

UNIVERSITY PHYSICIANS SERVICES, INC., PAOLO C. CAMPOS AND CESAR L. BARZAGA, PETITIONERS, VS. THE COURT OF APPEALS AND JOCELYN PORMENTIRA, RESPONDENTS.

G.R. No. 100424. June 13, 1994

Ponente: BIDIN, J.

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BIDIN, J.:

Submitted for resolution before this Court is the question of which of the two cases, one for damages and one for ejectment, filed in two different courts involving the same parties and subject matter shall take precedence over the other. And if it be the ejectment proceedings, whether the action for damages should be dismissed.

On March 2, 1990, petitioner University Physicians' Services Incorporated (UPSI) purchased two (2) parcels of land, within the block of the Emilio Aguinaldo College in Manila, from "VF" Development Corporation. Constructed on one of these lots is the Victoria Apartment, consisting of four (4) floors, and one unit on the ground floor of said apartment building is occupied by private respondent Jocelyn Pormentira.

On March 5, 1990, UPSI sent demand letters to the tenants of said apartment to vacate the same within 60 days from receipt thereof or up to May 4, 1990.

All the tenants/occupants vacated except private respondent who refused to vacate her apartment unit despite the lapse of the 60-day period. On May 7, 1990, petitioner commenced the demolition of the apartment in preparation for the construction of additional classrooms for the Emilio Aguinaldo College being operated by petitioner corporation.

Claiming that the demolition was unlawful, private respondent, on May 22, 1990, filed a complaint for damages with prayer for temporary restraining order and preliminary injunction against petitioners before the Regional Trial Court of Manila, Branch IX, docketed as Civil Case No. 90-53147.

On May 24, 1990, petitioners were served with summons and copies of the complaint and the temporary restraining order issued by the Regional Trial Court, Branch IX. On the same day, petitioner corporation filed a complaint for ejectment against private respondent before the Metropolitan Trial Court of Manila, Branch XX docketed as Civil Case No. 132418. Thereafter, petitioners moved to dismiss the complaint of private respondent with claim for damages in Civil Case No. 90-53147 on the ground of lack of jurisdiction and *litis pendentia*.

On June 1, 1990, respondent's application for a writ of preliminary injunction was granted and petitioners were ordered to desist from proceeding with the demolition of the apartment unit occupied by private respondent.

On July 30, 1990, the trial court denied petitioners' motion to dismiss and further ordered them to reinstall the electrical and water connections pertaining to private respondent's apartment unit, to wit:

"WHEREFORE, the Motion to Dismiss is denied for lack of merit. The defendants on the other hand are ordered to re-install the water and electrical connections appertaining to the premises of the plaintiff or

otherwise allow the latter electrical and water connections to give her (sic) same supply before the incident occurred.

"SO ORDERED." (Rollo, pp. 101-102)

On appeal, respondent court affirmed the order of the trial court stating that:

"x x x We believe the respondent court did not err when it acquired jurisdiction over the nature of the action. Evidently, the private respondent did not file the action for damages before the respondent court simply because she wanted to remain in the premises she presently occupied. As can be deduced from the whole context of her pleading, she precisely filed said complaint with the end in view of seeking for indemnity as a result of the irreparable damages she sustained when the petitioners, without court order or proper permit demolished the Victoria Apartment which included Unit 1166 where she was occupying." (Rollo, p. 103)

Reconsideration sought by petitioner was denied by respondent court, hence, this recourse.

Petitioners contend that the action for damages filed by private respondent before the Regional Trial Court should be dismissed, the issue being anchored on the question of possession and must therefore give way to the ejectment suit duly filed before the metropolitan trial court.

In ejectment cases, the only issue to be resolved therein is the question as to who is entitled to the physical or material possession of the premises or possession de facto (*De Luna vs. CA*, 212 SCRA 276 [1992]). It has for its purpose the restoration to the aggrieved party the possession of the premises from which he had been forcibly ejected or which had been detained from him. This relief is available to a landlord, vendor, or vendee or any party after the detainer's right to hold possession of the subject property, by virtue of a contract express or implied, has expired or has been otherwise terminated (*Lim Keh Tong, Inc. vs. CA*, 195 SCRA 398 [1991]).

Private respondent cannot deny that the complaint for damages, taken in its full context, was meant to prevent petitioners from ejecting her from Unit No. 1166 of the Victoria Apartment. Indeed, a careful examination of the complaint reveals that it demanded, as private respondent's main relief, that petitioners be permanently enjoined from doing any act to force out and/or cause her ejectment from said apartment unit.

Private respondent's complaint for damages bears unmistakable earmarks that show off its true nature and character touching as it does, on her alleged right to continued possession of the premises. As may be observed from the following averments in her complaint:

"8. That the demolition and/or breaking down of the units x x x they had both acted unlawfully and with a scheme to prejudice herein plaintiff for not having vacated the premises.

x x x

"11. That the illegal and unjustifiable acts and maneuvers being done by defendants and even at this time that the alleged acquisition of the Victoria Apartment (sic) has not been clarified and has wrought (sic) most prejudicial consequences on the part of herein plaintiff and family, considering that she is a professor and with her children living and/or residing in said Apartment Unit No. 1166 and defendants despite having been temporarily stopped in their said illegal acts are threatening to proceed again on the demolition of the said apartment unit to force the herein plaintiff to vacate and leave the place x x x;

"WHEREFORE, in the interest of justice and invoking the sound discretion of this Hon. Court, it is most respectfully prayed that:

"a) Pending determination of this case, a temporary restraining order be immediately issue (sic) against all defendants x x x with any act as to force out and/or cause the ejectment of the herein plaintiff from said unit x x x." (Rollo, pp. 31-33; underscoring supplied)

Though not couched in specific terms, private respondent is virtually asking for an indefinite extension of the lease over the disputed premises. Admittedly, and while private respondent claims indemnity for what she perceived were wrongful or illegal acts committed by petitioners, it is nevertheless indisputable that the pivotal issue presented by the complaint involves the determination of her right, or the lack of it, to possess the subject property. It follows, therefore, that the damages allegedly suffered by private respondent is merely an incident to the question of possession which is the very issue disputed by the parties.

Section 33 of Batas Pambansa Blg. 129, as amended, is explicit regarding jurisdiction over ejectment cases, thus:

"Sec. 33. Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases?Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:

x x x

"2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: x x x"

In *Pardo vs. Encarnacion* (22 SCRA 632 [1968]), this Court ruled:

"At any rate, while the said case before the Court of First Instance of Cavite appears to be one for specific performance with damages, it cannot be denied that the real issue between the parties is whether or not the lessee should be allowed to continue occupying the land as lessee.

"The situation is not novel to Us.

"It has been settled in a number of cases that the right of a lessee to occupy the land leased as against the demand of the lessor should be decided under Rule 70 (formerly Rule 72) of the Rules of Court.

"There is no merit in the contention that the lessee's supposed right to renewal of the lease contract can not be decided in the ejectment suit. In the case of *Teodoro vs. Mirasol*, this Court held that 'if the plaintiff has any right to the extension of the lease at all, such right is a proper and legitimate issue that could be raised in the unlawful detainer case because it may be used as a defense to the action.' In other words, the matter raised in the Court of First Instance of Cavite may be threshed out in the ejectment suit, in consonance with the principle prohibiting multiplicity of suits. And the mere fact that the unlawful detainer-ejectment case was filed later, would not change the situation to depart from the application of the foregoing ruling.

"It is to be noted that the Rules do not require as a ground for dismissal of a complaint that there is a prior pending action. They provide that there is a pending action, not a pending prior action.

"The fact that the unlawful detainer suit was of a later date is no bar to the dismissal of the present action (*Teodoro vs. Mirasol*, 99 Phil. 150 [1956])."

The issue of whether private respondent had the right to occupy subject apartment unit should therefore be properly threshed out in an ejectment suit and not in an action for damages where the question of possession is likewise the primary issue to be resolved.

We cannot simply ignore the fact that private respondent, after her unjustified refusal to vacate the premises, was aware that an ejectment case against her was forthcoming. It is therefore evident that the filing of the complaint for damages and preliminary injunction was but a canny and preemptive maneuver intended to block the action for ejectment which petitioner was to take against private respondent.

The matter raised in the Regional Trial Court of Manila may be properly determined in the ejectment suit before the Metropolitan Trial Court, in consonance with the rule prohibiting multiplicity of suits. And the mere fact that the unlawful detainer suit was filed later than the one for damages does not change the situation of the parties

(Rosales vs. CFI, 154 SCRA 153 [1987]).

Unknown to the Court and during the pendency of this case, however, Metropolitan Trial Court, Br. XX, proceeded to hear the ejectment case filed by petitioner and on April 3, 1992, rendered judgment against private respondent.

Appeals subsequently taken by private respondent to the Regional Trial Court and the Court of Appeals were to no avail.

On February 11, 1994, respondent Pormentira filed a petition before this Court docketed as GR No. 113101, seeking a review of the decision of the Court of Appeals in the said ejectment case.

On March 2, 1994, the Court Resolved to deny the petition there being no reversible error committed by the lower courts (Rollo, p. 92; GR No. 113101). On April 27, 1994, the Court likewise Resolved to deny Pormentira's motion for extension of time to file motion for reconsideration being a prohibited motion pursuant to the Court's Resolution of April 7, 1988 (Rollo, p. 96). Thus, Pormentira's motion for reconsideration dated May 3, 1994 was denied with finality per Resolution dated May 25, 1994.

The issue of precedence involving an action for damages and another for ejectment having been rendered moot and academic in GR No. 113101, it would appear that the case at bar should be dismissed accordingly. On the other hand, records do not disclose whether the complaint for damages filed by private respondent has been dismissed, in which case, the petition should be granted.

UPON THE FOREGOING CONSIDERATIONS, the instant petition is hereby GRANTED. The Regional Trial Court of Manila, Br. IX, where Civil Case No. 90-53147 is pending is hereby ordered to DISMISS said case. Costs against private respondent.

SO ORDERED.

Feliciano, (Chairman), Romero, Melo, and Vitug, JJ., concur.

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