

**SPOUSES ALVIN GUERRERO AND MERCURY M. GUERRERO,
PETITIONERS, VS. HON. LORNA NAVARRO DOMINGO, IN HER
CAPACITY AS PRESIDING JUDGE, BRANCH 201, REGIONAL TRIAL
COURT, LAS PIÑAS CITY...**

G.R. No. 156142. March 23, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is a Petition for Review on Certiorari assailing the Order[1] of the Regional Trial Court (RTC), Branch 201 of Las Piñas City dated November 18, 2002 in Civil Case No. SCA-02-0007. Said Order denied the Petition for Prohibition against the proceedings in Civil Case No. 6293, an unlawful detainer case, which was filed in the Metropolitan Trial Court (MeTC) of Las Piñas City.

The factual and procedural antecedents of this case are as follows:

On June 2, 1997, private respondent Pilar Development Corporation (PDC) and petitioners spouses Alvin and Mercury Guerrero (spouses Guerrero) entered into a Contract to Sell[2] whereby PDC agreed to sell to the spouses Guerrero the property covered by Transfer Certificate of Title (TCT) No. T-51529 and the house standing thereon. The total consideration for the sale is P2,374,000.00 with a downpayment of P594,000.00 and a balance of P1,780,000.00 payable in 120 months commencing on May 30, 1997.

On February 5, 2002, PDC filed a Complaint[3] for Unlawful Detainer against the spouses Guerrero. The Complaint alleged that the spouses Guerrero made no further payment beyond June 1, 2000 despite repeated demands, prompting PDC to cancel the Contract to Sell on November 19, 2001 by sending a Notice of Cancellation to the spouses Guerrero dated November 23, 2001. The Complaint was docketed as Civil Case No. 6293 filed with the MeTC of Las Piñas City. The spouses Guerrero responded with a pleading captioned Answer With Reservation[4] alleging that it is impermissible to blend "causes of action such as 'cancellation, extinguishment or rescission of contract' (which are beyond pecuniary estimation) and 'ejectment (unlawful detainer).'"

On April 10, 2002, the spouses Guerrero filed a Petition for Prohibition[5] with the RTC of Las Piñas City praying that the Complaint in Civil Case No. 6293 be quashed,[6] and raising the following lone issue:

AN ACTION WITH TWO (2) JOINED CONTROVERSIES, ONE BEYOND PECUNIARY ESTIMATION SUCH AS "EXTINGUISHMENT OF CONTRACT" (COGNIZABLE BY THE RTC), AND THE OTHER, FOR EJECTMENT (UNLAWFUL DETAINER), IS BEYOND THE ADJUDICATORY POWERS OF AN INFERIOR COURT.[7]

The Petition was docketed as Civil Case No. SCA-02-0007 and was raffled to the RTC-Branch 201, then presided by Judge Lorna Navarro Domingo.

In the meantime, proceedings in Civil Case No. 6293 continued. Except for the Answer they had earlier filed, the spouses Guerrero did not participate in the proceedings of Civil Case No. 6293 until the MeTC rendered its Decision[8] on September 30, 2002. Ruling in favor of PDC, the MeTC brushed aside the spouses Guerrero's insistence that it had no jurisdiction by holding that the allegations in the complaint and the reliefs prayed for therein indicate that the suit is indeed an unlawful detainer case cognizable by it.[9]

On November 4, 2002, the spouses Guerrero appealed the MeTC Decision in Civil Case No. 6293 to the RTC of Las Piñas City. The appeal was docketed as Civil Case No. LP-02-0292 and was raffled to Branch 197 then presided by Judge Manuel N. Duque.

On November 18, 2002, the RTC-Branch 201 issued the herein assailed Order in Civil Case No. SCA-02-0007, denying the Petition for Prohibition for lack of merit.

Hence, this Petition wherein the spouses Guerrero reiterated their argument before the RTC-Branch 201 that the joinder of an action beyond pecuniary estimation such as "extinguishment of contract" with an action for unlawful detainer is beyond the adjudicatory powers of the MeTC. The spouses Guerrero claim that the cancellation of the contract to sell is a matter prejudicial to the action for unlawful detainer.[10]

Meanwhile, on June 20, 2003, the RTC-Branch 197 dismissed the appeal of the spouses Guerrero in Civil Case No. LP-02-0292 on account of their failure to file their Memorandum of Appeal and for failure to comply with another Court Order dated December 16, 2002.[11] On August 28, 2003, the RTC-Branch 197, noting that there was no appeal or Motion for Reconsideration filed assailing the June 20, 2003 Decision, ordered the return of the records of the case to the MeTC.

Prohibition does not lie to restrain
an act that is already a fait accompli

In denying the Petition for Prohibition of the spouses Guerrero, the RTC-Branch 201 held that the remedy was inappropriate, applying the rule that Prohibition does not lie to restrain an act that is already a fait accompli:

A perusal of the complaint filed before the Metropolitan Trial Court, Las Piñas under Civil Case No. 6293 alleged that the Contract to Sell was cancelled on November 19, 2001, from then on Petitioner's right to occupy the property ceased, and that Defendants/Petitioners refused to surrender and vacate the house and lot. The prayer is for the Defendants to vacate the premises to the Plaintiff and pay rentals.

x x x x

"The function of the Writ of Prohibition is to prevent the doing of some act which is about to be done. It is not intended to provide a remedy for acts already accomplished["] (Cabanero vs. Torres, 61 Phil, 522 [1935]; Agustin, et al. vs. De la Fuente, 84 Phil 525 [1949]; Navarro vs. Lardizabal, G.R. No. L-25361, September 28, 1968, 25 SCRA 370; Heirs of Eugenia V. Roxas, Inc. vs. Intermediate Appellate Court, G.R. No. 67195, May 29, 1989, 173 SCRA 581).

In this case the Contract to Sell has already been cancelled before the filing of the complaint for Unlawful Detainer, hence the Prohibition will no longer lie.

The rest of the allegations are within the jurisdiction of the Metropolitan Trial Court as the case filed is for Unlawful Detainer.[13]

Indeed, prohibition is a preventive remedy seeking a judgment ordering the defendant to desist from continuing with the commission of an act perceived to be illegal.[14] However, we disagree with the pronouncement of the RTC-Branch 201 that the act sought to be prevented in the filing of the Petition for Prohibition is the cancellation

of the contract to sell. Petitions for Prohibition may be filed only against tribunals, corporations, boards, officers or persons exercising judicial, quasi-judicial or ministerial functions.[15] Though couched in imprecise terms, the Petition for Prohibition in the case at bar apparently seeks to prevent the MeTC from hearing and disposing Civil Case No. 6293:

P R A Y E R

WHEREFORE, considering the nature of this petition, that is, Civil Case No. 6293 being under the operation of the Summary Rules of Procedure, petitioners very fervently pray, that:

- Upon the filing of this petition, it be given preferential disposition or hearing at the earliest time possible be conducted for purposes of issuance of preliminary writ of prohibition;
- Thereafter, the COMPLAINT (Annex "B" hereof), be QUASHED as it contains two (2) combined but severable cases, one cognizable before this Honorable Court, and the other, before the public respondent.

For other reliefs just and equitable.[16]

Nevertheless, the same result occurs: Civil Case No. 6293 had already been disposed by the MeTC, as there was no preliminary injunction issued against said proceeding. The appeal of the spouses Guerrero in Civil Case No. 6293 had likewise been denied by the RTC-Branch 197 in a Decision dated June 20, 2003. The records of the case were returned to the MeTC in view of petitioners' failure to file a Motion for Reconsideration or an appeal of the same.[17] Since the act sought to be enjoined in the Petition for Prohibition had already been accomplished, the same should be dismissed.

To avail of the extraordinary writ of prohibition, petitioners should have no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law

Ever since the Petition for Prohibition was filed with the RTC-Branch 201, PDC opposed its propriety on the ground that the spouses Guerrero had an available remedy against the allegedly improper exercise of jurisdiction by the MeTC - a Motion to Dismiss.[18]

Certainly, the spouses Guerrero could have filed a Motion to Dismiss to prevent the exercise of jurisdiction by the MeTC if the same had been warranted. Section 13, Rule 70 of the 1997 Rules of Civil Procedure clearly provides that Motions to Dismiss on the ground of lack of jurisdiction over the subject matter are exceptions to the pleadings that are prohibited in forcible entry and unlawful detainer cases:

Sec. 13. Prohibited pleadings and motions. - The following petitions, motions, or pleadings shall not be allowed:

1. Motion to dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, or failure to comply with section 12.

Further, under Section 6, Rule 16[19] of the same Rules, any ground for dismissal may, in lieu of a Motion to Dismiss, be raised in the Answer as an affirmative defense. This was, in fact, what petitioners did in the present case.

Before resorting to the remedy of prohibition, there should be "no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law." [20] We are convinced that in the case at bar, a Motion to Dismiss or an

Answer is a plain, speedy, and adequate remedy in opposing the jurisdiction of the MeTC. Being in possession of the subject property, the step of filing a Motion to Dismiss or an Answer instead of resorting to an extraordinary writ under Rule 65 would have even favored the spouses Guerrero, as there is no threat of dispossession until the MeTC renders its judgment on the action.

The spouses Guerrero could have, and in fact actually did, present their allegations in the Petition for Prohibition as defenses in Civil Case No. 6293. As stated above, however, the spouses Guerrero did not participate in the proceedings of Civil Case No. 6293 with the exception of filing an Answer with Reservation. The appeal thereof, Civil Case No. LP-02-0292 in the RTC-Branch 197, was likewise dismissed on account of the spouses Guerrero's failure to file their Memorandum of Appeal and failure to comply with another Court Order. Just as certiorari cannot be made a substitute for an appeal where the latter remedy is available but was lost through the fault or negligence of petitioner,[21] prohibition should not lie when petitioner could have resorted to other remedies that are now lost due to its own neglect. The irresponsible act of ignoring the proceedings and orders in Civil Case No. 6293 and in the appeal thereof deserve no affirmation from this Court.

The spouses Guerrero's insistence that there was a violation of Presidential Decree No. 975 or an invalid rescission of the contract by PDC could have been asserted in a separate civil action. The latter would not constitute forum shopping since the only issue in ejectment suits is physical possession, and any finding thereon on ownership is only for the purpose of determining right to possession.[22]

WHEREFORE, the instant Petition for Review on Certiorari is DENIED. The Decision of the Regional Trial Court, Branch 201 of Las Piñas City in Civil Case No. SCA-02-0007 is AFFIRMED.

Costs against petitioners Alvin and Mercury Guerrero.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Records, pp. 171-172; penned by Presiding Judge Lorna Navarro Domingo.

[2] Id. at 12-17.

[3] Id. at 9-11.

[4] Rollo, pp. 24-26.

[5] Id. at 27-34.

[6] Id. at 33.

[7] Id. at 30.

[8] Id. at 41-46.

[9] Id. at 44.

[10] Records, p. 6.

[11] Id. at 252, 258.

[12] Id. at 258.

[13] Id. at 171.

[14] *Mantes v. Court of Appeals*, G.R. No. 143797, May 4, 2006, 489 SCRA 432, 443.

[15] 1997 Rules of Civil Procedure, Rule 65, Section 2.

[16] Records, p. 7.

[17] *Id.* at 258.

[18] *Id.* at 146-148.

[19] Sec. 6. Pleading grounds as affirmative defenses. -- If no motion to dismiss has been filed, any of the grounds for dismissal provided for in this Rule may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon as if a motion to dismiss had been filed.

The dismissal of the complaint under this section shall be without prejudice to the prosecution in the same or separate action of a counterclaim pleaded in the answer.

[20] 1997 Rules of Civil Procedure, Rule 65, Section 2.

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