

CHARLES LIMBAUAN, PETITIONER, VS. FAUSTINO ACOSTA, RESPONDENT.

G.R. No. 148606. June 30, 2008

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

In this petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, petitioner seeks to set aside and annul the Decision[1] dated June 26, 2001 rendered by the Court of Appeals (CA), Thirteenth Division, in CA-G.R. SP No. 49144.

The CA decision affirmed an earlier decision[2] of the Regional Trial Court (RTC) of Caloocan City, Branch 125, dated March 12, 1998 which also affirmed the decision[3] dated December 29, 1997 of the Metropolitan Trial Court (MTC), Caloocan City, Branch 52, ordering herein petitioner to surrender possession of the property in question and pay the unpaid monthly rentals thereon.

The pertinent facts, as found by the CA, are quoted hereunder:

Sometime in 1938, the Government acquired the Tala Estate consisting of 808 hectares, located in Kalookan, primarily for a leprosarium. However, the State utilized only one-fifth of the property for the purpose. More, under Republic Act 4085, it was no longer mandatory for the segregation of hansenites. Consequently, the State needed a lesser portion of the property for the leprosarium. In the meantime, the State found it necessary to establish new residential areas within a 20-kilometer radius from the center of the Metropolitan Manila and/or utilizing inexpensive land in order to serve low-income families whose housing needs can only be met by the Government. On April 26, 1971, President Ferdinand E. Marcos issued Proclamation No. 843 allocating the property to the Department of Health, the National Housing Corporation, the PHHC and Department of Social Welfare and Development xxx.

It was also decreed that, more precise identities of the parcels of land allocated to the government will be made only after a final survey shall have been completed. A joint PHHC-Bureau of Lands team was tasked to undertake the necessary segregation survey and inquiries on private rights within the Estate. In the Interim, it was decreed that no transfer of title shall be made until the enactment of a law allowing the use of the site for purposes other than that of a leprosarium.

In the meantime, Faustino Acosta took possession of a vacant portion of the Tala Estate and constructed his house thereon, bearing address No. 786, Barrio San Roque, Barangay 187, Tala, Caloocan City. In August, 1982, Faustino Acosta, who was then a Barangay Councilman, executed a deed styled "Registration of Property", attested by the Barangay Captain, over another vacant portion of the Estate, west of the Barangay Hall, with an area of 150 square meters, bearing the following boundaries:

NORTH: WAITING SHED.....SOUTH: JUAN DAMIAN WEST: NITA CRUZ, RESTAURANT.....EAST: BRGY. HALL...187 (at page 7, Records)

Faustino Acosta then took possession of the property, constructed a fence around the perimeter of the property and planted vegetables thereon. However, in 1984, Paulino Calanday took possession of the said property

without the consent of Faustino, constructed an edifice thereon and used the same as a beerhouse. When Faustino remonstrated, Paulino filed two (2) criminal complaints against Faustino with the Metropolitan Trial Court, entitled and docketed "People versus Faustino Acosta, Criminal Case Nos. 143550-51", for "Malicious Mischief" and "Unjust Vexation". However, on September 27, 1985, the Court issued an Order dismissing the cases for failure of Paulino to comply with PD 1508.

Paulino, in the meantime, conveyed the beerhouse to Juanita Rocas. The latter and Faustino entered into an oral contract of lease over the parcel of land for a monthly rental of P60.00. About a year thereafter, Juanita suddenly stopped paying to Faustino her rentals for the property. It turned out that Juanita conveyed the beerhouse to her nephew, Charles Limbauan, who forthwith assumed the lease from his aunt and who, thenceforth, paid the monthly rentals for the property in the amount of P60.00 to Faustino. However, in November, 1987, Charles stopped paying rentals to Faustino claiming that, since the property was government property, Faustino had no right to lease the same and collect the rentals therefore. However, Faustino did not file any complaint nor unlawful detainer against Charles.

Sometime in February, 1995, Congress approved Republic Act 7999 under which the State converted a portion of the Estate, with a total area of 120 hectares, for use as a housing site for residents and employees of the Department of Health, with the National Housing Authority as the leading implementing agency:

(a) Seventy (70) hectares of the one hundred thirty (130) hectares reserved for the leprosarium and settlement site of the hansenites and their families under Proclamation No. 843 are hereby declared alienable and disposable for use as a housing site for the bona fide residents, hansenites and their immediate families and for qualified employees of the Department of Health: Provided, That if the said beneficiary is an employee of the Department of Health, the said employee must have been assigned in the Tala Leprosarium and must have been a resident thereat for at least five (5) years: Provided, further, That the residential lot awarded to the beneficiaries under this Act shall not be transferred, conveyed or assigned to any other person for a period of twenty-five (25) years, except to legal heirs by way of succession; and

(b) The fifty (50) hectares reserved for the plants, installations and pilot housing project of the National Housing Corporation, as provided in the same proclamation, are hereby declared as alienable and disposable: Provided, That twenty-nine (29) hectares of the said fifty (50) hectares shall be converted into a housing site exclusively for the bona fide and qualified residents of the area. (*idem, supra*)

After the passage by Congress of Republic Act 7999, Faustino filed a complaint against Charles with the Lupon for ejectment for failure of Charles to pay his rentals from October, 1987. On April 15, 1995, the Lupon issued a "Certification to File Action" (at page 9, Records). Republic Act 7999 became law on April 22, 1995, without the signature of the President.

On January 2, 1996, Faustino, through Law Interns in the office of Legal Aid of the University of the Philippines, sent a letter to Charles demanding that the latter vacate the property within five (5) days from notice for his failure to pay the monthly rentals in the amount of P60.00 a month since October, 1987. Charles Limbauan ignored the letter and refused to vacate the property.

Faustino, forthwith, filed, on February 7, 1996, a complaint for "Unlawful Detainer" against Charles with the Metropolitan Trial Court, entitled and docketed "Faustino Acosta versus Charles Limbauan, Civil Case No. 22521", praying that, after due proceedings, judgment be rendered in his favor as follows:

PRAYER

WHEREFORE, it is respectfully prayed of this Honorable Court that judgment be rendered in favor of plaintiff and against the defendant as follows:

- To order the immediate restoration of the premises to plaintiff in accordance with Rule 70, Sec. 3 of the Rules

of Court;

- Ordering the defendants to pay to plaintiff the sum of P60.00 a month plus interest from November 1987 until they vacate the premises;
- (sic) Ordering defendant to pay plaintiff the sum of P10,000.00 by way of moral damages;
- Such other remedies as may be just and equitable under the premises. (at page 4, Records)

Upon suggestion of the Court, Faustino Acosta, through the Law Interns, sent another letter of demand to Charles Limbauan, dated March 7, 1996, demanding that the latter vacate the property this time within fifteen (15) days from notice, otherwise, Faustino will institute the appropriate action for his eviction from the property. Charles Limbauan received the letter, on March 13, 1996, but refused to vacate the property. Faustino forthwith filed a "Motion to Approve Attached Amended Complaint" with the Court which was granted by the Court.

In his Answer to the Complaint, Charles alleged, inter alia that Faustino had no cause of action against him because the property on which the beerhouse was constructed is owned by the government since the government is the owner of the property, Faustino had no right of possession over the property and collect rentals therefore. Besides, it was unfair for Faustino, who was already in possession of the lot at No. 786 B. San Roque, Barangay 187 to still claim possession over the subject property. The Defendant interposed the defense that the Court had no jurisdiction over the action of the Plaintiff as it was one of accion publiciana and not one for unlawful detainer.

On December 29, 1997, the Court promulgated a Decision in favor of the Plaintiff and against the Defendant, the decretal portion of which reads as follows:

DISPOSITION BY THE COURT:

Premises considered, decision is rendered for the plaintiff, Faustino Acosta, and against the defendant, Charles Limbauan, directing the latter and all those claiming under him to vacate the premises specifically described as the parcel of commercial land located at the west portion of the barangay hall, barangay 187, Zone 16, B. Sto. Nino, Tala, Caloocan City, to surrender peaceful possession of the same to the former, and to pay him the following amounts:

- P60.00 monthly from November, 1987, as reasonable compensation for the use and occupancy of the parcel of land subject matter of this case with legal interests from today up to the actual surrender of the same.
- P130.00 by way of reimbursement for costs of suit as shown by the receipts on record.

Given in Chambers. (at page 79, Records)

The Court found and declared that the Plaintiff adduced evidence that the Defendant was the lessee of the Plaintiff over the property and, hence, the latter was estopped from assailing Plaintiff's title over the property.

The Defendant interposed an appeal from said Decision to the Regional Trial Court which, on August 28, 1998, rendered a Decision affirming the Decision of the Court a quo.

The Petitioner forthwith filed a "Petition for Review" with this Court (Court of Appeals), under Rule 42 of the 1997 Rules of Civil Procedure, and posed, for our resolution, the following issues: (a) whether or not the remedy of the Respondent in the Metropolitan Trial Court for unlawful detainer was proper; (b) the subject property was government property and, hence, cannot be the lawful subject of a lease contract between the Petitioner and Respondent and, hence, the latter had no right to have the Petitioner evicted from the property and to collect rentals from him. It was inappropriate for the trial court, and the Regional Trial Court, to apply and rely on Section 2(b), Rule 131 of the Rules of Evidence.

On June 26, 2001, the CA dismissed the aforementioned Petition for Review and affirmed the decision of the RTC.

Hence, this petition for review which seeks the reversal of the said CA decision on the basis of the issues quoted hereunder:

- a) DID THE HONORABLE COURT OF APPEALS IN RENDERING THE ASSAILED DECISION COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OF JURISDICTION?
- b) WHETHER OR NOT THE CASE IS RENDERED MOOT AND ACADEMIC ON ACCOUNT OF THE DEATH OF THE RESPONDENT.[4]

In relation to the aforequoted issues, the petitioner adduces the following arguments:

(1)

The right application of laws under Rule 70 and Rule 10 in relation with the law on jurisdiction over the case was ignored.

(2)

The amendment under Section 2, Rule 10, Rules of Court is a futile remedy when the Court has no jurisdiction over the case.

(3)

The alleged existence of lessor-lessee relationship between the parties had not been sufficiently established.

(4)

The fact of death of respondent rendered the case moot and academic.[5]

The first and second arguments advanced by petitioner are interrelated. Thus, they shall be discussed jointly. Petitioner argues that there must be a prior demand to vacate the leased premises and pay the rent and a 15-day period from the time of demand must have lapsed before a complaint for unlawful detainer may be commenced pursuant to Section 2, Rule 70. According to petitioner, respondent's demand letter gave the petitioner a five-day period only instead of fifteen (15) days within which to comply with the demand to vacate. A jurisdictional requisite, not having been complied with, the MTC did not acquire jurisdiction over the case.

Section 2, Rule 70 of the Revised Rules of Court provides as follows:

Sec. 2. Lessor to proceed against lessee only after demand. -Unless otherwise stipulated, such action by the lessor shall be commenced only after demand to pay or comply with the conditions of the lease and to vacate is made upon the lessee, or by serving written notice of such demand upon the person found on the premises, or by posting such notice on the premises if no person be found thereon, and the lessee fails to comply therewith after fifteen (15) days in the case of land or five (5) days in the case of buildings.

As contemplated in the aforecited rule, the demand to pay rent and vacate is necessary if the action for unlawful detainer is anchored on the non-payment of rentals, as in the instant case. The same rule explicitly provides that the unlawful detainer suit must be commenced only if the lessee fails to comply after the lapse or expiration of fifteen (15) days in case of lands and five (5) days in case of buildings, from the time the demand is made upon the lessee. The demand required and contemplated in Section 2 of Rule 70 is a jurisdictional requirement for the purpose of bringing an unlawful detainer suit for failure to pay rent. It partakes of an extrajudicial remedy that must be pursued before resorting to judicial action such that full compliance with the demand would render unnecessary a court action.[6]

Hence, it is settled that for the purpose of bringing an ejectment suit, two requisites must concur, namely: (1) there must be failure to pay rent or to comply with the conditions of the lease and (2) there must be demand both to pay or to comply and vacate within the periods specified in Section 2, particularly, 15 days in the case of land and 5 days in the case of buildings. The first requisite refers to the existence of the cause of action for unlawful detainer while the second refers to the jurisdictional requirement of demand in order that said cause of action may be pursued.[7]

As the subject matter of the instant case is a parcel of land, the expiration of the aforesaid fifteen-day period is a prerequisite to the filing of an action for unlawful detainer. As to whether respondent observed this fifteen-day period, an affirmative answer can be gleaned from the evidence on record. Respondent's first demand letter dated January 2, 1996 gave petitioner five (5) days from receipt within which to pay the unpaid rentals and vacate the premises. Petitioner received the demand letter on January 10, 1996 while respondent brought the action for unlawful detainer on February 7, 1996, which was clearly more than 15 days from the time petitioner received the demand letter on January 10, 1996 and well within the one-year period set forth by Section 1, Rule 70.[8] Thus, the fact that respondent's demand letter granted petitioner five (5) days to pay and to vacate the subject property is of no moment because what is important and required under Section 2 of Rule 70 is for the lessor to allow a period of fifteen (15) days to lapse before commencing an action for unlawful detainer. Evidently, respondent actually complied with this requirement. For this reason, we find no error in the MTC assuming jurisdiction over respondent's complaint and in not dismissing the same.

Moreover, upon the advice of the MTC, respondent sent another demand letter dated March 7, 1996 to petitioner, this time giving the latter fifteen (15) days within which to vacate the subject property and when petitioner still refused, respondent was compelled to file a Motion to Approve Attached Amended Complaint. The said motion was rightly granted by the MTC in accordance with Section 2, Rule 10 of the Revised Rules of Court, to wit:

Sec. 2. Amendments as a matter of right. -- A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) days after it is served.

Under this provision, a party has the absolute right to amend his pleading whether a new cause of action or change in theory is introduced, at any time before the filing of any responsive pleading.[9] Undoubtedly, when respondent filed his Amended Complaint on May 16, 1996,[10] no responsive pleading had yet been filed by petitioner, thus, the MTC validly admitted the said amended complaint.

It is well-settled that amendment of pleadings is favored and should be liberally allowed in the furtherance of justice in order to determine every case as far as possible on its merits without regard to technicalities. This principle is generally recognized in order that the real controversies between the parties are presented, their rights determined and the case decided on the merits without unnecessary delay to prevent circuity of action and needless expense.[11]

Petitioner also contends that the MTC's purpose for admitting the amended complaint was to eliminate the jurisdictional defect of the original complaint. Petitioner cites the cases of *Rosario v. Carandang*[12] and *Gaspar v. Dorado*[13] which declared that the amendment of the complaint could not be allowed when its purpose is to confer jurisdiction upon the court, since the court must first acquire jurisdiction over the case in order to act validly therein. Petitioner's contention is devoid of merit. As earlier discussed, respondent's original complaint was free from any jurisdictional flaw and the MTC had jurisdiction over the case to begin with. Thus, the cited cases are not applicable in the instant case. Hence, the MTC was correct in allowing the amendment.

Furthermore, it is a well-settled rule that what determines the nature of an action as well as which court has

jurisdiction over it are the allegations of the complaint and the character of the relief sought.[14] A complaint for unlawful detainer is deemed sufficient if it alleges that the withholding of the possession or the refusal to vacate is unlawful, without necessarily employing the terminology of the law.[15] Here, respondent alleged that he acquired possessory rights over the subject property by virtue of a government grant. He leased the property to petitioner for a monthly rental of P60.00. When petitioner failed to pay the rentals, respondent eventually sent two demand letters asking petitioner to pay and vacate the premises. Petitioner refused, thereby depriving respondent of possession of the subject property. Clearly, the complaint alleges the basic elements of an unlawful detainer case, which are sufficient for the purpose of vesting jurisdiction over it in the MTC.

Likewise, petitioner's allegation in his petition that he received respondent's second demand letter on May 8, 1996 was belied by the records of this case, the truth being that, the said demand letter dated March 7, 1996 was received by petitioner on March 13, 1996.[16] The letter granted petitioner fifteen (15) days within which to pay and vacate the subject property. Respondent's Amended Complaint was filed on May 16, 1996 which was obviously two (2) months from the time petitioner had notice of the demand, and again more than 15 days as required by Section 2, Rule 70.

In sum, respondent clearly satisfied the jurisdictional requirement of prior demand to vacate within the period set by the rules. The MTC validly acquired jurisdiction over both the original complaint and the amended complaint.

Petitioner next argues that no lessor-lessee relationship existed between him and respondent. This argument clearly deals with a question of fact. In petitions for review on certiorari under Rule 45 of the Rules of Court, only questions of law may be put in issue. Questions of fact cannot be entertained.[17] The issue of whether or not a lessor-lessee relationship existed between the herein parties is a question of fact which we cannot pass upon as it would entail a re-evaluation of the evidence and a review of the factual findings thereon of the courts a quo. As a rule, factual findings of the trial court, especially those affirmed by the CA, are conclusive on this Court when supported by the evidence on record.[18] We find no cogent reason to disturb the findings of the MTC and the RTC, which the Court of Appeals had affirmed.

Lastly, petitioner capitalizes on the failure of respondent's counsel to inform the court of the death of his client, Faustino Acosta, who passed away on October 22, 2000[19] while the case was pending appeal with the CA. He avers that such failure rendered the case moot and academic as no proper substitution of a party was effected in compliance with Rule 3, Section 16 of the Rules of Court.

Section 16, Rule 3 of the Revised Rules of Court provides that:

Sec. 16. Death of party; duty of counsel. - Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without first requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice. xxx.

It is well settled that the failure of counsel to comply with his duty under Section 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. Moreover, the decision rendered shall bind his successor-in-interest.[20] The instant action for unlawful detainer, like any action for recovery of real property, is

a real action and as such survives the death of Faustino Acosta. His heirs have taken his place and now represent his interests in the instant petition.[21] Hence, the present case cannot be rendered moot despite the death of respondent.

WHEREFORE, the petition for review is hereby DENIED. The assailed decision of the Court of Appeals in CA-G.R. SP No. 49144 is hereby AFFIRMED.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona and Azcuna, JJ., concur.

[1] Penned by then Associate Justice Romeo J. Callejo, Sr. (now retired Associate Justice of this Court), with Associate Justices Renato C. Dacudao (ret.) and Perlita J. Tria Tirona (ret.), concurring; rollo, pp. 32-43.

[2] Decided by Judge Adoracion G. Angeles; id., at 55-60.

[3] Decided by Judge Delfina Hernandez Santiago; id., at 61-66.

[4] Id., at 24.

[5] Id., at 24-27.

[6] Cetus Development, Inc. v. Court of Appeals, G.R. Nos. 77647-77652, August 7, 1989, 176 SCRA 72, 80-81.

[7] Ibid.

[8] Sec. 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.

[9] Radio Communications of the Philippines, Inc. vs. Court of Appeals, G.R. No. 121397, April 17, 1997, 271 SCRA 286, 289.

[10] Rollo, pp. 82-86.

[11] Andres v. Cuevas, G.R. No. 150869, June 9, 2005, 460 SCRA 38, 49.

[12] 96 Phil. 845 (1955).

[13] No. L-17884, November 29, 1965, 15 SCRA 331.

[14] Ross Rica Sales Center, Inc. v. Ong, G.R. No. 132197, August 16, 2005, 467 SCRA 35, 45.

[15] Ibid.

[16] CA Decision; rollo, p. 10.

[17] Lambert v. Heirs of Ray Castillon, G.R. No. 160709, February 23, 2005, 452 SCRA 285, 290.

[18] Ibid.

[19] Rollo, p. 44.

[20] Benavidez v. Court of Appeals, G.R. No. 125848, September 6, 1999, 313 SCRA 714, 722.

[21] Rollo, pp. 169-170.

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