

PRESENTACION BAUTISTA, PETITIONER, VS. ANITA F. FERNANDEZ, RESPONDENT.*G.R. No. L-24062. April 30, 1971*

Ponente: CASTRO, J.

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In 1952 the Roman Catholic Archbishop of Manila, the original decreed owner of lot 3, Psd-2870, with an area of 373.10 square meters located on Dakota street, Malate, Manila, and covered by original certificate of title 609, sold on installments the aforesaid land to Simeona L. Ricalde and Fructuosa R. Gonzales, said transaction evidenced by contract 32-HR. Four years later, in 1956, Gonzales, by virtue of an assignment of rights, relinquished, assigned and conveyed all her rights unto and in favor of her co-buyer Ricalde.

On November 27, 1957, Anita F. Fernandez (hereinafter referred to as the respondent) bought Ricalde's consolidated rights and secured from the Register of Deeds of the city of Manila transfer certificate of title 49717. Said title, issued in the name of "Anita F. Fernandez, married to Alberto Fernandez, Filipino," embraced the entire lot.

The respondent, on December 19, 1957, made a written demand upon Presentation D. Bautista (hereinafter referred to as the petitioner), an occupant of a portion of 93.275 square meters of the land and of a house standing thereon, to vacate the premises before February 1958. The petitioner refused to leave the premises, thus compelling the respondent to bring an ejectment suit[1] against her on January 21, 1958 before the municipal court of the city of Manila.

The municipal court, however, dismissed the ejectment suit on the ground that the real issue between the parties was the ownership the premises in question. The respondent duly appealed the case to the Court of First Instance. On August 30, 1958, the CFI dismissed the appealed case[2] on the ground of priority of possession of the premises in question on the part of the petitioner and of her right to stay in the said premises until lawfully ejected, by either an accion publiciana or an accion reivindicatoria, by a person with a better right.

On September 28, 1958, the respondent instituted an action[3] in the Court of First Instance, alleging ownership of the whole lot in question and praying that the petitioner be ordered to "vacate the premises immediately" and to pay actual, moral and exemplary damages, and attorney's fees in the total amount of P14,000, plus a monthly rental of P1,000.

In her amended answer filed with the CFI, the petitioner asserted an adverse claim of ownership in herself, alleging that she acquired ownership of the portion of 93.275 square meters or one-fourth of the whole land, together with the house standing thereon, from Cornelia Quiocho on September 14, 1957 for the amount of P4,000, as evidenced by a deed of absolute sale. Quiocho, according to her, in turn acquired the one-fourth portion for a valuable consideration from Marciana Sioson Librano on May 26, 1954. The deed of sale of a house and lot executed by Librano in favor of Quiocho, the petitioner alleged, carried and embodied the written conformity of Ricalde and Gonzales, the original co-buyers of the whole lot.

After due trial, the CFI rendered judgment on April 25, 1959 declaring the respondent the absolute owner of the whole lot, including the portion claimed and occupied by the petitioner. The trial court also ordered the petitioner to vacate the premises and to pay to the respondent the sum of P50 a month as rental from January 1, 1958 until she shall have left the premises, plus the sum of P150 as attorney's fees, and the costs. The petitioner duly appealed the trial court's decision to the Court of Appeals.

On December 21, 1964, the appellate court rendered judgment affirming the decision of the trial court.

Hence, this appeal by the petitioner by way of certiorari to review the decision of the Court of Appeals.

The petitioner imputes five errors to the Court of Appeals, to wit:

- 1) In recognizing the original jurisdiction assumed by the Court of First Instance over the forcible entry case filed within one year from the alleged dispossession, and error in taking appellate jurisdiction to affirm the judgment in the said case;
- 2) In sanctioning the non-joinder of an indispensable party;
- 3) In declaring the respondent the owner of the whole lot;
- 4) In not holding the action barred by res judicata; and
- 5) In not dismissing the respondent's complaint.

Anent the first assigned error, the petitioner assails the jurisdiction of the Court of First Instance to take cognizance of the case brought against her by the respondent in the said court. She alleges that the nature of the action partakes of a forcible entry case as evidently shown by the pleadings filed, the evidence adduced, and the admissions made by both the trial court and the Court of Appeals. To strengthen her stand, the petitioner argues that the respondent filed the forcible entry case on September 28, 1958, nine months or less than one year from the alleged dispossession. Concomitantly, the trial court lacked jurisdiction over the alleged forcible entry case because section 1, Rule 70 of the Rules of Court requires that the action be brought "at any time within one (1) year after" the unlawful deprivation or withholding of possession of the land in question "in the proper inferior court."

In answer, the respondent alleges that the real issue raised by the pleadings is the ownership of the disputed portion of land and, as a necessary consequence, possession of the said land. She asserted ownership over the land, and alleges that the petitioner, in her answer filed with the trial court, also claimed ownership of the premises. These two conflicting claims of ownership, the respondent argues, clearly placed the case within the jurisdiction of the Court of First Instance.

Resolution of the question of jurisdiction raised by the petitioner depends largely upon the determination of the true nature of the action filed by the respondent against the said petitioner in the Court of First Instance. This necessarily involves a consideration of the ultimate facts alleged in the complaint constituting the respondent's cause of action, for the averments of the complaint, taken as a whole, determine the nature of the action and consequently the jurisdiction of the courts.[4]

The trial court, after taking into account the pleadings filed and the evidence presented by the parties, ruled the action as one for the recovery of ownership. Likewise, the Court of Appeals, after an examination of the pleadings, found that, under the said pleadings, the principal litigation relates to the "ownership of the one-fourth disputed portion" and that any question of possession "necessarily depends upon the result of the inquiry into the title."

The allegations of the respondent in her complaint filed with the Court of First Instance clearly establish a case for the recovery of ownership, and not merely one for the recovery of possession de facto as the petitioner vehemently insists. The complaint definitely raises this question of ownership and clearly gives the petitioner notice of the respondent's claim of exclusive and absolute ownership of the whole land. In brief, the averments of the complaint sufficiently and properly plead the respondent's claim of ownership necessarily including possession as an elemental attribute of such ownership.

The other allegations in the complaint regarding the petitioner's manner and mode of entry into the disputed portion of land merely apprise the court of the facts and incidents relied upon by the respondent in asserting her claim that the petitioner took possession of the disputed premises without color of title. The respondent also relies upon such facts and incidents in establishing a sufficient cause for her claim for damages.

The petitioner makes mention of the fact that the respondent, in her complaint, sought by way of relief an order to vacate the premises and an award of damages and not a declaration of ownership. According to the petitioner, this clearly shows that the action filed by the respondent partakes of a forcible entry case. Suffice it to state that the allegations of fact set forth in the proper pleading, not the prayer for relief, determine the nature and character of an action. If ever the trial court found the respondent entitled to a declaration of ownership - a relief not applied for - the trial court so acted only because it believed the relief warranted by the facts alleged in the respondent's complaint.^[5] Moreover, the respondent's broad and comprehensive prayer in her complaint, "for such other relief and remedy" just and proper in the premises, justifies the relief granted by the trial court.

To further strengthen her stand, the petitioner argues that the respondent filed her action, allegedly one for forcible entry, within one year from the alleged dispossession with the Court of First Instance and not with the proper inferior court. Consequently, the CFI lacked jurisdiction to entertain the same. This, of course, assumes the action as one for forcible entry. Taken in the light of the foregoing discussion finding the action one for the recovery of ownership, no necessity exists for the respondent to wait for the lapse of one year from the dispossession to maintain the accion reivindicatoria. In fact, both an action for the recovery of ownership and an action for detainer over the same land and between the same parties can be filed at the same time for they involve different issues.^[6]

The petitioner raises the question of non-joinder of her husband as an indispensable party in her second assignment of error. She believes her husband an indispensable party to the action because the same involves conjugal property, and, even assuming the land in question as not forming part of the conjugal partnership, still the action includes a claim for damages sought to be recovered from conjugal assets.

Significant it is to note that the petitioner, in her answer and amended answer to the respondent's complaint, pleaded "misjoinder of parties," alleging that "the husbands of plaintiff and defendant are not included in the complaint." Subsequently, in her motion for reconsideration of the trial court's decision which left unresolved the question of "misjoinder of parties," the petitioner failed altogether to call the attention of the court a quo to this question by omitting mention of the same. Then, in her appeal to the Court of Appeals, she merely referred to the error of the trial court "in not dismissing the complaint for failure of the plaintiff to join her husband," making no remark whatsoever of the non-joinder of her husband as party defendant, thus depriving the appellate court opportunity to rule on the matter. Acting on the question, the appellate court required the respondent to file an amended complaint making her husband party-plaintiff. Then, the petitioner, in her motion for reconsideration of the Court of Appeals' decision, raised the question of the necessity of impleading her own husband as party-defendant. Now, before this Court, she insists that the Court of Appeals failed to realize the need for the joinder of her husband as party-defendant.

This noticeable inconsistency in the pleadings of the petitioner, a lawyer herself deemed to possess reasonable and sufficient knowledge of the well-settled rules of law and procedure, reveals more than lack of care and diligence on her part. We feel constrained to comment that we can not tolerate the conduct of the petitioner in splitting her defenses, pleading portions of the same whenever she deems it convenient - a practice abhorrent to the standards of honesty and sincerity required of members of the legal profession.

Nevertheless, we opine that the petitioner's husband should have been impleaded as party-defendant, for the action involves recovery of real property admitted by the petitioner herself in her petition filed with this Court as conjugal and includes a demand for damages for the use and occupancy of the premises in question. Undeniably, the damages sought to be recovered are chargeable against the conjugal assets under the administration of the petitioner's husband.

Article 113 of the Civil Code of the Philippines, re-stated in section 4 of Rule 3 of the Rules of Court, requires the joinder of the husband in all suits for or against the wife, subject to the exceptions enumerated therein.[7] This case not constituting an exception, the need to align the husband of the petitioner as party-defendant arises.

The remedial solution laid down by this Court in *Cuyugan vs. Dizon*,[8] although relating to the non-joinder of the plaintiff's husband, applies as well to the question of the non-joinder of the defendant's husband. There, this Court ruled that the case should not be

“...dismissed for plaintiff's failure to join her husband. Nor should the case be remanded to the court below and a new trial ordered on this account. The complaint may and should be amended here, to cure the defect of party plaintiffs, after final decision is rendered.”

This Court, in the same case, reasoned that

“ . . . a second action would be but a repetition of the first and would involve both parties, plaintiffs and defendant, in much additional expense and would cause much delay, in that way defeating the purpose of the section[9], which is expressly stated to be 'that the actual merits of the controversy may speedily be determined without regard to technicalities and in the most expeditious and inexpensive manner'.”

The third assigned error refers to the adverse and conflicting claims of ownership of both the petitioner and the respondent over the one-fourth portion of the land. The petitioner predicates her argument mainly on the supposed knowledge on the part of the respondent of the prior sale of the disputed portion of land in her favor by Quiocho, claiming that the alleged knowledge tainted the respondent's title over the whole land. The petitioner, to support her argument, alleges that the respondent admitted such knowledge in the proceedings before the trial court. Consequently, the petitioner concludes that the respondent obtained the registration of the whole land by fraud, thus obligating her to re-convey to the petitioner the disputed portion.

We find no clear and sufficient evidence in the records preponderating in favor of the petitioner's contention of awareness on the part of the respondent of the said petitioner's purchase of the disputed portion of land. Even the Court of Appeals noted the lack of any "allegation in the several pleadings on record that title holder Anita F. Fernandez knew or had knowledge of the past transactions over the lot in question" and of any proof "to establish awareness of the aforesaid transactions on the part of said Anita F. Fernandez."

The alleged fraud on the part of the respondent in obtaining the registration of the whole land in her name cannot be presumed. The same must be established by preponderance of clear and sufficient evidence.

At all events, the record unmistakably shows that the respondent holds a transfer certificate of title to the whole land - a fact admitted by the petitioner herself. Said certificate of title has the same validity and legal effect as the original thereof. Said certificate of title, covering the whole land including the disputed one-fourth portion, must

stand, not having been declared null and void by judicial pronouncement, and must be afforded the full protection of the Torrens system. The respondent having proved her exclusive ownership of the whole lot by means of the certificate of title duly presumed to have been issued in accordance with law and in due course, we find no cogent reason to reverse the decision of the Court of Appeals affirming the decision of the trial court which declared the respondent the absolute owner of the whole parcel of land including the portion claimed by the petitioner.

We briefly dispose of the petitioner's fourth assignment of error - that the Court of Appeals erred in not holding the action barred by the previous judgment rendered by the Court of First Instance in civil case 36590 - by adverting to the provisions of section 7 of Rule 70 of the Rules of Court, to wit:

"Sec. 7. Judgment conclusive only on possession; not conclusive in actions involving title or ownership. - The judgment rendered in an action for forcible entry or detainer shall be effective with respect to the possession only and in no wise binds the title or affects the ownership of the land or building. Such judgment shall not bar an action between the same parties respecting title to the land or building, nor shall it be held conclusive of the facts therein found in a case between the same parties upon a different cause of action not involving possession."

A judgment in a forcible entry or detainer case disposes of no other issue than possession and establishes only who has the right of possession, but by no means constitutes a bar to an action for determination of who has the right or title of ownership.[10]

ACCORDINGLY, it is hereby ordered that the respondent, within fifteen (15) days from notice hereof, file an amended complaint impleading the petitioner's husband as party-defendant; forthwith after this amended complaint shall have been filed, let judgment be entered affirming the decision of the Court of Appeals. Costs against the petitioner. Let a copy of this decision be served on the petitioner's husband.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Villamor, and Makasiar, JJ., concur.

Barredo, J., reserves his vote.

[1] Civil Case 55549.

[2] Civil Case 36590.

[3] Civil Case 27937.

[4] Calo and San Jose vs. Roldan, et al., 76 Phil. 445; Serrano and Silver Lines, Inc. vs. Muñoz (Hi) Motors, Inc., et al., 21 SCRA 1085.

[5] Schenker vs. Gemperle, 5 SCRA 1042.

[6] Alejandro vs. The Court of First Instance of Bulacan, et al., 70 Phil. 613.

[7] Instances when a married woman may sue or be sued alone or without joining her husband:

- 1) When they are judicially separated;
- 2) If they have in fact been separated for at least one year;
- 3) When there is a separation of property agreed upon in the marriage settlements;
- 4) If the administration of all the property in the marriage has been transferred to her, in accordance with articles 196 and 197 of the Civil Code;

- 5) When the litigation is between the husband and the wife;
- 6) If the suit concerns her paraphernal property;
- 7) When the action is upon the civil liability arising from a criminal offense;
- 8) If the litigation is incidental to the profession, occupation or business in which she is engaged;
- 9) In any civil action referred to in articles 25 to 36 of the Civil Code; and
- 10) In an action upon a quasi-delict.

In the cases mentioned in nos. 7 to 10, the husband must be joined as a party-defendant if the third paragraph of article 163 of the Civil Code is applicable.

[8] 45 OG 673, 79 Phil. 80.

[9] Referring to section 2 of Rule 17 of the old Rules of Court (at present section 1 of Rule 10 of the new Rules of Court) which states:

"Section 1. Amendments in general. - Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, and in the most expeditious and inexpensive manner."

[10] Villaroman vs. Abaya and The Manila Southern Colleges, 91 Phil. 20.

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