

LIBRADA M. AQUINO, Petitioner, vs. ERNEST S. AURE, Respondent.*G.R. No. 153567. February 18, 2008*

Ponente: CHICO-NAZARIO, J.

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Before this Court is a Petition for Review on Certiorari[2] under Rule 45 of the Revised Rules of Court filed by petitioner Librada M. Aquino (Aquino), seeking the reversal and the setting aside of the Decision[3] dated 17 October 2001 and the Resolution[4] dated 8 May 2002 of the Court of Appeals in CA-G.R. SP No. 63733. The appellate court, in its assailed Decision and Resolution, reversed the Decision[5] of the Regional Trial Court (RTC) of Quezon City, Branch 88, affirming the Decision[6] of the Metropolitan Trial Court (MeTC) of Quezon City, Branch 32, which dismissed respondent Ernesto Aure's (Aure) complaint for ejectment on the ground, inter alia, of failure to comply with barangay conciliation proceedings.

The subject of the present controversy is a parcel of land situated in Roxas District, Quezon City, with an area of 449 square meters and covered by Transfer Certificate of Title (TCT) No. 205447 registered with the Registry of Deeds of Quezon City (subject property).[7]

Aure and E.S. Aure Lending Investors, Inc. (Aure Lending) filed a Complaint for ejectment against Aquino before the MeTC docketed as Civil Case No. 17450. In their Complaint, Aure and Aure Lending alleged that they acquired the subject property from Aquino and her husband Manuel (spouses Aquino) by virtue of a Deed of Sale[8] executed on 4 June 1996. Aure claimed that after the spouses Aquino received substantial consideration for the sale of the subject property, they refused to vacate the same.[9]

In her Answer,[10] Aquino countered that the Complaint in Civil Case No. 17450 lacks cause of action for Aure and Aure Lending do not have any legal right over the subject property. Aquino admitted that there was a sale but such was governed by the Memorandum of Agreement[11] (MOA) signed by Aure. As stated in the MOA, Aure shall secure a loan from a bank or financial institution in his own name using the subject property as collateral and turn over the proceeds thereof to the spouses Aquino. However, even after Aure successfully secured a loan, the spouses Aquino did not receive the proceeds thereon or benefited therefrom.

On 20 April 1999, the MeTC rendered a Decision in Civil Case No. 17450 in favor of Aquino and dismissed the Complaint for ejectment of Aure and Aure Lending for non-compliance with the barangay conciliation process, among other grounds. The MeTC observed that Aure and Aquino are residents of the same barangay but there is no showing that any attempt has been made to settle the case amicably at the barangay level. The MeTC further observed that Aure Lending was improperly included as plaintiff in Civil Case No. 17450 for it did not stand to be injured or benefited by the suit. Finally, the MeTC ruled that since the question of ownership was put in issue, the action was converted from a mere detainer suit to one "incapable of pecuniary estimation" which properly rests within the original exclusive jurisdiction of the RTC. The dispositive portion of the MeTC Decision reads:

WHEREFORE, premises considered, let this case be, as it is, hereby ordered DISMISSED. [Aquino's] counterclaim is likewise dismissed.[12]

On appeal, the RTC affirmed the dismissal of the Complaint on the same ground that the dispute was not brought before the Barangay Council for conciliation before it was filed in court. In a Decision dated 14 December 2000, the RTC stressed that the barangay conciliation process is a *conditio sine qua non* for the filing of an ejectment complaint involving residents of the same barangay, and failure to comply therewith constitutes sufficient cause for the dismissal of the action. The RTC likewise validated the ruling of the MeTC that the main issue involved in Civil Case No. 17450 is incapable of pecuniary estimation and cognizable by the RTC. Hence, the RTC ruled:

WHEREFORE, finding no reversible error in the appealed judgment, it is hereby affirmed in its entirety.[13]

Aure's Motion for Reconsideration was denied by the RTC in an Order[14] dated 27 February 2001.

Undaunted, Aure appealed the adverse RTC Decision with the Court of Appeals arguing that the lower court erred in dismissing his Complaint for lack of cause of action. Aure asserted that misjoinder of parties was not a proper ground for dismissal of his Complaint and that the MeTC should have only ordered the exclusion of Aure Lending as plaintiff without prejudice to the continuation of the proceedings in Civil Case No. 17450 until the final determination thereof. Aure further asseverated that mere allegation of ownership should not divest the MeTC of jurisdiction over the ejectment suit since jurisdiction over the subject matter is conferred by law and should not depend on the defenses and objections raised by the parties. Finally, Aure contended that the MeTC erred in dismissing his Complaint with prejudice on the ground of non-compliance with barangay conciliation process. He was not given the opportunity to rectify the procedural defect by going through the barangay mediation proceedings and, thereafter, refile the Complaint.[15]

On 17 October 2001, the Court of Appeals rendered a Decision, reversing the MeTC and RTC Decisions and remanding the case to the MeTC for further proceedings and final determination of the substantive rights of the parties. The appellate court declared that the failure of Aure to subject the matter to barangay conciliation is not a jurisdictional flaw and it will not affect the sufficiency of Aure's Complaint since Aquino failed to seasonably raise such issue in her Answer. The Court of Appeals further ruled that mere allegation of ownership does not deprive the MeTC of jurisdiction over the ejectment case for jurisdiction over the subject matter is conferred by law and is determined by the allegations advanced by the plaintiff in his complaint. Hence, mere assertion of ownership by the defendant in an ejectment case will not oust the MeTC of its summary jurisdiction over the same. The decretal part of the Court of Appeals Decision reads:

WHEREFORE, premises considered, the petition is hereby GRANTED - and the decisions of the trial courts below REVERSED and SET ASIDE. Let the records be remanded back to the court a quo for further proceedings – for an eventual decision of the substantive rights of the disputants.[16]

In a Resolution dated 8 May 2002, the Court of Appeals denied the Motion for Reconsideration interposed by Aquino for it was merely a rehash of the arguments set forth in her previous pleadings which were already considered and passed upon by the appellate court in its assailed Decision.

Aquino is now before this Court via the Petition at bar raising the following issues:

I.

WHETHER OR NOT NON-COMPLIANCE WITH THE BARANGAY CONCILIATION PROCEEDINGS IS A JURISDICTIONAL DEFECT THAT WARRANTS THE DISMISSAL OF THE COMPLAINT.

II.

WHETHER OR NOT ALLEGATION OF OWNERSHIP OUSTS THE MeTC OF ITS JURISDICTION OVER AN EJECTMENT CASE.

The barangay justice system was established primarily as a means of easing up the congestion of cases in the judicial courts. This could be accomplished through a proceeding before the barangay courts which, according to the conceceptor of the system, the late Chief Justice Fred Ruiz Castro, is essentially arbitration in character, and to make it truly effective, it should also be compulsory. With this primary objective of the barangay justice system in mind, it would be wholly in keeping with the underlying philosophy of Presidential Decree No. 1508, otherwise known as the Katarungang Pambarangay Law, and the policy behind it would be better served if an out-of-court settlement of the case is reached voluntarily by the parties.[17]

The primordial objective of Presidential Decree No. 1508 is to reduce the number of court litigations and prevent the deterioration of the quality of justice which has been brought by the indiscriminate filing of cases in the courts.[18] To ensure this objective, Section 6 of Presidential Decree No. 1508[19] requires the parties to undergo a conciliation process before the Lupon Chairman or the Pangkat ng Tagapagkasundo as a precondition to filing a complaint in court subject to certain exceptions[20] which are inapplicable to this case. The said section has been declared compulsory in nature.[21]

Presidential Decree No. 1508 is now incorporated in Republic Act No. 7160, otherwise known as The Local Government Code, which took effect on 1 January 1992.

The pertinent provisions of the Local Government Code making conciliation a precondition to filing of complaints in court, read:

SEC. 412. Conciliation.- (a) Pre-condition to filing of complaint in court. – No complaint, petition, action, or proceeding involving any matter within the authority of the lupon shall be filed or instituted directly in court or any other government office for adjudication, unless there has been a confrontation between the parties before the lupon chairman or the pangkat, and that no conciliation or settlement has been reached as certified by the lupon secretary or pangkat secretary as attested to by the lupon chairman or pangkat chairman or unless the settlement has been repudiated by the parties thereto.

(b) Where parties may go directly to court. – The parties may go directly to court in the following instances:

(1) Where the accused is under detention;

(2) Where a person has otherwise been deprived of personal liberty calling for habeas corpus proceedings;

(3) Where actions are coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property, and support pendente lite; and

(4) Where the action may otherwise be barred by the statute of limitations.

(c) Conciliation among members of indigenous cultural communities. – The customs and traditions of indigenous cultural communities shall be applied in settling disputes between members of the cultural communities.

SEC. 408. Subject Matter for Amicable Settlement; Exception Therein. – The lupon of each barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes except:

(a) Where one party is the government or any subdivision or instrumentality thereof;

(b) Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;

(c) Offenses punishable by imprisonment exceeding one (1) year or a fine exceeding Five thousand pesos (P5,000.00);

- (d) Offenses where there is no private offended party;
- (e) Where the dispute involves real properties located in different cities or municipalities unless the parties thereto agree to submit their differences to amicable settlement by an appropriate lupon;
- (f) Disputes involving parties who actually reside in barangays of different cities or municipalities, except where such barangay units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate lupon;
- (g) Such other classes of disputes which the President may determine in the interest of justice or upon the recommendation of the Secretary of Justice.

There is no dispute herein that the present case was never referred to the Barangay Lupon for conciliation before Aure and Aure Lending instituted Civil Case No. 17450. In fact, no allegation of such barangay conciliation proceedings was made in Aure and Aure Lending's Complaint before the MeTC. The only issue to be resolved is whether non-recourse to the barangay conciliation process is a jurisdictional flaw that warrants the dismissal of the ejectment suit filed with the MeTC.

Aquino posits that failure to resort to barangay conciliation makes the action for ejectment premature and, hence, dismissible. She likewise avers that this objection was timely raised during the pre-trial and even subsequently in her Position Paper submitted to the MeTC.

We do not agree.

It is true that the precise technical effect of failure to comply with the requirement of Section 412 of the Local Government Code on barangay conciliation (previously contained in Section 5 of Presidential Decree No. 1508) is much the same effect produced by non-exhaustion of administrative remedies -- the complaint becomes afflicted with the vice of pre-maturity; and the controversy there alleged is not ripe for judicial determination. The complaint becomes vulnerable to a motion to dismiss.[22] Nevertheless, the conciliation process is not a jurisdictional requirement, so that non-compliance therewith cannot affect the jurisdiction which the court has otherwise acquired over the subject matter or over the person of the defendant.[23]

As enunciated in the landmark case of *Royales v. Intermediate Appellate Court*[24]:

Ordinarily, non-compliance with the condition precedent prescribed by P.D. 1508 could affect the sufficiency of the plaintiff's cause of action and make his complaint vulnerable to dismissal on ground of lack of cause of action or prematurity; but the same would not prevent a court of competent jurisdiction from exercising its power of adjudication over the case before it, where the defendants, as in this case, failed to object to such exercise of jurisdiction in their answer and even during the entire proceedings a quo.

While petitioners could have prevented the trial court from exercising jurisdiction over the case by seasonably taking exception thereto, they instead invoked the very same jurisdiction by filing an answer and seeking affirmative relief from it. What is more, they participated in the trial of the case by cross-examining respondent Planas. Upon this premise, petitioners cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the court to which they had submitted themselves voluntarily. x x x (Emphasis supplied.)

In the case at bar, we similarly find that Aquino cannot be allowed to attack the jurisdiction of the MeTC over Civil Case No. 17450 after having submitted herself voluntarily thereto. We have scrupulously examined Aquino's Answer before the MeTC in Civil Case No. 17450 and there is utter lack of any objection on her part to any deficiency in the complaint which could oust the MeTC of its jurisdiction.

We thus quote with approval the disquisition of the Court of Appeals:

Moreover, the Court takes note that the defendant [Aquino] herself did not raise in defense the aforesaid lack of conciliation proceedings in her answer, which raises the exclusive affirmative defense of simulation. By this acquiescence, defendant [Aquino] is deemed to have waived such objection. As held in a case of similar circumstances, the failure of a defendant [Aquino] in an ejectment suit to specifically allege the fact that there was no compliance with the barangay conciliation procedure constitutes a waiver of that defense. x x x.[25]

By Aquino's failure to seasonably object to the deficiency in the Complaint, she is deemed to have already acquiesced or waived any defect attendant thereto. Consequently, Aquino cannot thereafter move for the dismissal of the ejectment suit for Aure and Aure Lending's failure to resort to the barangay conciliation process, since she is already precluded from doing so. The fact that Aquino raised such objection during the pre-trial and in her Position Paper is of no moment, for the issue of non-recourse to barangay mediation proceedings should be implemented in her Answer.

As provided under Section 1, Rule 9 of the 1997 Rules of Civil Procedure:

Sec. 1. Defenses and objections not pleaded. – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (Emphasis supplied.)

While the aforequoted provision applies to a pleading (specifically, an Answer) or a motion to dismiss, a similar or identical rule is provided for all other motions in Section 8 of Rule 15 of the same Rule which states:

Sec. 8. Omnibus Motion. - Subject to the provisions of Section 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

The spirit that surrounds the foregoing statutory norm is to require the party filing a pleading or motion to raise all available exceptions for relief during the single opportunity so that single or multiple objections may be avoided.[26] It is clear and categorical in Section 1, Rule 9 of the Revised Rules of Court that failure to raise defenses and objections in a motion to dismiss or in an answer is deemed a waiver thereof; and basic is the rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation.[27] As has been our consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.[28] Thus, although Aquino's defense of non-compliance with Presidential Decree No. 1508 is meritorious, procedurally, such defense is no longer available for failure to plead the same in the Answer as required by the omnibus motion rule.

Neither could the MeTC dismiss Civil Case No. 17450 *motu proprio*. The 1997 Rules of Civil Procedure provide only three instances when the court may *motu proprio* dismiss the claim, and that is when the pleadings or evidence on the record show that (1) the court has no jurisdiction over the subject matter; (2) there is another cause of action pending between the same parties for the same cause; or (3) where the action is barred by a prior judgment or by a statute of limitations. Thus, it is clear that a court may not *motu proprio* dismiss a case on the ground of failure to comply with the requirement for barangay conciliation, this ground not being among those mentioned for the dismissal by the trial court of a case on its own initiative.

Aquino further argues that the issue of possession in the instant case cannot be resolved by the MeTC without first adjudicating the question of ownership, since the Deed of Sale vesting Aure with the legal right over the subject property is simulated.

Again, we do not agree. Jurisdiction in ejectment cases is determined by the allegations pleaded in the complaint.

As long as these allegations demonstrate a cause of action either for forcible entry or for unlawful detainer, the court acquires jurisdiction over the subject matter. This principle holds, even if the facts proved during the trial do not support the cause of action thus alleged, in which instance the court -- after acquiring jurisdiction -- may resolve to dismiss the action for insufficiency of evidence.

The necessary allegations in a Complaint for ejectment are set forth in Section 1, Rule 70 of the Rules of Court, which 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.

In the case at bar, the Complaint filed by Aure and Aure Lending on 2 April 1997, alleged as follows:

- [Aure and Aure Lending] became the owners of a house and lot located at No. 37 Salazar Street corner Encarnacion Street, B.F. Homes, Quezon City by virtue of a deed of absolute sale executed by [the spouses Aquino] in favor of [Aure and Aure Lending] although registered in the name of x x x Ernesto S. Aure; title to the said property had already been issued in the name of [Aure] as shown by a transfer Certificate of Title , a copy of which is hereto attached and made an integral part hereof as Annex A;

- However, despite the sale thus transferring ownership of the subject premises to [Aure and Aure Lending] as above-stated and consequently terminating [Aquino's] right of possession over the subject property, [Aquino] together with her family, is continuously occupying the subject premises notwithstanding several demands made by [Aure and Aure Lending] against [Aquino] and all persons claiming right under her to vacate the subject premises and surrender possession thereof to [Aure and Aure Lending] causing damage and prejudice to [Aure and Aure Lending] and making [Aquino's] occupancy together with those actually occupying the subject premises claiming right under her, illegal.[29]

It can be inferred from the foregoing that Aure, together with Aure Lending, sought the possession of the subject property which was never surrendered by Aquino after the perfection of the Deed of Sale, which gives rise to a cause of action for an ejectment suit cognizable by the MeTC. Aure's assertion of possession over the subject property is based on his ownership thereof as evidenced by TCT No. 156802 bearing his name. That Aquino impugned the validity of Aure's title over the subject property and claimed that the Deed of Sale was simulated should not divest the MeTC of jurisdiction over the ejectment case.[30]

As extensively discussed by the eminent jurist Florenz D. Regalado in *Refugia v. Court of Appeals*[31]:

As the law on forcible entry and unlawful detainer cases now stands, even where the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts nevertheless have the undoubted competence to resolve the issue of ownership albeit only to determine the issue of possession.

x x x. The law, as revised, now provides instead that when the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession. On its face, the new Rule on Summary Procedure was extended to include within the jurisdiction

of the inferior courts ejectment cases which likewise involve the issue of ownership. This does not mean, however, that blanket authority to adjudicate the issue of ownership in ejectment suits has been thus conferred on the inferior courts.

At the outset, it must here be stressed that the resolution of this particular issue concerns and applies only to forcible entry and unlawful detainer cases where the issue of possession is intimately intertwined with the issue of ownership. It finds no proper application where it is otherwise, that is, where ownership is not in issue, or where the principal and main issue raised in the allegations of the complaint as well as the relief prayed for make out not a case for ejectment but one for recovery of ownership.

Appropos thereto, this Court ruled in *Hilario v. Court of Appeals*[32]:

Thus, an adjudication made therein regarding the issue of ownership should be regarded as merely provisional and, therefore, would not bar or prejudice an action between the same parties involving title to the land. The foregoing doctrine is a necessary consequence of the nature of forcible entry and unlawful detainer cases where the only issue to be settled is the physical or material possession over the real property, that is, possession de facto and not possession de jure.”

In other words, inferior courts are now “conditionally vested with adjudicatory power over the issue of title or ownership raised by the parties in an ejectment suit.” These courts shall resolve the question of ownership raised as an incident in an ejectment case where a determination thereof is necessary for a proper and complete adjudication of the issue of possession.[33]

WHEREFORE, premises considered, the instant Petition is DENIED. The Court of Appeals Decision dated 17 October 2001 and its Resolution dated 8 May 2002 in CA-G.R. SP No. 63733 are hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Substituted by his heirs: Agnes J. Aure, Ma. Cecilia Aure-Quinsay, Ma. Concepcion Criselda Aure-Barrion, Ma. Erna J. Aure, Ernest Michael J. Aure and Ma. Melissa J. Aure; rollo, p. 159.

[2] Rollo, pp. 8-21.

[3] Penned by Associate Justice Ramon Mabutas, Jr. with Associate Justices Roberto A. Barrios and Edgardo P. Cruz, concurring. Rollo, pp. 21-26.

[4] Id. at 28.

[5] Records, 514-515.

[6] Id. at 436-439.

[7] Id. at 482-483.

[8] Id.

[9] Id. at 1-7.

[10] Id. at 11-15.

[11] Id. at 14-15.

[12] Id. at 439.

[13] Id. at 516.

[14] Id. at 537.

[15] Id. at 465-480.

[16] Rollo, p. 25.

[17] *People v. Caruncho, Jr.*, 212 Phil. 16, 27 (1984).

[18] *Galuba v. Laureta*, G.R. No. 71091, 29 January 1988, 157 SCRA 627, 634.

[19] SECTION 6. Conciliation, pre-condition to filing of complaint. — No complaint, petition, action or proceeding involving any matter within the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before the Lupon Chairman or the Pangkat and no conciliation or settlement has been reached as certified by the Lupon Secretary or the Pangkat Secretary attested by the Lupon or Pangkat Chairman, or unless the settlement has been repudiated. However, the parties may go directly to court in the following cases:

1] Where the accused is under detention;

[2] Where a person has otherwise been deprived of personal liberty calling for habeas corpus proceedings;

[3] Actions coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property and support pendente lite; and

[4] Where the action may otherwise be barred by the Statute of Limitations.

[20] Paragraph 2, Section 6, PD No. 1508.

However, the parties may go directly to court in the following cases:

1] Where the accused is under detention;

[2] Where a person has otherwise been deprived of personal liberty calling for habeas corpus proceedings;

[3] Actions coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property and support pendente lite; and

[4] Where the action may otherwise be barred by the Statute of Limitations.

[21] *Morata v. Go*, 210 Phil. 367, 372 (1983).

[22] *Uy v. Contreras*, G.R. No. 111416-17, 26 September 1994, 237 SCRA 167, 170.

[23] *Presco v. Court of Appeals*, G.R. No. 82215, 10 December 1990, 192 SCRA 232, 240-241.

[24] 212 Phil. 432, 435-436 (1984).

[25] Rollo, p. 24.

[26] *Manacop v. Court of Appeals*, G.R. No. 104875, 13 November 1992, 215 SCRA 773, 778.

[27] *Twin Ace Holdings Corporation v. Rufina and Company*, G.R. No. 160191, 8 June 2006, 490 SCRA 368, 376.

[28] Id.

[29] Records, pp. 1-2.

[30] Tecson v. Gutierrez, G.R. No. 152928, 4 March 2005, 452 SCRA 781, 786.

[31] 327 Phil. 982, 1001-1002 (1996).

[32] 329 Phil. 202, 208 (1996), as cited in Oronce v. Court of Appeals, 358 Phil. 616 (1998).

[33] Id.

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