

**ROMEO ASIS, OSCAR ASIS and EDUARDO ASIS, Petitioners, vs.
CONSUELO ASIS VDA. DE GUEVARRA, Respondent.***G.R. No. 167554. February 26, 2008*

Ponente: PUNO, CJ.

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In an action for unlawful detainer, the municipal or metropolitan trial court has jurisdiction when the plaintiff really and primarily seeks the restoration of possession; even if there is a need to resolve the ownership of the disputed property to determine who has prior possession. As long as the issue of ownership is to be ascertained ONLY for the purpose of determining the issue of possession, then the court can make a declaration who among the contending parties is the real owner of the property. Any such pronouncement is to be regarded merely as provisional, and will not bar nor prejudice an action between the same parties involving title to the disputed property. [1]

The Case

Before us is a petition for review on certiorari, filed under Rule 45 of the Revised Rules of Court to reverse and set aside the Decision of the Court of Appeals (CA) dated November 26, 2004 issued in CA-G.R. SP No. 76187, and the Resolution dated March 18, 2005 which denied petitioners' motion for reconsideration.

The facts of the case are simple, and substantially culled from the CA's account. [2]

Respondent Consuelo Asis Vda. De Guevarra, claiming to be the owner of the apartment units located at 1495, 1497 and 1499 7th Street, Fabie Subdivision, Paco, Manila, filed separate ejectment cases with the Metropolitan Trial Court of Manila (MeTC) against her brothers Romeo, Oscar and Eduardo, all surnamed Asis, the petitioners herein.[3] In her complaint, respondent admits that the land on which the apartment units were built are owned in common by her and her siblings, including petitioners,[4] but alleges that she alone owns the apartment units, having paid for the construction of the same, and that the name of petitioners had only been included in the title of the property at the instance and benevolence of respondent.[5] She then alleges that petitioners, as lessees of the apartment units, had been paying her for several years monthly rentals of P500.00, P1,000.00 and P2,000.00 respectively, for their occupation of the apartment units.[6] All of a sudden, and she states that for no justifiable reason, petitioners stopped paying rent. [7] Despite repeated demands, they failed and refused to pay.[8] When the matter could not be settled by the Barangay Lupon,[9] a "Certification to File Action" was issued. The cases against petitioners were then consolidated, as they involved common issues and questions of fact and law.

In their respective Answers, petitioners claim that they are co-owners not only of the lot but also of the apartment units, by virtue of inheritance, because it was their parents — the original owners of the land — who had constructed the apartment units by way of loan and mortgage of the land with the Philippine National Bank in 1964.[10] They each claimed that they have never paid any rental for the occupation of the apartment units to respondent.[11] Petitioner Eduardo added that any money he may have given to respondent was in the form of abuloy (alms), since respondent was their eldest sister, and a widow without children.[12] In their petition with this Court, they

admit to having previously paid the exact amounts specified by respondent monthly, but averred that these were not rentals but contributions for the upkeep and maintenance of the premises. [13]

The records show that petitioners' claim of co-ownership over the apartment units is solely based on the principle of accession. They argue that since they can establish possession of the apartment units during the lifetime of their parents—who were then owners of the parcel of land and the buildings/improvements situated thereon,[14] then their inheritance as compulsory heirs must necessarily include ownership not only of the land but also of the improvements.

The MeTC ruled for respondent, finding sufficient basis for the valid ejectment of petitioners thus:

On the issue of whether or not [respondent] could validly eject the [petitioners] from the apartment [units], the Court find[s] basis to sustain the [respondent].

[Petitioners] claim that they, together with the [respondent] are co-owners not only of the lot but also of the apartment [units]. They posit this claim by their mere argument that the accessory follows the principal. But this issue should not be resolved by a blinded adherence to such legal principle when evidence shows otherwise.

[Respondent] never denied that the lot upon which the apartment [units were] erected is owned in common by her and her siblings. She claims ownership only on the apartment [units]. She support[s] this with the records of her real property loan with the [Social Security Systems] and the Tax Declaration which are solely in her name. [Petitioners] have nothing to refute the authenticity of the said documents other than their naked claim and stubborn insistence of co-ownership.

[Petitioners] could not also convince this Court that what they were paying to the [respondent] were not rents but contribution to the upkeep and maintenance of the premises as well as aid to the [respondent] who is their elder sister. On the face of this gratuitous allegation[s], [respondent] has presented several receipts to establish that defendants were paying rental but stopped doing so[,] prompting her to file the instant case for ejectment. [Petitioners] submitted no evidence to disprove their authenticity. [15]

The MeTC rendered judgment in favor of respondent, as follows:

Civil Case No. 161644-CV:

- Ordering [petitioner] Romeo Asis and all person[s] claiming rights under him to vacate Apartment No. 1497 located at 7th Street, Fabie Subdivision, Paco, Manila;
- Ordering [petitioner Romeo Asis] to pay [respondent] the sum of TEN THOUSAND PESOS (P10,000.00) representing his rental arrearages from July 1998 up to February, 2000 and the amount of P500.00 a month from March, 2000 and every month thereafter until he finally vacates the premises, as reasonable compensation for the use and occupancy of the premises.

Civil Case No. 161645-CV:

- Ordering [petitioner] Oscar Asis and all person[s] claiming rights under him to vacate Apartment No. 1495 located at 7th Street, Fabie Subdivision, Paco, Manila;
- Ordering [petitioner Oscar Asis] to pay [respondent] the sum of TWENTY TWO THOUSAND PESOS (P22,000.00) representing his rental arrearages from May, 1998 up to February 2000 and the amount of P1,000.00 a month from March, 2000 and every month thereafter until he finally vacates the premises, as reasonable compensation for the use and occupancy of the premises.

Civil Case No. 161646-CV:

- Ordering [petitioner] Eduardo Asis and all person[s] claiming rights under him to vacate Apartment No. 1499 located at 7th Street, Fabie Subdivision, Paco, Manila;

- Ordering [petitioner Eduardo Asis] to pay [respondent] the sum of THIRTY EIGHT THOUSAND PESOS (P38,000.00) representing his rental arrearage from August, 1998 up to February, 2000 and the amount of P2,000.00 a month from March, 2000 and every month thereafter until he finally vacates the premises, as reasonable compensation for the use and occupancy of the premises.

Ordering all [petitioners] to pay [respondent], jointly and severally the sum of P20,000.00 as and for attorney's fees and to pay the costs of suit.

[Petitioners'] counterclaim[s] are hereby dismissed.

SO ORDERED. [16]

On appeal, the Regional Trial Court (RTC)[17] reversed the Consolidated Decision of the MeTC on the ground that the latter had no jurisdiction over the case since it involved not only possession of the lot but of the rights of the parties on the building constructed thereon. Relying heavily on the case of *Chua Peng Hian v. CA*, [18] the RTC ruled:

On hindsight, and yes, what escaped the attention of the [MeTC] was the averments of the initiatory pleading, the [petitioners'] formal reaction thereto, and papers subsequent to the preliminary conference of November 16, 1999, with respect to the controversy as to the matter of exclusive dominion over the apartment units vis-à-vis the acknowledged co-ownership of the lot. Indeed, there was no unanimity of thought as to ownership of the lot and building thereon which thus constrained this Court to equate the *casus belli* at hand to the scenario portrayed by Mr. Justice Aquino in [*Chua Peng Hian vs. Court of Appeals*] (133 SCRA 572, 575 [1984]; cited [in] 1 Regalado, Remedial Law Compendium, 8th Revised Edition, 2002, at page 801) which may well apply herein, thusly.

We hold that the Court of First Instance had jurisdiction over the case. Where the issues raised before the inferior court do not only involve possession of the lot but also the rights of the parties to the building constructed thereon, the Court of First Instance and not the municipal or city court has jurisdiction over the case. (citations and emphasis omitted)

Even then, and mindful of the second paragraph of Section 8, Rule 40 of the 1997 Rules of Civil Procedure, the appellate court can hardly render a categorical disposition based on the entire record in accordance with Section 7 thereof, relative to the nagging query as to the rights of the parties over the building, inasmuch as the proviso under Section 8 of the same Rule was conditional upon '...reception of evidence on which the judgment of the lower court was based...' peculiar to a '...a trial on the merits by the lower court...', which circumstances are anathema to a civil suit envisioned by the 1991 Revised Rule on Summary Procedure. (citations omitted) [19]

The RTC ruling was likewise reversed and set aside by the CA,[20] and the decision of the MeTC was reinstated. The CA ruled that the *Chua Peng Hian* case relied upon by the RTC was not applicable to the case at bar, since the action there was for specific performance of the stipulations in a lease contract which was filed with the RTC, whereas the present case is for eviction of tenants through an unlawful detainer action. The CA thus explained:

x x x However, it must be stressed that the *Chua Peng Hian* case involves the recovery of possession of a leased lot where the lessee bound himself to transfer to the lessor the building which he erected thereon. It was an action for specific performance. On the other hand, in the case at bar, [respondent] sought the eviction of her tenants from her apartment units in an action for unlawful detainer. The Supreme Court further explained in the case of *Chua Peng Hian* that, "the action was for specific performance of the stipulations of a lease contract. It was not capable of pecuniary estimation. It was within the [exclusive original jurisdiction] of the Court of First Instance." Evidently, the ruling in that case is not applicable to the case at bar.[21] Further, the

CA sustained the jurisdiction of the MeTC to rule on the issue of ownership for the purpose of determining who had the right of possession, based on the explicit grant in the 1997 Revised Rules of Civil Procedure. Thus:

Furthermore, Section 16, Rule 70 of the Rules of Civil Procedure provides:

Sec. 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.

We should emphasize that the only issue involved in ejectment proceedings is who is entitled to the physical or material possession of the premises, that is, possession de facto and not possession de jure. Moreover, Batas Pambansa Blg. 129 provides that in ejectment proceedings where the question of possession cannot be resolved without deciding the issue of ownership, inferior courts have the power to resolve the issue of ownership but only to determine the issue of possession. This doctrine was reiterated in the case of *Aznar Brothers Realty vs. Court of Appeals*, 327 SCRA 359, where the Supreme Court held that, “In an action for ejectment, the only issue involved is possession de facto. However, when the issue of possession cannot be decided without resolving the issue, the court may receive evidence upon the question of title to property but solely for the purpose of determining the issue of possession.”

It is therefore clear from the foregoing that the [MeTC] has original and exclusive jurisdiction over the instant case. Even if [petitioners] raised the issue of ownership, the [MeTC] can still determine the validity of their claim on which they justify their right to possess. “The MeTC acts correctly if it receives evidence on ownership where the question of possession could not be resolved without deciding the issue of ownership” *Paz vs. Reyes*, 327 SCRA 605. It is now a well-settled rule that inferior courts are not divested of jurisdiction over ejectment cases just because the defendants assert ownership over the litigated property (*Cruz vs. Court of Appeals*, 309 SCRA 714).[22]

Petitioners now come before this Court arguing that a grave reversible error was committed by the CA in overturning the decision of the RTC, on the grounds that (a) *Chua Peng Hian*[23] applies to the instant case because the complaint filed by respondent at the MeTC did not make out an action of ejectment; and (b) petitioners could not be ejected because they are co-owners of the apartment units.

The petition must fail.

Petitioners cannot negate the jurisdiction of the MeTC by invoking the *Chua Peng Hian* case. As correctly pointed out by the CA, the RTC erred when it was applied to the case at bar. What was filed therein was an action for specific performance [with the then Court of First Instance], and it was the defendant there who raised the issue that the Court of First Instance had no jurisdiction, implying that the case was really an issue of possession. Thus, it was in this context that this Court held that the Court of First Instance had jurisdiction over the case, not only because the issues raised do not only involve the possession of the land, but also the rights of the parties to the building constructed thereon.

This portion of the *Chua Peng Hian* decision therefore was taken out of context by the RTC when it quoted the same to justify its ruling that the MeTC had no jurisdiction in the instant case. Moreover, the *Chua Peng Hian* doctrine enunciated in the 1984 case should be taken in light of Section 16, Rule 70 of the 1997 Rules of Civil Procedure, which is categorical. The issue of ownership raised as a defense will not oust the MeTC of its jurisdiction over an ejectment case, as the court can rule on the issue of ownership provisionally to determine who has right to possess the disputed property. “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.”[24]

Moreover, petitioners’ objections to the MeTC jurisdiction all rest on the supposed “exception” to the jurisdiction over ejectment cases, anchored on the proposition that “when the issue of ownership is so necessarily involved with the issue of physical possession that it cannot be determined without resolving the issue of ownership, the court loses its jurisdiction.”[25]

Unfortunately for petitioners, the cases cited in support of this “exception” were all decided prior to Batas Pambansa Blg. (B.P.) 129. And this “exception” to the MeTC jurisdiction was removed, and the rule modified by B.P. Blg. 129, which provides that in ejectment proceedings where the question of possession cannot be resolved without deciding the issue of ownership, all inferior courts have the power to resolve the issue of ownership but only to determine the issue of possession (Sec. 33 [2], changing the rule in Sec. 3 [c], R.A. No. 5967, which was then applicable to City Courts).[26] Even more so after the promulgation of the 1997 Revised Rules of Civil Procedure, with its clear grant of power under Section 16, Rule 70. It is for this reason that petitioners are unable to cite jurisprudence to support their cause after the effectivity of B.P. Blg. 129.

Did the passage of these amendments mean that courts having jurisdiction over ejectment cases can never be ousted of such jurisdiction? This was explained in *Sps. Refugia v. CA*,[27] where this Court, speaking through J. Regalado, held:

x x x [I]t is clear that prior to the effectivity of Batas Pambansa Blg. 129, the jurisdiction of inferior courts was confined to receiving evidence of ownership in order to determine only the nature and extent of possession, by reason of which such jurisdiction was lost the moment it became apparent that the issue of possession was intricately interwoven with that of ownership. 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.

To ensure that the above policy would be maintained, Refugia also laid down the following guidelines to be observed in relation to the exercise of jurisdiction over issues of ownership in ejectment proceedings:

- The primal rule is that the principal issue must be that of possession, and that ownership is merely ancillary thereto, in which case the issue of ownership may be resolved but only for the purpose of determining the issue of possession. Thus, as earlier stated, the legal provision under consideration applies only where the inferior court believes and the preponderance of evidence shows that a resolution of the issue of possession is dependent upon the resolution of the question of ownership.
- It must sufficiently appear from the allegations in the complaint that what the plaintiff really and primarily seeks is the restoration of possession. Consequently, where the allegations of the complaint as well as the reliefs prayed for clearly establish a case for the recovery of ownership, and not merely one for the recovery of possession de facto, or where the averments plead the claim of material possession as a mere elemental attribute of such claim for ownership, or where the issue of ownership is the principal question to be resolved, the action is not one for forcible entry but one for title to real property.

- The inferior court cannot adjudicate on the nature of ownership where the relationship of lessor and lessee has been sufficiently established in the ejectment case, unless it is sufficiently established that there has been a subsequent change in or termination of that relationship between the parties. This is because under Section 2(b), Rule 131 of the Rules of Court, the tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation of landlord and tenant between them.

- The rule in forcible entry cases, but not in those for unlawful detainer, is that a party who can prove prior possession can recover such possession even against the owner himself. Regardless of the actual condition of the title to the property and whatever may be the character of his prior possession, if he has in his favor priority in time, he has the security that entitles him to remain on the property until he is lawfully ejected by a person having a better right through an *accion publiciana* or *accion reivindicatoria*. Corollarily, if prior possession may be ascertained in some other way, then the inferior court cannot dwell upon or intrude into the issue of ownership.

- Where the question of who has prior possession hinges on the question of who the real owner of the disputed portion is, the inferior court may resolve the issue of ownership and make a declaration as to who among the contending parties is the real owner. In the same vein, where the resolution of the issue of possession hinges on a determination of the validity and interpretation of the document of title or any other contract on which the claim of possession is premised, the inferior court may likewise pass upon these issues. This is because, and it must be so understood, that any such pronouncement made affecting ownership of the disputed portion is to be regarded merely as provisional, hence, does not bar nor prejudice an action between the same parties involving title to the land. Moreover, Section 7, Rule 70 of the Rules of Court expressly provides that the judgment rendered in an action for forcible entry or unlawful detainer shall be effective with respect to the possession only and in no wise bind the title or affect the ownership of the land or building.[28]

From the foregoing, it is clear that unless petitioners are able to show that the real purpose of the action for ejectment is to recover title to the property, or otherwise show that the issue of ownership is the principal question to be resolved, then the municipal or metropolitan trial court retains jurisdiction. This the petitioners failed to prove.

Finally, a careful evaluation of the records of this case also convinces us that the findings of the MeTC are in order, insofar as to the validity of the grant of eviction. Again, we stress that the decision of the MeTC finding respondent as the owner of the apartment units is merely to determine the right of possession. It will not bar any of the parties from filing a suit with the proper court to determine conclusively the title to the disputed property.

IN VIEW WHEREOF, the petition is DENIED. Accordingly, the Consolidated Decision dated March 7, 2000, rendered by the Metropolitan Trial Court of Manila, is hereby AFFIRMED.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] See *Sps. Refugia v. CA*, 327 Phil. 982 (1996).

[2] CA Decision dated November 26, 2004, CA-G.R. SP No. 76187. See rollo, pp. 40-43.

[3] *Id.* at 52-67. She filed three ejectment cases, docketed as Civil Case Nos. 161644-CV, 161645-CV and 161646-CV.

[4] *Id.* at 52, 57 and 62.

[5] *Id.*

[6] Id.

[7] Id.

[8] Id.

[9] In compliance with the Katarungang Pambarangay Law.

[10] Rollo, p. 68. The record also shows that petitioner Romeo Asis alleged in his answer that respondent was no longer a co-owner or heir of the lot or the apartment as of February 14, 1988, when their parents during their lifetime sold the lot in question for P5,000.00 to their five siblings (Oscar, Cesar, Linda, Alfred and Ramon), and then on the same date, siblings Romeo, Helen and respondent herself sold their 1/5 share to their brothers Ruben and Eduardo for P5,000.00, through a Deed of Sale. Id. at 68-69. A review of the attached deed of sale revealed, however, that the sale involved the excess share of the siblings, so as to effect a 1/5 ownership of each of the siblings over the lot. Id. at 123.

[11] Id. at 67, 72, and 79.

[12] Id. at 79.

[13] Id. at 13.

[14] Id. at 21.

[15] Id. at 100.

[16] Id. at 100-101.

[17] Branch 17, Manila.

[18] 218 Phil. 544 (1984).

[19] Rollo, pp. 106-107.

[20] In the petition for review filed by respondent, docketed as CA-G.R. SP No. 76187. See CA Decision dated November 26, 2004, id. at 40-43.

[21] Id. at 45.

[22] Id. at 45-46.

[23] Supra note 18.

[24] 1997 Revised Rules of Civil Procedure, Rule 70, Sec. 16.

[25] Rollo, p. 107.

[26] Florenz D. Regalado, I Remedial Law Compendium 782-783 (8th revised ed. 2002).

[27] Supra note 1, at 1002.

[28] Id. at 1004-1006.

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