

NUEVA VIZCAYA CHAMBER OF COMMERCE, RAMON UY, TAN LIONG CHIONG, EDWARD CHAN AND CUA HIAN SIU, PETITIONERS, VS. COURT OF APPEALS, HON. VICENTE R. CAMPOS, PRESI-DING JUDGE, COURT O...

G.R. No. L-49059. May 29, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

In this special civil action of certiorari, the petitioners assail, on the ground of lack of jurisdiction, the decision of the Court of First Instance of Nueva Vizcaya (which the Court of Appeals did not choose to review), ordering the petitioners to vacate Lot 39-B located in Solano, Nueva Vizcaya and owned by plaintiff (now respondent) Pedro Busa, and to pay him three hundred pesos a month from April 17, 1972 until the lot is va-cated, plus two thousand eight hundred pesos as attorney's fees and litigation expenses.

The case started in the municipal court of Solano which dismissed the complaint filed on January 13, 1975 for ejectment by Busa against the petitioners (defendants in that court). That complaint was based on the grounds that the petitioners were occupying Busa's lot without any lease contract and with-out paying any compensation for the use thereof.

Busa appealed to the Court of First Instance which found that the petitioners occupied Busa's lot and built a school building thereon on the basis of a fifteen-year lease contract which expired on April 15, 1972.

After the expiration of the lease, Busa sent demand letters to the petitioners, informing them that he was not re-newing the lease and requiring them to vacate the lot which has an area of one thousand eighty square meters.

The lower court held that, as the lease was not renewed and no rentals were paid, Busa was entitled to recover posses-sion of his lot and that the petitioners are liable to pay three hundred pesos a month as the reasonable compensation for their use and occupation of the lot from April 17, 1972.

The petitioners filed a petition in the Court of Appeals for the review of that decision. The Appellate Court in its decision (should be resolution) of April 11, 1978 dismissed the petition (Nueva Vizcaya Chamber of Commerce, et al. vs. Campos, CA-G.R. No. 07385-SP). Petitioners' motion for the reconsideration of that decision was denied.

A copy of the resolution denying the motion was received by the petitioners on June 19, 1978. As they did not appeal from the decision, entry of judgment was made on July 5, 1978.

About three months later, or on October 9, 1978, the petitioners filed the instant petition.

The petitioners contend that the municipal court had no jurisdiction over the case and, therefore, the proceedings therein and in the other courts are void.

The lack of jurisdiction is based on the theory that the petitioners pleaded in the municipal court the defense that the lease was renewed by virtue of the provision in the contract that it "shall be for a period of fifteen (15) years renewable at the option of the Lessee, beginning April 16, 1957".

Hence, it was necessary for the municipal court to interpret the renewal clause and thus the action was trans-formed from an unlawful detainer case into an action that is "incapable of pecuniary estimation" which falls within the ex-clusive original jurisdiction of the Court of First Instance.

We hold that that contention cannot be sustained. The complaint in the municipal court was for ejectment based on the demands to vacate, the last of which was a letter dated July 22, 1974, wherein Busa required the petitioners to vacate his lot, remove their improvements on or before December 31, 1974 and pay one hundred fifty pesos a month as the reasonable compensation for the use of the lot (Exh. E).

The filing of the ejectment or unlawful detainer action on January 13, 1975 was within the one-year period counted from the last demand (*Sy Oh vs. Garcia*, L-29328 and *Lim Chi vs. Garcia*, L-29589, June 30, 1969, 28 SCRA 735; *Zobel vs. Abreu*, 98 Phil. 343).

The inferior court's jurisdiction in an ejectment case is determined by the nature of the action set forth in the com-plaint (*Fuentes vs. Bautista*, L-31351, October 26, 1973, 53 SCRA 420, 426).

Even if this case involved the interpretation of the re-newal clause of the lease contract, it was, nevertheless, within the exclusive original jurisdiction of the municipal court because the petitioners were ejected not because of the non-renewal of the lease but because of nonpayment of rentals.

Consequently, we cannot apply to this case the ruling that where the case hinges on the correct interpretation of the renewal clause of the lease contract, the action is not for un-lawful detainer but one which is not susceptible of pecuniary estimation and is beyond the competence of the municipal court (*Vda. de Murga vs. Chan*, L-24680, October 7, 1968, 25 SCRA 441, 449).

As already stated, the Court of First Instance ejected the petitioners on the ground of nonpayment of rental "whether from April 17, 1972 or after October, 1973".

Furthermore, the jurisdictional issue as to the case not being susceptible of pecuniary estimation was never raised by the petitioners in the municipal court and in the Court of First Instance nor in their brief in the Court of Appeals. They assailed for the first time the municipal court's jurisdic-tion on that ground in their motion for reconsideration in the Court of Appeals.

Therefore, there is some basis for Busa's contention that the Court of First Instance decided the case in the exer-cise of its original jurisdiction without any objection on the part of the petitioners and that they are estopped to question the jurisdiction of the municipal court, although, ordinarily, jurisdiction over the subject matter cannot be waived and lack of jurisdiction may be raised anytime (*Tijam vs. Sibong-hanoy*, L-21450, April 15, 1968, 23 SCRA 29, 35-36; *Crisos-tomo vs. Court of Appeals*, L-27166, March 25, 1970, 32 SCRA 54, 58; *Zulueta vs. Pan American World Airways, Inc.*, L-28589, January 8, 1973, 49 SCRA 1, 6).

Finding no merit in this special civil action of cer-tiorari, the same is hereby dismissed.

We declare that the judgment of the Court of First Instance of Nueva Vizcaya dated October 12, 1977 is final and may be enforced by the said Court. The restraining order issued in this case on October 19, 1978 is cancelled. No costs.

SO ORDERED.

Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Barredo, (Chairman), J., in the result, because I do not agree with the ruling in Sibonghanoy, which, after all, is not necessarily applicable here.

De Castro, J., was designated to sit in the Second Division.

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