

**SALUD D. LOPEZ, REMEDIOS LOPEZ-MARZAN, ROSE LOPEZ-CO,
AMADO D. LOPEZ, CYNTHIA LOPEZ-PORTUGAL, JOSE D. LOPEZ JR.,
AND MAY LOPEZ RUEDA REPRESENTED BY SALUD D. LOPEZ,
PETITIONERS, ...**

G.R. No. 152145. March 30, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Ejectment proceedings must observe jurisdictional requirements to complement their summary nature. Among them is the one-year bar within which to bring the suit. After the lapse of this period, plaintiffs can no longer avail themselves of the summary suits in the Metropolitan Trial Court (MeTC) or the Municipal Trial Court (MTC), but must litigate in the Regional Trial Court in an ordinary action to recover possession.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to set aside the April 26, 2001 Decision[2] and the February 5, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 59724. The assailed Decision disposed as follows:

“WHEREFORE, the petition is GIVEN DUE COURSE. The appealed decision of the Regional Trial Court of Quezon City (Branch 95) is REVERSED and SET ASIDE and another rendered DISMISSING the ejectment case.”[4]

On the other hand, the challenged Resolution denied petitioners’ Motion for Reconsideration.

The Facts

The facts of the case are narrated by the CA as follows:

“Subject of an action for ejectment before the Metropolitan Trial Court [MeTC] of Quezon City (Branch 38) was a 540 square-meter land (or ‘subject property’), located at No. 174 Sct. Fuentebella, Quezon City and covered by TCT No. RT-109698 (26613) in the name of Jose C. Lopez (or ‘Lopez’).

“The action was instituted on October 2, 1996 by Salud D. Lopez, Remedios Lopez-Marzan, Rose Lopez-Co, Amado D. Lopez, Cynthia Lopez-Portugal, Jose D. Lopez, Jr. and May Lopez-Rueda [or ‘petitioners’] against Robert P. David and Cleopatra David Campo-Ruiz [or ‘respondents’]. It was predicated on the averments that [petitioners] are the owners of the subject property which was purchased from the People’s Homesite and Housing Corporation by Lopez, deceased husband of [petitioner] Salud D. Lopez (or ‘Salud’) and father of the rest of the [petitioners]; that in 1954, upon her request, Cirila Sadsad Vda. De David (or ‘Cirila’), Salud’s mother and [respondents’] grandmother, was allowed by Salud to build a residential house on the subject property and to stay thereon until she could find a suitable residence of her own; that upon Cirila’s death, [respondents] continued her occupancy of the subject property; that the possession of Cirila and [respondents] of the subject property, without paying rentals and a written contract, was upon tolerance of Salud; that

[petitioners] withdrew their consent to [respondents] occupancy of the subject property per their lawyer's letter dated August 10, 1995 demanding of them to vacate the same on or before September 15, 1995, which [respondents] did not heed.

"In their defense, [respondents] alleged that the subject property is owned in common by Cirila's children, Salud, Robert S. David, Sr. (father of [respondent] Robert P. David) and Celestina S. David (mother of the other [respondent]); that the subject property was placed in the name of Lopez upon the agreement that it would be held in trust for Cirila's children; and that Salud, Ligaya S. David (mother of [respondent] Robert P. David) and Celestina S. David built a three-door apartment on the subject property which equally belongs to them.

"On August 15, 1997, the [MeTC] rendered a decision, the dispositive portion of which reads: 'WHEREFORE, premises considered, judgment is hereby rendered in favor of [petitioners] and against [respondents]. Accordingly, the latter is hereby ordered as follows: a) To vacate the disputed property, specifically located at No. 174 Sct. Fuentebella St., Diliman, Quezon City and completely surrender possession thereof to [petitioners];

b) To pay [petitioners] the amount of P10,000.00 as a reasonable amount of compensation or rental for the use and occupancy thereof per unit each month, to be reckoned from September 15, 1995 until they shall have vacated the same;

c) To pay [petitioners] the sum of P10,000.00 as and for attorney's fees; and

d) To pay the costs of suit.

The counter-claim of [respondents] is hereby dismissed for lack of merit.

'SO ORDERED.'

"Petitioners appealed to the Regional Trial Court (or 'RTC') of Quezon City (Branch 95) which, on December 17, 1999, rendered a decision affirming en toto that of the [MeTC]. x x x." [5]

Ruling of the Court of Appeals

The CA found that the MeTC erred in taking cognizance of the ejectment suit, since the case had been filed beyond one year from the withholding of possession. [6] The appellate court ruled thus:

"It appears that pursuant to the demand letter dated August 10, 1995 of [petitioners'] lawyer, [respondents] were given until September 15, 1995 within which to vacate the subject property and surrender possession thereof to [petitioners]. Under the situation, [respondents'] possession became unlawful on September 16, 1995, or upon expiration of the grace period, when they continued occupying the subject property. However, the ejectment suit was only instituted on October 2, 1996, or more than one year from expiration of the period given [respondents] to vacate the subject property.

"The one-year period provided for in Sec. 1, Rule 70 of the 1997 Rules of Civil Procedure commences from accrual of the cause of action or from the unlawful withholding of possession of the realty. In an action for unlawful detainer, as in the case at bench, it is counted from the last letter of demand to vacate.

"Since the ejectment suit was instituted after a year from the demand to vacate, it is an accion publiciana which is cognizable by the RTC. Accion publiciana is the plenary action to recover the right of possession when the dispossession has lasted for more than one year.

"Consequently, the MTC has no jurisdiction over the subject matter of the action. And in affirming the decision of the MTC, the RTC had committed a palpable error and/or had acted with grave abuse of discretion amounting to lack or excess of jurisdiction." [7] (Citations omitted)

In denying petitioners' Motion for Reconsideration,[8] the CA noted that "among the affirmative defenses pleaded in the Answer was that 'this Honorable Court does not have any jurisdiction over the case' because the real issue is ownership, while in the [pretrial] brief, [respondents] posed the issue of whether the court of origin 'has jurisdiction over the subject matter of the case considering that there is no lessor-lessee relationship between the parties.'"[9]

Hence, this Petition.[10]

The Issue

In their Memorandum, petitioners raised this sole issue for our consideration:

"Whether the Honorable Court of Appeals erred in dismissing the case for ejectment [on] the ground of lack of jurisdiction despite the submission of respondents to the MTC and RTC and all the proceedings therein."[11]

The Court's Ruling

The Petition is bereft of merit.

Sole Issue:

Jurisdiction

Petitioners contend that, having participated in the trial of the case and having belatedly raised the issue of jurisdiction for the first time on appeal with the CA, respondents are estopped from questioning the jurisdiction of the MeTC.

Jurisdiction Lies

with the RTC

Well-settled is the rule that the jurisdiction of the court and the nature of the action are determined by the averments in the complaint.[12] To give the court jurisdiction to effect the ejectment of an occupant or a deforciant from the land, it is necessary that the complaint should embody a statement of facts that brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature.[13] On its face, the complaint must show enough ground for the court to assume jurisdiction without resort to parol testimony.[14]

Pertinent allegations in petitioners' complaint are as follows:

"3. That [petitioners] x x x are co-owners of a parcel of land located at Diliman, Quezon City x x x;

"4. That sometime in 1954, [petitioner] SALUD D. LOPEZ's mother, CIRILA SADSAD Vda. DE DAVID, requested herein [petitioners] to allow the former to temporarily build a residential house at [petitioners'] property and stay in the premises until her mother shall [have] found a suitable residence of her own;

"5. That since then, [petitioners] allowed said Cirila David to occupy the premises without paying monthly rent and without the benefit of a written contract but thru sheer tolerance of the [petitioners];

"6. That upon the death of [petitioner] Salud D. Lopez's mother, [respondents] continued to occupy the subject premises without paying any rentals and were allowed to continue to occupy two (2) separate units thru sheer generosity and mere tolerance of herein [petitioners];

"7. That subsequently, [petitioners] withdrew their consent and repeated demands were made upon [respondents] to vacate the subject premises but [respondents] refused and failed to heed the demand violative of [petitioners'] preferential right of possession over the subject 2 units;

“8. That on August 4, 1995, [petitioners] were constrained to refer the matter to their previous lawyer for appropriate legal action, to which a letter of demand was sent to [respondents] to vacate the premises but x x x the latter refused x x x to vacate the subject premises; x x x”[15]

To summarize, petitioners aver that (1) they are the owners of the property; (2) they allowed respondents to occupy it by tolerance; (3) they withdrew their consent; and (4) they demanded that respondents leave the property, but the latter refused to do so.

Based on the foregoing averments, the case at bar involves unlawful deprivation or withholding of possession. Hence, it could either be one for unlawful detainer cognizable by the MeTC under Rule 70 or one for accion publiciana, which is cognizable by the regional trial court.[16]

The Complaint filed by petitioners alleges that the demand letter required respondents to leave on September 15, 1995. The ejectment case was filed on September 24, 1996.[17] Thus, the MeTC had no jurisdiction to hear the case.

Under Section 1 of Rule 70,[18] the one-year period within which a complaint for unlawful detainer can be filed should be counted from the date of demand, because only upon the lapse of that period does the possession become unlawful.[19] In the present case, it is undisputed that petitioners’ Complaint was filed beyond one year from the time that respondents’ possession allegedly became unlawful.

We have ruled that “forcible entry and unlawful detainer are quieting processes and the one-year time bar to the suit is in pursuance of the summary nature of the action.”[20] Thus, we have nullified proceedings in the MeTC when it improperly assumed jurisdiction of a case in which the unlawful deprivation or withholding of possession had exceeded one year.[21]

After the lapse of the one-year period, the suit must be commenced in the RTC via an accion publiciana.[22] Accion publiciana is a suit for recovery of the right to possess. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title.[23] It also refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.[24] The CA was thus correct in declaring that jurisdiction belonged to the RTC.

Estoppel Does Not Apply

It is settled that any decision rendered without jurisdiction is a total nullity and may be struck down at any time, even on appeal before this Court.[25] Indeed, the general rule is that a question of jurisdiction may be raised at any time, provided that doing so does not result in the mockery of the tenets of fair play.[26] An exception to this rule arises when the party is barred by estoppel, in which case the issue of jurisdiction may not be raised.[27]

In bringing up the issue of estoppel, petitioners principally anchor their argument on *Tijam v. Sibonghanoy*. [28] Applying the rule on estoppel by laches, we declared therein that the failure to raise the question of jurisdiction at an earlier stage barred the party from questioning it later. We explained:

“A party may be estopped or barred from raising a question in different ways and for different reasons. Thus, we speak of estoppel in pais, of estoppel by deed or by record, and of estoppel by laches.

“Laches, in a general sense, is failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.

“The doctrine of laches or of ‘stale demands’ is based upon grounds of public policy which requires, for the

peace of society, the discouragement of stale claims and, unlike the statute of limitations, is not a mere question of time but is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted.”[29]

We have applied this doctrine to succeeding cases by denying allegations of lack of jurisdiction if the question was not raised at an earlier stage, but brought up only after an adverse decision.[30] We have also stressed, however, that this doctrine is merely an exception to the general rule and time-honored principle that jurisdiction is not lost by waiver or by estoppel.[31]

Considering these established facts, we find that the Tijam doctrine is inapplicable.

As defined in that case, estoppel by laches occurs when a party fails -- through negligence or omission -- to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it has abandoned or declined to assert it.

Herein, respondents cannot be perceived to have warranted the presumption that they were abandoning or declining to assert the right to question the jurisdiction of the MeTC. From the beginning, they have been challenging its jurisdiction and asserting that the RTC, not the MeTC, had jurisdiction over the case. Thus, in their Answer with affirmative defenses and counterclaim,[32] they challenged the MeTC’s jurisdiction over the Complaint.[33] The same objections were alleged and presented as issues in their pretrial Brief. [34]

We also note that respondents consistently allege that they “have been in peaceful possession of the premises since 1951.”[35] Their argument is that the MeTC has no jurisdiction, since the unlawful withholding of possession has already exceeded one year. In their Memorandum[36] submitted on appeal to the RTC, respondents argued:

“10. It is also an undisputed fact that [respondents] have been in continuous and uninterrupted possession of the premises from 1951 up to present time or [for] a period of forty seven years (47). x x x x x x x x

‘Even if one is the owner of the property, the possession thereof cannot be wrested from another who had been in the physical or material possession of the same for more than one year by resorting to a summary action for ejectment. x x x’[37]

x x x x x x x x

‘Accion publiciana is the plenary action to recover the right of possession when dispossession has lasted for more than one year or when dispossession was effected by means other than those mentioned in Rule 70 of the Rules of Court.’”[38]

It is apparent that respondents have been questioning the jurisdiction of the MeTC and alleging that the controversy was originally cognizable by the RTC, contrary to the contention of petitioners. Thus, we cannot countenance petitioners’ position that respondents are already estopped from raising the issue of jurisdiction or of whether the ejectment case was filed within the one-year period after the withholding of possession.

With regard to the lapse of the one-year period from the date of demand, even assuming that respondents raised the issue only for the first time on appeal with the CA, the foregoing argument can be considered without violating fair play. This position is consistent with the theory adopted and constantly raised by respondents in the lower courts: that the MeTC had no jurisdiction.

Finally, we find it necessary to apply the strict interpretation of the jurisdiction rule, given the fact that (1) respondents have been in possession of the property since 1954; (2) proceedings of forcible entry and unlawful detainer are summary in nature; and (3) the one-year time bar to the suit is consistent with the summary nature of

the action.[39]

WHEREFORE, this Petition is DENIED and the assailed Decision and Resolution AFFIRMED. Costs against petitioners.

SO ORDERED.

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

[1] Rollo, pp. 8-21.

[2] Id., pp. 136-140. Fifth Division. Penned by Justice Edgardo P. Cruz, with the concurrence of Justices Ramon Mabutas Jr. (Division chairman) and Roberto A. Barrios (member).

[3] Id., pp. 22-23. Special Former Fifth Division. Penned by Justice Edgardo P. Cruz, with the concurrence of Justices Roberto A. Barrios (acting Division chairman) and Marina L. Buzon (member).

[4] CA Decision, p. 4; rollo, p. 139.

[5] Id., pp. 1-3 & 136-138.

[6] Id., pp. 3-4 & 138-139.

[7] Ibid.

[8] Rollo, p. 142. Original in upper case.

[9] Id., pp. 22-23.

[10] This case was deemed submitted for resolution on December 2, 2002, upon this Court's receipt of respondents' Memorandum signed by Atty. Edward P. David. Petitioners' Memorandum, signed by Atty. Rolando F. Carlota, was received by this Court on November 19, 2002.

[11] Petitioners' Memorandum, p. 5; rollo, p. 185. Original in upper case.

[12] Sarmiento v. CA, 320 Phil. 146, 153, November 16, 1995; Arcal v. CA, 348 Phil. 813, 823, January 26, 1998; Sumulong v. CA, 232 SCRA 372, 385, May 10, 1994; Cruz v. Torres, 316 SCRA 193, 196, October 4, 1999.

[13] Arcal v. CA, supra, p. 823.

[14] Ibid.; Sarmiento v. CA, supra, p. 156.

[15] Complaint, pp. 2-3; rollo, pp. 40-41.

[16] Heirs of Fernando Vinzons v. CA, 315 SCRA 541, 546, September 30, 1999.

[17] The MeTC in its August 15, 1997 Decision and the CA in its April 26, 2001 Decision found that the action had been instituted on October 2, 1996 (rollo, pp. 62, 136), but both petitioners and respondents in their respective Memoranda aver that the Complaint was filed on September 24, 1996 (id., pp. 181, 304). On the Complaint, the stamp "Received" (by the MeTC) was dated "Sep 24, 1996" (id., p. 39).

[18] Section 1 of Rule 70 reads:

"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.”

[19] *Sarona v. Villegas*, 131 Phil. 365, 372, March 27, 1968; *Villaluz v. CA*, 344 Phil. 77, 89, September 5, 1997; *Arcal v. CA*, supra, p. 825.

[20] *De Guzman v. CA*, 271 SCRA 728, 732, April 18, 1997, per Puno, J..

[21] *Heirs of Fernando Vinzons v. Court of Appeals*, supra; *Gener v. De Leon*, 419 Phil. 920, 936, October 19, 2001; *De Guzman v. CA*, supra; *Bongato v. Malvar*, 387 SCRA 327, 339, August 14, 2002.

[22] *Sarona v. Villegas*, supra, p. 374; *Cruz v. Torres*, supra, p. 197; *Heirs of Fernando Vinzons v. CA*, supra, p. 547; *Del Castillo v. Aguinaldo*, 212 SCRA 169, 175, August 5, 1992.

[23] *Cruz v. Torres*, supra, p. 197, citing *Aguilon v. Bohol*, 79 SCRA 482, October 20, 1977; and *Desbarats v. Vda. de Laureano*, 18 SCRA 116, September 27, 1966.

[24] *Ibid.*, citing *Bernabe v. Dayrit*, 210 Phil., 349, 351, October 27, 1983.

[25] *Solid Homes, Inc. v. Payawal*, 177 SCRA 72, 80, August 29, 1989; *Trinidad v. Yatco*, 111 Phil. 466, 470, March 27, 1961; *Corominas Jr. and Corominas & Co. v. Labor Standard Commission*, 112 Phil. 551, 562, June 30, 1961; *Roxas v. CA*, 391 SCRA 351, 358, October 29, 2002.

[26] *Roxas v. CA*, supra; *Jimenez v. Patricia, Inc.*, 340 SCRA 525, 531, September 18, 2000.

[27] *Solid Homes v. Payawal*, supra; *TCL Sales Corp. v. CA*, 349 SCRA 35, 44, January 5, 2001; *National Steel Corporation v. CA*, 362 Phil. 150, 160, February 2, 1999; *ABS-CBN Supervisors Employees Union Members v. ABS-CBN Broadcasting Corporation*, 364 Phil. 133, 141, March 11, 1999.

[28] 131 Phil. 556, April 15, 1968.

[29] *Id.*, pp.563-564, per Dizon, J.

[30] *Macahilig v. Heirs of Grace M. Magalit*, 344 SCRA 838, 851, November 15, 2000; *Aragon v. CA*, 337 Phil. 289, 297, March 26, 1997; *Rodriguez v. CA*, 139 Phil. 847, 859, August 29, 1969.

[31] *Calimlim v. Hon. Ramirez*, 204 Phil. 25, 35, November 19, 1982.

[32] *Rollo*, pp. 44-47.

[33] *Id.*, p. 45.

[34] *Id.*, pp. 154, 157.

[35] Respondents stated in their Answer with Affirmative Defenses and Counterclaim “h) That [they] have been in peaceful possession of the premises since 1951, a period of forty five years.” (*Rollo*, p. 45.)

[36] *Rollo*, pp. 69-91.

[37] *Id.*, pp. 80-81; citing *Sarmiento v. CA*, 250 SCRA 108, November 16, 1995.

[38] *Id.*, p. 81; citing *De Leon v. CA*, 245 SCRA 166, June 19, 1995.

[39] *A. Francisco Realty and Development Corp. v. CA*, 358 Phil. 833, 842, October 30, 1998; *Sarona v. Villegas*, *supra*, p. 373, citing *Monteblanco v. Hinigaran Sugar Plantation*, 63 Phil. 797, 802-803, November 27, 1936.

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