

EDMUNDO BENAVIDEZ, PETITIONER, VS. COURT OF APPEALS AND ARISTON MELENDRES REPRESENTED BY NARCISO M. MELENDRES, JR., RESPONDENTS.

G.R. No. 125848. September 06, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

The Decision of the Court of Appeals[1] in CA-G.R. SP No. 35412 dated 30 April 1996 which reversed that of the Regional Trial Court, Br. 80, Tanay, Rizal, in its Civil Case No. 388-T, as well as the Resolution of the appellate court dated 6 August 1996 denying herein petitioner's motion for reconsideration, is assailed in this petition for review.

On 18 July 1990 private respondent Ariston Melendres, through his nephew and administrator Narciso M. Melendres Jr., filed a complaint before the Municipal Trial Court of Tanay, Rizal, against petitioner Edmundo Benavidez for forcible entry and recovery of damages with prayer for preliminary mandatory injunction and restraining order.[2] On 19 July 1990 the Municipal Trial Court issued a restraining order.

Private respondent alleged in his complaint that for more than fifty (50) years he was the owner and actual possessor, by himself and through his predecessors in interest, of a parcel of land with an area of 1,622 square meters located in Brgy. Plaza Aldea, Tanay, Rizal. He claimed that the subject land was devoted to the planting of palay and worked on and cultivated by agricultural tenants the last of whom was Felino Mendez. Private respondent further alleged that on 29 November 1989 petitioner Benavidez, using force, intimidation, strategy and stealth, entered the property and destroyed the barbed-wire fence, filled the property with soil and other filling materials, and constructed permanent, concrete structures thereon thereby converting its use from agricultural to commercial without the necessary clearance or permit from the Department of Agrarian Reform (DAR).

In his answer, petitioner alleged (a) that private respondent had no cause of action against him because he was the rightful owner of the land by virtue of a deed of sale dated 5 February 1990 executed by Alicia Catambay in his favor; (b) that Tax Declaration No. 597 covering the subject land had been cancelled and a new one already issued to him; and, (c) that the property claimed by private respondent was different from that occupied by him.

It was established in an ocular inspection on 11 October 1990 that the lot where the Petron gasoline station and some new structures were currently situated was the same lot being claimed by private respondent. Felino Mendez and the tenants/farmers[3] of adjoining and adjacent ricelands confirmed this. The inferior court thereafter issued a writ of preliminary injunction.

On 14 January 1994 the Municipal Trial Court declared private respondent Ariston Melendres as the rightful possessor of the land in controversy and ordering petitioner Edmundo Benavidez to remove the improvements introduced on the property and to vacate and restore private respondent to its physical possession. For the use of the land, petitioner was ordered to pay private respondent P3,000.00 per month plus lawful interests from 29 November 1989 until finally vacated. He was further ordered to pay P5,000.00 as attorney's fees and the costs of

the suit.[4]

The Municipal Trial Court considered the admission of petitioner that he proceeded in filling the subject lot with soil and other filling materials and constructed a gasoline station thereon without asking permission from tenant Felino Mendez. The court a quo disregarded the claim of petitioner that he was the owner of the land as ownership of the property was not material in actions for recovery of possession. Moreover, such claim of ownership, even if valid, was belied by the Deed of Sale[5] petitioner presented in court as it was only executed on 5 February 1990 or more than two (2) months after the date of his unlawful entry on 29 November 1989. Certainly, even if petitioner was the lawful owner of the property, he could not resort to force to gain possession thereof as “regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be turned out by strong hand, violence or terror.”[6] The judgment[7] of the Department of Agrarian Reform Adjudicatory Board (DARAB) declaring Felino Mendez as the agricultural tenant of the subject lot and ordering petitioner Benavidez to reinstate Mendez to the possession of the property or in lieu thereof to pay him P61,875.00 as disturbance compensation was considered by the Municipal Trial Court as persuasive proof of possession by private respondent through his agricultural tenant Felino Mendez.

On appeal, the Regional Trial Court reversed the decision of the Municipal Trial Court. It held that the issue involved in the case was not merely physical or de facto possession but one of title to or ownership of the subject property; consequently, the Municipal Trial Court did not acquire jurisdiction over it.

Private respondent appealed the case to the Court of Appeals where the main issue raised was whether the complaint for forcible entry could be decided without resolving the question of ownership of the property. Private respondent maintained that regardless of the property’s ownership, prior possession was already established in his favor. Petitioner, on the other hand, claimed the contrary. The appellate court sustained private respondent. It reversed the decision of the Regional Trial Court and reinstated that of the Municipal Trial Court.

On 25 May 1996 petitioner filed a motion for reconsideration which was denied by the Court of Appeals for lack of merit. Hence, this petition for review on certiorari. Petitioner argues that the allegation in the complaint that the land in question was tilled by an agricultural tenant clearly deprived the Municipal Trial Court of its jurisdiction because under Rule 70, Sec. 1 of the Rules of Court “x x x the provisions of Rule 70 shall not apply to cases covered by the Agricultural Tenancy Act.”

We do not agree. The allegation that an agricultural tenant tilled the land in question does not automatically make the case an agrarian dispute which calls for the application of the Agricultural Tenancy Act and the assumption of jurisdiction by the Department of Agrarian Reform Adjudication Board (DARAB). It is necessary to first establish the existence of a tenancy relationship between the party litigants. The following essential requisites must concur in order to establish a tenancy relationship: (a) the parties are the landowner and the tenant; (b) the subject matter is agricultural land; (c) there is consent; (d) the purpose is agricultural production; (e) there is personal cultivation by the tenant; and (f) there is a sharing of harvests between the parties.[8]

In the instant case, there is no showing that there exists any tenancy relationship between petitioner and private respondent. Thus, the case falls outside the coverage of the Agricultural Tenancy Act; consequently, it is the Municipal Trial Court and not the DARAB which has jurisdiction over the controversy between petitioner and private respondent.

Petitioner also contends that since the issue of ownership is involved and only in resolving it can the issue of possession be finally settled, the Municipal Trial Court did not acquire jurisdiction over the case. He invokes the principle that “an inferior court loses its jurisdiction where the question of ownership is so necessarily involved that it would be impossible to decide the question of bare possession without first settling that of ownership.”[9]

Petitioner's reliance on this rule^[10] is erroneous as this was already modified by B.P. Blg. 129. The Municipal Trial Court now retains jurisdiction over ejectment cases even if the question of possession cannot be resolved without passing upon the issue of ownership provided that such issue of ownership shall be resolved only for the purpose of determining possession.^[11] In other words, the fact that the issues of ownership and possession de facto are intricately interwoven will not cause the dismissal of the ejectment case on jurisdictional grounds.^[12] Thus, the Municipal Trial Court of Tanay, Rizal, retained its jurisdiction over the case.

Petitioner further maintains that the forcible entry case is barred by the DARAB decision dated 4 March 1992. This contention has no merit. Felino Mendez, the plaintiff in the DARAB case, is not a party in the forcible entry case filed before the Municipal Trial Court. His status as private respondent's tenant and his alleged forcible ejectment from the subject property is not an issue raised in the forcible entry case. Instead, the question is the right of private respondent to be restored to the physical possession of the subject property. Thus, we see no reason why the DARAB decision should bar the instant case before us.

Finally, petitioner questions the legal personality of the counsel of private respondent for his failure to inform the court of the death of his client Ariston Melendres on 1 January 1991. He contends that such failure results in the nullity of the decision rendered by the Municipal Trial Court, invoking Rule 3, Sec. 16 of the Rules of Court which provides that:

Section 16. Duty of attorney upon death, incapacity, or incompetency of party. – Whenever a party to a pending case dies, becomes incapacitated or incompetent, it shall be the duty of his attorney to inform the court promptly of such death, incapacity or incompetency, and to give the name and residence of his executor, administrator, guardian or other legal representative x x x x

He further argues that substitution of parties must be made according to Rule 3, Sec. 17 of the Rules of Court. Thus –

Section 17. Death of party. – After a party dies and the claim is not thereby extinguished, the court shall order, upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted x x x x

Otherwise, the continuance by the court with the proceedings amounts to lack of jurisdiction.

The Rules invoked by petitioner have been amended by the present Rules.^[13] Nevertheless, even applying the old Rules, it is well settled that the failure of counsel to comply with his duty under Sec. 16 to inform the court of the death of his client and no substitution of such party is effected, will not invalidate the proceedings and the judgment thereon if the action survives the death of such party.^[14] Moreover, the decision rendered shall bind his successor in interest.^[15] The instant action for forcible entry, like any action for recovery of real property, is a real action and as such survives the death of Ariston Melendres. Thus, the decision rendered by the inferior court is conclusive between the parties and their successors in interest by title subsequent to the commencement of the action despite failure of private respondent's counsel to inform the court of his client's death and the consequent failure of the court to effectuate a substitution of heirs before its rendition of judgment. At any rate, a contrary rule would nonetheless make petitioner unsuccessful as the records show that the Municipal Trial Court was duly notified of Ariston Melendres' death.^[16]

WHEREFORE, the petition is DENIED and the Decision of the Court of Appeals dated 30 April 1996 and its Resolution dated 6 August 1996 in CA - G.R. SP No. 35412 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Decision penned by Associate Justice Eubulo G. Verzola, concurred in by Associate Justices Jesus M. Elbinias and B. A. Adefuin-Dela Cruz (Special Twelfth Division).

[2] Complaint, 18 June 1990, pp. 1-5; Rollo, pp. 31-35.

[3] Arturo Catambay and Florentino Bernal.

[4] Decision penned by Acting Judge Ricardo P. Angeles; Rollo, pp. 36-43.

[5] CA Records, pp. 63-64.

[6] Citing *Drilon v. Gaurana*, No. L-35482, 30 April 1987, 149 SCRA 342.

[7] Decision penned by Provincial Adjudicator Fe Arche-Manalang; Rollo, pp. 69-79.

[8] *Morta v. Occidental*, G.R. No. 123417, 10 June 1999, citing *Chico v. Court of Appeals*, G.R. No. 122704, 5 January 1998, 284 SCRA 33; *Isidro v. Court of Appeals*, G.R. No. 105586, 15 December 1993, 228 SCRA 503.

[9] Citing 3 *Moran* 198, pp. 320-321.

[10] Sec. 39, par. (c), RA 5967.

[11] Sec. 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in civil cases. - Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

x x x x

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

[12] *Torres v. Court of Appeals*, G.R. No. 111676, 4 March 1999, citing *Refugia v. Court of Appeals*, G.R. No. 118284, 5 July 1996, 258 SCRA 347.

[13] The 1997 Rules of Civil Procedure.

[14] *Florendo, Jr. v. Coloma*, G.R. No. 60544, 19 May 1984, 129 SCRA 304.

[15] *Ibid.*

[16] Rollo, p. 122.

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