

DOLORES ADORA MACASLANG, PETITIONER, VS. RENATO AND MELBA ZAMORA, RESPONDENTS.

G.R. No. 156375. May 30, 2011

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-156375/>

BERSAMIN, J.:

The Regional Trial Court (RTC) is not limited in its review of the decision of the Municipal Trial Court (MTC) to the issues assigned by the appellant, but can decide on the basis of the entire records of the proceedings of the trial court and such memoranda or briefs as may be submitted by the parties or required by the RTC.

The petitioner appeals the decision promulgated on July 3, 2002,[1] whereby the Court of Appeals (CA) reversed "for having no basis in fact and in law" the decision rendered on May 18, 2000[2] by the Regional Trial Court, Branch 25, in Danao City (RTC) that had dismissed the respondents' action for ejectment against the petitioner, and reinstated the decision dated September 13, 1999 of the Municipal Trial Court in Cities (MTCC) of Danao City (ordering the petitioner as defendant to vacate the premises and to pay attorney's fees of P10,000.00 and monthly rental of P5,000.00 starting December 1997 until they vacated the premises).[3]

We grant the petition for review and rule that contrary to the CA's conclusion, the RTC as an appellate court properly considered and resolved issues even if not raised in the appeal from the decision rendered in an ejectment case by the MTCC.

ANTECEDENTS

On March 10, 1999, the respondents filed a complaint for unlawful detainer in the MTCC, alleging that "the [petitioner] sold to [respondents] a residential land located in Sabang, Danao City" and that "the [petitioner] requested to be allowed to live in the house" with a "promise to vacate as soon as she would be able to find a new residence." They further alleged that despite their demand after a year, the petitioner failed or refused to vacate the premises.

Despite the due service of the summons and copy of the complaint, the petitioner did not file her answer. The MTCC declared her in default upon the respondents' motion to declare her in default, and proceeded to receive the respondents' oral testimony and documentary evidence. Thereafter, on September 13, 1999, the MTCC rendered judgment against her, disposing:

WHEREFORE, considering the foregoing, Judgment is hereby rendered in favor [of] plaintiffs (sic) spouses Renato Zamora and Melba Zamora and against defendant Dolores Adora Macaslang, ordering defendant to vacate the properties in question, to pay to plaintiffs Attorney's Fees in the sum of P10,000.00 and monthly rental of P5,000.00 starting December, 1997 until the time the defendant shall have vacated the properties in question.

SO ORDERED.[4]

The petitioner appealed to the RTC, averring the following as reversible errors, namely:

- Extrinsic Fraud was practiced upon defendant-appellant which ordinary prudence could not have guarded against and by reason of which she has been impaired of her rights.
- Defendant-Appellant has a meritorious defense in that there was no actual sale considering that the absolute deed of sale relied upon by the plaintiff-appell[ees] is a patent-nullity as her signature therein was procured through fraud and trickery.[5]

and praying through her appeal memorandum as follows:

Wherefore, in view of the foregoing, it is most respectfully prayed for that judgment be rendered in favor of defendant-appellant ordering that this case be remanded back to the Court of Origin, Municipal Trial Court of Danao City, for further proceedings to allow the defendant to present her evidence, and thereafter, to render a judgment anew.[6]

On May 18, 2000, the RTC resolved the appeal, to wit:[7]

WHEREFORE, judgment is hereby rendered dismissing the complaint for failure to state a cause of action.

The same may, however, be refiled in the same Court, by alleging plaintiffs' cause of action, if any.

Plaintiffs' Motion for Execution of Judgment of the lower court is rendered moot by this judgment.

SO ORDERED.

The respondents appealed to the CA, assailing the RTC's decision for "disregarding the allegations in the complaint" in determining the existence or non-existence of a cause of action.

On July 3, 2002, the CA reversed and set aside the RTC's decision and reinstated the MTCC's decision in favor of the respondents, disposing:

WHEREFORE, foregoing premises considered, the Petition is hereby GIVEN DUE COURSE. Resultantly, the impugned decision of the Regional Trial Court is hereby REVERSED and SET ASIDE for having no basis in fact and in law, and the Decision of the Municipal Trial Court in Cities REINSTATED and AFFIRMED. No costs.

SO ORDERED.[8]

The petitioner's motion for reconsideration was denied on November 19, 2002.

ISSUES

Hence, the petitioner appeals the CA's adverse decision, submitting legal issues, as follows:

- Whether or not the Regional Trial Court in the exercise of its Appellate Jurisdiction is limited to the assigned errors in the Memorandum or brief filed before it or whether it can decide the case based on the entire records of the case, as provided for in Rule 40, Sec. 7. This is a novel issue which, we respectfully submit, deserves a definitive ruling by this Honorable Supreme Court since it involves the application of a new provision, specifically underlined now under the 1997 Revised Rules on Civil procedure.
- Whether or not in an action for unlawful detainer, where there was no prior demand to vacate and comply with the conditions of the lease made, a valid cause of action exists?
- Whether or not in reversing the Regional Trial Court Decision and reinstating and affirming the decision of the Municipal Circuit Trial Court, which was tried and decided by the MCTC in violation of the Rules on

Summary Procedure, the Court of Appeals sanctioned a gross departure from the usual course of judicial proceedings?[9]

The issues that this Court has to resolve are stated thuswise:

- Whether or not the CA correctly found that the RTC committed reversible error in ruling on issues not raised by the petitioner in her appeal;
- Whether or not the CA correctly found that the complaint stated a valid cause of action;
- Whether or not the CA erred in finding that there was a valid demand to vacate made by the respondents on the petitioner; and
- Whether or not the petitioner's defense of ownership was meritorious.

RULING

We grant the petition for review.

A.

As an appellate court, RTC may rule upon an issue not raised on appeal

In its decision, the CA ruled that the RTC could not resolve issues that were not assigned by the petitioner in her appeal memorandum, explaining:

Indeed(,) We are rather perplexed why the Regional Trial Court, in arriving at its decision, discussed and ruled on issues or grounds which were never raised, assigned, or argued on by the Defendant-appellee in her appeal to the former. A careful reading of the Defendant-appellee's appeal memorandum clearly shows that it only raised two (2) grounds, namely (a) alleged extrinsic fraud, (b) meritorious defenses based on nullity of the Deed of Sale Instrument. And yet the Trial Court, in its decision, ruled on issues not raised such as lack of cause of action and no prior demand to vacate having been made.

Only errors assigned and properly argued on the brief and those necessarily related thereto, may be considered by the appellate court in resolving an appeal in a civil case. Based on said clear jurisprudence, the court a quo committed grave abuse of discretion amounting to lack of jurisdiction when it resolved Defendant-appellee's appeal based on grounds or issues not raised before it, much less assigned by Defendant-appellee as an error.

Not only that. It is settled that an issue which was not raised during the Trial in the court below would not be raised for the first time on appeal as to do so would be offensive to the basic rules of fair play, justice and due process (*Victorias Milling Co., Inc. vs. CA*, 333 SCRA 663). We can therefore appreciate Plaintiffs-appellants' dismay caused by the Regional Trial Court's blatant disregard of a basic and fundamental right to due process.[10]

The petitioner disagrees with the CA and contends that the RTC as an appellate court could rule on the failure of the complaint to state a cause of action and the lack of demand to vacate even if not assigned in the appeal.

We concur with the petitioner's contention.

The CA might have been correct had the appeal been a first appeal from the RTC to the CA or another proper superior court, in which instance Section 8 of Rule 51, which applies to appeals from the RTC to the CA, imposes the express limitation of the review to only those specified in the assignment of errors or closely related to or dependent on an assigned error and properly argued in the appellant's brief, viz:

Section 8. Questions that may be decided. - No error which does not affect the jurisdiction over the subject

matter or the validity of the judgment appealed from or the proceeding therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

But the petitioner's appeal herein, being taken from the decision of the MTCC to the RTC, was governed by a different rule, specifically Section 18 of Rule 70 of the Rules of Court, to wit:

Section 18. xxx

xxx

The judgment or final order shall be appealable to the appropriate Regional Trial Court which shall decide the same on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Court. (7a)

As such, the RTC, in exercising appellate jurisdiction, was not limited to the errors assigned in the petitioner's appeal memorandum, but could decide on the basis of the entire record of the proceedings had in the trial court and such memoranda and/or briefs as may be submitted by the parties or required by the RTC.

The difference between the procedures for deciding on review is traceable to Section 22 of Batas Pambansa Blg. 129,[11]which provides:

Section 22. Appellate Jurisdiction. - Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin [and] such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Court of Appeals which may give it due course only when the petition shows prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed.[12]

As its compliance with the requirement of Section 36 of Batas Pambansa Blg. 129 to "adopt special rules or procedures applicable to such cases in order to achieve an expeditious and inexpensive determination thereof without regard to technical rules," the Court promulgated the 1991 Revised Rules on Summary Procedure, whereby it institutionalized the summary procedure for all the first level courts. Section 21 of the 1991 Revised Rules on Summary Procedure specifically stated:

Section 21. Appeal. - The judgment or final order shall be appealable to the appropriate Regional Trial Court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the Regional Trial Court in civil cases governed by this Rule, including forcible entry and unlawful detainer shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed.

Later on, the Court promulgated the 1997 Rules of Civil Procedure, effective on July 1, 1997, and incorporated in Section 7 of Rule 40 thereof the directive to the RTC to decide appealed cases "on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed," viz:

Section 7. Procedure in the Regional Trial Court. -

(a) Upon receipt of the complete record or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.

(b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to

the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.

(c) Upon the filing of the memorandum of the appellee, or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed. (n)

As a result, the RTC presently decides all appeals from the MTC based on the entire record of the proceedings had in the court of origin and such memoranda or briefs as are filed in the RTC.

Yet, even without the differentiation in the procedures of deciding appeals, the limitation of the review to only the errors assigned and properly argued in the appeal brief or memorandum and the errors necessarily related to such assigned errors ought not to have obstructed the CA from resolving the unassigned issues by virtue of their coming under one or several of the following recognized exceptions to the limitation, namely:

(a)

When the question affects jurisdiction over the subject matter;

(b)

Matters that are evidently plain or clerical errors within contemplation of law;

(c)

Matters whose consideration is necessary in arriving at a just decision and complete resolution of the case or in serving the interests of justice or avoiding dispensing piecemeal justice;

(d)

Matters raised in the trial court and are of record having some bearing on the issue submitted that the parties failed to raise or that the lower court ignored;

(e)

Matters closely related to an error assigned; and

(f)

Matters upon which the determination of a question properly assigned is dependent.[13]

Consequently, the CA improperly disallowed the consideration and resolution of the two errors despite their being: (a) necessary in arriving at a just decision and a complete resolution of the case; and (b) matters of record having some bearing on the issues submitted that the lower court ignored.

B.

CA correctly delved into and determined whether or not complaint stated a cause of action

The RTC opined that the complaint failed to state a cause of action because the evidence showed that there was no demand to vacate made upon the petitioner.

The CA disagreed, observing in its appealed decision:

But what is worse is that a careful reading of Plaintiffs-appellants' Complaint would readily reveal that they have sufficiently established (sic) a cause of action against Defendant-appellee. It is undisputed that as alleged in the complaint and testified to by Plaintiffs-appellants, a demand to vacate was made before the action for

unlawful detainer was instituted.

A complaint for unlawful detainer is sufficient if it alleges that the withholding of possession or the refusal is unlawful without necessarily employing the terminology of the law (*Jimenez vs. Patricia, Inc.*, 340 SCRA 525). In the case at bench, par. 4 of the Complaint alleges, thus:

"4. After a period of one (1) year living in the aforementioned house, Plaintiff demanded upon defendant to vacate but she failed and refused;"

From the foregoing allegation, it cannot be disputed that a demand to vacate has not only been made but that the same was alleged in the complaint. How the Regional Trial Court came to the questionable conclusion that Plaintiffs-appellants had no cause of action is beyond Us.[14]

We concur with the CA.

A complaint sufficiently alleges a cause of action for unlawful detainer if it states the following:

- (a) Initially, the possession of the property by the defendant was by contract with or by tolerance of the plaintiff;
- (b) Eventually, such possession became illegal upon notice by the plaintiff to the defendant about the termination of the latter's right of possession;
- (c) Thereafter, the defendant remained in possession of the property and deprived the plaintiff of its enjoyment; and
- (d) Within one year from the making of the last demand to vacate the property on the defendant, the plaintiff instituted the complaint for ejectment.[15]

In resolving whether the complaint states a cause of action or not, only the facts alleged in the complaint are considered. The test is whether the court can render a valid judgment on the complaint based on the facts alleged and the prayer asked for.[16] Only ultimate facts, not legal conclusions or evidentiary facts, are considered for purposes of applying the test.[17]

To resolve the issue, therefore, a look at the respondents' complaint is helpful:

- 2. On September 10, 1997, defendant sold to plaintiffs a residential land located in Sabang, Danao City, covered by Tax Dec.0312417 RB with an area of 400 square meters, including a residential house where defendant was then living covered by Tax Dec. 0312417 RB, a copy of the deed of absolute [sale] of these properties is hereto attached as Annex "A";
- 3. After the sale, defendant requested to be allowed to live in the house which plaintiff granted on reliance of defendant's promise to vacate as soon as she would be able to find a new residence;
- 4. After a period of one (1) year living in the aforementioned house, plaintiffs demanded upon defendant to vacate but she failed or refused.
- 5. Plaintiffs sought the aid of the barangay Lupon of Sabang, Danao City for arbitration but no settlement was reached as shown by a certification to file action hereto attached as Annex "B";
- 6. Plaintiffs were compelled to file this action and hire counsel for P10,000 by way of attorney's fee;
- 7. Defendant agreed to pay plaintiffs a monthly rental of P5,000 for the period of time that the former continued to live in the said house in question.

WHEREFORE, it is respectfully prayed of this Honorable Court to render judgment ordering the defendant to

vacate the properties in question, ordering the defendant to pay plaintiffs attorney's fees in the sum of P10,000, ordering the defendant to pay the plaintiffs a monthly rental of P5,000 starting in October 1997, until the time that defendant vacates the properties in question. Plaintiffs pray for such other reliefs consistent with justice and equity.[18]

Based on its allegations, the complaint sufficiently stated a cause of action for unlawful detainer. Firstly, it averred that the petitioner possessed the property by the mere tolerance of the respondents. Secondly, the respondents demanded that the petitioner vacate the property, thereby rendering her possession illegal. Thirdly, she remained in possession of the property despite the demand to vacate. And, fourthly, the respondents instituted the complaint on March 10, 1999, which was well within a year after the demand to vacate was made around September of 1998 or later.

Yet, even as we rule that the respondents' complaint stated a cause of action, we must find and hold that both the RTC and the CA erroneously appreciated the real issue to be about the complaint's failure to state a cause of action. It certainly was not so, but the respondents' lack of cause of action. Their erroneous appreciation expectedly prevented the correct resolution of the action.

Failure to state a cause of action and lack of cause of action are really different from each other. On the one hand, failure to state a cause of action refers to the insufficiency of the pleading, and is a ground for dismissal under Rule 16 of the Rules of Court. On the other hand, lack of cause action refers to a situation where the evidence does not prove the cause of action alleged in the pleading. Justice Regalado, a recognized commentator on remedial law, has explained the distinction:[19]

xxx What is contemplated, therefore, is a failure to state a cause of action which is provided in Sec. 1(g) of Rule 16. This is a matter of insufficiency of the pleading. Sec. 5 of Rule 10, which was also included as the last mode for raising the issue to the court, refers to the situation where the evidence does not prove a cause of action. This is, therefore, a matter of insufficiency of evidence. Failure to state a cause of action is different from failure to prove a cause of action. The remedy in the first is to move for dismissal of the pleading, while the remedy in the second is to demur to the evidence, hence reference to Sec. 5 of Rule 10 has been eliminated in this section. The procedure would consequently be to require the pleading to state a cause of action, by timely objection to its deficiency; or, at the trial, to file a demurrer to evidence, if such motion is warranted.

A complaint states a cause of action if it avers the existence of the three essential elements of a cause of action, namely:

- (a) The legal right of the plaintiff;
- (b) The correlative obligation of the defendant; and
- (c) The act or omission of the defendant in violation of said legal right.

If the allegations of the complaint do not aver the concurrence of these elements, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action. Evidently, it is not the lack or absence of a cause of action that is a ground for the dismissal of the complaint but the fact that the complaint states no cause of action. Failure to state a cause of action may be raised at the earliest stages of an action through a motion to dismiss, but lack of cause of action may be raised at any time after the questions of fact have been resolved on the basis of the stipulations, admissions, or evidence presented.[20]

Having found that neither Exhibit C nor Exhibit E was a proper demand to vacate,[21] considering that Exhibit C (the respondents' letter dated February 11, 1998) demanded the payment of P1,101,089.90, and Exhibit E (their letter dated January 21, 1999) demanded the payment of P1,600,000.00, the RTC concluded that the demand

alleged in the complaint did not constitute a demand to pay rent and to vacate the premises necessary in an action for unlawful detainer. It was this conclusion that caused the RTC to confuse the defect as failure of the complaint to state a cause of action for unlawful detainer.

The RTC erred even in that regard.

To begin with, it was undeniable that Exhibit D (the respondents' letter dated April 28, 1998) constituted the demand to vacate that validly supported their action for unlawful detainer, because of its unmistakable tenor as a demand to vacate, which the following portion indicates:[22]

This is to give notice that since the mortgage to your property has long expired and that since the property is already in my name, I will be taking over the occupancy of said property two (2) months from date of this letter.

Exhibit D, despite not explicitly using the word vacate, relayed to the petitioner the respondents' desire to take over the possession of the property by giving her no alternative except to vacate. The word vacate, according to *Golden Gate Realty Corporation v. Intermediate Appellate Court*,^[23] is not a talismanic word that must be employed in all notices to vacate. The tenants in *Golden Gate Realty Corporation* had defaulted in the payment of rents, leading their lessor to notify them to pay with a warning that a case of ejectment would be filed against them should they not do so. The Court held that the lessor had thereby given strong notice that "you either pay your unpaid rentals or I will file a court case to have you thrown out of my property," for there was no other interpretation of the import of the notice due to the alternatives being clear cut, in that the tenants must pay rentals that had been fixed and had become payable in the past, failing in which they must move out.^[24]

Also, the demand not being to pay rent and to vacate did not render the cause of action deficient. Based on the complaint, the petitioner's possession was allegedly based on the respondents' tolerance, not on any contract between them. Hence, the demand to vacate sufficed.

C.

Ejectment was not proper due
to defense of ownership being established

The respondents' cause of action for unlawful detainer was based on their supposed right to possession resulting from their having acquired it through sale.

The RTC dismissed the complaint based on its following findings, to wit:

In the case at bench, there is conflict between the allegation of the complaint and the document attached thereto.

Simply stated, plaintiff alleged that she bought the house of the defendant for P100,000.00 on September 10, 1997 as stated in an alleged Deed of Absolute Sale marked as Exhibit "A" to the complaint. Insofar as plaintiff is concerned, the best evidence is the said Deed of Absolute Sale.

The Court is surprised why in plaintiff's letter dated February 11, 1998, marked as Exhibit "C" and attached to the same complaint, she demanded from the defendant the whooping sum of P1,101,089.90. It must be remembered that this letter was written five (5) months after the deed of absolute sale was executed.

The same letter (Exhibit "C") is not a letter of demand as contemplated by law and jurisprudence. The plaintiff simply said that she will appreciate payment per notarized document. There is no explanation what this document is.

Plaintiff's letter dated April 28, 1998 (Exhibit "D") contradicts her allegation that she purchased the house and

lot mentioned in the complaint. Exhibit "D", which is part of the pleading and a judicial admission clearly shows that the house and lot of the defendant was not sold but mortgaged.

Again, for purposes of emphasis and clarity, a portion of the letter (Exhibit "D") reads:

'This is to give notice that since the mortgage to your property has long expired and that since the property is already in my name, I will be taking over the occupancy of said property two (2) months from date of this letter.'

x x x x

Exhibit "E", which is a letter dated January 21, 1999, shows the real transaction between the parties in their case. To reiterate, the consideration in the deed of sale (Exhibit "A") is P100,000.00 but in their letter (Exhibit "E") she is already demanding the sum of P1,600,000.00 because somebody was going to buy it for P2,000,000.00.

There are indications that point out that the real transaction between the parties is one of equitable mortgage and not sale.[25]

Despite holding herein that the respondents' demand to vacate sufficed, we uphold the result of the RTC decision in favor of the petitioner. This we do, because the respondents' Exhibit C and Exhibit E, by demanding payment from the petitioner, respectively, of P1,101,089.90 and P1,600,000.00, revealed the true nature of the transaction involving the property in question as one of equitable mortgage, not a sale.

Our upholding of the result reached by the RTC rests on the following circumstances that tended to show that the petitioner had not really sold the property to the respondents, contrary to the latter's averments, namely:

- (a) The petitioner, as the vendor, was paid the amount of only P100,000.00,[26] a price too inadequate in comparison with the sum of P1,600,000.00 demanded in Exhibit E;[27]
- (b) The petitioner retained possession of the property despite the supposed sale; and
- (c) The deed of sale was executed as a result or by reason of the loan the respondents extended to the petitioner, because they still allowed the petitioner to "redeem" the property by paying her obligation under the loan.[28]

Submissions of the petitioner further supported the findings of the RTC on the equitable mortgage. Firstly, there was the earlier dated instrument (deed of pacto de retro) involving the same property, albeit the consideration was only P480,000.00, executed between the petitioner as vendor a retro and the respondent Renato Zamora as vendee a retro.[29] Secondly, there were two receipts for the payments the petitioner had made to the respondents totaling P300,000.00.[30] And, thirdly, the former secretary of respondent Melba Zamora executed an affidavit acknowledging that the petitioner had already paid a total of P500,000.00 to the respondents.[31] All these confirmed the petitioner's claim that she remained the owner of the property and was still entitled to its possession.

Article 1602 of the Civil Code enumerates the instances when a contract, regardless of its nomenclature, may be presumed to be an equitable mortgage, namely:

(a)

When the price of a sale with right to repurchase is unusually inadequate;

(b)

When the vendor remains in possession as lessee or otherwise;

(c)

When upon or after the expiration of the right to repurchase another instrument extending the period of redemption or granting a new period is executed;

(d)

When the purchaser retains for himself a part of the purchase price;

(e)

When the vendor binds himself to pay the taxes on the thing sold; and,

(f)

In any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation.

The circumstances earlier mentioned were, indeed, badges of an equitable mortgage within the context of Article 1602 of the Civil Code.

Nonetheless, the findings favorable to the petitioner's ownership are neither finally determinative of the title in the property, nor conclusive in any other proceeding where ownership of the property involved herein may be more fittingly adjudicated. Verily, where the cause of action in an ejectment suit is based on ownership of the property, the defense that the defendant retained title or ownership is a proper subject for determination by the MTC but only for the purpose of adjudicating the rightful possessor of the property.[32] This is based on Rule 70 of the Rules of Court, viz:

Section 16. Resolving defense of ownership. -- When the defendant raises the defense of ownership in his pleadings and 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.(4a)

D.

MTC committed procedural lapses
that must be noted and corrected

The Court seizes the opportunity to note and to correct several noticeable procedural lapses on the part of the MTCC, to avoid the impression that the Court condones or tolerates the lapses.

The first lapse was the MTCC's granting of the respondents' motion to declare the petitioner in default following her failure to file an answer. The proper procedure was not for the plaintiffs to move for the declaration in default of the defendant who failed to file the answer. Such a motion to declare in default has been expressly prohibited under Section 13, Rule 70 of the Rules of Court.[33] Instead, the trial court, either *motu proprio* or on motion of the plaintiff, should render judgment as the facts alleged in the complaint might warrant.[34] In other words, the defendant's failure to file an answer under Rule 70 of the Rules of Court might result to a judgment by default, not to a declaration of default.

The second lapse was the MTCC's reception of the oral testimony of respondent Melba Zamora. Rule 70 of the Rules of Court has envisioned the submission only of affidavits of the witnesses (not oral testimony) and other proofs on the factual issues defined in the order issued within five days from the termination of the preliminary conference;[35] and has permitted the trial court, should it find the need to clarify material facts, to thereafter issue an order during the 30-day period from submission of the affidavits and other proofs specifying the matters to be clarified, and requiring the parties to submit affidavits or other evidence upon such matters within ten days

from receipt of the order.[36]

The procedural lapses committed in this case are beyond comprehension. The MTCC judge could not have been unfamiliar with the prevailing procedure, considering that the revised version of Rule 70, although taking effect only on July 1, 1997, was derived from the 1991 Revised Rule on Summary Procedure, in effect since November 15, 1991. It was not likely, therefore, that the MTCC judge committed the lapses out of his unfamiliarity with the relevant rule. We discern that the cause of the lapses was his lack of enthusiasm in implementing correct procedures in this case. If that was the true reason, the Court can only be alarmed and concerned, for a judge should not lack enthusiasm in applying the rules of procedure lest the worthy objectives of their promulgation be unwarrantedly sacrificed and brushed aside. The MTCC judge should not forget that the rules of procedure were always meant to be implemented deliberately, not casually, and their non-compliance should only be excused in the higher interest of the administration of justice.

It is timely, therefore, to remind all MTC judges to display full and enthusiastic compliance with all the rules of procedure, especially those intended for expediting proceedings.

WHEREFORE, we grant the petition for review on certiorari; set aside the decision promulgated on July 3, 2002 by the Court of Appeals; and dismiss the complaint for unlawful detainer for lack of a cause of action.

The respondents shall pay the costs of suit.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Villarama, and Sereno, JJ., concur.

[1] Rollo, pp. 30-33; penned by Associate Justice Jose L. Sabio (retired), and concurred in by Associate Justice Hilarion L. Aquino (retired) and Associate Justice Perlita J. Tria Tirona (retired).

[2] Id., pp. 47-51; penned by Judge Meinrado P. Paredes.

[3] Id., pp. 43-46; penned by Judge Manuel D. Patalinghug.

[4] Id., p. 46.

[5] Rollo, p. 14.

[6] CA Rollo, p. 87.

[7] Rollo, pp. 47-51.

[8] Supra, note 1.

[9] Rollo, pp. 11-26.

[10] Id., pp. 32-33.

[11] Also known as The Judiciary Reorganization Act of 1980, which became effective upon its approval on August 14, 1981 by virtue of its Section 48 providing that: "This Act shall take effect immediately."

[12] Interestingly, Section 45 of Republic Act No. 296 (Judiciary Act of 1948), as amended by Section 1 of Republic Act No. 6031 (An Act to Increase the Salaries of Municipal Judges and to Require Them to Devote Full Time to their Functions as Judges, to convert Municipal and City Courts into Courts of Record, to make final the Decisions of Courts of First Instance in Appealed Cases falling under the Exclusive Original Jurisdiction of

Municipal and City Courts except in questions of law, amending thereby Sections 45, 70, 75, 77 and 82 of Republic Act Numbered Two Hundred And Ninety Six, Otherwise known as the Judiciary Act of 1948, and for other purposes), which governed the appellate procedure in the Court of First Instance, had an almost similar tenor, to wit:

Section 45. Appellate Jurisdiction. - Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of Section 87 of this Act.

Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: Provided, That the parties may submit memoranda and/or brief with oral argument if so requested: Provided, however, That if the case was tried in a city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial de novo.

In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the court of appeals whose decision shall be final: Provided, however, that the supreme court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal.

[13] *Comilang v. Burcena*, G.R. No. 146853, February 13, 2006, 482 SCRA 342, 349; *Sumipat v. Banga*, G.R. No. 155810, August 13, 2004, 436 SCRA 521, 532-533; *Catholic Bishop of Balanga v. Court of Appeals*, G.R. No. 112519, November 14, 1996, 264 SCRA 181, 191-192.

[14] *Id.*, pp. 32-33.

[15] *Cabrera v. Getaruela*, G.R. No. 164213, April 21, 2009, 586 SCRA 129, 136-137.

[16] *Peltan Development, Inc. v. CA*, G.R. No. 117029, March 19, 1997, 270 SCRA 82, 91.

[17] *G & S Transport Corp. v. CA*, G.R. No. 120287, May 28, 2002, 382 SCRA 262, 274.

[18] *Rollo*, p. 37.

[19] *Regalado, Remedial Law Compendium, Volume I, Ninth Revised Ed. (2005)*, p. 182.

[20] *Bank of America NT&SA v. Court of Appeals*, G.R. No. 120135, March 31, 2003, 400 SCRA 156, 167-168; *Dabuco v. Court of Appeals*, G.R. No. 133775, January 20, 2000, 322 SCRA 853, 857-858.

[21] *Id.*, pp. 48-51.

[22] *Id.*, p. 42.

[23] No. L-4289, July 31, 1987, 152 SCRA 684, 691.

[24] *Id.*

[25] *Rollo*, pp. 48-51.

[26] Id., p. 39.

[27] Id., p. 49

[28] Id., p. 42.

[29] CA Rollo, pp. 89-90.

[30] Id., p. 91.

[31] Id., p. 92.

[32] Sps. Refugia v. Court of Appeals, G.R. No. 118284, July 5, 1996, 258 SCRA 347, 362-367.

[33] Section 13. Prohibited pleadings and motions. -- The following petitions, motions, or pleadings shall not be allowed:

- Motion to dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, or failure to comply with section 12;
- Motion for a bill of particulars;
- Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;
- Petition for relief from judgment;
- Motion for extension of time to file pleadings, affidavits or any other paper;
- Memoranda;
- Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;
- Motion to declare the defendant in default;
- Dilatory motions for postponement;
- Reply;
- Third-party complaints;
- Interventions. (19a, RSP)

[34] Section 7, Rule 70, Rules of Court, viz:

Section 7. Effect of failure to answer. -- Should the defendant fail to answer the complaint within the period above provided, the court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, That the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable, without prejudice to the applicability of Section 3(c), Rule 9, if there are two or more defendants.

[35] Section 10, Rule 70, Rules of Court.

[36] Section 11, Rule 70, Rules of Court.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.