

ALFREDO PAZ, PETITIONER, VS. ROSARIO G. REYES, RESPONDENT.*G.R. No. 127439. March 09, 2000*

Ponente: KAPUNAN, J.

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Claiming to be the absolute owner of a 493-square meter piece of real estate located at No. 525-G, Remedios St., Malate, Manila, respondent Rosario Reyes filed before the Metropolitan Trial Court (MeTC) of Manila an action for unlawful detainer against herein petitioner Alfredo Paz, an occupant of a building situated on the property. Respondent claimed that she inherited the subject property from her late husband Lorenzo Reyes, and that she is her husband's sole heir. The property is covered by Transfer Certificate of Title (TCT) No. 59215 registered in the deceased husband's name.

Petitioner, in his defense, denied that respondent is the owner of the property. He alleged that the same is owned by a certain Dr. Conrado M. Mendoza who purchased the property, including the improvements thereon, from Lorenzo Reyes while the latter was still single. As proof of this claim, petitioner presented an Affidavit[1] executed by Dr. Mendoza as well as a notarized Absolute Deed of Sale[2] dated September 13, 1987 between Dr. Mendoza and Lorenzo Reyes covering the subject property which was executed on September 13, 1987. On the same date, a Memorandum Agreement, also notarized,[3] was executed between the parties whereby Dr. Mendoza as the new owner of the property, allowed Lorenzo Reyes to stay in the residential building for five (5) years for free. Dr. Mendoza, however, has not registered the property in his name since the capital gains tax on the sale had not yet been paid. Petitioner admitted that his occupation of the premises was by mere tolerance of Dr. Mendoza. On the other hand, respondent admitted at the hearing before the MeTC that she and Lorenzo Reyes got married only in March 1992, although they had been live-in partners since 1987.[4]

On October 3, 1994, the MeTC rendered a decision dismissing the complaint and ordering respondent to pay petitioner P5,000.00 as attorney's fees and the costs of suit. Upon appeal by respondent, the Regional Trial Court of Manila affirmed the decision of the MeTC in toto.

Undaunted, respondent filed a petition for review in the Court of Appeals where she obtained a favorable judgment. The Court of Appeals held:

xxx that in ejectment cases, the only issue to be resolved is physical or material possession of the premises, i.e., possession de facto, not possession de jure, independent of any claim of ownership which either party may set forth in their pleadings (*Buazon vs. Court of Appeals*, 220 SCRA 182; *De Luna vs. Court of Appeals*, 221 SCRA 276; *University Physicians Services, Inc. vs. Court of Appeals*, 233 SCRA 86; *Somodio vs. Court of Appeals*, 235 SCRA 307). Thus, 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 (*Joven vs. Court of Appeals*, 212 SCRA 700; *Garcia vs. Court of Appeals*, 220 SCRA 264; *Asset Privatization Trust vs. Court of Appeals*, 229 SCRA 627). More so in the case at bench where the defendant (private respondent) did not even claim ownership over the subject realty. With the evidence presented by the plaintiff/petitioner (Annexes "A" to "F" (of her pre-trial brief) and some of the defendant's (private respondent's) annexes to his pre-trial brief (Exhibits "1", "4-A". and "5") – coupled by the judicial admission by the latter (in his answer) that his

possession of the subject building has been "with full consent and permission of the lawful owner since 1951" (impliedly referring to plaintiff/petitioner's deceased husband) and that he has been staying within the premises "upon the tolerance of the owner" (p. 17, TSN of February 28, 1995, -- the former's (plaintiff/petitioner's) anchorage for ownership over the disputed property became *lucrum glarius*, the same not having been formally disputed by others. As correctly claimed by the plaintiff (petitioner), her transfer Certificate of Title No. 59215 should prevail (at least momentarily) over the documents presented by the defendant (private respondent). On this score, it has been ruled that a certificate of title is conclusive evidence not only of ownership of the land referred to but also its location (*Odsigue vs. Court of Appeals*, 233 SCRA 626). Thus, as charged by the petitioner, the trial court erred when it extensively tackled the question/issue of ownership, the alleged vendee and mortgagee of the subject realty not having appeared in court to dispute plaintiff's (petitioner's) title to the subject property. Such error was magnified when the trial court's decision was affirmed by the respondent court. Consequently, considering plaintiff's (petitioner's) undisputed demands upon the defendant (private respondent) to vacate the subject premises, the latter has become a deforciant illegally occupying the same.[5]

Petitioner is now before this Court seeking the reversal of the decision of the Court of Appeals.

We grant the petition.

It is true that, as the Court of Appeals pointed out, the only issue in ejectment cases is the physical possession of the premises, independent of any claim of ownership by the parties. This must be so because the issue of ownership cannot be definitively decided in an ejectment case where the Metropolitan, Municipal and Circuit Trial Courts have no jurisdictions.[6] For this reason, allegations of ownership are not required in ejectment suits as the only issue is physical possession. If this were not the rule, the defendant through the simple ruse of claiming title to the property, no matter how unfounded or ridiculous could challenge the jurisdiction of the trial court and delay the disposition of a summary proceeding. This rule, however, does not preclude the ejectment court from inquiring into the issue of ownership when the same is intertwined with the question of possession.[7] Indeed, *Batas Pambansa Blg. 129*, as amended, grants inferior courts jurisdiction to determine ownership questions, albeit provisionally:

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:

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(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.

Section 16, Rule 70 of the Rules of Court as amended, similarly provides:

Sec. 16.- Resolving defense of ownership.-When the defendant raises the defense 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.

The above provisions contemplate that (1) the defendant resists his ejectment from the disputed premises not only by claiming a right of physical possession thereover but also ownership thereof; and (2) the question of possession can be resolved only by deciding the issue of ownership.[8]

In the case at bar, respondent's cause of action for ejectment is grounded solely on her alleged ownership of the

subject property. Petitioner, however, has disputed respondent's ownership, alleging in turn the ownership of another. The issue of ownership was squarely raised before the MeTC and it was necessary that the MeTC address such issue in the resolution of the question of possession.

The MeTC correctly received evidence on ownership since the question of possession could not be resolved without deciding the issue of ownership. Said court found ample evidence that respondent's late husband had transferred title to the property long before their marriage to Dr. Mendoza as evidenced principally by a deed of sale and a memorandum agreement mentioned earlier, which were not successfully refuted by respondent. While the transfer was not registered, the explanation was proffered that the omission was due to the inability to pay the capital gains tax on the sale.

In sum, the MeTC did not err in adjudicating provisionally that the ownership of the subject premises pertained to Dr. Mendoza, from whom petitioner claims to have derived his right of possession albeit by tolerance. Consequently, the dismissal of the complaint by the MeTC was not flawed by any infirmity.

WHEREFORE, the Court resolves to REVERSE the decision of the Court of Appeals. The decision of the Regional Trial Court of Manila affirming that of the Metropolitan Trial Court of Manila is REINSTATED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Ynares-Santiago, JJ., concur.

Pardo, J., on official business abroad.

[1] Exhibit "7"; Records, p. 87.

[2] Exhibit "4"; Records, pp. 61-62.

[3] Exhibit "3"; Records, p. 60.

[4] TSN, February 28, 1995, pp. 126-127.

[5] Rollo, pp. 36-37.

[6] I F. REGALADO, REMEDIAL LAW COMPENDIUM 787 (6th ed., 1997).

[7] *Silvina Torres Vda. De Cruz vs. Court of Appeals and Priscilla Cruz-Gatchalian*, G.R. No. 111676, March 4, 1999; See also *Ernesto R. Cruz, Lucia Nicio and Guillermo Coquilla vs. Court of Appeals and Spouses Jose and Miguela Lomotan*, G.R. No. 134090, July 2, 1999; *Go vs. Court of Appeals*, 297 SCRA 574 (1998); *Del Mundo vs. Court of Appeals*, 252 SCRA 432 (1996); *Munar vs. Court of Appeals*, 238 SCRA 372 (1994).

[8] REMEDIAL LAW COMPENDIUM by Regalado, Vol. I, pp. 786-787 (6th ed., 1997).

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