

**SEN PO EK MARKETING CORPORATION, REPRESENTED BY ITS
PRESIDENT AND MANAGER, CONSORCIO L. YUSIONG, PETITIONER,
VS. COURT OF APPEALS, REGIONAL TRIAL COURT OF LEYTE,
BRANCH 7, TACLO...**

G.R. No. 102869. August 04, 1992

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Does an action for annulment of sale affecting leased premises filed in the Regional Trial Court by the lessee claiming that it has the right of first preference operate to abate or suspend ejectment proceedings before the Municipal Trial Court? This is the ultimate issue raised in this petition for review on certiorari.

The antecedents: Adjoining lots 50 and 106 of the Tacloban Cadastre, with a combined area of 313 square meters, were originally owned by Sofia Martinez. In 1961, Sofia leased the two (2) lots to petitioner Sen Po Ek Corporation with the agreement that petitioner would construct a commercial building thereon, which it complied with. After a series of renewals of the lease, the ownership of the building became vested in Sofia, the lessor.

In 1985, Sofia sold the leased premises to her daughter Teodora P. Martinez who, in turn, sold the same on January 12, 1990, to private respondents Juanito, Jr., Nelson and Leoncio, all surnamed Tiu Uyping for P800,000.00. Transfer Certificate of Title No. T-32339 was then issued to the vendees. On February 21, 1990, the Tiu Uypings wrote petitioner demanding that it vacate the leased property. The petitioner refused to vacate. Consequently, Tiu Uypings filed an action against petitioner for unlawful detainer and damages in the Municipal Trial Court in Cities, Branch 2, Tacloban City.[1]

Petitioner countered by filing an action against the Tiu Uypings in the Regional Trial Court of Palo, Leyte, Branch 8, for “declaration of nullity and annulment of deeds of absolute sale dated November 1979, November 1985 and June 12, 1990.”[2]

Meanwhile, on April 24, 1991, in the unlawful detainer case, the Municipal Trial Court ruled in favor of the Tiu Uyping brothers, which decision was affirmed on appeal on July 5, 1991, by the Regional Trial Court of Palo, Leyte, Branch 7.[3] Thus, petitioner Sen Po Ek Marketing Corporation was ordered to vacate the subject premises immediately and to pay the Tiu Uypings P10,000.00 a month as rental from February 1990, until it actually vacates the property, plus attorney’s fees.[4]

Petitioner elevated this case to the Court of Appeals which on September 25, 1991, sustained the courts a quo.[5]

In this instant recourse, petitioner claims that the Court of Appeals erred in (a) sustaining the application by the inferior court of the Rule on Summary Procedure; (b) holding that petitioner corporation did not have an existing contract of lease over the property, which must be respected by the Tiu Uyping brothers as the new registered owners thereof; and, (c) not holding that the complaint for ejectment should be dismissed because of the pendency of another action between the same parties for the same cause in another court, specifically in the Regional Trial

Court of Palo, Leyte, Branch 8.

Petitioner likewise prays that the decisions of the Municipal Trial Court in Cities, Branch 2, Tacloban City, and of the Regional Trial Court, Branch 7, Palo, Leyte, be set aside.

Private respondents filed their comment to the petition, while petitioner, its reply to the comment. Attached to the reply is a certified true copy of the decision dated February 27, 1992, of the Regional Trial Court, Branch 8, Palo, Leyte, in the annulment case, which rescinded the deed of sale executed on January 12, 1990, between Teodora Martinez and the Tiu Uyping brothers; declared that petitioner corporation had the first preference to buy Lots 50 and 106 of the Tacloban Cadastre as well as the building erected thereon, hence, Teodora was ordered to sell the aforementioned property to it; and, ordered Teodora to return to the Tiu Uypings the sum of P800,000.00 as total selling price of the property, and to pay attorney's fees of P10,000.00 and litigation expenses of P3,000.00.[6]

In their rejoinder, private respondents noted that said decision of the trial court in the annulment case was not yet final in view of their appeal to the Court of Appeals.

In the instant petition, We rule for private respondents.

As to the first issue, it must be observed that the appellate court made no ruling on the applicability of the Rule on Summary Procedure because it was not raised before it. What petitioner contended was that the Municipal Trial Court was devoid of legal authority over the ejectment case considering that the amount of rentals demanded by respondents amounted to more than P300,000.00. As correctly held by the Court of Appeals, Sec. 33 of BP 129 vests in municipal trial courts exclusive original jurisdiction over forcible entry and unlawful detainer cases. It is not the amount of rentals demanded in the complaint that determines the jurisdiction of said inferior courts but the nature of the action.[7] Whether the 1983 Rule on Summary Procedure was properly applied in the Municipal Trial Court of Tacloban City will not divest it of its jurisdiction already conferred by BP 129.

Petitioner's submission that there was a validly existing lease contract at the time petitioner was sued for eviction is bereft of merit. As par. 1 of the lease contract provides -

"x x x this CONTRACT OF LEASE shall take effect and become binding between the parties herein as of January 01, 1982 and shall continue to be valid and in full force for a period of five (5) years thereafter, which said CONTRACT shall be renewable on a year to year basis, subject to the mutual agreement of the parties herein as of the time of renewal."

As the Court of Appeals noted, the lease contract was renewable on a year-to-year basis but only if the parties mutually agreed and came to terms regarding a renewal. But, as admitted by petitioner itself, there was no subsequent written reinstatement of the 1982 contract such that upon its stipulated expiration on January 1, 1987, the lease relationship between Teodora and petitioner became a month-to-month arrangement, terminable at the end of each month, pursuant to Art. 1687 of the Civil Code, it appearing that rentals were paid on a monthly basis.[8]

The third controverted point, which is crucial in the case before Us, is, incidentally, already a settled issue in a litany of recent decisions which rules that pendency of action for annulment of sale as in the instant case, may not be successfully pleaded in abatement of an action for unlawful detainer.[9] However, with the decision of the Regional Trial Court, Branch 8, rendering null and void the sale of the leased property to the Tiu Uypings, it would now appear that a different twist has been added to an otherwise predictable conclusion.

While the pendency of a suit for declaration of the inefficacy of a deed of sale does not constitute a compelling reason to delay termination of an ejectment case, a judgment of annulment may be a ground for ordering reconveyance of the disputed property to the original lessees.

At this point, one factor strongly militates against the case for petitioner. The supervening decision of the Regional Trial Court in favor of petitioner will not constitute an effective bar to the eviction of petitioner since it has not yet assumed finality by reason of the still unresolved appeal timely filed by private respondents and Teodora Martinez. For the present, there is yet no final adjudication on the validity of the contract of sale of January 12, 1990.

As explained in *Galgala vs. Benguet Consolidated, Inc.*,^[10] "(t)he pendency of Civil Case No. 3656 x x x gives rise merely to an expectancy that the documents assailed therein may be nullified and the subject properties may be ordered reconveyed to petitioners, as compared to the clear actual and existing legal right of respondent corporation to possession of the subject properties as the registered owners" (emphasis supplied).

WHEREFORE, finding the challenged decision of the Court of Appeals as well as those of the Municipal Trial Court in Cities, Branch 2, Tacloban City, and Regional Trial Court, Branch 7, Palo, Leyte, to be entirely in accord with law and jurisprudence, the same are AFFIRMED. Consequently, for lack of merit, the instant petition is DISMISSED.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.

[1] Civil Case No. R-5484.

[2] Civil Case No. 90-01-004, where petitioner contends that the deed of sale by Sofia Martinez in favor of her daughter Teodora was executed in 1979 but notarized only on November 5, 1985.

[3] Rollo, p. 108.

[4] Civil Case No. 91-05-78, Rollo, p. 129.

[5] CA- G. R. SP No. 25463, Rollo, p. 163.

[6] Rollo, p. 210.

[7] *Commander Realty, Inc. vs. Court of Appeals*, G.R. No. 77227, May 9, 1988; 161 SCRA 264.

[8] Rollo, p. 86.

[9] *Drilon vs. Gaurana*, No. L-35482, April 30, 1987, 149 SCRA 342; *Ang Ping vs. Regional Trial Court of Manila*, Br. 40, G.R. No. 75860, September 17, 1987, 154 SCRA 77; *Spouses Dante vs. Sison*, G. R. No. 82761, June 29, 1989, 174 SCRA 517; *Galgala vs. Benguet Consolidated, Inc.*, G.R. No. 75206, September 5, 1989, 177 SCRA 288; *Demamay vs. Court of Appeals*, G.R. No. 87263, June 18, 1990, 186 SCRA 608; *Wilmon Auto Supply Corp., et al. vs. Court of Appeals, et al.*, G.R. No. 97637, April 10, 1992.

[10] *Supra* at 293.

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