

NORMA CLAVE, ZACARIAS MACAPINLAC, JOEL MACULPA, IMELDA LACAP, FE PACIO, PARALUMAN JAVIER, BELLA DELOS SANTOS, JOAN SECRETO AND GLORIA BRESENIO, PETITIONERS, VS. MILAGROS CLAVE-SH...

Ponente: BARRIOS, J.

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BARRIOS, J.:

A complaint for Ejectment was lodged by the respondent Milagros Clave-Shaffi (or hereafter Shaffi) against the petitioners Norma Clave, Zacarias Macapinlac, Joel Maculpa, Imelda Lacap, Fe Pacio, Paraluman Javier, Bella delos Santos, Joan Secreto and Gloria Bresenio (hereafter the petitioners unless individualized) before the Metropolitan Trial Court of Pasay City (or MeTC) which was docketed as Civil Case No. 234-00.

Decision was rendered unfavorable to the petitioners who appealed to the Regional Trial Court of the same city (or RTC) where it was docketed as Civil Case No. 01-0393.

The RTC affirmed the MeTC ruling, hence this Petition for Review.

In her complaint Shaffi alleged that she is the owner of a two (2) storey residential-commercial building at 136-B M. Santos St., Harrison, Pasay City, covered by Transfer Certificates of Title Nos. 79394 and 125541, which for several years have been occupied by the petitioners. When Shaffi arrived from Dubai, U.A.E. in August 1999 she found that the building was no longer safe for human habitation, hence she talked to the petitioners and requested them to vacate the property for it to undergo extensive repairs. The petitioners however refused. Formal demands to vacate were sent them but the petitioners still failed and refused to leave the premises and so Shaffi filed this suit for Ejectment before the MeTC on February 16, 2000.

In their traverse, the petitioners alleged lack of cause of action and lack of jurisdiction. They averred that the petitioner Norma Clave is a co-owner of the subject premises while the other petitioners are not the tenants of Shaffi hence she cannot evict them. Contrary to the claim of Shaffi, the building is still safe for human habitation. The supposed inspection report is a mere ploy of Shaffi to obtain sole possession and ownership of the property. The petitioners also assailed the jurisdiction of the MeTC over the action, arguing that they have been in possession of the property for more than fifteen (15) years hence this action for ejectment could no longer lie as the period of dispossession has lasted for more than one (1) year. Accordingly, they prayed that the suit be dismissed.

On October 16, 2001, the MeTC rendered its Decision decreeing that:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff Milagros Clave-Shaffi represented by her brother and attorney-in-fact Francisco H. Clave and against defendants Norma Clave, Zacarias Macapinlac, Joel Maculpa, Imelda Lacap, Fe Pacio, Paraluman Javier, Bello delos Santos, Joan Secreto and Gloria Bresenio ordering them:

- to vacate the premises and peacefully surrender the possession of the subject property located at 136-B M.

Santos Street, Harrison, Pasay City to the plaintiff to undertake the necessary repair;

- to solidarily pay the attorney's fees in the amount of P20,000.00; and

- to pay the cost of suit.

SO ORDERED. (p. 132, record)

which on appeal was affirmed by the RTC in its assailed Decision dated March 14, 2002.

Hence this petition for review with the petitioners assigning as the errors committed by the RTC the following:

I

THAT THE REGIONAL TRIAL COURT GRAVELY ERRED WHEN IT SANCTIONED THE METROPOLITAN COURT'S GRAVE ERRORS:

(A) WHEN THE LATTER BASED ITS DECISION ON A NON-ISSUE IN THE CASE BEFORE IT DEPRIVING THE PETITIONERS (THEN DEFENDANTS) OF OPPORTUNITY TO PRESENT EVIDENCE AGAINST SUCH NON-ISSUE; and

(B) WHEN THE LATTER FAILED TO SEE THE PRIVATE RESPONDENT HAS APPARENTLY DROPPED THE ALLEGED ISSUE OF WHETHER OR NOT THE DEFENDANTS MAY BE EJECTED UNDER SECTION 5 (e) OF BATAS PAMBANSA BLG. 877.

II

THAT THE REGIONAL TRIAL COURT GRAVELY ERRED WHEN IT FAILED TO SEE THAT THE PLAINTIFF NEVER APPEALED THE ADVERSE PORTION OF THE RULING OF THE METROPOLITAN TRIAL COURT EMBODIED IN ITS DECISION, TO WIT:

RESOLVING NOW THE ISSUE OF WHETHER OR NOT THE DEFENDANTS CAN BE EJECTED FROM THE SUBJECT PREMISES UNDER RULE 70 OF THE RULES OF COURT, THIS COURT IS OF THE CONSIDERED VIEW THAT FROM THE FACTS OBTAINING AND FROM THE PLAINTIFF'S EVIDENCE, DEFENDANTS MAY NOT BE LAWFULLY EJECTED BASED ON SAID RULE. x x x

III

THE REGIONAL TRIAL COURT FAILED TO SEE THAT THE STIPULATION OF FACTS AGREED UPON BY THE PARTIES AT THE PRE-TRIAL AND EVEN BY THE ALLEGATIONS OF THE COMPLAINT CLEARLY SHOWS THAT THE METROPOLITAN TRIAL COURT HAS NO JURISDICTION OVER THE CASE. (p. 11, rollo)

First things first, and that would be the preemptive issue of jurisdiction.

The petitioners fault the MeTC for taking cognizance of the suit asseverating that it has no jurisdiction over it. They maintain that the suit is one for recovery of possession cognizable at the first instance not by the MeTC but by the RTC, as the value of the property exceeds P50,000.00. Accordingly, the RTC committed reversible error in not dismissing the complaint and affirming instead the MeTC's Decision.

The well entrenched principle is that jurisdiction of the court over the subject matter of the action is determined by the material allegations of the complaint and the law, irrespective of whether or not the plaintiffs is entitled to recover all or some of the claims or relief sought therein (Dandoy vs. Tongson, G. R. No. 144652, December 16, 2005). What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted (Herrera vs. Bollos, G. R. No. 138258, January 18, 2002).

In this case, the recent need for substantial repairs and demands to vacate were all sufficiently alleged. The allegations in the complaint sufficiently set forth a cause of action for judicial ejectment.

The petitioners' claim that ejectment could no longer lie as the period of dispossession has lasted for more than one year, is misplaced. Indeed the petitioners possessed the subject property for several years. But their unlawful withholding of possession only commenced on October 5, 1999 after Shaffi demanded that they vacate the property. The complaint she filed on February 16, 2000 was well within one year from October 5, 1999, thus it is clear that the case was properly brought before the MeTC pursuant to Rule 70. There is no basis to sustain the contention that the action should have been filed before the RTC rather than in the MeTC. Accordingly, no reversible error was committed by the courts a quo in taking cognizance of the case in the first instance and on appeal.

Just as focal, the issue of jurisdiction was rendered moot by the petitioners' active participation in the proceedings before the MeTC. As shown by the records, the petitioners actively participated in the discussions on the merits of the said case, even going to the extent of seeking and pursuing affirmative reliefs. Jurisprudence is replete that the active participation of a party in the proceedings is tantamount to an invocation of the court's jurisdiction and the willingness to abide by the resolution of the case, and will bar said party from later impugning the court or body's jurisdiction (*Meat Packing Corporation of the Philippines vs. Sandiganbayan*, G. R. No. 103068, June 22, 2001).

Petitioners also fault the MeTC in ruling that they can be ejected under Batas Pambansa Blg. 877 (or BP Blg. 877) asseverating that this was not raised as an issue during the pre-trial conference. Hence they were deprived of their right to present evidence on this.

But contrary to what the petitioners want to portray, Shaffi did not agree to drop the issue of whether they may be ejected under BP Blg. 877. As pointed out by the RTC, the allegations in the complaint would reveal that the plaintiff-appellee has filed this instant case in order that the subject property consisting of a two (2) storey building be repaired after it was inspected and found to be in a dilapidated condition and poses a danger to the life of the existing tenants (pp. 148-149, rollo). As a matter of fact both sides repeatedly raised this issue in all their pleadings filed in the MeTC. The courts a quo thus properly considered this in the resolution of the case.

Shaffi's suit is anchored on the ground of extensive repairs that must be undertaken on the unsafe premises and the petitioners' adamant refusal to vacate it. She has satisfactorily proven this, and such makes for a strong case for judicial ejectment. BP Blg. 877 as amended provides:

Section 5. Grounds for Judicial Ejectment. - Ejectment shall be allowed on the following grounds:

(e) Need of the lessor to make necessary repairs of the leased premises which is the subject of an existing order of condemnation by appropriate authorities concerned in order to make the said premises safe and habitable: Provided, That after said repair, the lessee ejected shall have the first preference to lease the same premises: Provided, however, That the new rental shall be reasonably commensurate with the expenses incurred for the repair of the said residential unit: and Provided, finally, That if the residential is condemned or completely demolished, the lease of the new building will no longer be subject to the provisions of this Act.

The petitioners' allegation that this is a mere ploy to secure sole possession and ownership over of the subject property fails to persuade because except for this bare allegation no evidence was presented by them to rebut the investigation report of Ramon Montalban (Exh. "F", p. 120, record).

Finally, the claim that the petitioner Norma Clave is a co-owner of the subject property has to be rejected too, because again no evidence was offered to substantiate this allegation. As aptly said by the MeTC, Norma Clave's claim that she is a co-owner of the property is devoid of evidence. The titles of the property subject matter of this

case were all registered in the name of plaintiff Milagros Clave-Shaffi and the name of defendant Norma Clave is not included as a co-owner in the title (p. 132, rollo). Because the RTC committed no reversible error in its challenged Decision –

WHEREFORE, the petition is DENIED DUE COURSE and accordingly DISMISSED.

SO ORDERED.

Guariña III and Romilla-Lontok, JJ., concur.

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