

JOSE MENDOZA, PETITIONER, VS. NARCISO GERMINO AND BENIGNO GERMINO, RESPONDENTS.

G.R. No. 165676. November 22, 2010

Ponente: BRION, J.

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BRION, J.:

Before us is the petition for review on certiorari[1] filed by petitioner Jose Mendoza to challenge the decision[2] and the resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 48642.[4]

FACTUAL BACKGROUND

The facts of the case, gathered from the records, are briefly summarized below.

On June 27, 1988, the petitioner and Aurora C. Mendoza[5] (plaintiffs) filed a complaint with the Municipal Trial Court (MTC) of Sta. Rosa, Nueva Ecija against respondent Narciso Germino for forcible entry.[6]

The plaintiffs claimed that they were the registered owners of a five-hectare parcel of land in Soledad, Sta. Rosa, Nueva Ecija (subject property) under Transfer Certificate of Title No. 34267. Sometime in 1988, respondent Narciso unlawfully entered the subject property by means of strategy and stealth, and without their knowledge or consent. Despite the plaintiffs' repeated demands, respondent Narciso refused to vacate the subject property.[7]

On August 9, 1988, respondent Narciso filed his answer, claiming, among others, that his brother, respondent Benigno Germino, was the plaintiffs' agricultural lessee and he merely helped the latter in the cultivation as a member of the immediate farm household.[8]

After several postponements, the plaintiffs filed a motion to remand the case to the Department of Agrarian Reform Adjudication Board (DARAB), in view of the tenancy issue raised by respondent Narciso.

Without conducting a hearing, and despite respondent Narciso's objection, the MTC issued an order on October 27, 1995, remanding the case to the DARAB, Cabanatuan City for further proceedings.[9]

On December 14, 1995, the plaintiffs[10] filed an amended complaint with the Provincial Agrarian Reform Adjudicator (PARAD), impleading respondent Benigno as additional defendant.

The plaintiffs alleged that Efren Bernardo was the agricultural lessee of the subject property. Respondent Benigno unlawfully entered the subject property in 1982 or 1983 through strategy and stealth, and without their knowledge or consent. He withheld possession of the subject property up to 1987, and appropriated for himself its produce, despite repeated demands from the plaintiffs for the return of the property. In 1987, they discovered that respondent Benigno had transferred possession of the subject property to respondent Narciso, who refused to return the possession of the subject property to the plaintiffs and appropriated the land's produce for himself. The subject property was fully irrigated and was capable of harvest for 2 cropping seasons. Since the subject property could produce 100 cavans of palay per hectare for each cropping season, or a total of 500 cavans per cropping

season for the five-hectare land, the plaintiffs alleged that the respondents were able to harvest a total of 13,000 cavans of palay from the time they unlawfully withheld possession of the subject property in 1982 until the plaintiffs filed the complaint. Thus, they prayed that the respondents be ordered to jointly and severally pay 13,000 cavans of palay, or its monetary equivalent, as actual damages, to return possession of the subject property, and to pay P15,000.00 as attorney's fees.[11]

On January 9, 1996, the respondents filed their answer denying the allegations in the complaint, claiming, among others, that the plaintiffs had no right over the subject property as they agreed to sell it to respondent Benigno for P87,000.00. As a matter of fact, respondent Benigno had already made a P50,000.00 partial payment, but the plaintiffs refused to receive the balance and execute the deed of conveyance, despite repeated demands. The respondents also asserted that jurisdiction over the complaint lies with the Regional Trial Court since ownership and possession are the issues.[12]

THE PARAD RULING

In a March 19, 1996 decision, PARAD Romeo Bello found that the respondents were mere usurpers of the subject property, noting that they failed to prove that respondent Benigno was the plaintiffs' bona fide agricultural lessee. The PARAD ordered the respondents to vacate the subject property, and pay the plaintiffs 500 cavans of palay as actual damages.[13]

Not satisfied, the respondents filed a notice of appeal with the DARAB, arguing that the case should have been dismissed because the MTC's referral to the DARAB was void with the enactment of Republic Act (R.A.) No. 6657,[14] which repealed the rule on referral under Presidential Decree (P.D.) No. 316.[15]

THE DARAB RULING

The DARAB decided the appeal on July 22, 1998. It held that it acquired jurisdiction because of the amended complaint that sufficiently alleged an agrarian dispute, not the MTC's referral of the case. Thus, it affirmed the PARAD decision.[16]

The respondents elevated the case to the CA via a petition for review under Rule 43 of the Rules of Court.[17]

THE CA RULING

The CA decided the appeal on October 6, 2003.[18] It found that the MTC erred in transferring the case to the DARAB since the material allegations of the complaint and the relief sought show a case for forcible entry, not an agrarian dispute. It noted that the subsequent filing of the amended complaint did not confer jurisdiction upon the DARAB. Thus, the CA set aside the DARAB decision and remanded the case to the MTC for further proceedings.

When the CA denied[19] the subsequent motion for reconsideration,[20] the petitioner filed the present petition.[21]

THE PETITION

The petitioner insists that the jurisdiction lies with the DARAB since the nature of the action and the allegations of the complaint show an agrarian dispute.

THE CASE FOR THE RESPONDENTS

The respondents submit that R.A. No. 6657 abrogated the rule on referral previously provided in P.D. No. 316. Moreover, neither the Rules of Court nor the Revised Rules on Summary Procedure (RRSP) provides that forcible entry cases can be referred to the DARAB.

THE ISSUE

The core issue is whether the MTC or the DARAB has jurisdiction over the case.

OUR RULING

We deny the petition.

Jurisdiction is determined by the allegations in the complaint

It is a basic rule that jurisdiction over the subject matter is determined by the allegations in the complaint.[22] It is determined exclusively by the Constitution and the law. It cannot be conferred by the voluntary act or agreement of the parties, or acquired through or waived, enlarged or diminished by their act or omission, nor conferred by the acquiescence of the court. Well to emphasize, it is neither for the court nor the parties to violate or disregard the rule, this matter being legislative in character.[23]

Under Batas Pambansa Blg. 129,[24] as amended by R.A. No. 7691,[25] the MTC shall have exclusive original jurisdiction over cases of forcible entry and unlawful detainer. The RRSP[26] governs the remedial aspects of these suits.[27]

Under Section 50[28] of R.A. No. 6657, as well as Section 34[29] of Executive Order No. 129-A,[30] the DARAB has primary and exclusive jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes involving the implementation of the Comprehensive Agrarian Reform Program, and other agrarian laws and their implementing rules and regulations.

An agrarian dispute refers to any controversy relating to, among others, tenancy over lands devoted to agriculture.[31] For a case to involve an agrarian dispute, the following essential requisites of an agricultural tenancy relationship must be present: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvest or payment of rental.[32]

In the present case, the petitioner, as one of the plaintiffs in the MTC, made the following allegations and prayer in the complaint:

3. Plaintiffs are the registered owners of a parcel of land covered by and described in Transfer Certificate of Title Numbered 34267, with an area of five (5) hectares, more or less situated at Bo. Soledad, Sta. Rosa, Nueva Ecija. x x x;
4. That so defendant thru stealth, strategy and without the knowledge, or consent of administrator x x x much more of the herein plaintiffs, unlawfully entered and occupied said parcel of land;
5. In spite of x x x demands, defendant Germino, refused and up to the filing of this complaint, still refused to vacate the same;
6. The continuous (sic) and unabated occupancy of the land by the defendant would work and cause prejudice and irreparable damage and injury to the plaintiffs unless a writ of preliminary injunction is issued;

7. This prejudice, damage or injury consist of disturbance of property rights tantamount to deprivation of ownership or any of its attributes without due process of law, a diminution of plaintiffs' property rights or dominion over the parcel of land subject of this dispute, since they are deprived of freely entering or possessing the same;

8. The plaintiffs are entitled to the relief demanded or prayed for, and the whole or part of such relief/s consist of immediately or permanently RESTRAINING, ENJOINING or STOPPING the defendant or any person/s acting in his behalf, from entering, occupying, or in any manner committing, performing or suffering to be committed or performed for him, any act indicative of, or tending to show any color of possession in or about the tenement, premises or subject of this suit, such as described in par. 3 of this complaint;

9. Plaintiffs are ready and willing to post a bond answerable to any damage/s should the issuance of the writ x x x;

10. As a consequence of defendant's malevolent refusal to vacate the premises of the land in dispute, plaintiffs incurred litigation expenses of P1,500.00, availing for the purpose the assistance of a counsel at an agreed honorarium of P5,000.00 and P250.00 per appearance/ not to mention the moral damages incurred due to sleepless nights and mental anxiety, including exemplary damages, the award and amount of which are left to the sound discretion of this Honorable Court.

P R A Y E R

WHEREFORE, it is respectfully prayed of this Honorable Court that pending the resolution of the issue in this case, a restraining order be issued RESTRAINING, ENJOINING, or STOPPING the defendant or any person/s acting in his behalf, from ENTERING OR OCCUPYING the parcel of land, or any portion thereof, described in paragraph 3 of this complaint, nor in any manner committing, performing or suffering to be committed or, performed for him, by himself or thru another, any act indicative of, or tending to show any color of possession in or about the premises subject of this suit;

THEREAFTER, making said writ of preliminary injunction PERMANENT; and on plaintiffs' damages, judgment be rendered ordering the defendant to pay to the plaintiffs the sum alleged in paragraph 10 above.

GENERAL RELIEFS ARE LIKEWISE PRAYED FOR.[33]

Based on these allegations and reliefs prayed, it is clear that the action in the MTC was for forcible entry.

Allegation of tenancy does not divest the MTC of jurisdiction

Although respondent Narciso averred tenancy as an affirmative and/or special defense in his answer, this did not automatically divest the MTC of jurisdiction over the complaint. It continued to have the authority to hear the case precisely to determine whether it had jurisdiction to dispose of the ejectment suit on its merits.[34] After all, jurisdiction is not affected by the pleas or the theories set up by the defendant in an answer or a motion to dismiss. Otherwise, jurisdiction would become dependent almost entirely upon the whims of the defendant.[35]

Under the RRSP, the MTC is duty-bound to conduct a preliminary conference[36] and, if necessary, to receive evidence to determine if such tenancy relationship had, in fact, been shown to be the real issue.[37] The MTC may even opt to conduct a hearing on the special and affirmative defense of the defendant, although under the RRSP, such a hearing is not a matter of right.[38] If it is shown during the hearing or conference that, indeed, tenancy is the issue, the MTC should dismiss the case for lack of jurisdiction.[39]

In the present case, instead of conducting a preliminary conference, the MTC immediately referred the case to the DARAB. This was contrary to the rules. Besides, Section 2[40] of P.D. No. 316, which required the referral of a land dispute case to the Department of Agrarian Reform for the preliminary determination of the existence of an

agricultural tenancy relationship, has indeed been repealed by Section 76[41] of R.A. No. 6657 in 1988.

Amended complaint did confer jurisdiction on the DARAB

Neither did the amendment of the complaint confer jurisdiction on the DARAB. The plaintiffs alleged in the amended complaint that the subject property was previously tilled by Efren Bernardo, and the respondents took possession by strategy and stealth, without their knowledge and consent. In the absence of any allegation of a tenancy relationship between the parties, the action was for recovery of possession of real property that was within the jurisdiction of the regular courts.[42]

The CA, therefore, committed no reversible error in setting aside the DARAB decision. While we lament the lapse of time this forcible entry case has been pending resolution, we are not in a position to resolve the dispute between the parties since the evidence required in courts is different from that of administrative agencies.[43]

WHEREFORE, the petition is DENIED. The October 6, 2003 Decision and October 12, 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 48642 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Corona, C.J.,^[**]Carpio Morales, Villarama, Jr., and Sereno, JJ., concur.

[*]Known as “Jose C. Mendoza, Jr.” in other parts of the record.

[**] Designated additional Member vice Associate Justice Lucas P. Bersamin, per Raffle dated Nov. 15, 2010.

[1] Filed under Rule 45 of the Rules of Court; rollo, pp. 25-48.

[2] Dated October 6, 2003; penned by Associate Justice Godardo A. Jacinto, with the concurrence of Associate Justices Elvi John S. Asuncion and Lucas P. Bersamin (now a member of this Court); id. at 50-59.

[3] Dated October 12, 2004; id. at 61-62.

[4] Entitled “Narciso Germino and Benigno Germino v. Jose Mendoza and Aurora Mendoza, rep. by their Attorney-In-Fact, Dolores Mendoza.”

[5] Through their attorney-in-fact, Otelia Mendoza.

[6] Rollo, pp. 73-74.

[7] Ibid.

[8] Id. at 75-79.

[9] Id. at 80.

[10] Through their attorney-in-fact, Dolores Mendoza.

[11] Rollo, pp. 81-85.

[12] Id. at 86-90.

[13] Id. at 91-99.

[14] Otherwise known as the Comprehensive Agrarian Reform Law of 1988. The Act was signed by then

President Corazon C. Aquino on June 10, 1988 and took effect on June 15, 1988.

[15] Prohibiting the Ejectment of Tenant-Tillers from their Farmholdings Pending the Promulgation of the Rules and Regulations Implementing Presidential Decree No. 27.

[16] Rollo, pp. 100-109.

[17] Id. at 110-125.

[18] Supra note 2.

[19] Supra note 3.

[20] Rollo, pp. 63-72.

[21] Id. at 25-48.

[22] Morta, Sr. v. Occidental, G.R. No. 123417, June 10, 1999, 308 SCRA 167.

[23] OCA v. Court of Appeals, 428 Phil. 696 (2002).

[24] The Judiciary Reorganization Act of 1980, approved on August 14, 1981.

[25] An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending For The Purpose Batas Pambansa Blg. 129, Otherwise Known as the "Judiciary Reorganization Act of 1980," approved on March 25, 1994.

[26] Took effect on November 15, 1991.

[27] Rivera v. Santiago, G.R. No. 146501, August 28, 2003, 410 SCRA 113, 120.

[28] Sec. 50. Quasi-Judicial Powers of the DAR. – The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

[29] Sec. 34. Implementing Authority of the Secretary. — The Secretary shall issue orders, rules and regulations and other issuances as may be necessary to ensure the effective implementation of the provisions of this Executive Order.

[30] Modifying Executive Order No. 129 Reorganizing and Strengthening the Department of Agrarian Reform and for Other Purposes.

[31] Isidro v. Court of Appeals, G.R. No. 105586, December 15, 1993, 228 SCRA 503, 510.

[32] Pascual v. Court of Appeals, G.R. No. 138781, December 3, 2001, 371 SCRA 338, 346.

[33] Rollo, pp. 73-74.

[34] Isidro v. Court of Appeals, supra note 31, at 509.

[35] Davao Light & Power Co., Inc. v. Judge, Regional Trial Court, Davao City, Br. 8, G.R. No. 147058, March 10, 2006, 484 SCRA 272; Lacson Hermanas, Inc. v. Heirs of Ignacio, G.R. No. 165973, June 29, 2005, 462 SCRA 290; Sta. Clara Homeowners' Association v. Gaston, 425 Phil. 221, 237-238 (2002).

[36] Sec. 7. Preliminary conference; appearance of parties. – Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases shall be applicable to the

preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be a cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counterclaim in accordance with Section 6 hereof. All cross-claims shall be dismissed.

If a sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof. This Rule shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.

[37] *Ualat v. Ramos*, A.M. Nos. MTJ-91-567 & MTJ-91-588, December 6, 1996, 265 SCRA 345, 357.

[38] *Rivera v. Santiago*, G.R. No. 146501, August 28, 2003, 410 SCRA 113.

[39] *Hilado v. Chavez*, G.R. No. 134742, September 22, 2004, 438 SCRA 623.

[40] Sec. 2. Unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction, no judge of the Court of Agrarian Relations, Court of First Instance, municipal or city court, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and corn, and if any such cases are filed, these cases shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform finds that the case is a proper case for the court or judge or other hearing officer to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction over the dispute or controversy.

[41] Sec. 76. Repealing Clause. — Section 35 of Republic Act No. 3844, Presidential Decree No. 316, the last two paragraphs of Section 12 of Presidential Decree No. 946, Presidential Decree No. 1038, and all other laws, decrees, executive orders, rules and regulations, issuances or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

[42] *Arzaga v. Copias*, G.R. No. 152404, March 28, 2003, 400 SCRA 148.

[43] *Caraan v. Court of Appeals*, G.R. No. 124516, April 24, 1998, 289 SCRA 579, 584.

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