

**FRANCISCO MANLAPAZ, DELFIN SANGCAP, DOMINGO SANGCAP,
PEDRO CUNANAN, FAUSTO DE LA PEÑA AND HONORATA DE LA PEÑA,
PETITIONERS, VS. HON. COURT OF APPEALS, HON. JUDGE LORENZO
R. MOSQ...**

G.R. No. L-39430. December 03, 1990

Ponente: REGALADO, J.

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REGALADO, J.:

Through this special civil action for certiorari and mandamus with a prayer for preliminary injunction, petitioners would have us reverse and set aside the decision of the Court of Appeals[1] which affirmed the order of the former Court of First Instance of Pampanga, Branch VII, authorizing the immediate execution of the judgment rendered by the former Municipal Court of Candaba, Pampanga in Civil Case No. 425 for ejectment.

On October 20, 1971, herein private respondents, as plaintiffs, filed an ejectment case in the Municipal Court of Candaba, Pampanga against herein petitioners as defendants, docketed therein as Civil Case No. 425, alleging that on or about September 1, 1971 herein petitioners, thru force, intimidation and threats and with the use of guns, forcibly ousted the private respondents from Lots 32, 36, 37, 38, 39, 40 and 41, Block 21 of Bahay Pare, Pampanga, which private respondents had been occupying and cultivating peacefully, notoriously and continually for more than ten (10) years.

Petitioners resisted the ejectment case alleging lack of jurisdiction due to the pendency of Civil Case No. 79371 in the then Court of First Instance of Manila, and denied all other material allegations in the complaint.

Thereafter, the parties entered into a stipulation of facts wherein they agreed that:

1. The lots under litigation are Lots 32, 36, 37, 38, 39, 40 and 41 of Block 21 of the Bahay Pare Estate, Candaba, Pampanga;
2. The said lots belong to the Land Authority;
3. Both parties had filed their respective applications to purchase said lots from the Government;
4. On May 20, 1968, the Land Authority rendered its decision dismissing the applications of petitioners;
5. On appeal to the Office of the President, the decision of the Land Authority was reversed and the awards in favor of private respondents were cancelled;
6. Private respondents seasonably petitioned for judicial review and for annulment of said decision of the Office of the President before the Court of First Instance of Manila, docketed as Civil Case No. 79371;
7. During the pendency of Civil Case No. 79371, the Land Authority issued Orders of Award to petitioners on September 21, 1970;
8. The ejectment case was filed by private respondents during the pendency of said Civil Case No. 79371 of

the Court of First Instance of Manila;

9. Private respondents have been regularly harvesting an average one hundred (100) cavans per hectare from the land in dispute; and

10. On September 1, 1971, private respondents discovered petitioners' intrusion over subject property;[2]

On February 27, 1974, the Municipal Court of Candaba rendered judgment in favor of private respondents, ordering petitioners to vacate the lots and restore possession thereof to private respondents, and to pay as rentals twenty-five (25) cavans per hectare for each year from May, 1971 until they shall have vacated the controverted lots.[3]

Petitioners duly appealed the said decision to the Court of First Instance of Macabebe, Pampanga, docketed therein as Civil Case No. 73-70-M. During the pendency of said appeal, a motion for execution pending appeal was filed by private respondents for failure of petitioners to file a supersedeas bond. On April 2, 1974, the Court of First Instance of Candaba, Pampanga issued an order granting the same.[4]

Petitioners filed a petition for certiorari with the Court of Appeals, docketed therein as CA-G.R. No. SP-02996, and obtained therefrom a writ of preliminary injunction on a cash bond of P2,000.00.[5] However, on June 3, 1974, respondent court rendered a decision, the dispositive part of which reads:

"IN VIEW WHEREOF, this Court is constrained to dismiss, as it now dismisses, and denies certiorari; with costs, and preliminary injunction issued by this Court on 30 April, 1974 is set aside.

IT IS SO ORDERED."[6]

Petitioners filed a motion for reconsideration which allegedly has not been resolved by respondent court and by reason of which the respondent lower courts issued a writ of execution,[7] hence the petition at bar.[8]

We find petitioners' present recourse devoid of merit.

The writ of execution was properly issued pending appeal in the case. Respondent judge had neither abused his discretion nor committed an error of judgment, but merely complied with his ministerial duty under the Rules of Court when he granted private respondents' motion for immediate execution of the judgments in their favor for failure of petitioners to file a supersedeas bond.

Section 8, Rule 70 of the Rules of Court provides in part that:

"If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution files a sufficient bond, approved by the justice of the peace or municipal court and executed to the plaintiff to enter the action in the Court of First Instance and to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as found by the judgment of the justice of the peace or municipal court to exist. In the absence of a contract, he shall deposit with the court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment, on or before the tenth day of each succeeding month or period. x x x."

Under this rule, to stay the immediate execution of judgment in an ejectment proceeding it is required that the defendant-appellant must (a) perfect his appeal, (b) file a supersedeas bond, and (c) periodically deposit the rentals falling due during the pendency of the appeal. Failure to comply with said requirements is a ground for the outright execution of the judgment upon petition of the prevailing party.[9]

It has been repeatedly held that the requirement for the filing of a supersedeas bond is mandatory and cannot be

dispensed with by the courts. When the supersedeas bond is not filed, the duty of the court to order the execution of the appealed decision is ministerial and imperative and the execution of the judgment shall then issue immediately,[10] without prejudice to the appeal taking its course.[11]

In the instant case, petitioners' failure to file a supersedeas bond necessary to stay execution pending appeal made or rendered the original decision executory and gave private respondents the right to immediate execution of the judgment which the court is bound to grant and enforce.

The claim of petitioners that the order of execution is contrary to the doctrine laid down and reiterated in the cases of *Rallon vs. Ruiz, Jr., et al.*, [12] *Realiza vs. Duarte*, [13] and *Hernandez, et al. vs. Clapis, et al.* [14] is without merit.

The aforementioned cases stand on different factual settings, hence the common dictum therein is not applicable in the case at bar. In those cases, the order of the executive department, giving the defendant in the ejectment case preferential right over the land in dispute, was already final and executory. The rights of the defendants therein over the property that they claimed were already settled and not contested by the adverse parties.

In the present case, the right of petitioners over the land in controversy is doubtful. The decision of the Office of the President giving petitioners preferential rights to own the questioned lots, setting aside the decision of the Land Authority awarding the same to private respondents, was questioned by the latter before the Court of First Instance of Manila in Civil Case No. 79371. In fact, on November 17, 1972, the Secretary of Agrarian Reform, upon learning of the pendency of said case, ordered the suspension of the processing of all papers relative to the disputed lots and the holding in abeyance of further action on said papers until Civil Case No. 79371 shall have been terminated.[15] In addition, on August 10, 1977, private respondents submitted to the Court a copy of the decision in Civil Case No. 79371 of the Court of First Instance of Manila, dated April 28, 1977, declaring the letter decision of the Office of the President dated October 4, 1968 and its letter order of February 27, 1970 as null and void, and declaring private respondents *Hernando, Teodoro, Pablo, Renato, and Bonifacio*, all surnamed *Rivera*, as qualified applicants of the questioned lots.[16]

Moreover, in the present case the decision is not yet final but became executory by reason of the very act of herein petitioners in not filing a supersedeas bond necessary to stay execution pending appeal as required by Section 8, Rule 70 of the Rules of Court. Herein petitioners could have prevented the execution of said decision by simply complying with the rules but they opted not to do so, hence they have only themselves to blame.

On the issue of jurisdiction, it is the contention of petitioners that the Municipal Court of Candaba has no jurisdiction over the ejectment case for two reasons, namely, (1) a civil case for annulment of the decision of the Office of the President is still pending final determination in the Court of First Instance of Manila, and (2) there was no compliance with Presidential Decree No. 316 requiring prior referral of the ejectment case to the Department of Agrarian Reform.

We reject these pretensions.

Firmly settled is the rule that a municipal court has jurisdiction over forcible entry or unlawful detainer cases even if the ownership of the property is in dispute.[17] A resume of the basic legal principles in point would be apropos.

In an action for forcible entry and detainer, the main issue is one of priority of possession. The legal right thereto is not essential to the possessor's cause of action, for no one may take law into his own hands and forcibly eject another or deprive him of his possession by stealth, even if his title thereto were questionable or actually disputed in another case.[18] If the plaintiff can prove prior physical possession in himself, he may recover such possession

even from the owner, but on the other hand, if he cannot prove such prior physical possession, he has no right of action for forcible entry and detainer even if he should be the owner of the property.[19]

An action for recovery of possession is totally distinct and different from an action for recovery of title or ownership. In fact, a judgment rendered in a case for recovery of possession is conclusive only on the question of possession and not that of ownership. It does not in any way bind the title or affect the ownership of the land or building.[20] Section 7 of Rule 70 expressly states that:

"The judgment rendered in an action for forcible entry or detainer shall be effective with respect to the possession only and in no wise bind the title or affect 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."

We have held that in giving recognition to the action of forcible entry and detainer the purpose of the law is to protect the person who in fact has actual possession; and in case of controverted right, it requires the parties to preserve the status quo until one or the other of them sees fit to invoke the decision of a court of competent jurisdiction upon the question of ownership. It is obviously just that the person who has first acquired possession should remain in possession pending this decision; and the parties cannot be permitted meanwhile to engage in a petty warfare over the possession of the property which is the subject of dispute. To permit this would be highly dangerous to individual security and disturbing to social order.

Therefore, where a person supposes himself to be the owner of a piece of land and desires to vindicate his ownership against the party actually in possession, it is incumbent upon him to institute an action to this end in a court of competent jurisdiction; and he can not be permitted, by invading the property and excluding the actual possessor to place upon the latter the burden of instituting an action to try the property right.[21] In no case may possession be acquired through force or intimidation as long as there is a possessor who objects thereto. He who believes that he has an action or a right to deprive another of the holding of a thing, must invoke the aid of the competent court, if the holder should refuse to deliver the thing.[22] When a person is in possession of the land and has maintained that possession for years, he cannot be forcibly dispossessed thereof, even by the owner.[23]

Further, the authority given to the Bureau of Lands over the disposition of public lands does not exclude the courts from their jurisdiction over possessory actions, the public character of the land notwithstanding. The exercise by the courts of such jurisdiction is not an interference with the alienation, disposition and control of public lands.[24] The determination of the respective rights or rival claimants to public lands is different from the determination of who has the actual possession or occupation with a view to protecting the same and preventing disorder and breaches of the peace. A judgment of the court ordering restitution of a parcel of land to the actual occupant, who has been deprived thereof by another through the use of force or another illegal manner, can never be prejudicial interference with the disposition or alienation of public lands. On the contrary, if courts were deprived of jurisdiction over the cases involving conflicts of possession, the threat of judicial action against breaches of peace committed on public lands would be eliminated, and a state of lawlessness would probably be produced between applicants, occupants, or squatters, where force or might, not right or justice, would rule.[25]

It is, therefore, clear that the municipal court correctly assumed jurisdiction over the case below as the complaint filed before it sufficiently avers that private respondents seek to recover possession of the lots from petitioners. The pendency of Civil Case No. 79371, wherein the question of ownership was raised, is of no moment. Pending final adjudication of ownership, the municipal court has jurisdiction to determine in the meantime the right of possession over the land.[26]

Prior referral of this case to the Department of Agrarian Reform under the provisions of Section 2 of Presidential Decree No. 316, in relation to Presidential Decree No. 27, is not necessary. The said laws are not applicable to the case at bar. There is here no allegation in the pleadings nor any showing in the records that a tenancy relation exists between petitioners and private respondents. Both groups are claiming a right of possession in the concept of an owner. The referral provisions of Presidential Decree No. 316 apply only in cases wherein the parties are landlords and tenants and not when they are applicants of a public land claiming preferential right over it, as in this case.

As we ruled in *Castro, et al. vs. Court of Appeals, et al.*[27]:

"x x x for the lands subject of the action to come under Operation Land Transfer under Pres. Decree No. 27, there must first be a showing that they are tenanted lands and for the action to come within the referral provisions of Pres. Decree Nos. 316 and 946, it must first be established that the action involves tenants. The aforesaid decrees specifically speak of 'tenant-farmer', 'sharecrop or lease tenancy', 'tenant', and 'tenant-tiller'."

WHEREFORE, the instant petition is hereby DISMISSED and the writs prayed for are DENIED. The temporary restraining order issued by the Court on May 16, 1975 is hereby lifted.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Penned by Justice Magno S. Gatmaitan, with Justices Luis B. Reyes and Efren I. Plana concurring.

[2] Rollo, 56-57.

[3] *Ibid.*, 67.

[4] *Ibid.*, 94-99.

[5] Rollo, CA-G.R. No. SP-02996, 50.

[6] *Ibid.*, id., 130.

[7] Rollo, 12.

[8] Although the case in this Court had thereafter been submitted for decision, in its resolution of May 16, 1990 the Court granted the motion of petitioners' new counsel to file a memorandum in support of the petition. Petitioners' memorandum was filed on June 28, 1990 and private respondents filed their memorandum on September 8, 1990.

[9] *Romero vs. Pecson, etc., et al.*, 83 Phil. 308 (1949); *Villaroman vs. Abaya, etc., et al.*, 91 Phil. 20 (1952).

[10] *Yu Tiong Tay, et al. vs. Barrios, etc., et al.*, 79 Phil. 597 (1947); *De la Cruz, et al. vs. Burgos, et al.*, 28 SCRA 977 (1969); *Fuentes vs. Bautista, etc., et al.*, 53 SCRA 420 (1973).

[11] *Laurel, et al. vs. Abalos, etc., et al.*, 30 SCRA 281 (1969); *Caparros vs. Court of Appeals, et al.*, 170 SCRA 758 (1989).

[12] 28 SCRA 331 (1969).

[13] 20 SCRA 1264 (1967).

[14] 98 Phil. 684 (1956).

[15] Rollo, CA-G.R. No. 02996, 83.

[16] Rollo, 345-355.

[17] Lopez vs. Santiago, etc., et al., 107 Phil. 668 (1960); De Gaerlan, et al. vs. Martinez, etc., et al., 85 Phil. 375 (1950); De la Cruz, et al. vs. Burgos, et al., 28 SCRA 977 (1969).

[18] De la Cruz, et al. vs. Burgos, et al., supra, and cases cited therein.

[19] Masallo vs. Cesar, 39 Phil. 134 (1918); Prado vs. Calpo, et al., 10 SCRA 801 (1964).

[20] Spouses Medina and Bernal vs. Valdellon, etc., et al., 63 SCRA 278 (1975).

[21] Dizon vs. Concina, et al., 30 SCRA 897 (1969).

[22] Art. 536, Civil Code.

[23] Padin vs. Humphreys, et al., 19 Phil. 254 (1911).

[24] National Development Company, et al. vs. Hervilla, 151 SCRA 520 (1987).

[25] 3 Moran, Comments on the Rules of Court, 1963 Ed., 273, as cited in Villaflor vs. Reyes, et al., 22 SCRA 385 (1968); Guerrero vs. Amores, et al., 159 SCRA 374 (1988).

[26] Santiago, etc. vs. Cruz, 54 Phil. 640 (1930).

[27] 99 SCRA 722 (1980).

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