

PILAR T. DEL ROSARIO, MARIANO V. DEL ROSARIO, AND SALVADOR V. DEL ROSARIO, PETITIONERS AND APPELLANTS, VS. HON. DAMIAN L. JIMENEZ, AS JUDGE OF THE MUNICIPAL COURT OF QUEZON CITY...

G.R. No. L-17468. July 31, 1963

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before Us on appeal from the order of the Court of First Instance of Rizal (Branch II), dated June 4, 1960, dismissing appellants' petition for certiorari and mandamus to review four orders of the municipal court of Quezon City (Branch III) in civil case No. 5039 entitled "Sancho R. Jacinto et al., vs. Pilar T. del Rosario et al.," That case was one of forcible entry under Rule 72, involving two parcels of land of which the plaintiffs, Sancho R. Jacinto and Domingo C. Bascara, now respondents-appellees, are the registered owners under transfer certificate of title Nos. 26531 and 26532, both issued by the Register of Deeds of Quezon City. These lands had been acquired by them through purchase from the previous registered owner, J. M. Tuazon & Co., Inc. In their answer to the complaint the defendants, now petitioners-appellants, claimed ownership of the same properties by purchase from one Macaria Fulgencio and her husband Carlos Javier and alleged that they were and had been in actual physical possession thereof even before the purchase from J. M. Tuazon & Co., Inc. by appellees. Appellants, after a second amended complaint had been filed by appellees submitted their answer thereto dated October 2, 1958, including a "third-party complaint" against the plaintiffs themselves as well as against J. M. Tuazon & Co. Inc., from both of whom they prayed for an award of damages.

In the meantime, after the action of forcible entry was filed, herein appellants commenced a suit for "reconveyance and/or recovery" of the same properties against appellees in the Court of First Instance of Rizal (No. 5230), and then, on November 4, 1958, filed a motion in the municipal court to suspend proceedings in the summary action before it until after the termination of the case in the Court of First Instance.

On October 7, 1958 the municipal court denied admission of the third-party complaint; and on the following November 6 it likewise denied the motion to suspend proceedings. In both instances appellants moved to reconsider and were turned down in two other separate orders, dated October 24 and November 27, 1958 respectively. These are the four orders subject of appellants' petition for certiorari and mandamus, which was dismissed by the Court of First Instance of Rizal and now on appeal before us.

The third-party complaint was improperly brought against appellees Jacinto and Bascara, since they were themselves the plaintiffs in the forcible entry case, as to whom a mere counterclaim would suffice. Insofar as J. M. Tuazon & Co., Inc. was concerned, the allegations against it is that it had entered into a compromise agreement with a certain Deudor in four civil cases in the Court of First Instance of Quezon City, whereby it agreed to give priority to occupants of lands involved therein (including those now in dispute) in the matter of their purchases and that the ejectment suit filed by herein appellees was a violation of that compromise agreement.

We fail, to see how such agreement, to which appellees were strangers, could have anything to do with their right of action to recover the material possession of the lands in question. The prayer in the third-party complaint that J. M. Tuazon & Co., Inc. be sentenced to pay damages should be the subject, if at all, of a separate action so that matters extraneous to the issue of possession may not unnecessarily clutter the forcible entry case. The admission of a third-party complaint is discretionary with the court, and in the present instance there was no abuse of discretion in the order of denial complained of.

With respect to the other order—that denying appellant's motion to suspend proceedings—it is enough to point out, first, that the action for "reconveyance and/or recovery" in the Court of First Instance of Rizal, which appellants claim should take precedence, was filed by them when the forcible entry case was already pending, and was obviously intended to delay the proceedings therein; and secondly, that the issue involved in the later action, which is one of title, is not prejudicial to the determination of the issue of summary possession. The very petition for mandamus and certiorari the dismissal of which is the subject of this appeal is likewise dilatory in nature, as shown by the fact that it is only one of the numerous actions previously resorted to by appellants and decided unfavorably to them. There was special civil action No. 5318, Court of First Instance of Rizal, Branch VI, dismissed by Judge Andres Reyes for lack of jurisdiction and then refiled in Branch V (Quezon City), but again dismissed by Judge Nicasio Yatco on July 2, 1959; and subsequently, there was special civil action No. 5500, Court of First Instance of Rizal, dismissed by Judge Felix R. Domingo on July 8, 1959. Both of these actions were instituted after the ejectment case was filed by herein appellees and sought to suspend the trial thereof. There must be an end to the litigious rigmarole pursued by appellants.

The decision appealed from is affirmed, with costs.

Bengzon, C. J, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon and Regala, JJ., concur.

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