

DENNIS DEL ROSARIO, PETITIONER, VS. HON. COURT OF APPEALS AND JOSE LUNA, RESPONDENTS.*G.R. No. 109032. February 21, 1995*

Ponente: PUNO, J.

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The case stems from a simple action for ejectment. The subject of this ejectment suit is a two (2) storey house and lot located at No. 42 Scout Chuatoco Street, Quezon City covered by Transfer Certificate of Title No. 84801. On October 9, 1984, spouses Oseas [1] and Loreta del Rosario through their only child and attorney-in-fact petitioner Dennis del Rosario mortgaged in favor of private respondent Jose Luna the questioned property. The consideration was TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00). [2] Spouses del Rosario could not pay the loan and petitioner as their attorney-in-fact sold to private respondent on May 26, 1987 the questioned property for FOUR HUNDRED FIFTY THOUSAND PESOS (P450,000.00). [3]

Private respondent gave the couple a chance to buy back the questioned property but the latter failed to do so. Transfer Certificate of Title No. 84801 was then cancelled and on June 7, 1988 Transfer Certificate of Title No. 384106 was issued in the name of private respondent. [4]

Petitioner was allowed to stay in the property to give him enough time to find another place. On January 3, 1989, he wrote a letter to private respondent asking for an extension of ninety (90) days or until March 31, 1989 to vacate the controverted premises. Then on March 31, 1989, he requested for another extension of forty (40) days which was granted by private respondent.

After the lapse of seven (7) months or on November 15, 1989, private respondent wrote to petitioner demanding that he vacate the questioned property five (5) days from receipt of the letter. Petitioner did not heed the demand letter. After conciliation efforts at the barangay level failed, private respondent filed a complaint for ejectment [5] before the Metropolitan Trial Court of Quezon City, Branch 39.

Finding that the ejectment case falls under the Rules on Summary Procedure, the court issued a summons to petitioner. Petitioner contested the complaint. In his affirmative defense, he averred that private respondent's claim of ownership over the controverted property is based on fraudulent documents. He further argued that there is a pending action between the same parties for the same cause of action. Allegedly, his father, Oseas del Rosario, filed against private respondent an action for quieting of titles [6] before the Regional Trial Court of Quezon City, Branch 100. Thus, he urged that since there is a question of ownership of the property involved, the Metropolitan Trial Court of Quezon City had no jurisdiction over the case.

After the parties submitted their respective affidavits and position papers, the court ruled for private respondent, viz:

"IN VIEW OF THE FOREGOING, the Court hereby orders the defendant (petitioner) and all persons claiming rights in his behalf to vacate the premises, and to pay plaintiff the sum of P1,500.00 per month as reasonable compensation for the use of the property from the time of filing this complaint until defendant (petitioner)

vacates the same.

The prayer for attorney's fees and moral damages are denied for insufficiency of evidence.

No pronouncement as to costs.

SO ORDERED.” [7]

Appeals to the Regional Trial Court of Quezon City, Branch 99 and respondent Court of Appeals made by petitioner were to no avail. The former affirmed in toto [8] the assailed decision while respondent court's Third Division dismissed the petition with costs against petitioner. [9] On February 16, 1993, the motion for reconsideration was denied for lack of merit.

This petition for review with prayer for issuance of writ of preliminary injunction faults the respondent court for:

I

[N]OT CONDUCTING HEARING FOR THE PURPOSE OF RESOLVING THE FACTUAL ISSUE RAISED BY PETITIONER PURSUANT TO SECTION 9(3) PARAGRAPH 3 OF B.P. 129.

II

[N]OT HOLDING THAT THE LOWER COURT HAD NO JURISDICTION OVER THE NATURE OF THE SUIT.

The petition is devoid of merit.

First. Respondent appellate court correctly ruled that the Metropolitan Trial Court of Quezon City, Branch 39 had exclusive original jurisdiction over private respondent's ejectment suit against petitioner. This ruling is in accord with section 33(2) of Batas Pambansa (B.P.) Blg. 129 which vests municipal courts with exclusive original jurisdiction over cases of forcible entry and unlawful detainer (ejectment). [10] There is no doubt that petitioner's stay at the questioned property was by mere tolerance. After the demand letter dated November 15, 1989 of private respondent, the continuing possession of petitioner of the questioned property became unlawful. The action for ejection was thus private respondent's legitimate remedy.

The fact that petitioner's father filed against private respondent an action for quieting of title before the Regional Trial Court of Quezon City does not divest the trial court of its jurisdiction over the ejectment case. It will be noted that petitioner was not even originally a party to the suit for quieting of title. His subsequent substitution on September 21, 1992 as party plaintiff in Civil Case No. Q-89-3742 due to the death of his father did not change the situation. [11] Trite to restate, the issue in an ejectment case is the right to physical possession of the premises or possession de facto. [12] The suit is intended to restore to the aggrieved party the possession of the premises which had been detained from him. It is independent of any claim of ownership or possession de jure that either party may set forth in his pleadings or in other cases. In *Asset Privatization Trust vs. Court of Appeals*, [13] the Court en banc held:

"[T]he judgment rendered in an ejectment suit 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 case between the same parties upon a different cause of action involving possession. Furthermore, in ejectment cases the jurisdiction of the court is determined by the allegations of the complaint not by the defense raised by defendant."
(Citations omitted)

It appears obvious that petitioner is but engaged in a maneuver to delay and block the ejectment case against him. Indeed, the record reveals that the certificate of title of the controverted property bears an annotation of his

Special Power of Attorney to sell and mortgage the said property; [14] that he caused the transfer of title in favor of private respondent; [15] and he wrote two (2) letters to private respondent asking for extensions of time to vacate the questioned premises. [16]

Second. Under the Revised Rules on Summary Procedure which took effect on November 15, 1991, all types of ejectment cases are now covered by the summary procedure regardless of whether the issue of ownership of the subject property is pleaded by a party. [17] The fact that the ejectment case was filed on February 7, 1990 prior to the date of effectivity on November 15, 1991 of the Revised Rules on Summary Procedure does not matter. Well-settled is the rule that procedural rules may be given retroactive application. There are no vested rights on rules of procedure. [18] A remedial statute may be made applicable to cases pending at the time of its enactment. [19]

Third. Petitioner's avowal that the Metropolitan Trial Court of Quezon City, Branch 39 should have conducted a hearing in addition to the affidavits and position papers they submitted, in order to determine the genuineness of the Deed of Sale and private respondent's extent of possession, has no legal leg to stand on. Again, under the Revised Rules on Summary Procedure the adjudication of cases can be done on the basis of affidavits and position papers. [20] The court is no longer allowed to hold a hearing to receive testimonial evidence. Should the court find it necessary to clarify certain issues, it may require the parties to submit affidavits or other evidence. [21] The proceeding must be as summary as possible in order not to defeat the need to dispose ejectment cases in as fast a time as possible. The reason is because cases involving possession of properties usually pose a threat to the peace of society.

And fourth. Petitioner's insistence that pursuant to section 9 paragraph 3 of B.P. 129 [22] respondent appellate court should have conducted a trial of the case to determine whether or not private respondent's claim of ownership is genuine and the loan transaction is an equitable mortgage lacks merit. The affidavits and positions papers submitted by petitioner and private respondent contained all the material evidence necessary for the judicious disposition of the ejectment case. The law did not intend that respondent appellate court should conduct another trial of the ejectment case appealed to it. The power of the respondent appellate court to receive evidence is now a limited one. Under section 9 paragraph 3 of B.P. Blg. 129 as amended by section 5 of E.O. No. 33, the power is restricted, viz:

"The Court of Appeals shall have the power to receive evidence and perform any and all acts necessary to resolve factual issues raised in x x x (b) cases falling within its appellate jurisdiction wherein a motion for new trial based only on the ground of newly discovered evidence is granted by it."

Regretfully, petitioner has overlooked this amendment.

IN VIEW HEREOF, the appealed Decision of November 13, 1992 is AFFIRMED. Double costs against petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Bidin, and Regalado, JJ., concur. Mendoza, J., no part.

[1] Oseas del Rosario died on September 19, 1991. Annex "L," Rollo, p. 61.

[2] The consideration was originally P150,000.00. It was later increased by another P100,000.00. Rollo, p. 20.

[3] Annex "D."

[4] Court of Appeals Decision, p. 1; Rollo, p. 20.

[5] Docketed as Civil Case No. 2476.

[6] Civil Case No. Q-89-3742.

[7] Judge Lita S. Tolentino-Genilo, Presiding.

[8] Judge Felix M. De Guzman, Presiding.

[9] Justice Salome A. Montoya, Chairman; Justice Vicente V. Mendoza and Justice Jaime M. Lantin, Members.

[10] See *Joven vs. Court of Appeals*, G.R. No. 80739, August 20, 1992, 212 SCRA 700.

[11] Rollo, p. 81.

[12] See *University Physicians Services, Inc., vs. Court of Appeals*, G.R. No. 100424, June 13, 1994, 233 SCRA 86.

[13] G.R. No. 103277, February 3, 1994, 229 SCRA 627.

[14] Rollo, p. 89.

[15] *Ibid.*

[16] Annex "E" and Annex "F."

[17] See *Notes and Cases on the Revised Rules on Summary Procedure*, Ernani C. Pano and Daniel T. Martinez, 1991 ed., p. 3.

[18] *Supra.*, *Asset Privatization Trust vs. Court of Appeals*, p. 634.

[19] *Supra.*, citing *Aris (Phil) Inc., vs. NLRC*, G.R. No. 90501, August 5, 1991, 200 SCRA 246.

[20] Revised Rules on Summary Procedure. Section 10. - Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last clarificatory affidavits, or the expiration of the period for filing the same.

The court shall not resort to the clarificatory procedure to gain time for the resolution of the judgment.

[21] *Supra.*

[22] P.B. Blg. 129. Section 9. Jurisdiction. - The Intermediate Appellate Court shall exercise:

xxx x x x x x x

The Intermediate Appellate Court shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials and further proceedings.

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