MARIETA VIRGINIA CRUZCOSA AND KEMEDIOS CRUZCOSA, PETITIONERS, VS. THE HONORABLE JUDGE HERMOGENES CONCEPCION, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, B...

No. L-11146. April 22, 1957

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

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

On April 23, 1949, respondent Efren Mendoza filed in the Municipal Court of Manila two separate complaints for ejectment againat Catalino Cruzcosa and Catalino Cruzcosa, Jr. (C. C. Nos. 7514 and 10693), claiming to be the owner of Lot No. 115, Block No. 3068 of the Cadastral Survey of the City of Manila, located in Velasquez, Tondo; that defendants are occupying the same at a monthly rental of P24;.and that .defendants had failed to pay the rentals since, July, 194S rand he (plaintiff) needed the premises for his own use. After joinder of issues and trial, judgment was rendered for plaintiffs in both cases. Defendant Catalino Cruzcosa in C. C. No. 7514 moved to reconsider the judgment against him on the ground that he was not the real party in interest because the building on the lot in question belonged not to him but to his children of the first marriage, Catalino Cruzcosa, Jr., Remedios Cruzcosa, and Virginia Cruzcosa. Reconsideration in C. C. No. 7514 was, however, denied, and the defendants in both cases appealed to the Court of First Instance (C. C. Nos. 10693 and 13205).

In the Court of First Instance, defendant Catalino Cruzcosa (in C. C. 10693) filed a motion to dismiss on the same ground set forth in his motion for reconsideration in the inferior court; namely, that the building on the lot in question was not his property but the property of his children Catalino Cruzcosa, Jr., Remedios Cruzcosa, and Virginia Cruzcosa, and that therefore, he was not the real party in interest; but said motion to dismiss was denied. Thereafter, a joint trial of C. C. Nos. 10693 and 13205 was held, after which judgment for the plaintiff was rendered by the Court of First Instance. Both defendants appealed to the Court of Appeals. The Court of Appeals found the house in question to be the property of appellant Cruzcosa, Jr. and his two sisters, Virginia and Remedios Cruzcosa, but that it was with their father Catalino Cruzcosa that plaintiff Efren Mendoza had a lease agreement, and so affirmed the judgment of the trial court insofar as it ordered the ejectment of defendants from the premises if they failed to vacate the same within the time specified by the appellate court.

Upon the return of the records to the court a quo, plaintiff Efren Mendoza filed a motion to execute the judgment and pursuant thereto, the court, on June 4, 1956, issued a writ of execution. Later, plaintiff moved for the demolition of defendants' house on the lot in question, which motion defendants opposed mainly on the argument that said house did not belong exclusively to defendant Cruzcosa, Jr., but was owned by him jointly with his sisters Virginia and Remedies Cruzcosa, who had not been made parties in the entire proceedings and who could not be deprived of their property without due process of Jaw. Notwithstanding defendants' opposition to the motion for demolition, the court granted the same and on July 18, 1956 ordered the Sheriff of Manila to demolish the house in question if defendants did not remove it from plaintiff's property within twenty days. Complaining about this order of demolition, Marieta Virginia Cruzcosa and Remedios Cruzcosa filed with this Court the

present petition for certiorari with a prayer for a writ of preliminary injunction; and upon a bond of P1.000, we granted the preliminary injunction prayed for. The petition is clearly meritorious. Petitioners were conclusively found by the Court of Appeals to be co-owners of the building in question. Having an interest therein, they should have been made parties to the ejectment proceedings to give them a chance to protect their rights; and not having been made parties thereto, they are not bound and can not be affected by the judgment rendered therein against their co-owner Catalino Cruzcosa, Jr., (Tayzon vs. Ycasiano, et al., 83 Phil., 921; Galang vs. Uytiepo, 92 Phil., 344; Pobre vs. Blanco, 17 Phil., 156)'. To execute, then, said judgment against their interests in the house in question would be to divest them of their property without due process of law.

Respondent Efren Mendoza argues that petitioners are guilty of laches and are estopped from enjoining the order of demolition against their property because they had been aware of the ejectment proceedings all along and had failed to intervene therein to protect their rights. Respondent forgets that neither the Municipal Court nor the Court of First Instance acquired jurisidiction over the persons of petitioners since they were never at any time made parties to the proceedings; and it is fundamental that jurisdiction is conferred only by law and can not be acquired through, or waived by, any act or omission of the parties. Besides, petitioners had no duty to intervene in the proceedings, intervention in an action not being compulsory or mandatory but only optional and permissive (Rule 13, sees. 1 to 3, Rules of Court); they had the right to rely on their legal and constitutional rights not to be deprived of their property without previous hearing. And what is more, there is no proof that petitioners had knowledge, previous to the order of demolition, of the pendency of respondent's ejectment actions, so that their failure to intervene therein can not in any case have the effect either of waiver or estoppel.

The records show that respondent had been aware of petitioners' joint interests in the house in question even when his actions were still pending in the inferior court, because defendant Catalino Cruzcosa had always maintained that the owners of said house were his children Catalino Cruzcosa, Jr. and herein petitioners. Having notice of petitioners' interest in said house, it was respondent Mendoza's duty to amend his complaint and implead petitioners as defendants, if he had wanted them to be bound by any favorable judgment he might obtain in said actions. Respondent never sought to make petitioners parties in his complaint; and now. that his judg. ment has already become final and executory, he can not insist on the destruction of the house in question, to the injury and damage of the interests of petitioners, who have not been even heard.

Wherefore, the lower court's order of demolition of July 18, 1956 is declared null and void, and the preliminary writ of this Court enjoining the execution of said order is hereby made permanent. Costs against respondent Efren V. Mendoza. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, and Endeneia, J.J., concur.

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