

**ARTEMIO C. REYES AND HILARION C. REYES, PETITIONERS, VS.
HON. ANDRES STA. MARIA, PRESIDING JUDGE, COURT OF FIRST
INSTANCE OF BULACAN, BRANCH II, HILARIA SANTOS VDA. DE
LOPEZ AND...**

G.R. No. L-33213. June 29, 1979

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court sets aside the lower court's Order which dis-missed petitioners-plaintiffs' complaint filed before it for recovery of the property in the possession of respondents-defendants and for declaration of ownership thereof as against said respondents' contrary claim of ownership on the ground of alleged lack of jurisdiction. Such action was clearly an accion publiciana for the recovery of the right to possess (possession de jure) (if not an accion reivindicatoria) falling within the lower court's jurisdiction and not a mere action for detainer to recover physical possession (possession de facto) which would fall within the jurisdiction of the municipal court (if filed within one year after unlawful deprivation or withholding of possession) as erroneously held by the lower court in its dismissal order.

Petitioners as plaintiffs in the Court of First Instance of Bulacan had filed on April 1, 1968 an action which they termed as one to quiet title to a certain residential lot in Barrio San Sebastian, Hagonoy, Bulacan with an area of 368.5 square meters and to recover the possession thereof from respondents as defendants,[1] wherein they made the following averments:

“2. That plaintiffs are owners pro-indiviso of a certain residential lot situated in the Barrio of San Sebastian, Hagonoy, Bulacan, and more particularly bounded and described as follows:

(Description omitted)

“3. That through the tolerance and goodwill of plaintiffs, thru the intervention and entreaty of one Maximo Santos, father of the defendants, the latter used and occupied said land free of charge, under the following conditions, to wit: (a) that instead of paying rentals on the premises defendants undertook to pay the corresponding real estate taxes on the land; and (b) that said defendants will leave and vacate the premises anytime the plaintiffs so demand;

“4. That sometime in February, 1968, plaintiffs verbally notified defendants that said plaintiffs were in need of the land, hence, said defendants should vacate and leave the same, but said defendants unreasonably refused at the same time claiming ownership of the property, and alleging further that they bought the same from a certain Pablo Aguinaldo;

“5. That in order to quiet the title of ownership over this land, the plaintiffs have been compelled to institute the present action and, as a consequence, she suffered damages in the sum of One Thousand Pesos (P1,000.00), Philippine Currency, as attorney's fees;

"6. That the defendants thru their acts stated above have therefore maliciously and unlawfully detained the land of plaintiffs since February, 1968; and

"7. That for the unlawful occupation of the land, an estimate of Fifty (P50.00) Pesos monthly rental is hereby claimed as reasonable damages suffered by plain-tiffs since February, 1968."[2]

Petitioners accordingly prayed in their complaint for judgment (a) "declaring [them] to be the owners of the property described....."; (b) "ordering the defendants to vacate the premises and re-turn the possession of the same to plaintiffs"; (c) "ordering the de-fendants to pay plaintiffs, jointly and severally, the sum of Fifty Pesos (P50.00), Philippine Currency, rental or damages every month effective the first day of February, 1968, until the possession of the pre-mises is finally restored in favor of plaintiffs"; and further ordering defendants to pay them (d) P1,000.00 attorney's fees and (e) costs of suit.

Upon respondents' motion to dismiss the complaint on the ground that "the court has no jurisdiction over the nature of the action or suit" and that the action embodied in petitioners' complaint "is actually one for ejectment or unlawful detainer. Consequently, the case falls within the original exclusive jurisdiction of the inferior court or municipal court" as against petitioners' opposition that "plaintiffs' complaint is principally one to quiet title to property, the question of possession being merely reduced to an incidental issue," the lower court issued its ap-pealed order of August 15, 1968, finding the motion to dismiss to be "well founded" and dismissing the case "for lack of jurisdiction." The lower court reasoned that:

"A perusal of the actual averments of facts in the complaint do not reveal any allegation of ultimate facts which could sufficiently support an action to quiet title. Upon the other hand, it is plain that the allegations of facts are only constitutive of an action for unlawful detainer. The allegation in para-graph 5 of said complaint 'that in order to quiet the title of ownership over this land, the plaintiffs have been compelled to institute the present action x x x' is not sufficient by itself to consider this case as an action for quieting title under Article 476 of the New Civil Code. Neither does the prayer of said complaint asking that the plaintiffs be declared the owners of the property in question constitute a cause of action."

Hence, the present petition for review and setting aside of the dismissal order, which the Court finds to be meritorious. The lower court was clearly in error in issuing its dismissal order on its mistaken notion "that the allegations of facts are only constitutive of an action for unlawful detainer" since the complaint shows on its face that respondents' refusal to deliver the possession of the property was due to their adverse claim of ownership of the same property and their counter-allegation that they had bought the same from a certain Pablo Aguinaldo, and, therefore, petitioners' action was clearly one for re-covery of their right to possess the property (possession de jure), as well as to be declared the owners thereof as against the contrary claim of respondents.

As restated by the late Chief Justice Moran: "There are three kinds of actions for the recovery of possession of real property, namely, (1) the summary action for forcible entry or detainer (denominated accion interdical under the former law of procedure, Ley de Enjuiciamiento Civil), which seeks the recovery of physical possession only and is brought within one year in the justice of the peace court; (2) the accion publiciana, which is for the recovery of the right to possess and is a plenary action in an ordinary civil proceeding in a Court of First Instance; and (3) accion de reivindicacion, which seeks the recovery of ownership (which of course includes the jus utendi and the jus fruendi), also brought in the Court of First Instance."[3]

It has been said that "(T)he only issue in forcible entry and detainer cases is the physical possession of real property - possession de facto and not possession de jure. If plaintiff can prove a prior pos-session in himself, he may recover such possession even from the owner himself. Whatever may be the character of his prior possession, if he has in his favor priority of time, he has the security that entitles him to stay on the property until he is lawfully ejected by a person having a better right by either accion publiciana or accion reivindicatoria."[4]

Petitioners' action was not merely for recovery of possession de facto. Their action was clearly one of accion publiciana for recovery of possession de jure, if not one of accion reivindicatoria for declaration of their ownership of the land.

As reaffirmed by the Court in the analogous case of *Aguilon vs. Bohol*,^[5] petitioners' action is at least "an accion publiciana, which action 'corresponde al que tiene derecho a la posesion, contra el que posee sin derecho ó con titulo menos firme, para que se ponga la cosa en poder del actor con todas las acciones, frutos, etc.' (I Enciclo-pedia Juridica Española 450)," and such accion publiciana or the plenary action in an ordinary civil proceeding to determine the better and legal right to possess (independently of title) clearly falls within the jurisdiction of the Courts of First Instance and not of the Municipal Courts. The Court further underscored therein "that an action for recovery of possession is an urgent matter which must be decided promptly to forestall breaches of peace, violence or even loss of life and, therefore, the court should act swiftly and expeditiously in cases of that nature."

Petitioners, therefore, correctly filed their accion publiciana before the lower court as against respondents' claim that they should instead have filed a summary action for detainer in the municipal court. Having been fully apprised of respondents' refusal to surrender possession and their contrary claim of ownership of the same property, petitioners properly filed their accion publiciana with the Court of First Instance to avoid getting enmeshed in what would certainly have been another jurisdictional dispute, since they could reasonably foresee that if indeed they had filed a summary action for illegal detainer instead in the municipal court, respondents would then have contended, contrary to their present claim, that the municipal court is without jurisdiction over the detainer case by virtue of their contrary claim of ownership of the property.^[6]

ACCORDINGLY, judgment is hereby rendered, setting aside the lower court's dismissal order of August 15, 1968 and the case is remanded to respondent Court of First Instance with instructions to expedite the proceedings and trial and determination thereof on the merits. With costs against respondents. This decision is immediately executory.

Makasiar, Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

[1] Civil Case No. 3648-M, Court of First Instance of Bulacan, entitled "Artemio C. Reyes and Hilarion C. Reyes, Plaintiffs, vs. Hilaria Santos Vda. de Lopez and Pilar Santos, Defendants."

[2] Note in parenthesis and emphasis supplied.

[3] Moran's Comments on the Rules of Court, 1970 Ed, p. 298.

[4] Idem, at pp. 303-304.

[5] 79 SCRA 482 (1977).

[6] It is to be noted, however, that in R.A. 5967 enacted on June 21, 1969, enlarging the jurisdiction of city courts, said city courts have now been granted the concurrent jurisdiction with courts of first instance "in ejectment cases where the question of ownership is brought in issue in the pleadings, the issue of ownership shall therein be resolved in conjunction with the issue of possession." (Sec. 3 [c]).

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