

**DEMETRIO CARPENA, ET AL., PLAINTIFFS AND APPELLANTS, VS.
LUCIANO MANALO, ET AL., DEFENDANTS AND APPELLEES.***G.R. No. 13143. April 26, 1961*

Ponente: DIZON, J.

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Beatriz Manalo and her common-law-husband, Luciano Manalo, were co-owners of Lot 74 of the Calamba-Cadastre covered by Transfer Certificate of Title No. 16833. On November 5, 1947 Beatriz sold her one-half interest therein (Exhibit B) to the spouses Demetrio Carpena and Salud Catindig for the sum of P5,000.00. To keep the transaction from Luciano, the sale was made in the neighboring town of Sta. Rosa, Laguna, and the parties agreed that Beatriz would remain in possession of the property but with the obligation of paying the land taxes due thereon. On May 22, 1948 Beatriz and Luciano were married, but she died three months thereafter.

On August 30, 1948 the deed of sale was registered and, as a result, TCT No. 16833 was cancelled and TCT No. 2004 was issued in the name of the Carpena spouses for the portion purchased by them, which was identified as Lot No. 74-B of sub-division plan Psd-23230. Upon the death of their vendor, the Carpenas notified Luciano of the sale and besides demanded of him the possession of Lot 74-B, but the latter, instead of acquiescing thereto, filed an action against them to annul the sale made in their favor by Beatriz and to have himself declared owner of the property subject matter thereof (Civil Case No. 9194). Defendant's answer in said case alleged, as defense, that the sale in their favor was valid and that by virtue of the same they became owners of the property subject matter thereof. Consequently, they prayed for the dismissal of the case and for damages. The case was dismissed by the lower court after a trial on the merits and on appeal, the Court of Appeals affirmed the dismissal.

It appears that in 1945 a barong-barong was erected on Lot 74-B by a tenant occupying the same. Two years thereafter the building was sold to Beatriz Manalo for P200.00, and thereafter said improvement, with an assessed value of P150.00, was declared in her name for taxation purposes. After her death, Luciano Manalo and their children continued to occupy said house, making considerable improvements thereon in the years 1952 and 1953, but in December 1954 Luciano Manalo sold it to Pelagia Cailles Vda. de Unson and Beronica Capareda who began occupying the same on April 2, 1955.

The present action was commenced on April 11, 1955 in the Court of First Instance of Laguna by the Carpena spouses against Luciano Manalo, Pelagia Cailles Vda. de Unson and Beronica Capareda to recover the possession of Lot 74-B and the house erected thereon as well as reasonable rental for its use and occupancy from August 1, 1948. Appellees herein alleged in their answer that the sale executed by Beatriz Manalo in favor of appellants covered only Lot 74-B and not the house erected thereon.

While the case was pending in the lower court, or more specifically on April 17, 1955, appellees, without the consent of appellants, moved the house in question to the adjoining lot, which compelled the latter to file a supplemental complaint to recover from the former the sum of P2,500.00 representing the value of the house, plus

attorney's fees.

As appellees had already vacated Lot 74-B, the lower court, after trial on the merits, rendered judgment declaring appellants the owners of the house in question and sentencing appellees to pay appellants the sum of P1,000.00 representing the fair market value thereof. Appellants' claim for damages for the use and occupancy of the premises was, however, dismissed for not having been set up in Civil Case No. 9194, the same being a compulsory counterclaim. The present is their appeal from this portion of the decision of the lower court.

As stated above, the purpose of the action filed by Luciano Manalo (Civil Case No. 9194 of the Court of First Instance of Laguna) was to annul the sale made by his wife, Beatriz Manalo, in favor of the Carpena spouses and to recover ownership of the property subject matter thereof. The rents which appellants now seek to collect from the appellees were for the occupancy of said property and of the house constructed thereon. Had the sale been annulled, it would have meant that the Carpenas, appellants herein, had no right to collect rents from the occupants of the lot and of the house aforesaid, while if the court sustained the validity of the sale, they would have had such right. It is thus obvious that the claim which they seek to enforce now was, to say the least, a matter necessarily connected with the transaction or occurrence subject matter of the complaint filed against them in Civil Case No. 9194. It follows that the same constituted a compulsory counterclaim which they should have pleaded in their answer filed in the aforesaid case.

In *Berses vs. Villanueva*, 25 Phil., 473, it was held that in action for the recovery of a parcel of land, the defendant must set up a counterclaim for the value of improvements made or introduced by him on the property, otherwise his claim would be barred. That this ruling applies to the present case can not be disputed because the only difference between both cases is that in the one before us the counterclaim is for rents for the occupancy of the land sought to be recovered and of the house constructed thereon, instead of being—as in the *Berses* case—for the recovery of the value of improvements made on the property.

Appellants, however, argue that even assuming that their claim constituted a mandatory counterclaim in relation to Civil Case No. 9194, still they could not have pleaded it as such in said case because it was not within the jurisdiction of the Court of First Instance of Laguna where the case was pending. In this connection they contend that their counterclaim against Luciano Manalo and his co-plaintiffs would have been for unlawful detainer and the collection of one month rent only, because when the action was commenced Manalo had been in possession of the lot and house involved therein only for one month. This is not entirely correct. The record on appeal filed by Manalo in the aforesaid case shows that the defendants (appellants herein) filed an answer in which they alleged that they were "the true and lawful owners of the parcel of land" subject matter of the action by virtue of the deed of sale executed in their favor by Beatriz Manalo, upon the registration of which a transfer certificate of title was issued in their name. Their answer also interposed a counterclaim in which they incorporated all the allegations made in their answer and further alleged that the plaintiffs had filed the action against them maliciously, thus causing them damage in the sum of P2,000.00. Said answer prayed not only for the dismissal of the complaint but also for judgment "declaring said defendants as true and lawful owners of the property in question" (Exhibit C, pp. 18-23). It is obvious therefore that, for all legal purposes, appellants had, by way of counter claim, filed an acción reivindicatoria which, of course, necessarily included the question of possession. This notwithstanding, they failed to claim rents or compensation for the use and occupancy of the lot and house subject matter of the complaint filed against them. The right to collect these rents or reasonable compensation being merely incidental to the counterclaim, it seems clear that the fact that the amount thereof was less than the jurisdictional amount for the Court of First Instance of Laguna did not deprive, said court of authority to take cognizance of the same.

Lastly, appellants contend that there was absolutely no mutuality of claims because the plaintiffs in Civil Case No. 9194 were Luciano Manalo and the heirs of his deceased wife, whereas the claim for rents in the present case

is directed, jointly and severally, against Luciano Manalo, Pelagia Cailles Vda. de Unson and Beronica Capareda. This is likewise untenable because a party may not evade the effect of the doctrine of res judicata by simply including additional parties in the subsequent litigation or by not including as parties in the latter persons who were parties in the previous suit.

In view of the foregoing, the decision appealed from is affirmed, with costs.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Paredes, JJ., concur.

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