person. Thus, if the dispossession has not lasted for more than one year, an ejectment proceeding is proper and the inferior court acquires jurisdiction. On the other hand, if the dispossession lasted for more than one year, the proper action to be filed is an accion publiciana which should be brought to the proper Regional Trial Court.[25]

Well settled is the rule that jurisdiction of the court over the subject matter of the action is determined by the allegations of the complaint at the time of its filing, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.[26] A complaint sufficiently alleges a cause of action for unlawful detainer if it states the following elements:

1. Initially, the possession of the property by the defendant was by contract with or by tolerance of GSIS.
2. Eventually, the possession became illegal upon the plaintiff's notice to the defendant of the termination of the latter's right of possession.
3. Thereafter, the defendant remained in possession of the property and deprived the plaintiff of the latter's enjoyment.
4. Within one year from the making of the last demand on the defendant to vacate the property, the plaintiff instituted the Complaint for ejectment.[27]

Here, the material averments in the complaint filed by the respondents clearly make out a case for unlawful detainer. In pertinent portions, the complaint reads:

"2. That plaintiffs are the vendees in the Deed of Conditional Sale of a parcel of land covered by TCT No. 227310 of the Registry of Deeds for the Province of Bulacan and the residential house erected thereon, executed in their favor by the GSIS on November 19, 2009. xxx

3. That one of the provisions in the deed of conditional sale is the transfer of the right of possession and administration over the subject property by the GSIS to the plaintiffs as vendees thereof;

4. That plaintiffs cannot exercise their right of possession and administration over the property on account of defendant's refusal to yield the same to them despite demand on him. xxx

5. That defendant's continuous possession of the subject property has no legal basis as he does not have any color of right thereto. His possession which was earlier tolerated by the GSIS, was withdrawn, when plaintiffs as its successors-in-interest and having the right of possession thereof, demanded his eviction from the premises.

6. That defendant's unlawful possession was referred to the barangay officials of Barangay Bulihan in Malolos City, Bulacan for mediation/conciliation processes but no settlement was arrived before these officials. xxx

7. That plaintiffs are entitled to reasonable rental of P2,500.00 a month from the defendant for the property from November 26, 2009 – the date when he received the written demand to vacate – until he finally delivers its possession to the plaintiff."[28]

The fact alone that respondents' cause of action is based on the Deed of Conditional Sale does not necessarily make their case an accion reivindicatoria, which is one whereby a party claims ownership over a parcel of land and seeks recovery of its full possession.[29] The action filed by the respondents in this case does not involve a claim of ownership. As admitted by respondents, they were constrained to commence the ejectment case as they had been unable to exercise their right of possession and administration over the property on account of petitioner's refusal to yield the same despite demand. Respondents assert that while originally legal, petitioner's possession became illegal after respondents had asked him to vacate the subject property due to the termination of his right to possess under the contract. Thus, respondents instituted a complaint for unlawful detainer on March 1, 2010, within one (1) year from the making of the last demand to vacate the property, which was allegedly received by petitioner on November 26, 2009.

Finally, petitioner contends that the RTC erred in denying his motion to suspend proceedings on the ground of prejudicial question.

We do not agree.

A prejudicial question is one that arises in a case the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal. It generally comes into play in a

situation where a civil action and a criminal action are both pending and there exists in the former an issue that must be preemptively resolved before the criminal action may proceed, because howsoever the issue raised in the civil action is resolved would be determinative juris et de jure of the guilt or innocence of the accused in the criminal case. The rationale behind the principle of prejudicial question is to avoid two conflicting decisions.[30] Technically, therefore, there is no prejudicial question where one case is administrative and the other is civil.[31] Stated differently, for a pending action to be considered prejudicial to another action, the following requisites must be present:

Sec. 7. Elements of prejudicial question. – The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed.[32]

The foregoing elements of prejudicial question are not present in this case.

In the case of *Antonio vs. Court of Appeals*[33], the Supreme Court had occasion to rule that the pendency of a case to annul an award of real property made in a public auction sale cannot be pleaded in abatement of proceedings in an ejectment action. This is because “[i]n an ejectment case, the issue is possession, while in an annulment case the issue is ownership. Therefore, an ejectment case can very well proceed independently of an annulment case. The only recognized exception to the preceding doctrine is the situation wherein the question of possession is so intertwined with the question of ownership to the effect that the question of possession cannot be resolved without resolving the question of ownership.” In our view, the case at bar does not fall within the exception. Accordingly, petitioner's contention that the proceedings in the ejectment action should be suspended in deference to the complaint for the cancellation of the deed of conditional sale filed and pending before the GSIS must necessarily fail.

So, also, in the case of *Wilman Auto Supply Corporation, et al., vs. Court of Appeals, et al.*,[34] the Supreme Court cited as among those cases that do not bar, preclude, abate or suspend proceedings in ejectment actions, actions for annulment of sale, or title, or document affecting property.[35]

In the light of the foregoing, We hold that the action pending before the GSIS for the cancellation of the deed of conditional sale it executed in favor of respondents is not prejudicial to the suit for ejectment as to warrant the suspension of the latter proceeding. If the rule were otherwise, ejectment cases could easily be frustrated through the simple expedient of filing an action contesting the ownership over the property subject of the controversy. Clearly, such would render nugatory the underlying philosophy of the summary remedy of ejectment which is to prevent criminal disorder and breaches of the peace and to discourage those who, believing themselves entitled to the possession of the property, resort to force rather than to some appropriate action in court to assert their claims.[36]

WHEREFORE, premises considered, the petition is DENIED for utter lack of merit and is accordingly DISMISSED.

SO ORDERED.

Garcia and Bueser, JJ., concur.

[1] Rollo, pp. 104-106.

[2] *Ibid.*, pp. 62-68.

- [3] Ibid., p. 58.
- [4] Ibid., pp. 52-56.
- [5] Ibid., p. 57.
- [6] Ibid., p. 60.
- [7] Ibid., pp. 48-51.
- [8] Ibid., pp. 254-268.
- [9] Ibid., p. 55.
- [10] Ibid., pp. 177-180.
- [11] Ibid. pp. 181-196.
- [12] Ibid., pp. 197-198.
- [13] Ibid., pp. 289-296.
- [14] Ibid., pp. 297-298.
- [15] Ibid., p. 67.
- [16] Ibid., pp. 209-239.
- [17] Ibid., pp. 332-333.
- [18] Ibid., p. 127.
- [19] Ibid., pp. 120-129.
- [20] Ibid., pp. 104-106.
- [21] Ibid., pp. 21-22.
- [22] Metropolitan Bank and Trust Company vs. Reynado, G.R. No. 164538, August 9, 2010.
- [23] Rollo, p. 67; As per MTC decision dated December 9, 2011.
- [24] Encarnacion vs. Amigo, G.R. No. 169793, September 15, 2006.
- [25] Ibid.
- [26] Ibid.
- [27] Republic of the Philippines vs. Sunvar Realty Development Corporation, G.R. No. 194880, June 20, 2012.
- [28] Rollo, pp. 48-49.
- [29] Iglesia ni Cristo vs. Hon. Thelma Ponferrada, G.R. No. 168943, October 27, 2006.
- [30] Spouses Vicente Yu vs. Philippine Commercial International Bank, G.R. No. 147902, March 17, 2006.
- [31] Te vs. Court of Appeals, G.R. No. 126746, November 29, 2000.
- [32] Rule 111, Revised Rules of Court
- [33] G.R. No. 77656, August 31, 1987.

[34] 208 SCRA 108 (1992), cited in Arcal vs. Court of Appeals, G.R. No. 127850, January 26, 1998.

[35] Salinas v. Navarro [annulment of deed of sale with assumption of mortgage and/or to declare the same an equitable mortgage], 126 SCRA 167 [1983]; Ang Ping v. RTC [annulment of sale and title], 154 SCRA 153 [1987]; Caparros v. C.A. [annulment of title], 170 SCRA 758 (1989); Dante v. Sison [annulment of sale with damages] 174 SCRA 517; Galgala v. Benguet Consolidated, Inc. [annulment of document], 177 SCRA 288 [1989].

[36] Salting vs. Velez, G.R. No. 181930, January 10, 2011.

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