

LEONARDO DAVID, PETITIONER, VS. NELSON AND DANNY CORDOVA, RESPONDENTS.

G.R. No. 152992. July 28, 2005

Ponente: TINGA, J.

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TINGA, J.:

In this Petition[1] under Rule 45 of the Rules of Court, petitioner Leonardo A. David (David) assails the Decision[2] of the Court of Appeals, Fifteenth Division, and the Resolution[3] of the same division denying his Motion for Reconsideration[4] and Supplement to the Motion for Reconsideration.[5] The Court of Appeals declared null and void the Decision[6] of the First Municipal Circuit Trial Court (FMCTC) of Dinalupihan-Hermosa, Bataan and the Order[7] of the Regional Trial Court (RTC) of Dinalupihan, Bataan, Branch 5.

The antecedents are as follows:

Petitioner David filed a Complaint[8] for forcible entry, docketed as Civil Case No. 1067, with the FMCTC of Dinalupihan, Bataan against respondents Nelson and Danny Cordova (the Cordovas). The Complaint alleged these material facts:

. . . .

- That plaintiff is the co-owner of Lot 774, with an area of 14,000 square meters, situated in Dinalupihan, Bataan, Philippines, covered by Tax Declaration No. 009087, xerox copy of which is hereto attached, marked as ANNEX "A", and made part hereof.
- That on April 26, 1997, plaintiff passed by said Lot 774 on his way to Dinalupihan Public Market and he noticed persons who forcibly entered said Lot 774 by destroying the fence and started erecting a structure thereon.
- That when plaintiff got near said Lot 774, defendants and their workers threatened him with harm should he interfere with their work.
- That plaintiff requested defendants and their workers to stop the construction of a structure inside said Lot 774, but defendants and their workers refused to stop their said construction.
- That plaintiff reported the matter to the Government Authorities of Dinalupihan, Bataan and requested assistance in stopping said construction undertaken by defendants inside said Lot 774 of plaintiff.
- That the Municipal Engineer together with some policemen of Dinalupihan, Bataan, went to the place where said Lot 774 is situated and they stopped the construction undertaken by defendants.
- However, on the succeeding days, defendants continued with construction of the structure inside plaintiff's Lot 774, despite plaintiff's vehement protest.
- That this construction undertaken by defendants inside plaintiff's said Lot 774 is without the knowledge and

consent of plaintiff nor his co-owners.

- That plaintiff brought the matter before the Barangay Authorities for conciliation, but no settlement was arrived at the Barangay Authorities, xerox copy of the Barangay Certification is hereto attached, marked as ANNEX "B", and made part hereof.

- That plaintiff has been compelled by defendants to litigate to enforce his rights and to engage the services of counsel for the sum of P20,000.00

- That the reasonable compensation for the use and occupation by defendants of plaintiff's said Lot 774 is P15,000.00 per month.

ALLEGATIONS FOR THE ISSUANCE OF THE WRIT OF PRELIMINARY MANDATORY INJUNCTION

- That plaintiff hereby reproduced all the allegations of the preceding paragraphs insofar as they are material to issuance of the writ of preliminary mandatory injunction.

- That under the provisions of Article 539 of the Civil Code of the Philippines and Section 3, Rule 70, Revised Rules of Court, plaintiff should be restored to the possession of said Lot 774.

- That plaintiff is ready, able and willing to post a bond to be fixed by this Honorable Court to answer for any and all damages in the event that the Honorable Court finally adjudge that plaintiff is entitled thereto.[9]

and incorporated the following-

P R A Y E R

WHEREFORE, it is respectfully prayed that after the filing of the case and upon posting of the bond to be fixed by this Honorable Court, a writ of preliminary mandatory injunction issue to restore plaintiff in possession of said Lot 774, ...[10]

Before filing their Answer,[11] respondents filed a motion to dismiss alleging that it is the Department of Agrarian Reform (DAR) and not the FMCTC that has jurisdiction over the case. Said motion was denied in an Order of the lower court dated 24 November 1997.[12]

In their Answer, the Cordovas contended that David "is not a co-owner of the subject property, it being owned by the Government as said property forms part and parcel of the Dinalupihan Landed Estate"[13] The Cordovas questioned the jurisdiction of the FMCTC to take cognizance of the case as allegedly the subject property is under the disposition and administration of DAR which will award it to qualified beneficiaries such as respondents. The Cordovas prayed that the Complaint be dismissed for lack of cause of action and lack of jurisdiction.[14]

Based on the position papers submitted by the parties to the case, the inferior court rendered a Decision on 20 January 1998, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered:

- Ordering the defendants and all persons claiming rights under them to vacate the landholdings in suit;
- Ordering defendants to pay jointly and severally plaintiff the amount of P2,000.00 per month as reasonable compensation for the use and occupation of the property;
- Ordering the defendants to pay jointly and severally the amount of P3,000.00 as attorney's fees; and
- To pay the costs of suit.

SO ORDERED.[15]

The Cordovas thereafter filed with the RTC, Branch 5 of Dinalupihan, Bataan, a petition[16] for certiorari under Rule 65 of the Rules of Court to nullify the Decision of the lower court, docketed as Civil Case No. DH-456-98. The Cordovas contended that the inferior court had no jurisdiction over the forcible entry case as the property, being an agricultural land, is within the administration and disposition of the DAR. Hence, they argued that the Decision dated 20 January 1998 was null and void for having been issued without jurisdiction.[17]

On 26 May 1998, the RTC issued an order[18] dismissing the petition. Apart from the petition being filed out of time, the RTC ruled that the findings of facts of the lower court is given due respect and at times treated with finality.

On 8 September 1998, the Cordovas filed another petition[19] for certiorari under Rule 65 of the Rules of Court before the RTC of Bataan to annul the Decision dated 20 January 1998 of the lower court, docketed as Civil Case No. DH-492-98. Again, the Cordovas put forward that the assailed Decision was null and void as the inferior court had no jurisdiction to entertain the forcible entry case considering that subject property is government-owned and falls within the administration and disposition of the DAR.[20] The Cordovas' petition was dismissed by the RTC, this time on the ground of *res judicata*. [21]

The Cordovas then filed a petition[22] for certiorari before the Court of Appeals praying that the Decision dated 20 January 1998 of the lower court be nullified. They restated before the Court of Appeals their previous assertion that the Decision rendered by the lower court was null and void for having been issued without jurisdiction, the subject property being under the administration and disposition of the DAR. And for the first time they raised the argument that the Complaint for forcible entry suffers from a fatal flaw as it failed to allege prior physical possession of the property by David.[23]

For his part, David contended that the petition should be dismissed for having resorted to in lieu of the lost remedy of appeal and for having been filed out of time at that.[24]

On 8 April 1999, the Court of Appeals promulgated a Decision[25] granting the Cordovas' petition. It agreed with the Cordovas' allegation that the lower court lacked jurisdiction over the property in litigation as this was supported by a certification[26] dated 12 January 1999 issued by the Municipal Agrarian Reform Office in Dinalupihan, Bataan to the effect that the land in suit is situated within the Dinalupihan Landed Estate; and that Danilo Cordova had filed an application dated 10 January 1997 to purchase the said lot.[27]

The Court of Appeals likewise considered a statement in the Order[28] dated 14 May 1992 of the Secretary of Agrarian Reform which pointed out that-

(r)egarding Lot No. 774, it was not included in the Order of Partition and based on the report of the Chief of Landed Estate Division of DAR Region III, the said lot is not identifiable at the moment for lack of approved reference map.[29]

in its finding that David fell short of proving that he has a better right to the subject property as he failed to prove ownership of the same and the identity thereof.[30]

The Court of Appeals also observed that the Complaint for forcible entry suffers from a major flaw as it failed to allege, much less prove, prior physical possession over the property. It held that such allegation is indispensable in actions for forcible entry.[31]

In the instant Petition, David insists that the Cordovas' petition before the Court of Appeals should not have been given due course as it was filed out of time and in lieu of a timely appeal. David also maintains that the FMCTC of Dinalupihan, Bataan has jurisdiction over the forcible entry case he filed against the Cordovas.

We grant the petition.

Petition before Court of Appeals
was a wrong remedy that was even
filed out of time

At the outset, the petition must be upheld on procedural grounds. We find, as David has repeatedly posited, the Court of Appeals erred in giving due course to the Cordovas' petition for certiorari as it was filed in lieu of appeal which is the prescribed remedy, and far beyond the reglementary period to boot. Quite lamentably, the appellate court did not accord the fundamental grounds raised by David even with a perfunctory acknowledgment, totally ignoring said grounds and opting to rule on the petition solely on the basis of the arguments raised therein.

Instead of filing an appeal, the Cordovas filed two petitions for certiorari[32] under Rule 65 before the RTC and a petition for certiorari also under Rule 65 before the Court of Appeals on 16 November 1998, notably almost nine (9) months after the lower court had rendered its assailed Decision on 20 January 1998. It bears stressing that a petition for certiorari under Rule 65 must be filed "not later than sixty (60) days from notice of the judgment, order or resolution"[33] sought to be annulled. Presumably the Cordovas received a copy of the assailed Decision of the lower court when they first filed a petition for certiorari before the RTC on 5 May 1998. Even if we were to begin counting the period from such date or from 26 May 1998, when the RTC issued an order denying the Cordovas' petition, the petition for certiorari before the Court of Appeals would still have been filed out of time.

In addition, a petition for certiorari cannot be a substitute for an appeal from a lower court decision. Where appeal is available to the aggrieved party, the action for certiorari will not be entertained. The remedies of appeal (including petitions for review) and certiorari are mutually exclusive, not alternative or successive. Hence, certiorari is not and cannot be a substitute for an appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse. One of the requisites of certiorari is that there be no available appeal or any plain, speedy and adequate remedy. Where an appeal is available, certiorari will not prosper, even if the ground therefore is grave abuse of discretion.[34]

As certiorari is not a substitute for lost appeal, time and again, we have emphasized that the perfection of appeals in the manner and within the period permitted by law is not only mandatory but jurisdictional, and that the failure to perfect an appeal renders the decision of the trial court final and executory. This rule is founded upon the principle that the right to appeal is not part of due process of law but is a mere statutory privilege to be exercised only in the manner and in accordance with the provisions of the law. Neither can petitioner invoke the doctrine that rules of technicality must yield to the broader interest of substantial justice. While every litigant must be given the amplest opportunity for the proper and just determination of his cause, free from constraints of technicalities, the failure to perfect an appeal within the reglementary period is not a mere technicality. It raises a jurisdictional problem as it deprives the appellate court of jurisdiction over the appeal.[35]

As the Cordovas failed to file a timely appeal, the lower court's Decision had long become final and executory in favor of David. The Court of Appeals should have denied outright the Cordovas' petition for certiorari.

Complaint recites facts essential
to a forcible entry suit falling
within the jurisdiction of the
inferior court

Now to the substantive aspect of the case. The issue for our resolution is whether or not the FMCTC of Dinalupihan, Bataan had jurisdiction over the Complaint for forcible entry filed by David against the Cordovas.

According to the Court of Appeals, the inferior court was bereft of jurisdiction because: (1) its Complaint allegedly failed to allege David's prior physical possession and his dispossession by any modes on which an action for forcible entry is based; and (2) the lot in question is allegedly a public agricultural land.

Jurisdiction of the court over the subject matter is conferred only by the Constitution or by law. Jurisdiction of the court, as well as the nature of the action, is determined by the allegations in the complaint.[36] An error in jurisdiction can be raised at any time and even for the first time on appeal.[37]

Contrary to the Court of Appeals' ruling, a careful reading of the facts averred in the Complaint filed by David reveals that his action is indeed one of forcible entry that falls within the jurisdiction of the FMCTC.

The facts upon which an action for forcible entry can be brought are specially mentioned in Section 1, Rule 70 of the Rules of Court. Said section likewise defines an action for unlawful detainer. In forcible entry (*desahucio*), one is deprived of physical possession of land or building by means of force, intimidation, threat, strategy, or stealth. In unlawful detainer (*detentacion*), one unlawfully withholds possession thereof after the expiration or termination of his right to hold possession under any contract, express or implied. In forcible entry, the possession is illegal from the beginning and the basic inquiry centers on who has the prior possession *de facto*. In unlawful detainer, the possession was originally lawful but became unlawful by the expiration or termination of the right to possess, hence the issue of rightful possession is decisive for, in such action, the defendant is in actual possession and the plaintiff's cause of action is the termination of the defendant's right to continue in possession.[38]

In pleadings filed in courts of special jurisdiction, the special facts giving the court jurisdiction must be specially alleged and set out. In actions for forcible entry, the law tells us that two allegations are mandatory for the municipal court to acquire jurisdiction: First, the plaintiff must allege prior physical possession of the property. Second, he must also allege that he was deprived of his possession by any of the means provided for in Section 1, Rule 70 of the Rules of Court.[39]

It is not necessary that the complaint allege, in the language of the statute, that the person has been deprived of his possession by force, intimidation, threat, strategy or stealth. However, the plaintiff in an action of *desahucio* must set up in his complaint facts which show that he had prior physical possession of the property and that he was deprived of such possession by reason of force, intimidation, threat, strategy or stealth.[40] To effect the ejectment of an occupant or deforciant on the land, the complaint should embody such a statement of facts as brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without resort to parol evidence.[41]

The Complaint filed by David alleged these material facts:

....

- That plaintiff is the co-owner of Lot 774, with an area of 14,000 square meters, situated in Dinalupihan, Bataan, Philippines, covered by Tax Declaration No. 009087, xerox copy of which is hereto attached, marked as ANNEX "A", and made part hereof.

- That on April 26, 1997, plaintiff passed by said Lot 774 on his way to Dinalupihan Public Market and he noticed persons who forcibly entered said Lot 774 by destroying the fence and started erecting a structure thereon.

- That when plaintiff got near said Lot 774, defendants and their workers threatened him with harm should he interfere with their work.

....

- That the reasonable compensation for the use and occupation by defendants of plaintiff's said Lot 774 is P15,000.00 per month.

ALLEGATIONS FOR THE ISSUANCE OF THE WRIT OF
PRELIMINARY MANDATORY INJUNCTION

. . . .

- That under the provisions of Article 539 of the Civil Code of the Philippines and Section 3, Rule 70, Revised Rules of Court, plaintiff should be restored to the possession of said Lot 774....[42] (Emphasis supplied.)

Clearly, David alleged that he is the co-owner of the subject property, evidenced by a tax declaration receipt, and therefore entitled to possession thereof; that the Cordovas illegally and forcibly entered the premises without his consent and started erecting a structure thereon; and despite the request to vacate the premises, the Cordovas refused to leave the property thus David prayed for restoration of possession thereof. On the face of the Complaint, it also appears that David was seeking to recover merely the physical possession or possession de facto of the subject property. In fine, the allegations in the Complaint make out a case for forcible entry.

David's prior physical possession of the subject property and deprivation thereof are clear from the allegation that he is the owner of the subject property which the Cordovas forcibly entered, of which he was unlawfully turned out of possession and for which he prays to be restored in possession.[43] The acts of the Cordovas in unlawfully entering the land, erecting a structure thereon and excluding therefrom the prior possessor would also imply the use of force.[44] In order to constitute force, the trespasser does not have to institute a state of war. The act of going on the property and excluding the lawful possessor therefrom necessarily implies the exertion of force over the property and this is all that is necessary.[45] Thus, the foregoing averments are sufficient to show that the action is based upon the proviso of Section 1, Rule 70 of the Rules of Court.

We have previously held that the foundation of a possessory action is really the forcible exclusion of the original possessor by a person who has entered without right. The words "by force, intimidation, threat, strategy or stealth" include every situation or condition under which one person can wrongfully enter upon real property and exclude another, who has had prior possession therefrom. If a trespasser enters upon land in open daylight, under the very eyes of the person already clothed with lawful possession, but without the consent of the latter, and there plants himself and excludes such prior possessor from the property, the action of forcible entry and detainer can unquestionably be maintained, even though no force is used by the trespasser other than such as is necessarily implied from the mere acts of planting himself on the ground and excluding the other party.[46]

The foregoing establish that indeed David averred the necessary jurisdictional facts and should therefore quell the Cordovas' assertion that David's Complaint suffered from a major flaw.

Respondents are estopped from
assailing jurisdiction of the
inferior court

In any event, the Cordovas are estopped from questioning the jurisdiction of the lower court on the ground that the Complaint filed by David lacked the material averments sufficient to make out a case for forcible entry.

A party may be estopped or barred from raising a question in different ways and for different reasons. In the case at bar, the respondents are estopped by laches. This we defined in the seminal case of *Tijam v. Sibonghanoy*:[47]

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.

....

Furthermore, it has been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court (Pease vs. Rathbun-Jones etc. 243 U.S. 273, 61 L. Ed. 715, 37 S.Ct. 283; St. Louis etc. vs. McBride, 141 U.S. 127, 35 L. Ed. 659).[48]

It is too late in the day for the Cordovas to challenge the jurisdiction of the lower court on the ground that the Complaint failed to assert the necessary jurisdictional facts. The Cordovas first raised the issue in its petition for certiorari before the Court of Appeals. After participating in all stages of the case before the lower court, the Cordovas are effectively barred by estoppel from challenging the lower court's jurisdiction. While it is a rule that a jurisdictional question may be raised any time, this, however, admits of an exception where, as in this case, estoppel has supervened.[49]

Participation in all stages of a case before the lower court effectively estops a party from challenging its jurisdiction. One cannot belatedly reject or repudiate its decision after voluntarily submitting to its jurisdiction, just to secure affirmative relief against one's opponent or after failing to obtain such relief. The Court has time and again frowned upon the undesirable practice of a party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse.[50]

Alleged public character of land
does not deprive court of jurisdiction
over forcible entry case

Next, the point that the property in dispute is public land. The matter is of no moment and does not operate to divest the lower court of its jurisdiction over actions for forcible entry involving such property. Indeed, the public character of the land does not preclude inferior courts from exercising jurisdiction over forcible entry cases. We have ruled in the case of Robles v. Zambales Chromite Mining Co., et al.,[51] that the land spoken of in Section 1, Rule 70 of the Rules of Court includes all kinds of land, whether agricultural or mineral. It is a well known maxim in statutory construction that where the law does not distinguish, we should not distinguish.[52]

Moreover, ejectment proceedings are summary proceedings only intended to provide an expeditious means of protecting actual possession or right to possession of property. Title is not involved. The sole issue to be resolved is the question as to who is entitled to the physical or material possession of the premises or possession de facto.[53] Our ruling in Pajuyo v. Court of Appeals[54] illustrates this point, thus:

The only question that the courts must resolve in ejectment proceedings is-who is entitled to the physical possession of the premises, that is, to the possession de facto and not to the possession de jure. It does not even matter if a party's title to the property is questionable, or when both parties intruded into public land and their applications to own the land have yet to be approved by the proper government agency. Regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror. Neither is the unlawful withholding of property allowed. Courts will always uphold respect for prior possession.

Thus, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the

security that entitles him to remain on the property until a person with a better right lawfully ejects him. To repeat, the only issue that the court has to settle in an ejectment suit is the right to physical possession.[55]

Also worth noting is the case of *Pitargue v. Sevilla*,[56] wherein, as in this case, the government owned the land in dispute. The government did not authorize either the plaintiff or the defendant in the forcible entry case to occupy the land. Both parties were in effect squatting on government property. Yet we upheld the court's jurisdiction to resolve the issue of possession even if title remained with the government.

Courts must not abdicate their jurisdiction to resolve the issue of physical possession because of the public need to preserve the basic policy behind the summary actions of forcible entry and unlawful detainer. The underlying philosophy behind ejectment suits is to prevent breach of peace and criminal disorder and to compel the party out of possession to respect and resort to the law alone to obtain what he claims is his. The party deprived of possession must not take the law into his own hands. Ejectment proceedings are summary in nature so the authorities can settle speedily actions to recover possession because of the overriding need to quell social disturbances.[57]

Thus, the better rule is that even while the power of administration and disposition of public or private agricultural lands belongs to DAR, courts retain jurisdiction over actions for forcible entry involving such lands. To restate this, courts have jurisdiction over possessory actions involving public or private agricultural lands to determine the issue of physical possession as this issue is independent of the question of disposition and alienation of such lands which should be threshed out in DAR.[58]

In addition, the instant case does not involve the adjudication of an agrarian reform matter[59] nor an agrarian dispute[60] falling within the jurisdiction of DAR. As such, possessory actions involving the land in dispute rightfully falls within the jurisdiction of the FMCTC.

On this point, the following pronouncements we made in *Pitargue* are enlightening:

The question that is before this Court is: Are courts without jurisdiction to take cognizance of possessory actions involving these public lands before final award is made by the Lands Department, and before title is given any of the conflicting claimants? It is one of utmost importance, as there are public lands everywhere and there are thousands of settlers, especially in newly opened regions. It also involves a matter of policy, as it requires the determination of the respective authorities and functions of two coordinate branches of the Government in connection with public land conflicts.

Our problem is made simple by the fact that under the Civil Code, either in the old, which was in force in this country before the American occupation, or in the new, we have a possessory action, the aim and purpose of which is the recovery of the physical possession of real property, irrespective of the question as to who has the title thereto. Under the Spanish Civil Code we had the *accion interdictal*, a summary proceeding which could be brought within one year from dispossession (*Roman Catholic Bishop of Cebu vs. Mangaron*, 6 Phil. 286, 291); and as early as October 1, 1901, upon the enactment of the Code of Civil Procedure (Act No. 190 of the Philippine Commission) we implanted the common law action of forcible entry (Section 80 of Act No. 190), the object of which has been stated by this Court to be "to prevent breaches of the peace and criminal disorder which would ensue from the withdrawal of the remedy, and the reasonable hope such withdrawal would create that some advantage must accrue to those persons who, believing themselves entitled to the possession of property, resort to force to gain possession rather than to some appropriate action in the courts to assert their claims." (*Supia and Batioco vs. Quintero and Ayala*, 59 Phil. 312, 314.) So before the enactment of the first Public Land Act (Act No. 926) the action of forcible entry was already available in the courts of the country. So the question to be resolved is, Did the Legislature intend, when it vested the power and authority to alienate and dispose of the public lands in the Lands Department, to exclude the courts from entertaining the possessory action of forcible entry between rival claimants or occupants of any land before award thereof to any of the

parties? Did Congress intend that the lands applied for, or all public lands for that matter, be removed from the jurisdiction of the Judicial Branch of the Government, so that any troubles arising therefrom, or any breaches of the peace or disorders caused by rival claimants, could be inquired into only by the Lands Department to the exclusion of the courts? The answer to this question seems to us evident. The Lands Department does not have the means to police public lands; neither does it have the means to prevent disorders arising therefrom, or contain breaches of the peace among settlers; or to pass promptly upon conflicts of possession. Then its power is clearly limited to disposition and alienation, and while it may decide conflicts of possession in order to make proper award, the settlement of conflicts of possession which is recognized in the courts herein has another ultimate purpose, i.e., the protection of actual possessors and occupants with a view to the prevention of breaches of the peace. The power to dispose and alienate could not have been intended to include the power to prevent or settle disorders or breaches of the peace among rival settlers or claimants prior to the final award. As to this, therefore, the corresponding branches of the Government must continue to exercise power and jurisdiction within the limits of their respective functions. The vesting of the Lands Department with authority to administer, dispose, and alienate public lands, therefore, must not be understood as depriving the other branches of the Government of the exercise of their respective functions or powers thereon, such as the authority to stop disorders and quell breaches of the peace by the police, the authority on the part of the courts to take jurisdiction over possessory actions arising therefrom not involving, directly or indirectly, alienation and disposition.

Our attention has been called to a principle enunciated in American courts to the effect that courts have no jurisdiction to determine the rights of claimants to public lands, and that until the disposition of the land has passed from the control of the Federal Government, the courts will not interfere with the administration of matters concerning the same. (50 C.J. 1093-1094.) We have no quarrel with this principle. The determination of the respective rights of rival claimants to public lands is different from the determination of who has the actual physical possession of occupation with a view to protecting the same and preventing disorder and breaches of the peace. A judgment of the court ordering restitution of the possession of a parcel of land to the actual occupant, who has been deprived thereof by another through the use of force or in any other illegal manner, can never be "prejudicial interference" with the disposition or alienation of public lands. On the other hand, if courts were deprived of jurisdiction of cases involving conflicts of possession, that threat of judicial action against breaches of the peace committed on public lands would be eliminated, and a state of lawlessness would probably be produced between applicants, occupants or squatters, where force or might, not right or justice, would rule.

It must be borne in mind that the action that would be used to solve conflicts of possession between rivals or conflicting applicants or claimants would be no other than that of forcible entry. This action, both in England and the United States and in our jurisdiction, is a summary and expeditious remedy whereby one in peaceful and quiet possession may recover the possession of which he has been deprived by a stronger hand, by violence or terror; its ultimate object being to prevent breach of the peace and criminal disorder. (*Supia and Batioco vs. Quintero and Ayala*, 59 Phil. 312, 314.) The basis of the remedy is mere possession as a fact, of physical possession, not a legal possession. (*Mediran vs. Villanueva*, 37 Phil. 752.) The title or right to possession is never in issue in an action of forcible entry; as a matter of fact, evidence thereof is expressly banned, except to prove the nature of the possession. (Section 4, Rule 72, Rules of Court.) With this nature of the action in mind, by no stretch of the imagination can conclusion be arrived at the use of the remedy in the courts of justice would constitute an interference with the alienation, disposition, and control of public lands. To limit ourselves to the case at bar can it be pretended at all that its result would in any way interfere with the manner of the alienation or disposition of the land contested? On the contrary, it would facilitate adjudication, for the question of priority of possession having been decided in a final manner by the courts, said question need no longer waste the time of the land officers making the adjudication or award.[61]

Forum-shopping

A final note. We observe that the Cordovas in their petition for certiorari before the Court of Appeals were not completely forthright about the pleadings they filed previously before the RTC. They only disclosed the petition for certiorari[62] they last filed on 8 September 1998 before the RTC of Bataan, thus concealing the fact that they had previously filed a petition for certiorari on 5 May 1998 also under Rule 65 of the Rules of Court before the RTC, Branch 5 of Dinalupihan, Bataan. Such failure to declare may constitute forum-shopping under Section 1, Rule 65 of the Rules of Court.[63]

WHEREFORE, the instant petition is GRANTED. The Decision dated 8 April 1999 and Resolution dated 15 April 2002 of the Court of Appeals are REVERSED and SET ASIDE. The Decision dated 20 January 1998 of the First Municipal Circuit Trial Court of Dinalupihan, Bataan is REINSTATED. Atty. Jaime G. Mena, counsel for herein respondents in their petition for certiorari before the Court of Appeals, is given ten (10) days from receipt of this Decision to show cause why he should not be held liable for forum-shopping.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Dated 25 May 2002; Rollo, pp. 3-28.

[2] Dated 8 April 1999; Id. at 30-34; Penned by Associate Justice Demetrio G. Demetria with the concurrence of Associate Justices Ramon A. Barcelona and Presbitero J. Velasco, Jr.

[3] Dated 15 April 2002; Id. at 36-37.

[4] Dated 1 May 1999; Id. at 123-139 with annexes.

[5] Dated 25 May 1999; Id. at 140-152.

[6] Dated 20 January 1998; Id. at 64-66.

[7] Dated 9 September 1998; Id. at 95-96.

[8] Dated 25 July 1997; Id. at 53-55.

[9] Id. at 55.

[10] Id. at 53-55.

[11] Dated 15 August 1997; Id. at 59-62.

[12] Id. at 31.

[13] Id. at 59.

[14] Id. at 60-61.

[15] Id. at 65-66.

[16] Id. at 74-80; Dated 5 May 1998.

[17] Id. at 78.

[18] Id. at 81.

[19] Id. at 82-94.

[20] Id. at 89.

[21] In an Order dated 9 September 1998; Id. at 95-96.

[22] Id. at 97-110; Dated 16 November 1998.

[23] Id. at 8 and 12.

[24] CA Records, pp. 71-75.

[25] Rollo, pp. 30-34.

[26] Id. at 180.

[27] Id. at 32.

[28] Id. at 174-179.

[29] Id. at 178.

[30] Id. at 33.

[31] Ibid.

[32] Dated 5 May 1998 and 8 September 1998; supra notes 16 and 19.

[33] Section 4, Rule 65 of the Rules of Court.

[34] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, G.R. No. 156067, 11 August 2004, 436 SCRA 123, 136-137.

[35] *Delgado v. Court of Appeals*, G.R. No. 137881, 21 December 2004, 447 SCRA 402, 413.

[36] *De Leon v. Court of Appeals*, 315 Phil. 140, 150 (1995).

[37] *Javelosa v. Court of Appeals*, 333 Phil. 331, 337 (1996); *Pasagui v. Villanueva*, No. L-21998, 10 November 1975, 68 SCRA 18, 20.

[38] *Sarmiento v. Court of Appeals*, 320 Phil. 146, 153 (1995); *Sumulong v. Court of Appeals*, G.R. No. 108817, 10 May 1994, 232 SCRA 372, 382-383.

[39] *Spouses Tirona v. Alejo*, 419 Phil. 288, 299 (2001).

[40] *Gumiran v. Gumiran*, 21 Phil. 174, 178 (1912); *Pasagui v. Villanueva*, supra note 37 at 21.

[41] Supra note 38 at 156.

[42] Rollo, pp. 53-55.

[43] See *Maddammu v. Judge of Municipal Court of Manila*, 74 Phil. 230, 231 (1943).

[44] *Pasagui v. Villanueva*, supra note 37 at 22.

[45] *Mediran v. Villanueva*, 37 Phil. 752, 756 (1918).

[46] Id. at 756-757.

[47] 131 Phil. 556 (1968).

[48] Id. at 563-564.

[49] See *National Steel Corporation v. Court of Appeals*, 362 Phil. 150, 159-160 (1999); *TCL Sales Corporation v. Court of Appeals*, G.R. No. 129777, 5 January 2001, 349 SCRA 35, 44.

[50] *TCL Sales Corporation v. Court of Appeals*, supra note 49; *Macahilig v. Heirs of Grace M. Magalit*, G.R. No. 141423, 15 November 2000, 344 SCRA 838, 851.

[51] 104 Phil. 688 (1958).

[52] *Id.* at 690.

[53] *Go, Jr. v. Court of Appeals*, 415 Phil. 172, 183-184 (2001).

[54] G.R. No. 146364, 3 June 2004, 430 SCRA 492.

[55] *Id.* at 510-511.

[56] 92 Phil. 5 (1952).

[57] *Pajuyo v. Court of Appeals*, supra note 54 at 511-512.

[58] *Rallon v. Ruiz Jr., et al.*, 138 Phil. 347, 356 (1969).

[59] Section 3, paragraph (a) of R.A. 6657, Comprehensive Agrarian Reform Law of 1988, defines agrarian reform matters as matters pertaining to the "redistribution of lands, regardless of crops or fruits produced, to farm workers who are landless, irrespective of tenurial arrangement, to include the totality of factors and support services designed to lift the economic status of the beneficiaries and other arrangements alternative to the physical redistribution of lands, such as production or profit-sharing, labor administration, and the distribution of shares of stocks, which will allow beneficiaries to receive a just share of the fruits of the lands they work."

[60] Section 3, paragraph (d) of R.A. 6657 defines agrarian dispute as referring "to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements. It includes any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.

[61] *Pitargue v. Sevilla*, supra note 56 at 10-13.

[62] Supra note 19.

[63] Also of Section 3, Rule 46 of the Rules of Court in relation to Section 2, Rule 56 and Section 5, Rule 7 of the Rules of Court.

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