

LOLITA R. AYSON, PETITIONER, VS. MARINA ENRIQUEZ VDA. DE CARPIO, RESPONDENT.

G.R. No. 152438. June 17, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Defects in a complaint are deemed waived when the parties go to trial without challenging them. Thus, when the plaintiff, without objection from the defendant, introduces evidence to prove a particular cause of action not alleged in the original complaint, and the defendant voluntarily produces witnesses and other evidence to meet the cause of action thus established, the issue is joined as fully and as effectively as if it were previously pleaded.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, challenging the October 9, 2001 Decision[2] and the February 5, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 63088. The assailed Decision disposed as follows:

“WHEREFORE, FOREGOING PREMISES CONSIDERED, this petition is DENIED DUE COURSE and accordingly DISMISSED.”[4]

The assailed Resolution denied petitioner’s Motion for Reconsideration.

The Facts

The facts were summarized by the appellate court as follows:

“Petitioner was the owner of three (3) parcels of land in Manibang, Porac, Pampanga covered respectively by Transfer Certificates of Title (TCT) Nos. 147096-R, 155262-R and 155362-R.

“Petitioner has been in possession of the aforesaid properties being the owner thereof.

“On August 29, 1980, petitioner mortgaged said properties to the Philippine National Bank, Angeles City Branch (‘Bank’). These were subsequently foreclosed by the Bank. After failing to redeem within the prescribed period, petitioner’s TCTs were canceled and new ones were issued in the name of the Bank on May 14, 1985, to wit:

- a) TCT No. 220195-R (from 147096-R);
- b) TCT No. 220196-R (from 155262-R);
- c) TCT No. 220197-R (from 155362-R).

“On April 14, 1999, the Bank sold the property covered by TCT No. 220195-R to the respondent herein and is now covered by TCT No. 466519-R in favor of the respondent.

“On October 22, 1999, petitioner filed a Complaint (docketed as Civil Case No. 9582) before the Regional Trial Court of Angeles City for the annulment of TCT No. [466519-R] and the deed of sale between the Bank and the respondent as well as for reconveyance and damages.

“With said Civil Case No. 9582 still pending, respondent, on January 3, 2000, sent demand letters dated December 29, 1999 demanding petitioner to vacate the premises covered by TCT No. 466519-R.

“On March 7, 2000, respondent filed a complaint with the MTC for ejectment with damages.

“On June 23, 2000, the MTC rendered a decision in favor of respondent ordering petitioner to vacate the subject property.

“On appeal, the RTC rendered a decision affirming with modification the MTC’s decision.

“Respondent then filed a Motion with the RTC on February 1, 2001 for issuance of a writ of execution pending appeal.”[5]

Consequently, petitioner interposed an appeal to the CA, assigning only one error:

“The trial court had no jurisdiction over the action. The Decision of the Regional Trial Court affirming the trial court’s decision is accordingly erroneous and consequently null and void.”[6]

Ruling of the Court of Appeals

The appellate court held that the continued possession of the property by petitioner had merely been tolerated by respondent. Possession by petitioner became unlawful when she was divested of her ownership of the premises. Holding that a summary action for ejectment was the proper remedy against her, the CA explained that the parties were not precluded from ventilating their grievances in another action based on a separate and distinct cause involving ownership of the land.[7]

Hence, this Petition.[8]

The Issue

In her Memorandum,[9] petitioner raises the following issues for our consideration:

“I.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court for in ascertaining the trial court’s jurisdiction it digressed into matters not alleged in the Complaint, and by which it breached the cardinal rule that jurisdiction of the court is determined by the allegations in the complaint.

“II.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court for despite the clear want of essential content, it erred in not holding that the Complaint failed to aver facts constitutive of unlawful detainer.

“III.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court for despite attestation by the averments of the Complaint, it erred in not holding that the action for the purported right to possess was anchored on the elemental attribute of ownership and accordingly was of the nature of an accion publiciana.

“IV.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court as it erred in not holding that the action suffered from a jurisdictional defect with the manifest absence of proof of receipt of the demand letters.

“V.

Whether the petitioner is estopped from assailing the trial court's jurisdiction.”[10]

The main issue is simply whether the Municipal Trial Court (MTC) had jurisdiction over respondent's Complaint for ejectment.

This Court's Ruling

The Petition has no merit.

Main Issue:

Jurisdiction

Petitioner bases on *Serdoncillo v. Benolirao*[11] her adamant objection to the MTC's jurisdiction. She argues that a complaint that fails to aver how entry was effected or to state the circumstances that brought about the owner's alleged dispossession is not a valid action for ejectment, but is actually a complaint for *accion publiciana* or *accion reivindicatoria*. Thus, she infers, it is the Regional Trial Court (RTC), not the MTC, that has jurisdiction over the case.[12] Respondent arrogated the title to herself and anchored her purported right to possess the property on her right of ownership thereof, according to petitioner.[13]

Respondent counters that ejectment is the proper remedy, because she is asking only for possession *de facto*. [14] She posits that in an action for unlawful detainer, it suffices to allege, without necessarily employing the terminology of the law, that the defendant is unlawfully withholding possession of the property or is refusing to vacate it.[15] Petitioner is supposedly estopped from questioning the jurisdiction of the trial court after she voluntarily participated in the trial on the merits and lost.[16]

The pertinent portion of the Complaint filed in the trial court reads as follows:

“3. That the Defendants[17] are illegally occupying the property x x x and sometime on December 29, 1999 the Plaintiff[18] through counsel sent demand letters by registered mail unto the Defendants demanding upon them to vacate the premises within thirty (30) days from receipt thereto for the reason that the Plaintiffs will now use the property for their personal benefit x x x.

“4. Notwithstanding said demand the Defendants refused to voluntarily leave the premises. x x x”[19]

Petitioner's reliance on *Serdoncillo* is misplaced. The Complaint of respondent might have been vague in certain respects and lacking in some details about her alleged dispossession, but these defects were not fatal. The rudiments of fair play were satisfied when she formally offered evidence, both documentary and testimonial, that afforded petitioner the opportunity to refute and object to them.

Section 5 of Rule 10 of the Rules of Court was thus rendered applicable *pro tanto*. It provides:

“SEC. 5. – Amendment to conform to or authorize presentation of evidence.– When issues not raised by the pleadings are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so with liberality if the presentation of the merits of the action and the ends of substantial justice will be subserved thereby. The court may grant a continuance to enable the amendment to be made.”

This Court has had occasion to explain this rule thus:

“The presentation of the contrariant evidence for and against imputations undoubtedly cured, clarified or expanded, as the case may be, whatever defects in the pleadings or vagueness in the issues there might have

been in the amended complaint. x x x.

x x x x x x x x

“It is settled that even if the complaint be defective, but the parties go to trial thereon, and the plaintiff, without objection, introduces sufficient evidence to constitute the particular cause of action which it intended to allege in the original complaint, and the defendant voluntarily produces witnesses to meet the cause of action thus established, an issue is joined as fully and as effectively as if it had been previously joined by the most perfect pleadings.”[20]

Trial on the merits was conducted without objection from petitioner. She did not challenge the statement of issues proffered by respondent. The former simply presented, as her own, issues on the propriety of the ejectment case. She claimed (1) that respondent was not in actual possession of the property; (2) that the latter’s acquisition of title over it was fraudulent; and (3) that no actual conciliation proceedings had been held before the office of the barangay chairman.

The trial brought to light the true nature of the right of possession of respondent over the property, and the circumstances surrounding her dispossession. The facts, as culled from the evidence presented by both parties, unequivocally show that the instant case is one for unlawful detainer.

Respondent was able to present evidence showing that after the foreclosure of the property, petitioner failed to redeem it within the redemption period. Thus, the latter was divested of her ownership and right to retain possession thereof. Respondent acquired a better right to possess the property after acquiring title to it through a sale between her and the mortgagee-bank.

The CA correctly held that *Lagrosa v. Court of Appeals*[21] was applicable to the controversy. The continued occupation of the property by petitioner was merely tolerated by respondent. Consequently, the former was bound by an implied promise that she would vacate the premises upon demand. Her failure to do so justified respondent’s action for ejectment filed in the MTC.

Under these circumstances, the trial court acted within the bounds of its jurisdiction and committed no reversible error in taking cognizance of the case. Verily, its actuations were sanctioned by the Rules and supported by jurisprudence.

In an effort to clothe this Petition with merit, petitioner further assails the validity of the Complaint on the basis of the RTC’s finding that it was not clear when she actually received the demand letter. She insists that there is no factual or evidentiary basis to establish her receipt of the demand to vacate the premises.[22]

This contention must fail. It is only in this late stage that petitioner is raising this point. It was not raised before the MTC or the RTC. Hence, fair play, justice and due process dictate that this Court cannot now, for the first time on appeal, pass upon this question. Matters not taken up below cannot be raised for the first time on appeal. They must be raised seasonably in the proceedings before the lower courts. Questions raised on appeal must be within the issues framed by the parties; consequently, issues not raised before the trial court cannot be raised for the first time on appeal.[23]

WHEREFORE, the Petition is DENIED, and the assailed Decision AFFIRMED. Costs against petitioner.

SO ORDERED.

Davide Jr., CJ, (Chairman), Carpio, and Azcuna, JJ., concur.

Ynares-Santiago, J., on leave.

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- [1] Rollo, pp. 3-26.
- [2] Id., pp. 28-33. First Division. Penned by Justice Mercedes Gozo-Dadole, with the concurrence of Justices Ma. Alicia Austria-Martinez (Presiding Justice and now a member of this Court) and Portia Aliño-Hormachuelos.
- [3] Id., p. 36.
- [4] Assailed CA Decision, p. 5; rollo, p. 32.
- [5] Id., pp. 1-3 & 28-30.
- [6] Id., pp. 3 & 30. Original in upper case.
- [7] Id., pp. 4-5 & 31-32.
- [8] The case was deemed submitted for decision on December 12, 2002, upon this Court's receipt of petitioner's Memorandum, signed by Atty. Joey D. Morales. Respondent's Memorandum, signed by Atty. Nino Baltazar Yu Enriquez, was received by this Court on November 27, 2002.
- [9] Rollo, pp. 117-144.
- [10] Petitioner's Memorandum, p. 6; rollo, p. 122. Original in upper case.
- [11] 358 Phil. 83, October 8, 1998.
- [12] Petitioner's Memorandum, pp. 7-8; rollo, pp. 123-124.
- [13] Id., pp. 15 & 131.
- [14] Id., pp. 7 & 101.
- [15] Ibid.
- [16] Id., pp. 5 & 99.
- [17] This refers to Petitioner Lolita R. Ayson "and all persons claiming rights under her."
- [18] Respondent Marina Enriquez vda. de Carpio in this case.
- [19] Complaint, pp. 1-2; rollo, pp. 38-39.
- [20] *Bernardo Sr. v. Court of Appeals*, 263 SCRA 660, 673, October 28, 1996, per Davide Jr., J. (now CJ) (citing *Francisco*, *The Revised Rules of Court: Civil Procedure*, 1973 ed., pp. 667-668). See also *Bank of America v. American Realty Corp.*, 378 Phil. 1279, December 29, 1999 (citing *Talisay-Silay Milling Co., Inc. v. Asociacion de Agricultores de Talisay-Silay, Inc.*, 247 SCRA 361, 377-378, August 15, 1995; and *Northern Cement Corporation v. Intermediate Appellate Court*, 158 SCRA 408, February 29, 1988).
- [21] 312 SCRA 298, August 12, 1999.
- [22] Petitioner's Memorandum, p. 19; rollo, p. 135.
- [23] *Sanchez v. Court of Appeals*, 279 SCRA 647, 679, September 29, 1997; *Reburiano v. Court of Appeals*, 301 SCRA 342, January 21, 1999; *Sañado v. Court of Appeals*, 356 SCRA 546, April 17, 2001; *Casolita Sr. v. Court of Appeals*, 275 SCRA 257, July 8, 1997; *Manalili v. Court of Appeals*, 280 SCRA 400, October 9, 1997.

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