

SPOUSES ALFREDO AND MELINDA MUNAR, GLORIA PALISOC-RUGA, PACITA PALISOC, LYDIA PALISOC-ROSALES AND ILUMINADO PALISOC, PETITIONERS, VS. COURT OF APPEALS AND SPOUSES RAMON AND REBE...

G.R. No. 100740. November 25, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court of the Decision of the Court of Appeals in CA-G.R. SP No. 23177.

I

Petitioners Gloria, Pacita, Lydia and Iluminado, all surnamed Palisoc (Palisocs), are the registered co-owners of a parcel of land with a six-door apartment situated at No. 27 Yakal Street, Project 3, Quezon City and covered by Transfer Certificate of Title No. 297768 (Records, p. 198).

On January 9, 1976, the Palisocs executed a notarized Conditional Deed of Sale over the aforementioned property in favor of private respondents Ramon and Rebecca Nieves (Nieveses) for and in consideration of P60,000.00 (Rollo, p. 62). Only the amount of P35,000.00 was paid by the Nieveses to the Palisocs upon the execution of the deed. The balance of P25,000.00 was to be paid on May 16, 1977.

On the same date as the execution of the Conditional Deed of Sale, the Palisocs also executed a special power of attorney in favor of the Nieveses, authorizing them to collect the rentals on the apartments beginning February 1976 (Rollo, p. 64).

Subsequently, petitioner Pacita Palisoc in a letter dated February 3, 1976 (Exh. "E"), gave notice to all occupants of the building that the Nieveses were the administrators of the said building with whom they could make arrangements for their continued stay thereat (Records, p. 229).

In a letter dated September 27, 1977, petitioner Pacita Palisoc, who was then in the United States of America and in need of money, asked the Nieveses that the balance of the purchase price be converted into dollars and be sent to her (Exh. "F"). The Nieveses dutifully accommodated the said request (Records, p. 229).

On March 25, 1983, the Nieveses filed a Complaint for Specific Performance with Damages docketed as Civil Case No. Q-37735 against the Palisocs with the Regional Trial Court, Branch 91, Quezon City, alleging that the Palisocs refused to execute the Deed of Absolute Sale even after the Nieveses had paid the balance of P25,000.00 to petitioner Pacita Palisoc (Rollo, p. 67). The Regional Trial Court rendered a decision in favor of the Nieveses, which was affirmed by the Court of Appeals. On appeal by the Palisocs, the Supreme Court dismissed their petition on July 8, 1992 (G.R. No. 104369).

On November 5, 1985, the Nieveses filed a Complaint for Ejectment docketed as Civil Case No. 0048766 with the Metropolitan Trial Court of Quezon City, Branch 33, against petitioners Alfredo and Melinda Munar (Munars) and some of the tenants in the apartment for non-payment of rentals since June 10, 1985 (Rollo, p. 86).

In their answer with compulsory counterclaim, the Munars averred that the Nieveses were no longer authorized to collect the rentals because the power of attorney given them had been revoked by the Palisocs on June 30, 1985. They also contended that the conditional deed of sale had been revoked by the Palisocs for failure of the Nieveses to pay the balance of the purchase price, and that the ejectment case was prematurely filed there being an on-going litigation between the Palisocs and the Nieveses for specific performance (Rollo, pp. 84 and 92).

The Munars filed a Motion to Apply the Rule on Regular Procedure alleging that a question of ownership was involved which made inapplicable the Rule on Summary Procedure in ordinary ejectment cases. The motion was denied by the trial court in its Order dated January 3, 1986 (Rollo, p. 97).

The Palisocs filed a Motion for Leave to Allow and Admit Answer In Intervention, praying that they be allowed to intervene in the ejectment case inasmuch as they had a legal interest in the matter in litigation as the registered owners and the lessors of the premises (Rollo, p. 98).

In an Order dated January 21, 1986, the trial court denied the motion to intervene, considering that in ejectment cases, such a motion is a prohibited pleading not allowed by the Rule on Summary Procedure (Rollo, p. 105).

On February 18, 1986, the Munars filed a Motion to Include Necessary Parties for the purpose of including the Palisocs (Rollo, p. 106).

In an Order dated February 28, 1986, the trial court granted the aforementioned motion and ordered the Palisocs to appear before it for preliminary conference (Rollo, p. 110).

On May 5, 1986, the Palisocs' filed a manifestation informing the trial court that the Munars have vacated the premises and that they are now the ones occupying the premises in question as they are the rightful owners and possessors of the same (Rollo, p. 111).

On June 5, 1986, the Nieveses filed a Motion to Declare Gloria Palisoc-Ruga and Family In Contempt of Court for entering and occupying the premises in question by means of stealth, strategy and force (Records, p. 326).

On August 1, 1986, the Palisocs filed their Answer/Comment to the Motion for Contempt (Records, p. 329).

On May 15, 1990, the trial court rendered its decision in favor of the Nieveses, disposing as follows:

"Wherefore, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

1. Declaring the ejectment of the defendants Munars on the subject premises as moot and academic;
2. Ordering the defendants Alfredo and Melinda Munar to pay the plaintiffs the amount of P4,400.00 representing their rental arrearages from July 1985 up to October 1985 and every month thereafter at the rate of P880.00 a month until the date they vacated (sic) the leased premises;
3. Ordering the Palisoc family, more particularly Gloria Palisoc Ruga, who actually occupied the premises in question identified as No. 27 Yakal Street, Quezon City, to immediately vacate and surrender the peaceful possession of the said premises to the plaintiff;
4. Ordering Gloria Palisoc Ruga to pay the plaintiffs a monthly amount of P1,000.00 effective May 19, 1986, as the fair and reasonable value of her use and enjoyment of the subject premises, until she finally vacates and surrenders the peaceful possession of the same to the plaintiffs;

5. Ordering the defendants to pay plaintiffs the sum of P5,000.00 as and by way of attorney's fees;

6. Ordering the defendants to pay the costs of suit.

Defendants' counterclaim is dismissed for lack of merit" (Records, p. 232).

On June 1, 1990, the trial court amended its decision with the following dispositive portion:

"Wherefore, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

1. Declaring the physical ejectment of the defendants Munars on the subject premises as moot and academic, having vacated the premises identified as No. 27 Yakal Street, Quezon City, MM., but ordering all persons presently occupying the same without any authority from the plaintiffs, including the necessary parties-defendants in this case to vacate and to surrender the peaceful possession of the subject property to the plaintiffs;

2. Ordering the defendants Alfredo and Melinda Munar to pay the plaintiffs the amount of P4,400.00 representing their rental arrearages from July 1985 up to October 1985 and every month thereafter at the rate of P880.00 a month until the date they vacated (sic) the subject premises;

3. Ordering the Palisoc family, particularly Gloria Palisoc Ruga, who is joined as necessary party to this case, to pay the plaintiffs a monthly amount of P1,000.00 effective May 19, 1986, as the fair and reasonable value of her use and enjoyment of the subject premises, until she finally vacates and surrenders the peaceful possession of the same to the plaintiff;

4. Ordering the defendants to pay plaintiffs the sum of P5,000.00 as and by way of attorney's fees; and

5. Ordering the defendant to pay the costs of suit.

Defendants' counterclaim is dismissed for lack of merit" (Records, p. 251).

Aggrieved by the decision of the trial court, both the Munars and the Palisocs appealed to the Regional Trial Court of Quezon City. The Palisocs filed a Notice of Appeal En Abundante Cautela questioning the inferior court's jurisdiction over their persons (Records, p. 128; See also Records, p. 72). Subsequently, the Palisocs filed an Amended Notice of Appeal En Abundante Cautela dated June 28, 1990, also questioning the jurisdiction of the inferior court over their persons when it rendered its Decision dated May 15, 1990 and its Order dated June 1, 1990 (Records, p. 257).

On August 22, 1990, the Regional Trial Court, Branch 89, Quezon City, affirmed the inferior court's decision except that it ordered all persons presently occupying the premises without authority from the Nieveses to vacate the same. It clarified that only those who derived title from the Palisocs or were made parties to the case were bound by the judgment (Records, p. 104).

On October 10, 1990, the motion for reconsideration filed by the Palisocs was denied for lack of merit (Records, p. 105).

On November 20, 1990, the Palisocs filed a Petition with Prayer for Preliminary Injunction and Restraining Order questioning the court's jurisdiction over their persons (Records, p. 74).

On February 28, 1991, the Court of Appeals rendered its decision, the dispositive portion of which reads as follows:

"Wherefore, the petition for certiorari is ordered DISMISSED for lack of merit. No costs" (Rollo, p. 185).

In a resolution dated July 9, 1991, the Motion for Reconsideration filed by the Palisocs and Munars was denied for lack of merit (Records, p. 360).

Hence this petition.

II

The issues to be resolved are the following:

- (1) Whether or not the court a quo acquired jurisdiction over the person of the Palisocs;
- (2) Who has prior physical possession of the property in question; and
- (3) Whether or not the trial court erred in not consolidating the specific performance case and the ejectment case.

The Palisocs contend that the trial court did not acquire jurisdiction over their persons because the complaint was not amended to include them as party defendants and no summons were issued and served on their persons (Rollo, pp. 23-25).

We do not agree.

III

Jurisdiction over the person of the defendant in civil cases is acquired either by his voluntary appearance in court and his submission to its authority or by service of summons. The service of summons is intended to give notice to the defendant or respondent that an action has been commenced against it (Quiason, Philippine Courts and Their Jurisdictions 120-121, 134 [1992]). The defendant or respondent is thus put on guard as to the demands of the plaintiff as stated in the complaint (Paramount Insurance Corporation v. Japson, 211 SCRA 879 [1992]).

In the case at bench, the Palisocs cannot feign ignorance of the complaint for ejectment filed by the Nieveses against the Munars. The Palisocs, whose counsel is the same as that of the Munars, filed a Motion For Leave to Allow and Admit Answer in Intervention alleging that they have an interest on the subject matter in litigation (Rollo, p. 98). This was denied because said motion was a prohibited pleading. Undaunted, the Munars filed a Motion to Include the Palisocs as Necessary Parties (Rollo, p. 106) which was granted by the court a quo and made known in open court in the presence of the counsel of both the Palisocs and Munars (Rollo, p. 110).

We also agree with the Court of Appeals that there was voluntary appearance on the part of the Palisocs.

A voluntary appearance is a waiver of the necessity of formal notice. Thus it has been held that when the appearance is by motion for the purpose of objecting to the jurisdiction of the court over the person it must be for the sole and separate purpose of objecting to the jurisdiction of the court. If the appearance is for any other purpose, the defendant is deemed to have submitted himself to the jurisdiction of the court. Such an appearance gives the court jurisdiction over the person (Wang Laboratories, Inc. v. Mendoza, 156 SCRA 44 [1987]).

The Palisocs have voluntarily submitted to the jurisdiction of the trial court. It is too late in the day for them to question the court's jurisdiction over their person after receiving an unfavorable judgment.

The Munars next contend that the Nieveses cannot anymore collect the rentals because the special power of attorney executed in their favor was revoked by the Palisocs (Rollo, p. 49).

Siding with the Munars, the Palisocs claim that since the Nieveses failed to pay the balance of the purchase price, the contract of sale was deemed rescinded; hence, ownership of the questioned property reverted to them. Furthermore, they argue that the right of the Nieveses to collect rentals emanated from the special power of

attorney, which was revoked by them (Rollo, p. 49).

The contention of the Munars is without merit. The trial court found that the contract of lease was between the Munars and Nieveses. The Palisocs were not parties to the said lease contract; hence, the Munars cannot raise the defense that the special power of attorney given to the Nieveses to collect rentals was revoked by the Palisocs.

We have ruled that a tenant cannot, in an action involving the possession of the leased premises, controvert the title of his landlord or assert any rights adverse to that title. Neither can he set up any inconsistent right to change the relation existing between himself and his landlord (Manuel v. Court of Appeals, 199 SCRA 603 [1991]).

The issues raised by the Palisocs on the legal effects of the failure of the Nieveses to pay the balance of the purchase price and the revocation of the special power of attorney must be resolved in the case for specific performance filed by the Nieveses against them.

Well-settled is the rule that the mere allegation of ownership of the property in dispute by the defendant in an ejectment suit or the pendency of an action for reconveyance of title over the same property does not divest the inferior court of its jurisdiction over the ejectment suit (Drilon v. Gaurana, 149 SCRA 342 [1987]; De la Cruz v. Court of Appeals, 133 SCRA 520 [1984]; Alilaya v. Espanola, 107 SCRA 564 [1981]). The only exception to this rule is where the question of de facto possession cannot be determined properly without settling that of ownership because the latter is inseparably linked with the former (Guzman v. Court of Appeals, 177 SCRA 604 [1989]).

The exception does not apply to the instant case. The Nieveses, by virtue of the notarized Conditional Deed of Sale executed in their favor by the Palisocs, transferred possession of the questioned property to the former. The execution of a sale, thru a public instrument, shall be equivalent to the delivery of the thing, unless there is stipulation to the contrary (Wong v. Carpio, 203 SCRA 118 [1991]).

An action for ejectment is merely a quieting process and actual title to the property is never determined. A party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his prior possession, if he has in his favor priority of time, he has the right to remain on the property until he is lawfully ejected by a person having a better right by accion publiciana or accion reivindicatoria (Reynante v. Court of Appeals, 207 SCRA 794 [1992]).

Possession of the property in question was transferred to the Nieveses when the Palisocs executed the Conditional Deed of Sale on January 9, 1976 (Rollo, p. 62). The possession of the Palisocs began only when the Munars vacated the property in question as shown by the Manifestation dated May 5, 1986 filed by the former. Hence, the Nieveses have prior physical possession of the property in question.

Lastly, the issue on the consolidation of the specific performance case and this ejectment case is rendered moot and academic by this Court's Resolution dated July 8, 1992 in G.R. No. 104369, which in effect sustained the decision of the Regional Trial Court ordering the Palisocs to perform specifically the Conditional Deed of Sale in favor of the Nieveses.

WHEREFORE, the Decision of the Court of Appeals is AFFIRMED in toto.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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