

VALENTIN CABRERA, MANUEL CABRERA, AND REBECCA LESLIE CABRAS, PETITIONERS, VS. ELIZABETH GETARUELA, EULOGIO ABABON, LEONIDA LIGAN, MARIETTO ABABON, GLORIA PANAL, LEONORA OCARIZA,...

G.R. No. 164213. April 21, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 22 January 2004 Decision[2] and 3 May 2004 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 80062.

The Antecedent Facts

Lot Nos. 3635-CC and 3635-Y, located in Inayawan, Pardo, Cebu City were covered by Tax Declaration Nos. GR2K-12-078-02409 and GR2K-12-078-02431 in the name of Arcadio Jaca (Arcadio). The heirs of Arcadio executed a notarized document known as "Kasabutan nga Hinigala" dated 25 July 1951 which stipulated that all the inherited properties of Arcadio, including Lot No. 3635, would go to Peregrina Jaca Cabrera (Peregrina). However, in a Repartition Project approved on 21 November 1956 by Judge Jose M. Mendoza of the Court of First Instance of Cebu City, Branch 6 in Special Proceedings No. 211-V, Lot Nos. 3635-CC and 3635-Y were given to Urbana Jaca Ababon (Urbana), mother of Elizabeth Getaruela, Eulogio Ababon, Leonida Ligan, Marietto Ababon, Gloria Panal, Leonora Ocariza, Sotero Ababon, Jr., and Joseph Ababon (respondents). Upon Urbana's death in 1997, respondents inherited the lots.

Valentin Cabrera (Valentin), Manuel Cabrera (Manuel), and Rebecca Leslie Cabras (Cabras), Peregrina's adopted daughter, occupied the lots with the knowledge and consent of respondents.

Respondents alleged that Valentin, Manuel, and Cabras (collectively, petitioners) were occupying portions of the lots without paying any rentals, but with an agreement that they would vacate the premises and demolish their houses at their expense should respondents need the property. In 2001, respondents personally notified petitioners that they would repossess the property. Respondents asked petitioners to vacate the premises and remove the houses they built on the lots. However, despite repeated demands, petitioners refused to vacate the premises. The matter was referred to the Lupong Tagapamayapa of Barangay Inayawan, Cebu for possible amicable settlement but petitioners still refused to vacate the premises. Thus, respondents filed an action for ejectment against petitioners, docketed as Civil Case No. R-45280.

Petitioners assailed the Project of Partition as incredible because its first page was missing and it lacked the signatures of the parties who executed it. Petitioners asserted the validity of the "Kasabutan nga Hinigala." Cabras alleged that as owner of Lot No. 3635 upon Peregrina's death, she could not be ejected from the premises.

Valentin and Manuel alleged that they could not be ejected because they built their houses with Peregrina's knowledge and consent.

The Rulings of the MTCC and RTC

In its Decision[4] dated 4 April 2002, the Municipal Trial Court in Cities, Branch 7, Cebu City (MTCC) ruled in favor of respondents, as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants, ordering the latter to vacate the premises in question and to demolish whatever improvements introduced thereon and surrender complete control and possession thereof to the plaintiffs, and to jointly and severally pay the latter:

- 1) the amount of P15,000.00 for and as attorney's fees;
- 2) litigation expenses in the sum of P5,000.00; and cost of suit.

SO ORDERED.[5]

The MTCC ruled that the "Kasabutan nga Hinigala" was superseded by the court-approved Repartition Project. The MTCC noted that in the Repartition Project, Lot Nos. 3635-CC and 3635-Y were given to Urbana, respondents' predecessor-in-interest. The MTCC ruled that while the lots were still in Urbana's name, respondents were not barred from judicially ejecting petitioners from the premises.

Petitioners appealed from the MTCC's Decision.

In its 19 May 2003 Decision,[6] the Regional Trial Court of Cebu City, Branch 7 (RTC) reversed the MTCC's Decision. The RTC ruled that the Project of Partition showed that Lot No. 3635-Y was co-owned by Urbana (251 sq. m.), Peregrina (863 sq. m.), and Andres Jaca (251 sq. m.). The RTC ruled that as Peregrina's heir, Cabras became a co-owner of Lot No. 3635-Y and she could not be ejected from the property. The RTC ruled that Valentin and Manuel could not likewise be ejected from the property as they were allowed by Cabras to occupy the lot.

The RTC ruled that the Project of Partition also showed that Urbana's total share of 1,499 sq. m., covering 1,248 sq. m. of Lot No. 3635-CC and 251 sq. m. of Lot No. 3635-Y, was sold to one Josefina Asas (Asas). As such, respondents had no cause of action against petitioners.

The dispositive portion of the RTC's Decision reads:

Wherefore, the judgment in the Decision dated April 4, 2002, of the Municipal Trial Court in Cities, Branch 7, Cebu City, in Civil Case No. R-45280, is REVERSED, and another one is entered DISMISSING the case against defendants-appellants.

Plaintiffs-appellees are directed to compensate defendants-appellants attorney's fees in the amount of P15,000.00, and litigation expenses in the amount of P5,000.00, as well as to pay the costs.

SO ORDERED.[7]

Respondents filed a motion for reconsideration. In its 29 July 2003 Order, the RTC partially granted respondents' motion. The RTC ruled that it erred in finding that Urbana sold her share to Asas. The RTC ruled that the Project of Partition showed that it was Panfilo Jaca who sold his share to Asas. The RTC modified its 19 May 2003 Decision as follows:

Wherefore, the judgment in the Decision dated April 4, 2002, of the Municipal Trial Court in Cities, Branch 7, Cebu City, in Civil Case No. R-45280, is MODIFIED, as follows:

- 1) Dismissing the complaint as regards Lot 3655-Y; and
- 2) Ordering defendants-appellants to vacate Lot No. 3655-CC, demolish whatever improvements they may have introduced thereon and surrender complete control and possession thereof to plaintiffs-appellees.

No pronouncement as to costs.

SO ORDERED.[8]

Petitioners moved for reconsideration of the RTC's 29 July 2003 Order, assailing the Project of Partition. In its 3 September 2003 Order,[9] the RTC denied petitioners' motion. The RTC ruled that petitioners failed to present any evidence supporting the purported falsity of the Project of Partition. The RTC upheld the jurisdiction of the MTCC and further ruled that respondents' action was an ejectment case.

Petitioners filed a petition for review before the Court of Appeals.

The Ruling of the Court of Appeals

In its 22 January 2004 Decision, the Court of Appeals affirmed the 29 July 2003 and 3 September 2003 Orders of the RTC.

The Court of Appeals held that the jurisdiction of the court is determined by the allegations in the complaint. The Court of Appeals held that a complaint for unlawful detainer is sufficient if it alleges that the withholding of possession or the refusal to vacate is unlawful. The Court of Appeals ruled that prior physical possession is indispensable only in actions for forcible entry but not in unlawful detainer. The Court of Appeals further ruled that occupation of the premises must be tolerated by the owners right from the start of the possession of the property sought to be recovered.

The Court of Appeals found that in this case, petitioners were occupying the lots without rentals upon agreement with respondents that they would relinquish possession once respondents need the property. However, petitioners refused to vacate the premises despite demands by respondents. The Court of Appeals ruled that the allegations were sufficient to confer jurisdiction upon the MTCC where the ejectment suit was instituted and tried.

The Court of Appeals noted that petitioners challenged respondents' claim of ownership of the property. The Court of Appeals ruled that the only issue involved in an ejectment case is possession de facto. However, when the issue of possession could not be resolved without resolving the issue of ownership, the court may receive evidence upon the question of title to the property but solely for the purpose of determining the issue of possession. Hence, the MTCC acted correctly when it received evidence on the issue of ownership. The Court of Appeals further noted that the RTC upheld the MTCC's finding that the Project of Partition superseded the "Kasabutan nga Hinigala." The Court of Appeals sustained the RTC in refusing to admit documents submitted by petitioners which they failed to present before the MTCC. The Court of Appeals stressed that the MTCC's finding on the issue of ownership was merely provisional. Thus, petitioners were not legally barred from filing the proper action to settle the question of title.

The dispositive portion of the Decision of the Court of Appeals reads:

WHEREFORE, premises considered, the present petition is hereby DENIED DUE COURSE and accordingly DISMISSED. The assailed Orders dated July 29, 2003 and September 3, 2003 of the court a quo are hereby both AFFIRMED.

No pronouncement as to costs.

SO ORDERED.[10]

Petitioners filed a motion for reconsideration. In its 3 May 2004 Resolution, the Court of Appeals denied the motion.

The Court of Appeals ruled that a complaint for unlawful detainer must be filed within one year from demand and not from the start of possession as claimed by petitioners. The Court of Appeals reiterated that in cases of forcible entry and unlawful detainer, the issue is pure physical or de facto possession and pronouncements made on the question of ownership are provisional in nature. The Court of Appeals further ruled that all cases of forcible entry and unlawful detainer shall be filed before the proper Municipal Trial Court, there being no jurisdictional amount involved, even with respect to damages or unpaid rentals sought.

Hence, the petition before this Court.

The Issues

Petitioners raise the following issues in their Memorandum:[11]

- Whether the MTCC had jurisdiction to entertain the ejectment case considering the absence of a contract, written or oral, entered into by respondents and petitioners as lessors and lessees, respectively;
- Whether tolerance as a ground for ejectment is tenable in this case; and
- Whether the Project of Partition superseded the "Kasabutan nga Hinigala."

The Ruling of this Court

The petition has no merit.

Petitioners insist that the MTCC had no jurisdiction to entertain respondents' complaint because there was no contract, oral or written, between the parties. Petitioners allege that the proper action should have been one for recovery of possession and not for unlawful detainer.

We do not agree.

It is settled that a complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

- (1) initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
- (2) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
- (3) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
- (4) within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.[12]

In this case, the complaint alleged that petitioners were occupying the property, with agreement that should respondents need the property, petitioners would relinquish possession of the lots and demolish their houses at their expense. Respondents personally notified petitioners to vacate the premises and to demolish their houses but petitioners refused to vacate the lots. The complaint established that petitioners' possession was by tolerance of respondents, and their possession became illegal when they refused to vacate the premises upon demand by respondents. Here, the possession became illegal not from the time petitioners started occupying the property but from the time demand was made for them to vacate the premises. In short, the complaint sufficiently established a case for unlawful detainer.

Contrary to petitioners' contention, the issue in this case is not the ownership of the lots. It should be stressed that the allegations in the complaint and the character of the relief sought determine the nature of the action and the court with jurisdiction over it.[13] The defenses set up in an answer are not determinative of jurisdiction.[14] The jurisdiction of the court cannot be made to depend on the exclusive characterization of the case by one of the parties.[15] Thus:

In an unlawful detainer case, the sole issue for resolution is physical or material possession of the property involved, independent of any claim of ownership by any of the parties. However, where the issue of ownership is raised, the courts may pass upon the issue of ownership in order to determine who has the right to possess the property. We stress, however, that this adjudication is only an initial determination of ownership for the purpose of settling the issue of possession, the issue of ownership being inseparably linked thereto. The lower court's adjudication of ownership in the ejectment case is merely provisional and would not bar or prejudice an action between the same parties involving title to the property. It is, therefore, not conclusive as to the issue of ownership x x x.[16]

The MTCC, the RTC, and the Court of Appeals all held that the Repartition Project superseded the "Kasabutan nga Hinigala." We sustain their factual finding as this Court gives substantial weight to the factual finding of the trial court, particularly if this factual finding is sustained by appellate courts. However, we also reiterate that this resolution on the issue of ownership is only provisional for the purpose of settling the issue of possession.

WHEREFORE, we DENY the petition. We AFFIRM the 22 January 2004 Decision and 3 May 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 80062.

SO ORDERED.

Puno, (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 55-63. Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Mario L. Guariña III and Jose C. Reyes, Jr., concurring.

[3] Id. at 78-79.

[4] Id. at 41-44. Penned by Presiding Judge Francisco A. Seville, Jr.

[5] Id. at 44.

[6] Id. at 45-50. Penned by Judge Simeon P. Dumdum, Jr.

[7] Id. at 49-50.

[8] Id. at 52-53.

[9] CA rollo, pp. 103-104.

[10] Rollo, pp. 62-63.

[11] Id. at 138-148.

[12] *Fernando v. Lim*, G.R. No. 176282, 22 August 2008, 563 SCRA 147.

[13] Id.

[14] Id.

[15] Larano v. Calendacion, G.R. No. 158231, 19 June 2007, 525 SCRA 57.

[16] Pascual v. Coronel, G.R. No. 159292, 12 July 2007, 527 SCRA 474, 482.

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