HEIRS OF FERNANDO VINZONS, REPRESENTED BY LIWAYWAY VINZONS-CHATO, PETITIONERS, VS. COURT OF APPEALS AND MENA EDORIA, RESPONDENTS.

G.R. No. 111915. September 30, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Before us is a Petition for Review on Certiorari seeking the reversal of the January 27, 1993[1] Decision and September 10, 1993[2] Resolution of the Court of Appeals[3] in CA-G.R. SP No. 23948. The Court of Appeals (CA) set aside the Decision[4] of the Regional Trial Court (RTC) of Daet, Camarines Norte in Civil Case No. 5832, affirming that of the Municipal Trial Court (MTC) in Civil Case No. 2137[5], which ordered the ejectment of herein private respondent.

The factual antecedents of this case are:

Petitioners Heirs of Vinzons are co-owners of a parcel of land in Barangay 5, Daet, of which a portion measuring 148.5 square meters is being occupied by respondent Mena Edoria as lessee since 1951. Respondent built thereon a residential house worth P40,000.00. He started paying a monthly rent of P4.00 which by 1986 had reached P13.00.

Sometime in 1986, an ejectment suit was filed by petitioners against respondent and several others also occupying the same lot owned by them, docketed as Civil Case No. 1923, on the ground, among others, of non-payment of rentals. After trial, however, the case was dismissed on the finding that respondent was not in arrears but was even advance in his rental payments. Both petitioner and respondent appealed from said decision to the Regional Trial Court.

Sometime in 1988, while the aforesaid Case No. 1923 was pending appeal before the RTC, petitioner filed another ejectment suit, docketed as Civil Case No. 2061, against respondent and thirty-nine (39) others alleging that said defendants refused to enter into an agreement with them as tenants-lessees and refused to pay the increased rent of P1.00 per square meter per month. Respondent resisted the claim alleging, among others, lack of cause of action and pendency of the earlier ejectment case. The trial court rendered its decision dismissing the case against respondent in view of the pendency of Civil Case No. 1923 on appeal. This decision was again elevated to the RTC.

While Civil Case No. 2061 was pending appeal in the RTC, petitioners again filed the instant suit for ejectment docketed as Civil Case No. 2137 on the following grounds: (a) expiration of lease contract as of 1984; (b) refusal to sign written renewal of contract of lease; and (c) non-payment of rent for one (1) year and ten (10) months. In his answer, respondent sought dismissal of the complaint on the following grounds; (a) it did not pass through barangay conciliation; (b) no prior demand was made or if there was such a demand, it was made more than one year prior to the filing of the case; (c) there was no cause of action as it was in violation of PD 20 and BP Blg. 25; (d) the case is barred by prior judgment; and (e) there is still pending appeal a similar case between the parties,

Civil Case No. 2061.

After trial, the MTC of Daet rendered its decision ordering respondent to vacate the premises and pay the accrued rentals. On appeal to the RTC, the said decision was affirmed in toto. The CA, however, reversed the two (2) earlier decisions by dismissing the complaint on the ground of litis pendentia, failure to comply with the Katarungang Pambarangay Law (PD 1508); and lack of evidence of prior demand to vacate before instituting the complaint.

Hence, this petition on the following grounds:

> "THAT THE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE REGIONAL TRIAL COURT OF CAMARINES NORTE IN A WAY NOT IN ACCORD WITH LAW AND JURISPRUDENCE.
>
> THAT THE COURT OF APPEALS ERRED IN DENYING THE MOTION FOR RECONSIDERATION UPON THE GROUND THAT THE GROUNDS THEREIN AVERRED HAD ALREADY BEEN PASSED UPON IN ITS DECISION."[6]

Petitioners argue that the CA was duty-bound, under the rules and jurisprudence, to give weight to the findings of fact of the MTC since the same had already been affirmed in toto by the RTC. Further, it is argued that the action is not barred by prior judgment and the principle of litis pendentia does not apply; that the petitioners complied with the requirements of PD 1508; and that demand to vacate is not necessary for judicial action in case of expiration of the lease contract.

The petition is devoid of merit, we find that the MTC had improperly assumed jurisdiction over the ejectment suit.

First, this case being one of unlawful detainer, it must have been filed within one year from the date of last demand with the Municipal Trial Court, otherwise it is an accion publiciana cognizable by the Regional Trial Court.[7] The rule is that the one-year period provided for in Section 1, Rule 70 of the Rules of Court[8] within which a complaint for unlawful detainer can be filed should be counted from the last letter of demand to vacate.[9] Accion publiciana is the plenary action to recover the right of possession when dispossession has lasted for more than one year.[10]

There is no question that the petitioners' dispossession has lasted for more than one year. In their Complaint and Position paper, petitioners alleged that the lease contract expired in 1984[11]; that thereafter, private respondent became a lessee on a month-to-month basis[12]; and that before the filing of Civil Cases Nos. 1908, 1923 and 2061, demand to vacate had already been made to defendant.[13] Since Civil Case No. 1908 was instituted in 1986; Civil Case No. 1923 in 1986; and Civil Case No. 2061 in April 1988, the alleged demands to vacate to abort an implied renewal of the lease on a month-to-month basis were made between 1986 and 1988, the last one, before April 1988. Verily, the instant Complaint for ejectment filed by petitioner in October 1989, was filed more than one year from the termination of the month-to-month lease some time before April 1988. It is well-established that what determines the nature of an action and correspondingly the court which has jurisdiction over it is the allegation made by the plaintiff in his complaint.[14]

Second, the challenged decision correctly dismissed the case for failure of the plaintiffs, the petitioners herein, to avail of the barangay conciliation process under PD 1508, preliminary to judicial recourse. The Court of Appeals had found that "there is no clear showing that it was brought before the Barangay Lupon or Pangkat of Barangay 5, Daet, Camarines Norte, where the parties reside and the property subject of the case is situated, as there is no barangay certification to file action attached to the complaint.[15]

Paraphrasing Peñaflor vs. Panis[16], "the Lupong Barangay is with jurisdiction under PD 1508 to pass upon an

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ejectment controversy where the parties are residents in the same barangay or in barangays within the same city or in barangays adjoining each other." It is clearly averred in the Complaint that herein petitioners, then represented by the widow of the late Fernando Vinzons, resided in the same barangay, hence, covered by the said law. In Royales vs. Intermediate Appellate Court[17], this Court ruled that "non-compliance with the condition precedent prescribed by PD 1508 could affect the sufficiency of the plaintiff's cause of action and make his complaint vulnerable to dismissal on the ground of lack of cause of action or prematurity." Defendants, private respondents herein, objected to the failure of the parties to undergo a confrontation at the barangay level in their answer and even during the entire proceedings a quo to no avail as the trial courts merely brushed aside this issue. Hence, the Court of Appeals had to rectify this error by the trial courts.

In refutation of the said findings of the Court of Appeals, petitioners submit that "it is clear in the findings of fact of the MTC of Daet, as affirmed by the RTC of Daet that before the filing of Civil Cases Nos. 1908, 1923 and 2061, demand to vacate had already been made to the defendant after efforts to settle the controversy at the barangay level had failed."[18] This is not a factual finding of the MTC, but an allegation in petitioners' Complaint. As mentioned earlier, the MTC merely brushed aside the issue of non-recourse to barangay conciliation. This allegation in petitioners' Complaint that efforts to settle the controversy at the barangay level had failed in Civil Cases Nos.1908, 1923 and 2061, does not constitute compliance with the requirements of PD 1508 for purposes of filing the Complaint in Civil Case No. 2137. Section 6 of PD 1508 insofar as pertinent provides:

> "SEC. 6. Conciliation, pre-condition to filing of complaint. – No complaint, petition, action or proceeding involving any matter within the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before the Lupon chairman or the Pangkat xxx."

Referral to the Lupon Chairman or the Pangkat should be made prior to the filing of the ejectment case under PD 1508. Legal action for ejectment is barred when there is non-recourse to barangay court.[19] The Complaint for unlawful detainer, docketed as Civil Case No. 2137, should have been coursed first to the barangay court. Petitioners cannot rely on the barangay conciliation proceedings held in the other cases and consider the same as compliance with the law.

Third, petitioners rely heavily on the general rule that findings of trial courts deserve to be respected and affirmed by appellate courts. Almost as well-recognized as the general rule is the exception that the factual findings of the trial court may nonetheless be reversed by the Court of Appeals if by the evidence on record or the lack of it, it appears that the trial court erred.[20] Considering that the trial courts and the Court of Appeals arrived at different factual findings, we have reviewed the evidence on record and have found as aforesaid, the improper assumption by the MTC of the case due to non-recourse to barangay conciliation and the lapse of the one-year period for bringing the case for unlawful detainer.

Having arrived at the above conclusion, the Court finds no need to discuss the other issues, specifically, those bearing on the application of the principles of litis pendentia and/or res judicata. Moreover, the records of Civil Cases Nos. 1923 and 2061 are not before us to enable us to determine the presence of the elements thereof in the instant case.

WHEREFORE, the instant petition is hereby DENIED, and the assailed decision of the Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

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[1] Rollo, pp. 41-45.

[2] Rollo, p. 48.

[3] The assailed decision was penned by Justice Nicolas P. Lapeña, Jr. and concurred in by Justices Nathanael P. De Pano, Jr. (chairman) and Ma. Alicia Austria-Martinez (member). The resolution was penned by Justice Ma. Alicia Austria-Martinez and concurred in by Justices Nathanael P. De Pano, Jr. (chairman) and Alfredo L. Benipayo (member).

[4] Penned by Judge Luis D. Dictado.

[5] Penned by Judge Oscar T. Osorio.

[6] Rollo, p. 16.

[7] Javelosa vs. Court of Appeals, 265 SCRA 493 (1996).

[8] Rule 70

Section 1. Who may institute proceedings, and when - Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a landlord, vendor, vendee, or other person against whom the possession of any land or building is unlawfully witheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such landlord, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or witholding of possession, bring an action in the proper inferior court against the person or persons unlawfully witholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs. The complaint must be verified.

The provisions of this rule shall not apply to cases covered by the Agricultural Tenancy Act.

[9] Penas, Jr. vs. Court of Appeals, 233 SCRA 744 (1994).

[10] De Leon vs. Court of Appeals, 245 SCRA 166 (1995).

[11] Records, p. 2.

[12] Records, p. 28.

[13] Records, p. 2.

[14] Ching vs. Malaya, 153 SCRA 412 (1987).

[15] Rollo, p. 44.

[16] 117 SCRA 953 (1982).

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[17] 127 SCRA 470 (1984).

[18] Rollo, p. 34.

[19] Ledesma vs. Court of Appeals, 211 SCRA 753 (1992).

[20] Tabaco vs. Court of Appeals, 239 SCRA 485 (1994).

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