SPOUSES WILLIAM AND JANE JEAN DIU, PETITIONERS, VS. DOMLNADOR IBAJAN, DEMETRIA IBAJAN, NELSON C. SY, VICENTE REALINO II AND ROMEO R. ALVERO, RESPONDENTS.

G.R. No. 132657. January 19, 2000

Ponente: VITUG, J.

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VITUG, J.:

Assailed in a petition for review on certiorari in this instance is an order, dated 17 December 1997, issued by Acting Executive Judge Briccio T. Aguilos, Jr., of the Regional Trial Court ("RTC") of Naval, Biliran, Branch 16, in Civil Case No. B-0984, dismissing a forcible entry case on appeal to it from the Municipal Trial Court upon the thesis that the latter court is bereft of jurisdiction since an issue of ownership has been raised in the ejectment suit.

On 12 July 1996, the spouses Carmelito Ibajan and Finna Josep-Ibajan, joined by Dominador and Demetria Ibajan, filed against William Diu and the Register of Deeds of Naval, Biliran, an action for the annulment of certain deeds of sale with a prayer for a writ of preliminary injunction. The case, docketed Civil Case No. B-0952, was raffled to Branch 16 of the RTC of Naval, Biliran. Carmelito Ibajan and Finna Josep-Ibajan claimed to be the owners of the parcel of land covered by TCT No. 21540 while Dominador and Demetria Ibajan, upon the other hand, asserted to be the owners of the building, partly commercial and partly residential, erected thereon. The plaintiffs averred that defendant Diu had caused Carmelito Ibajan to sign a document, supposed to be a deed of real estate mortgage covering the aforesaid lot but which turned out to be a deed of absolute sale. Diu, it was also alleged, had caused the execution of a deed of absolute sale over the residential and commercial building by forging the signature of Dominador Ibajan.

Shortly following the filing of Civil Case No. B-0952, William and Jean Jane Diu commenced, in a complaint dated 22 July 1996, an action for forcible entry with damages before the Municipal Trial Court of Naval, Biliran, docketed Civil Case No. 460, against Dominador Ibajan, Demetria Ibajan, Nelson C. Sy, Vicente Realino II and Romeo Alvero. The plaintiffs in the ejectment suit alleged that the spouses Ibajan, aided by the other defendants who falsely represented themselves to be agents of the National Bureau of Investigation, unlawfully entered his property (the parcel of land involved in Civil Case No. B-0952), took possession thereof and ejected their employees therefrom. In a decision, dated 08 January 1997, Judge Aniceto A. Lirios, to whom Civil Case No. 460 was assigned, held:

> "WHEREFORE, premises considered, the Court finds a preponderance of evidence in favor of plaintiffs and against the defendants and hereby orders said defendants:
>
> "a) To vacate the premises in question and surrender the possession thereof to plaintiffs;
>
> "b) To pay plaintiffs, jointly and severally the following amounts:
>
> "1. P5,000.00 - actual expenses for the repair and renovation of the damaged portion of the building;
>
> "2. P5,000.00 - reasonable rental value of the premises in question per month from the filing of the complaint

until the subject property is returned to plaintiffs;

"3. P10,000.00 - for attorneys fees and litigation expenses.

"c) To pay the costs of the suit.

"SO ORDERED."[1]

In an order, dated 06 February 1997, Judge Lirios then caused the elevation of the records of the case to the RTC of Naval, Biliran, Branch 16.

In his "Order and Resolution," dated 31 October 1997, Judge Aguilos directed the consolidation of Civil Case No. B-0952 and Civil Case No. B-0984 (the new docket number of Civil Case No. 460 on appeal). He ruled:

> "WHEREFORE, premises considered, this Court hereby 'modifies' the decision and judgment of the Municipal Trial Court of Naval, Biliran, Civil Case No. 984 (MTC CC No. 460) for 'Forcible Entry with Damages,' and presently on 'Appeal' with this Court, and hereby adjudges, declares and deems aforesaid Civil Case No. 984, for 'Forcible Entry with Damages,' appealed to this Court by Defendants Dominador Ibajan, Demetria Ibajan, Nelson C. Sy, Vicente Realino II, and Romeo R. Alvero versus Plaintiff-Spouses William Diu and Jane Jean Diu, thereby, and thereafter, lawfully joined, consolidated, intercalated, and declared, and adjudicated as one (1) sole, single civil action for purposes of its eventual decision, resolution, and disposal, after a full blown hearing with Plaintiff-Appellees and Defendants-Appellants presenting and offering their respective evidences for the Court's final consideration, decision and/or resolution.
>
> "Similarly, this Court, hereby orders the approval of Plaintiff's Second Amended Complaint, as formally filed and received by this Court on October 15, 1997, and thereby herein made, and included as part of the Records/Expediente in both cases, more particularly Civil Case No. B-0952, for 'Annulment of Deeds of Sale with Prayer for a Writ of Preliminary Injunction,' for this Court's eventual decision, resolution and disposal."[2]

Both parties in Civil Case No. B-0984 moved for the reconsideration of the "Order and Resolution." On 17 December 1997, Judge Aguilos issued another order dismissing Civil Case No. B-0984, thus:

> "The Court finds merit in both motions for reconsideration. This Court acting as an appellate Court in the Forcible Entry Case No. B-0984 is precluded by law to try anew the appealed case. Section 22 of BP Blg. 129 provides.
>
> "'Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by the Metropolitan Trial Courts and the Municipal Trial Courts and the Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may submitted by the parties or required by the Regional Trial Courts.'
>
> "This is the same provision under Section 18 of the 1997 Rules of Civil Procedure which took effect on July 1, 1997. The ruling in del Rosario vs. Court of Appeals (241 SCRA 519) is to the same effect:
>
> "'The law did not intend that respondent appellate Court should conduct another trial of the ejectment case appealed to it.'
>
> "Of necessity this Court therefore had to meticulously peruse the entire record of this case. It noted that both plaintiffs and defendants in their verification and certification on forum shopping did allege that there is no pending similar action pending in any other court or agency of the government. This of course is not true in the case of the Spouses Diu for said spouses are the defendants in Civil Case No. B-0952 for Annulment of Deeds of Sale presided by the undersigned, and therefore, not only taken judicial notice of the matter. In fact it is clearly stated in its questioned order that this annulment case was filed much earlier, on June 11, 1996, while

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the Forcible Entry Case was filed much later, on February 10, 1997 in the Municipal Trial Court of Naval, Biliran. Both cases raise the issue of possession and ownership. It is of course fundamental that the issue of the possession in Forcible Entry is only de facto, unlike that in ownership cases which is de jure. Nonetheless the law allows the MTC to resolve the issue of ownership.

"RA 7691 Section (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.'

"In the present case, this is quite improbable, as the issues of ownership and possession are Intertwined and inseperably linked. In that case of 'De Luzuriaga Jr. vs. Adila, the Supreme Court sustained the order of the Court of First Instance enjoining the Municipal Trial Court from continuing a Forcible Entry Case where there was another case for 'Quieting of Title.' Chief Justice Teehankee concurred and adhered to the view that the Court of First Instance had equal if not superior jurisdiction to resolve identical issues as to who was entitled to possession and to issue a preliminary mandatory injunction if a strong right is established.

"'Moreover the Regional Trial Courts have the exclusive jurisdiction to resolve with finality intertwined and overriding issues of ownership and the case should be dismissed unless there is no serious issue of ownership. Thus with the action to quiet title, there is no more reason for continued existence of the summary

"Similarly in the present case, Civil Case No. B-0952 filed eight (8) months earlier that the Forcible Entry Case B-0984, is still pending. The parties should have brought this fact to the attention of the Municipal Trial Judge to obviate or preclude the possibility of making two (2) courts decide on the same issues. That is exactly the very situation that is obtaining now. This Court is saddled with two (2) cases involving ownership and possession. The same documents are relied upon by both parties in the two (2) cases; the same source of their alleged rights and interests.

"The subject property in this case is Lot No. 84 of the Naval Cadastre covered by Tax Decl. 00581 and the house standing thereon covered by Tax Decl. 00583, Annex 'A' and 'B' respectively, in the name of plaintiff William Diu. Defendant spouses Dominador Ibajan and Demetria Ibajan claimed to have bought the same Lot 84 of the Naval Cadastre which they caused to be registered in the name of their son Carmelito Ibajan and wife Finna G. Josep under TCT T - 21540, Annex 'A'. Thereafter they constructed a 2-storey building in the name of Dominador Ibajan under a property Field Appraisal, Annex 'B', and Tax Decl. No. 5365-annex 'C', both in the name of Dominador Ibajan and which they occupied and possessed since 1985.

"A series of events and transactions transpired over the land and the building thereon involving millions. The undersigned as Presiding Judge of Regional Trial Court Branch 16, recalls the petition for the issuance of a second owner's copy of the transfer certificate of title to the land in question pursued by the plaintiff-appellee William Diu by virtue of a power of attorney from Carmelito Ibajan. All these transactions are now the subject of the annulment case pending before this Court which can decide the issue of possession only after the trial involving the issue of ownership. Until then this court is thus hard put to say who was or who is entitled to possession for which reason this Court correspondingly orders the DISMISSAL of this appealed Forcible Entry Case, leaving only the Annulment of Deeds of Sale Case, still pending for the final determination of the primary issues of possession and ownership."

"SO ORDERED."[3]

The Order, aforestated, led to the filing with this Court of a petition for review on certiorari by the spouses Diu, contending that -

"I

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"THE DISMISSAL OF CIVIL CASE NO. B-0984 FOR FORCIBLE ENTRY ON APPEAL BY THE REGIONAL TRIAL COURT IS NOT IN ACCORD WITH BUT A DRASTIC DEVIATION FROM THE LAW AND WELL-KNOWN RULES AS WELL AS THE APPLICABLE DECISIONS OF THIS HONORABLE COURT.

"II

"THE REGIONAL TRIAL COURT ERRED IN IT'S APPLICATION OF THE RULE AGAINST FORUM SHOPPING."[4]

There is merit in the petition.

It has repeatedly been held that in ejectment cases, the sole question for resolution is the physical or material possession (possession de facto) of the property in question and neither a claim of juridical possession (possession de jure) nor an averment of ownership[5] by the defendant can outrightly deprive the court from taking due cognizance of the case. Ejectment cases proceed independently of any claim of ownership, and the plaintiff merely needs to prove prior possession de facto and an undue deprivation thereof.[6] The pendency of an action questioning the ownership of property will not divest the city or municipal trial court of its jurisdiction over the ejectment case[7] and neither will it bar the execution of a judgment thereon.[8] In Dizon vs. Court of Appeals[9] where the RTC acting as an appellate court in an ejectment case made a definite ruling on the issue of ownership, this Court elaborated:

"x x x. Well-settled is the rule that in an ejectment suit, the only issue is possession de facto or physical or material possession (Del Rosario v. CA, 311 Phil. 589; Mediran v. Villanueva, 37 Phil. 752; Somodio v. CA, 235 SCRA 307;. De Luna v. CA, 212 SCRA 276.) and not possession de jure. (Oblea v. CA, 313 Phil. 804; Joven v. CA, 212 SCRA 700; Javier v. Veridiano II, 237 SCRA 565.) So that, even if the question of ownership is raised in the pleadings, as in this case, the court may pass upon such issue but only to determine the question of possession (Sec. 33(2), B.P. 129 as amended by RA 7691 provides that 'Metropolitan Trial Courts shall exercise: 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 ownership shall be resolved only to determine the issue of possession.' Paragraph 10 of the Interim Rules likewise provides that 'Metropolitan Trial Courts, x x x without distinction, may try cases of forcible entry and detainer even if the question of ownership is raised in the pleadings and the question of possession could not be resolved without deciding the issue of ownership, but the question of ownership shall be resolved only to determine the issue of possession.) especially if the former is inseparably linked with the latter. (Guzman v. CA, 177 SCRA 604; Munar v. CA, 238 SCRA 372; De Luna v. CA, supra.) It cannot dispose with finality the issue of ownership - such issue being inutile in an ejectment suit except to throw light on the question of possession. (Manuel v. CA, 199 SCRA 603.) This is why the issue of ownership or title is generally immaterial and foreign to an ejectment suit. (Fige v. CA, 233 SCRA 586; Manuel v. CA, supra; See also German Management and Services, Inc. v. CA, 177 SCRA 495.)

"Detainer, being a mere quieting process, questions raised on real property are incidentally discussed. (Peñalosa v. Tuason, 22 Phil. 303.) In fact, any evidence of ownership is expressly banned by Sec. 4 of Rule 70 (Sec. 4, Rule 70 provides: 'Evidence of title, when admissible. - Evidence of title to the land or building may be received solely for the purpose of determining the character and extent of possession and damages for detention.') except to resolve the question of possession. (Tiu v. CA, 37 SCRA 99; Calupitan v. Aglahi, 65 Phil. 575; Pitargue v. Sorilla, 92 Phil. 5.) Thus, all that the court may do, is to make an initial determination of who is the owner of the property so that it can resolve who is entitled to its possession absent other evidence to resolve the latter. But such determination of ownership is not clothed with finality. Neither will it affect ownership of the property nor constitute a binding and conclusive adjudication on the merits with respect to the

> issue of ownership. (See Sec. 7, Rule 70 which states that 'The Judgment rendered in an action for forcible entry or detainer shall be effective with respect to the possession only and in no wise 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 a different cause of action not involving possession.' Sps. Medina and Bernal v. Valdellon, 63 SCRA 278; Manlapaz v. CA, 191 SCRA 795; Javier v. Veridiano II, supra.) It cannot bar a later action to settle ownership. (Asset Privatization Trust v. CA, 229 SCRA 627; Javier v. Veridiano, supra; Peñalosa v. Tuason, supra; Dela Cruz v. CA, 133 SCRA 520; Drilon v. Gaurana, 149 SCRA 342; Section 7, rule 70.) Consequently, although it was proper for the RTC, on appeal in this ejectment suit, to delve on the issue of ownership and received evidence on possession de jure, (Pitargue v. Sorilla, supra; Consing v. Jamandre, 64 SCRA 1; Dela Santa v. CA, 140 SCRA 44.) it cannot adjudicate with semblance of."[10]

Verily, the RTC erred in dismissing the forcible entry case on appeal on the ground that it can only decide the issue of possession after the issue of ownership would have been resolved elsewhere.

The Court likewise agrees with petitioners that the RTC erred in its appreciation of forum shopping. The Court has said that there is forum-shopping "when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another"[11] or when he repetitively avails himself of "several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by, some other court."[12] In the case at bar, the two cases, one for the annulment of deeds of sale and the other for ejectment although concerning the same property, are distinct litigations, neither involving exactly the same parties nor identical issues.

WHEREFORE, the petition is GRANTED and the Order, dated 17 December 1997, dismissing Civil Case No. B-0984 is REVERSED and SET ASIDE. The RTC of Naval, Biliran, Branch 16, is directed to proceed with the determination of the appeal on its merits. No special pronouncement on costs.

SO ORDERED.

Melo, (Chairman), Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Rollo, pp. 116-117.

[2] Rollo, p. 133.

[3] Rollo, pp. 139-141.

[4] Rollo, p. 18.

[5] Cagayan de Oro City Landless Residents Association, Inc. vs. Court of Appeals, 254 SCRA 220.

[6] Gachon vs. Devera, Jr., 274 SCRA 540.

[7] Oblea vs. Court of Appeals, 244 SCRA 101.

[8] San Pedro vs. Court of Appeals, 235 SCRA 145.

[9] 264 SCRA 391.

[10] At pp. 394-396.

[11] Villanueva vs. Adre, 172 SCRA 876.

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[12] Gatmaytan vs. Court of Appeals, 267 SCRA 487, p. 500.

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