

## ELISA C. FELICIANO, PETITIONER, VS. COURT OF APPEALS AND ERNESTO BARON, RESPONDENTS.

*G.R. No. 123293. March 05, 1998*

Ponente: BELLOSILLO, J.

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### **BELLOSILLO, J.:**

This petition for review assails the Decision of the Court of Appeals promulgated on 9 October 1995 as well as its Resolution of 12 December 1995 in CA-G.R. SP No. 37450 [1] which reversed and set aside the decision of the Regional Trial Court of Quezon City, Branch 98, in Civil Case No. Q-94-22391.

On 6 February 1978 Eleuterio Cosme obtained a loan of P50,000.00 from the Insular Bank of Asia and America. To secure the loan, he mortgaged a parcel of land covered by TCT No. 198745 registered in his name “married to Asuncion Obando.” The loan however was not paid upon maturity, thus the mortgage was foreclosed extrajudicially and sold at public auction with the bank as the highest bidder. After the lapse of the redemption period, ownership over the land was consolidated in the bank and TCT No. 283860 was issued in its name.

Later, Eleuterio Cosme and his wife Asuncion Obando died. Their daughters, Elisa C. Feliciano and Arsenia C. Buendia, took possession of the property and exercised their rights of ownership thereof as compulsory heirs of their deceased parents. In 1985 Elisa instituted before the Regional Trial Court of Quezon City an action against the bank of the Annulment of Mortgage, Certificate of Sale, Deed of Absolute Sale and TCT No. 283860, Reconveyance with Petition for Issuance of a Writ of Preliminary Injunction and Damages. [2] During the pendency of the case, specifically on 15 February 1991, private respondent herein Ernesto Baron bought the subject property from the bank and the corresponding Deed of Absolute Sale was executed in his favor. On the basis of the sale, Baron demanded from Elisa and Arsenia to pay rents and vacate the premises. Elisa refused insisting that she was owner of the property and that it was currently the subject of a pending litigation in the Regional Trial Court of Quezon City. [3] Hence, Baron filed a complaint for ejectment before the Metropolitan Trial Court of Quezon City which, after due consideration, dismissed the case on the ground of *litis pendentia*.

On appeal by Baron, the RTC affirmed the decision of the MeTC holding that *litis pendentia* existed and that, in addition, the MeTC did not validly acquire jurisdiction over the case since there was no sufficient averment in the complaint which would bring the case within the purview of either forcible entry or unlawful detainer.

Undaunted by the adverse decisions of the lower courts, Baron elevated the case to the Court of Appeals, which subsequently reversed the Regional Trial Court and remanded the case to the court of origin for further proceedings. The Court of Appeals held that *litis pendentia* was not present in this case as there was no identity of rights asserted and reliefs prayed for in the Regional Trial Court and in the Metropolitan Trial Court. That, further, the allegations in the complaint for ejectment adequately and sufficiently established a cause for unlawful detainer by virtue of which the jurisdiction of the Metropolitan Trial Court was properly laid.

Petitioner Elisa C. Feliciano now insists that the Court of Appeals misinterpreted and misapplied the laws and jurisprudence on *litis pendentia* [4] and on the acquisition or absence of jurisdiction. Specifically, she maintains

that there is identity of rights asserted and reliefs prayed for in both the pending RTC case for annulment and reconveyance with damages, and the MeTC case for ejectment, i.e., ownership and possession of the subject property and that, additionally, a judgment in the pending RTC case, regardless of which party is successful, will amount to *res judicata* in the ejectment case. Consequently, there is *litis pendentia*, and the pending RTC case may be pleaded in abatement of the pending MeTC case for ejectment.

On the question of jurisdiction, petitioner asserts that the allegations in the complaint for ejectment do not show nor imply that there is unlawful withholding of material possession by herein petitioner from respondent. Hence, the complaint is insufficient to vest jurisdiction in the municipal trial court to entertain the ejectment suit.

*Litis pendentia* is a Latin term which literally means “a pending suit.” [5] It is variously referred to in some decisions as *lis pendens* and *auter action pendant*. [6] While it is normally connected with the control which the court has on a property involved in a suit during the continuance proceedings, [7] it is more interposed as a ground for the dismissal of a civil action pending in court. [8]

*Litis pendentia* as a ground for the dismissal of a civil action refers to that situation wherein another action is pending between the same parties for the same cause of actions [9] and that the second action becomes unnecessary and vexatious. Therefore, for *litis pendentia* to be invoked the concurrence of the following requisites is necessary: (a) identity of parties or at least such as represent the same interest in both actions; (b) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and, (c) the identity in the two (2) cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other. [10] Applying the foregoing criteria in the instant case, we agree with the Court of Appeals that *litis pendentia* does not obtain in this case because of the absence of the second and third requisites.

The fact that herein petitioner instituted a prior action for the annulment of the mortgage contract, certificate of sale, deed of absolute sale, reconveyance and damages, is not a valid reason for defeating the action for ejectment. While there may be identity of parties and subject matter in the two (2) actions, the issues involved and the reliefs prayed for are not the same. In the annulment and reconveyance suit, the issue is the validity of the mortgage and the subsequent foreclosure sale, whereas the issue in the ejectment case is whether, assuming the mortgage and foreclosure sale to be valid, private respondent has the right to take possession of the property. In the former case, the relief prayed for is recovery of ownership of the subject land, while the latter, it is the restoration of possession thereof to private respondent. Hence, the Metropolitan Trial Court can validly try the ejectment case even while the annulment suit is being litigated in the Regional Trial Court. [11]

Consequently, there being different causes of action in the RTC and MeTC cases, a decision in one case will not constitute *res judicata* as to the other. Concededly, a decision in one case may, to a certain extent, affect the other case since they involve the same parcel of land. But the test to determine identity of causes of action is to ascertain whether the same evidence which is necessary to sustain the second cause of action is sufficient to authorize a recovery in the first. [12] It is true that some items or pieces of evidence may be admissible in both actions, as for instance, the Deed of Absolute Sale executed by and between the bank and herein respondent Baron. It cannot be said, however, that exactly the same set of evidence presented to sustain the first action for annulment, reconveyance and damages, can likewise defeat the second action for ejectment. [13]

Moreover, well-settled is the rule that the pendency of an action for annulment of sale and reconveyance may not be successfully pleaded in abatement of an action for unlawful detainer or forcible entry. The judgment rendered in an action for forcible entry or detainer shall be effective with respect to the possession only and in no case bind the title or affect the ownership of the land or building. Such judgment 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 a case between the same parties upon the different cause of action involving possession. [14] This rule is not without good reason. If the rule were otherwise, ejectment cases could easily be frustrated by the defendant through the simple expedient of filing an action in the RTC contesting the plaintiff's ownership over the property from which the defendant is sought to be evicted. This would render nugatory the underlying philosophy of the summary remedy of ejectment which is to prevent criminal disorder and breaches of the peace and to discourage those who, believing themselves entitled to the possession of the property, resort to force rather than to some appropriate action in court to assert their claims. [15]

On the alleged insufficiency of the complaint for ejectment, this Court has repeatedly emphasized that in determining the sufficiency of the facts alleged in the complaint, the test is whether admitting the facts alleged, the court can render a valid judgment upon the same in accordance with the prayer of the plaintiff. [16] The subject complaint for ejectment stated, among others, that (a) the plaintiff bought the premises occupied by the defendants as shown by the deed of absolute sale (Annex "A"); and, (b) defendant Elisa C. Feliciano was requested to vacate the premises for lack of lawful possession and non-payment of rentals (Annex "B") but her lawyer informed the plaintiff that she was the owner of the premises. [17] Clearly, these allegations adequately established a cause of action for unlawful detainer on the basis of which the MeTC could render a valid judgment in accordance with the prayer of the plaintiff. As succinctly observed by the Court of Appeals-

As can be gleaned from the complaint itself, it was alleged that defendant Elisa Feliciano was requested to vacate the premises for lack of lawful possession and non-payment of rentals (Annex "A" of complaint, Rollo, p. 8) considering that said premises has been sold to herein petitioner by Philippine Commercial International Bank.

Notwithstanding such allegations, the Regional Trial Court failed to consider the complaint sufficient to constitute a case for unlawful detainer. It is equally settled that in action for unlawful detainer, an allegation that the defendant is unlawfully withholding possession from the plaintiff is deemed sufficient and a complaint for unlawful detainer is sufficient if it alleges that the withholding of possession or the refusal to vacate is unlawful without necessarily employing the terminology of the law. (*Sumulong v. Court of Appeals*, 232 SCRA 372).

Finally, we are not unmindful of the afflictive consequences that will be suffered by petitioner if her ejectment is ordered by the MeTC, only to be reinstated later if she eventually wins the nullification of the mortgage case in the RTC. However, respondent will also suffer an injustice if denied of the remedy of ejectment, resort to which is not only allowed but in fact encouraged by law. Further, the tide of jurisprudence – which declared in no uncertain terms that an action for annulment of sale and reconveyance may proceed independently of an action for unlawful detainer or forcible entry involving the same parties and the same parcel of land – is clearly on the side of the respondent herein.

More importantly, petitioner is not being ejected yet. The Court of Appeals, and now this Court, is simply ordering the MeTC to reinstate the ejectment case and proceed with it. Private respondent Baron has not prevailed yet as he must still prove his right to the possession of the litigated property. By the same token, all is not lost for petitioner as she still has equal chances of winning in both the ejectment and annulment cases. At any rate, questions concerning the propriety of petitioner's ejectment are premature. We refrain from expressing any opinion on the merits of the ejectment case as the same will have to be threshed out in the proper forum after a full consideration of the evidence that will be presented by the parties and the law upon which it may be based. Our decision herein is limited to the reinstitution of the ejectment case which has been improvidently dismissed by the trial court on a flawed basis.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals of 9 October 1995 and its Resolution of 12 December 1995 are AFFIRMED, and the case is REMANDED to the court of origin for further proceedings and proper disposition in light of our pronouncement herein. Costs against petitioner.

**SO ORDERED.**

Davide, Jr. (Chairman), Vitug, Panganiban and Quisumbing, JJ., concur.

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[1] Decision penned by Justice Jose De la Rama, concurred in by Justices Jorge S. Imperial and Eduardo G. Montenegro; see Rollo, pp. 25-31, Annex “A,” Rollo, p. 33, Annex “B.”

[2] Docketed as Civil Case No. Q-37870, “Elisa C. Feliciano and Arsenia C. Buendia v. Insular Bank of Asia and America and the Register of Deeds of Quezon City;” see Rollo, p. 62.

[3] Ernesto Baron was one of the intervenors in Civil Case No. 37870 of the RTC, Quezon City, being the purchaser of the property and claiming a legal right thereto.

[4] Sec. 1, par. (e), Rule 16, Rules of Court.

[5] Black’s Law Dictionary 1081 (4[TH] Ed., 1957).

[6] See Buan v. Lopez, Jr., G.R. No. 75349, 13 October 1986, 145 SCRA 34, 37.

[7] Bouvier’s Law Dictionary & Concise Encyclopedia (8[TH] Ed., 1914), p. 2032.

[8] Sec. 1, par. (e), Rule 16, Rules of Court.

[9] Ibid..

[10] Ramos v. Ebarle, No. L-49833, 15 February 1990, 182 SCRA 245, 249 citing Marapao v. Mendoza, G.R. No. 61468, 8 December 1982, 119 SCRA 97; Lopez v. Villaruel, G.R. No. 54323, 19 August 1988, 164 SCRA 616.

[11] Joven v. Court of Appeals, G.R. No. 80739, 20 August 1992, 212 SCRA 700, 712.

[12] Vda. de Cruz v. Carriaga, Jr., G.R. Nos. 75109-10, 28 June 1989, 174 SCRA 330.

[13] See Mendoza v. Court of Appeals, G.R. No. 81909, 5 September 1991, 201 SCRA 343, 353.

[14] Sy v. Court of Appeals, G.R. No. 95818, 2 August 1991, 200 SCRA 117.

[15] See Drilon v. Gaurana, No. L-35482, 30 April 1987, 149 SCRA 342, 348.

[16] Del Bros Hotel Corporation v. Court of Appeals, G.R. No. 87678, 16 June 1992, 210 SCRA 33, 38.

[17] Rollo, p. 40; Annex “A.”

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