

ESTATE OF SOLEDAD MANANTAN, HEREIN REPRESENTED BY GILBERT MANANTAN, PETITIONER, VS. ANICETO SOMERA, RESPONDENT.

G.R. No. 145867. April 07, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition[1] for Review on Certiorari under Rule 45 of the Rules of Court seeking to reverse the Decision[2] dated 10 May 2000 and Resolution[3] dated 18 October 2000 of the Court of Appeals in CA-G.R. SP No. 55891.

The facts gathered from the records are as follows:

On 10 March 1998, Soledad Manantan filed with the Municipal Trial Court in Cities (MTCC), Baguio City, Branch 1, a Complaint for ejectment and damages against respondent Aniceto Somera and a certain Presentacion Tavera (Tavera),[4] docketed as Civil Case No. 10467.

Manantan alleged in her Complaint that she was the owner of a 214- square meter parcel of land located in Fairview Subdivision, Baguio City (subject property), as evidenced by Transfer Certificate of Title No. 54672, issued in her name by the Registry of Deeds of Baguio City. After causing a relocation survey of the subject property, she discovered that respondent and Tavera occupied certain portions thereof [disputed portions]. Manantan advised respondent and Tavera to vacate the disputed portions as soon as she would decide to sell the subject property to an interested buyer. Later, a prospective buyer approached Manantan about the subject property. However, upon learning that respondent and Tavera occupied some portions of the subject property, the prospective buyer decided not to proceed with the sale until after respondent and Tavera vacated the same. Manantan repeatedly requested respondent and Tavera to abandon the disputed portions of the subject property, but the two refused. Hence, Manantan hired the services of a lawyer who immediately sent a formal letter of demand to respondent and Tavera requesting them to leave the disputed portions. Respondent and Tavera, however, ignored the demand letter. Manantan submitted the matter before the barangay justice system of Fairview Subdivision, Baguio City, but the parties failed to reach a settlement. Upon issuance by the barangay secretary of a Certificate to File Action, Manantan instituted Civil Case No. 10467.

In her Complaint in Civil Case No. 10467, Manantan prayed that respondent, Tavera, and all persons claiming rights under them, be ordered to vacate the portions of the subject property they were occupying; that respondent and Tavera be directed to pay her P600.00 and P400.00, respectively, every month, as reasonable compensation for the use and occupation of the disputed portions of the subject property, computed from the filing of the Complaint until possession of the said portions has been restored to her; that respondent and Tavera be instructed to pay her P30,000.00 as actual damages, P20,000.00 as attorney's fees, litigation expenses, and costs of suit.[5]

Respondent and Tavera filed a Joint Answer to Manantan's Complaint in Civil Case No. 10467. In their Joint Answer, respondent and Tavera averred that the MTCC had no jurisdiction over Civil Case No. 10467, because it

was neither an action for forcible entry nor for unlawful detainer. The Complaint did not allege that Manantan was deprived of possession of the disputed portions by force, intimidation, threat, strategy, or stealth, which would make a case for forcible entry. It also did not state that respondent and Tavera withheld possession of the disputed portions from Manantan after expiration or termination of the right to hold possession of the same by virtue of an express or implied contract, which would build a case for unlawful detainer. Respondent and Tavera argued that even if there was dispossession, it was evident from the face of the Complaint that it was not committed through any of the means enumerated under Rule 70 of the Rules of Court and, thus, forcible entry or unlawful detainer could not be the proper remedy for Manantan.[6]

Respondent claimed in the Joint Answer that he and his family had been using one of the disputed portions of the subject property as driveway since the latter part of 1970. The said portion was the only means by which he and his family could gain access to their residence. He even caused the improvement and cementing of the same a long time ago. Tavera also explained in the Joint Answer that she had been utilizing the other disputed portion of the subject property as an access road to her residence. Her tenement, which consisted of concrete and permanent structures, bore witness to the fact that her occupancy of the portion in dispute was continuous and uninterrupted.[7]

Respondent and Tavera additionally asseverated in their Joint Answer that it would be unjust to prohibit them from using the disputed portions which serve as their only means of ingress or egress to or from their respective residences from or to the main road. Their use of said portions had been recognized by the Bayot family, Manantan's predecessors-in-interest. It was only in 1997, after Manantan bought the subject property from the Bayot family, that Manantan started to claim ownership even of the portions they had been using. Respondent and Tavera contended that they could not just relinquish their right to the disputed portions and yield to Manantan's demand, considering that the latter's claim was based merely on a relocation survey. "[J]ust to buy peace of mind and maintain cordial relations" with Manantan, respondent and Tavera alleged that they "walked the proverbial mile and show[ed] their interest to pay" Manantan the equivalent amount of the disputed portions, but Manantan ignored their proposal and insisted that they buy the whole of the subject property.

Respondent and Tavera alternatively argued in their Joint Answer that in case Manantan would be declared as the lawful owner of the subject property, the MTCC should not disregard the fact that they were "builders in good faith." As builders in good faith, they should be allowed to pay a reasonable price for the portions of the subject property on which their driveway/access road, and other improvements were situated.

At the end of their Joint Answer, respondent and Tavera asked the MTCC to dismiss Manantan's Complaint; or in case their driveway/access road and other improvements were found to be encroaching on Manantan's property, to declare them builders in good faith who should be allowed to purchase the portions on which their driveway/access road and other improvements were located and to award them their counterclaims for moral damages and P35,000.00 attorney's fees.[8]

After submission of the parties' respective position papers and other pleadings, the MTCC rendered a Decision[9] in Civil Case No. 10467 on 21 May 1999, favoring Manantan. The MTCC ruled that it had jurisdiction over the case and that respondent and Tavera were not builders in good faith. It ordered respondent and Tavera to pay Manantan the amount of P600.00 and P400.00, respectively, per month, as reasonable compensation for the use and occupancy of the disputed portions of the subject property, counted from the date of the filing of the Complaint up to the time respondent and Tavera would actually vacate the same. It further ordered respondent and Tavera to jointly and severally pay Manantan the amount of P20,000.00 as attorney's fees and litigation expenses.

Respondent and Tavera appealed the MTCC Decision before the Regional Trial Court (RTC), Baguio City,

Branch 5. Their appeal was docketed as Civil Case No. 4435-R. On 29 October 1999, the RTC promulgated its Decision[10] affirming in toto the appealed MTCC Decision. Only respondent elevated the case to the Court of Appeals since Tavera opted not to appeal anymore.

Respondent's appeal before the Court of Appeals was docketed as CA-G.R. SP No. 55891. During its pendency, Manantan died on 20 January 2000.[11] Almost four months later, on 10 May 2000, the Court of Appeals rendered its Decision setting aside the Decisions of both the RTC and the MTCC and dismissing Manantan's Complaint in Civil Case No. 10467. The appellate court held that Manantan's Complaint before the MTCC failed to allege facts constitutive of forcible entry or unlawful detainer. The allegations in the Complaint merely presented a controversy arising from a boundary dispute, in which case, the appropriate remedy available to Manantan should have been the plenary action for recovery of possession within the jurisdiction of the RTC. Consequently, the Court of Appeals concluded that the MTCC had no jurisdiction over the Complaint in Civil Case No. 10467.[12]

The fallo of the Court of Appeals Decision reads:

WHEREFORE, prescinding from the foregoing disquisition, the petition for review is hereby GIVEN DUE COURSE. The assailed Decision dated October 29, 1999 which was rendered by Branch 5 of the Regional Trial Court of Baguio City, in Civil Case No. 4435-R, affirming in toto the other assailed Decision dated May 21, 1999 rendered by the First Branch of the Municipal Trial Court in Cities of Baguio City in Civil Case No. 10467, entitled "SOLEDAD MANANTAN v. ANICETO SOMERA and PRESENTACION TAVERA, and all persons claiming rights under them," are hereby both REVERSED AND SET ASIDE and another one entered DISMISSING said Civil Case No. 10467.

Accordingly, let a writ of injunction issue permanently enjoining public respondent Judge Antonio M. Esteves and all persons acting in his behalf or orders to cease and desist from further enforcing the assailed decisions.

Manantan's counsel filed a Motion for Reconsideration[13] of the afore-mentioned Decision of the Court of Appeals but it was denied by the same court in the Resolution dated 18 October 2000.

Hence, herein petitioner, Gilbert Manantan, representing the Estate of the late Soledad Manantan, filed the instant Petition for Review[14] before us raising the following issues:

I.

WHETHER OR NOT THE MUNICIPAL TRIAL COURT IN CITIES, BAGUIO CITY, BRANCH 1, HAD THE JURISDICTION OVER THE ACTION - EJECTMENT AND DAMAGES ENTITLED "SOLEDAD MANANTAN, PLAINTIFF, V. ANICETA SOMERA AND PRESENTACION TAVERA, AND ALL PERSONS CLAIMING RIGHTS UNDER THEM, DEFENDANTS;

II.

WHETHER A PORTION OF PETITIONER'S LAND ENCROACHED BY RESPONDENT CAN BE RECOVERED THROUGH AN ACTION [FOR] EJECTMENT.

In the main, petitioner argues that the Complaint is in the nature of an action for unlawful detainer over which the MTCC had jurisdiction.[15]

An action for forcible entry or unlawful detainer is governed by Rule 70 of the Rules of Court, Section 1 of which provides:

SECTION 1. Who may institute proceedings, and when. - Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or

stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs. (Emphasis ours.)

Unlawful detainer is a summary action for the recovery of possession of real property.[16] This action may be filed by a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession by virtue of any contract, express or implied.[17]

In unlawful detainer cases, the possession of the defendant was originally legal, as his possession was permitted by the plaintiff on account of an express or implied contract between them. However, defendant's possession became illegal when the plaintiff demanded that defendant vacate the subject property due to the expiration or termination of the right to possess under their contract, and defendant refused to heed such demand.[18]

A case for unlawful detainer must be instituted before the proper municipal trial court or metropolitan trial court within one year from unlawful withholding of possession. Such one year period should be counted from the date of plaintiff's last demand on defendant to vacate the real property, because only upon the lapse of that period does the possession become unlawful.[19]

Well-settled is the rule that the jurisdiction of the court, as well as the nature of the action, are determined by the allegations in the complaint.[20] To vest the court with the jurisdiction to effect the ejectment of an occupant from the land in an action for unlawful detainer, it is necessary that the complaint should embody such a statement of facts clearly showing attributes of unlawful detainer cases, as this proceeding is summary in nature.[21] The complaint must show on its face enough ground to give the court jurisdiction without resort to parol testimony.[22]

Thus, in order that a municipal trial court or metropolitan trial court may acquire jurisdiction in an action for unlawful detainer, it is essential that the complaint specifically allege the facts constitutive of unlawful detainer.[23] The jurisdictional facts must appear on the face of the complaint. When the complaint fails to aver facts constitutive of unlawful detainer, an action for unlawful detainer is not a proper remedy and, thus, the municipal trial court or metropolitan trial court has no jurisdiction over the case.[24]

The pertinent allegations in Manantan's Complaint before the MTCC are faithfully reproduced below:

3. That [Manantan] is the owner in fee simple of that parcel of land, situated in Res. Section "K," Baguio City, with an area of 214 square meters, designated as Lot 7, Pcs-CAR-000062, and which may be more particularly described in and evidenced by Transfer Certificate of Title No. T-54672 of the Registry of Deeds for the City of Baguio;
4. That when she caused the relocation survey of her said property above-mentioned, she discovered that the [herein respondent and Tavera] had occupied portions thereof, by reason of which she called their attention with a request that they vacate their respective areas as soon as she would have need of the same, or when she decides to sell the same to any interested buyer;
5. That only recently, she wanted to sell her property above-mentioned to an interested buyer, but that upon knowing of the [respondent and Tavera's] encroachments, the prospective buyer decided not to proceed with the sale until after the property shall have been first vacated by the [respondent and Tavera];

6. That she asked the [respondent and Tavera] to vacate her property, but that they refused to do so, and that after making more demands which were all ignored by the [respondent and Tavera], [Manantan] was forced to consult her lawyer, who immediately wrote them a final formal demand to vacate her land, but to no avail;
7. That [Manantan] also brought her problem to the attention of the Barangay Captain of Fairview Subdivision Barangay, by way of a letter, dated January 21 1998, copy of which is attached hereto and made part hereof as Annex "A," the same being self-explanatory;
8. That despite efforts at the Barangay level of justice, no amicable settlement or compromise agreement was arrived at, as may be evidenced by a Certification to File Action, dated February 8, 1998, signed and issued by the Pangkat Secretary Shirley Pagkangan and duly attested by the Pangkat Chairman Rogelio Laygo, copy of which is hereto attached and made part hereof as Annex "B." [25]

Noticeably, the Complaint does not allege facts showing compliance with the prescribed one year period to file an action for unlawful detainer. It does not state the material dates that would have established that it was filed within one year from the date of Manantan's last demand upon respondent to vacate the disputed portion of land. Such allegations are jurisdictional and crucial, because if the complaint was filed beyond the prescribed one year period, then it cannot properly qualify as an action for unlawful detainer over which the MTCC can exercise jurisdiction. It may be an *accion publiciana* or *accion reivindicatoria*.

Accion publiciana is the plenary action to recover the right of possession, which should be brought before the proper regional trial court when dispossession has lasted for more than one year. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title. In other words, if at the time of the filing of the complaint, more than one year has lapsed since defendant unlawfully withheld possession from plaintiff, the action will not be for illegal detainer, but an *accion publiciana*. *Accion reivindicatoria*, meanwhile, is an action to recover ownership, as well as possession, which should also be brought before the proper regional trial court in an ordinary civil proceeding. [26]

Further, it appears from the allegations in the Complaint that the respondent was already in possession of the disputed portion at the time Manantan bought the subject property from the Bayot family, and it was only after the conduct of a relocation survey, which supposedly showed that respondent was encroaching on the subject property, did Manantan begin asserting her claim of ownership over the portion occupied and used by respondent. Clearly, respondent's possession of the disputed portion was not pursuant to any contract, express or implied, with Manantan, and, resultantly, respondent's right of possession over the disputed portion is not subject to expiration or termination. At no point can it be said that respondent's possession of the disputed portion ceased to be legal and became an unlawful withholding of the property from Manantan. [27]

Since the Complaint in Civil Case No. 10467 failed to satisfy on its face the jurisdictional requirements for an action for unlawful detainer, the Court of Appeals was correct in holding that the MTCC had no jurisdiction over the said Complaint and should have dismissed the same. There is no possible argument around the lack of jurisdiction of MTCC over Civil Case No. 10467. In *Laresma v. Abellana*, [28] the Court pronounced:

It is axiomatic that the nature of an action and the jurisdiction of a tribunal are determined by the material allegations of the complaint and the law at the time the action was commenced. Jurisdiction of the tribunal over the subject matter or nature of an action is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature of an action, it may dismiss the same *ex mero motu* or *motu proprio*. A decision of the court without jurisdiction is null and void; hence, it could never logically become final and executory. Such a judgment may be attacked

directly or collaterally.

Petitioner raises a second issue before us: whether petitioner Estate of the late Soledad Manantan can recover the portion of the subject property by an action for ejectment.[29] It bears to stress that Manantan's Complaint is dismissed herein for its defects, i.e., its failure to allege vital facts in an action for unlawful detainer over which the MTCC has jurisdiction. Since Civil Case No. 10467 is already dismissible upon this ground, it is no longer necessary to discuss whether petitioner availed itself of the proper remedy to recover the disputed portion of land from respondent. Resolving the second issue shall be a mere surplusage and obiter dictum. If petitioner seeks an answer to said issue as reference for its future action, suffice it to say that we do not render advisory opinions. The determination of the remedy to avail itself of must be done by petitioner with the guidance of its counsel, they being fully cognizant of the facts giving rise to the controversy and the evidence on hand.

WHEREFORE, the Decision dated 10 May 2000 and Resolution dated 18 October 2000 of the Court of Appeals in CA-G.R. SP No. 55891 are hereby **AFFIRMED** in toto. No cost.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio Morales[*], Nachura, and Peralta, JJ., concur.

[*] Per Special Order No. 602, dated 20 March 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Conchita Carpio Morales to replace Associate Justice Ma. Alicia Austria-Martinez, who is on official leave.

[1] Rollo, pp. 10-25.

[2] Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Romeo J. Callejo Sr. (retired member of this Court) and Renato C. Dacudao, concurring; rollo, pp. 29-33.

[3] Id. at 27.

[4] Id. at 48-51.

[5] Id.

[6] Id. at 52-56.

[7] Id.

[8] Id.

[9] Records, pp. 127-131.

[10] Id. at 190-196.

[11] Rollo, p. 10.

[12] Id. at 33.

[13] CA rollo, pp. 219-226.

[14] Rollo, p. 14.

[15] Id. at 14-18.

[16] Valdez, Jr. v. Court of Appeals, G.R. No. 132424, 4 May 2006, 489 SCRA 369, 377-378.

[17] Section 1, Rule 70 of the Revised Rules of Court.

[18] Valdez, Jr. v. Court of Appeals, *supra* note 16 at 378; Sarmiento v. Court of Appeals, G.R. No. 116192, 16 November 1995, 250 SCRA 108, 114; Espiritu v. Court of Appeals, 368 Phil. 669, 674-675 (1999).

[19] Sarmiento v. Court of Appeals, *id.* at 115; Lopez v. David, Jr., G.R. No. 152145, 30 March 2004, 426 SCRA 535, 542; Varona v. Court of Appeals, G.R. No. 124148, 20 May 2004, 428 SCRA 577, 583-584.

[20] Sarmiento v. Court of Appeals, *id.* at 114; Espiritu v. Court of Appeals, *supra* note 18 at 675; Lopez v. David, Jr., *id.* at 540.

[21] Valdez, Jr. v. Court of Appeals, *supra* note 16 at 378; Sarmiento v. Court of Appeals, *id.* at 116; Lopez v. David, Jr., *id.* at 542.

[22] *Id.*

[23] Sarona v. Villegas, 131 Phil. 365, 373 (1968); Munoz v. Court of Appeals, G.R. No. 102693, 23 September 1992, 214 SCRA 216, 223-224.

[24] Valdez, Jr. v. Court of Appeals, *supra* note 16 at 379; Sarmiento v. Court of Appeals, *supra* note 18 at 117.

[25] Records, pp. 1-2.

[26] Valdez, Jr. v. Court of Appeals, *supra* note 16 at 376-377; Sarmiento v. Court of Appeals, *supra* note 18 at 117; Lopez v. David, Jr., *supra* note 19 at 543.

[27] Dela Paz v. Panis, 315 Phil. 238, 245-246 (1995).

[28] G.R. No. 140973, 11 November 2004, 442 SCRA 156, 169.

[29] The two forms of ejectment suit are actions for forcible entry and actions for unlawful detainer. (See *Habagat Grill v. DMC-Urban Property Developer, Inc.*, G.R. No. 155110, 31 March 2005, 454 SCRA 653, 670-671.)

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