

ISIDRO DE LEON, PETITIONER AND APPELLANT, VS. JUDGE CRISANTO ARAGON, MUNICIPAL COURT OF MANILA, PACITA TUASON-PRINCIPE AND FEDERICO PRINCIPE, RESPONDENTS AND APPELLEES.

G.R. No. L-17395. October 30, 1961

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from a decision of the Court of First Instance of Manila (C. C. No. 42567) dismissing petitioner Isidro de Leon's petition for certiorari to set aside an order of the Municipal Court of Manila denying his motion to dismiss and setting for hearing Civil Case No. 42567 for ejectment.

The ejectment suit in question was brought by Pacita Tuason Principe, assisted by her husband Federico Principe against petitioner Isidro de Leon, on January 5, 1960, to recover possession of a portion of a parcel of land leased by plaintiff to defendant on a month-to-month basis, and back rentals. The complaint alleged, among other things:

"1.—That plaintiff is of legal age, married to Federico Principe and residing at Ciriaco Tuason Street, Singalong, Manila; and defendant is likewise of legal age and residing at No. 48 Dian Street, Makati, Eizal, where he may be served with summons;

2.—That plaintiff leased to defendant a portion of a parcel of land of which she is the owner and on which the house of the defendant is erected, on a month-to-month basis at a monthly rental of P100.00 up to February, 1959 at P130.00 from March, 1959, payable in advance within the first five days of each month."

When the case was called for trial, defendant moved to dismiss the complaint on the ground of lack of jurisdiction and improper venue. The theory of the motion to dismiss was that since the complaint averred that defendant had her house on the land in question, yet it did not state where said land was located, while it did allege that defendant was residing in Makati, Rizal; whence it followed from such allegations that the land in dispute was also located in Makati, Rizal, which was outside the territorial jurisdiction of the Municipal Court of Manila. Without wasting any time, plaintiff moved to be allowed to amend her complaint by inserting therein the exact location in Manila of the leased premises, and the motion having been granted, plaintiff inserted in paragraph 2 of the complaint the words "LOC MRS. 1272 SAN ANDRES MLA.", meaning "located at 1272 San Andres, Manila". Thereafter, the inferior court denied the motion to dismiss and set the case for hearing on a later date.

Insisting that the original complaint did not confer jurisdiction upon the municipal court so that said court did not have the jurisdiction to allow the amendment of the complaint, defendant applied for a writ of certiorari with the Court of First Instance of Manila to have the ejectment case dismissed and all proceedings taken therein annulled. The Court of First Instance, however, found that the municipal court did acquire jurisdiction over the case; that venue was not improperly laid, and that the amendment of the complaint only tended to particularize the location of the land in dispute; and, accordingly, dismissed the petition for certiorari. From this judgment, defendant Isidro de Leon appealed to this Court.

There is no merit in the appeal. As correctly held by the court below, the complaint, being clearly and admittedly one for illegal detainer, conferred jurisdiction over the subject-matter of the case upon the Municipal Court of Manila, under sec. 88 of the Judiciary Act of 1948, as amended, that gives the inferior courts original jurisdiction over forcible entry and detainer proceedings. As the municipal court had jurisdiction over the action, the question whether or not the suit was brought in the place where the land in dispute is located was no more than a matter of venue (*M.R.R. vs. Atty.-Gen.*, 20 Phil., 523), and the court, in the exercise of its jurisdiction over the case, could determine whether venue was properly or improperly laid. It having appealed at the hearing of the motion to dismiss that the land in dispute was indeed located in Manila and that it was only through mere inadvertence or oversight that such information was omitted in the complaint, defendant's objection became a pure technicality, and the municipal court committed no error in allowing the amendment of the complaint by inserting therein the exact location in Manila of the land in dispute and in denying the motion to dismiss.

Wherefore, the order appealed from is affirmed and the appeal dismissed. Costs against defendant-appellant Isidro de Leon.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Paredes, and De Leon, JJ., concur.

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