

VICTORIANO M. ENCARNACION, PETITIONER, VS. NIEVES AMIGO, RESPONDENT.

G.R. NO. 169793. September 15, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review assails the June 30, 2005 Decision[1] of the Court of Appeals in CA-G.R. SP No. 73857, ordering the remand of Civil Case No. Br. 20-1194 to the Regional Trial Court of Cauayan, Isabela, Branch 20, for further proceedings.

The antecedent facts are as follows:

Petitioner Victoriano M. Encarnacion is the registered owner of Lot No. 2121-B-1, consisting of 100 square meters and covered by TCT No. T-256650; and Lot No. 2121-B-2 consisting of 607 square meters with TCT No. T-256651, located at District 1, National Hi-way, Cauayan, Isabela. Said two lots originally form part of Lot No. 2121, a single 707 square meter track of land owned by Rogelio Valiente who sold the same to Nicasio Mallapitan on January 18, 1982. On March 21, 1985, Mallapitan sold the land to Victoriano Magpantay. After the death of the latter in 1992, his widow, Anita N. Magpantay executed an Affidavit of Waiver[2] on April 11, 1995 waving her right over the property in favor of her son-in-law, herein petitioner, Victoriano Encarnacion. Thereafter, the latter caused the subdivision of the land into two lots[3] and the issuance of titles in his name on July 18, 1996.[4]

Respondent Nieves Amigo allegedly entered the premises and took possession of a portion of the property sometime in 1985 without the permission of the then owner, Victoriano Magpantay. Said occupation by respondent continued even after TCT Nos. T-256650 and T-256651 were issue to petitioner.

Consequently, petitioner, through his lawyer sent a letter[5] dated February 1, 2001 demanding that the respondent vacate the subject property. As evidenced by the registry return receipt, the demand letter was delivered by registered mail to the respondent on February 12, 2001. Notwithstanding receipt of the demand letter, respondent still refused to vacate the subject property. Thereafter, on March 2, 2001, petitioner filed a complaint[6] for ejectment, damages with injunction and prayer for restraining order with the Municipal Trial Court in Cities of Isabela which was docketed as CV-01-030. In his Answer, respondent alleged that he has been in actual possession and occupation of a portion of the subject land since 1968 and that the issuance of Free Patent and titles in the name of petitioner was tainted with irregularities.[7]

On October 24, 2001, the Municipal Trial Court in Cities rendered judgment, which reads:

WHERE[FO]RE, there being a preponderance of evidence, a JUDGMENT is hereby rendered in favor of the plaintiff VICTORIANO M. ENCARNACION and against the defendant NIEVES AMIGOE (sic) as follows:

- a) ORDERING the defendant to vacate the portion of the parcels of land described in Transfer Certificates of Title Nos. T-256650 and T-256651 he is now occupying and surrender it to the plaintiff;
- b) ORDERING the defendant to pay the plaintiff the sum of FIVE THOUSAND PESOS (P5,000) as attorney's

fees, and

c) ORDERING the defendant to pay rentals equivalent [to] P500.00 per month from February, 2001 until the portion of the land occupied by him is surrendered to the plaintiff.

COSTS against the defendant.

SO ORDERED.[8]

On appeal, the Regional Trial Court of Cauayan, Isabela, Branch 20, ruled as follows:

WHEREFORE, judgment is hereby rendered dismissing the case on the ground that as the Municipal Court had no jurisdiction over the case, this Court acquired no appellate jurisdiction thereof. Costs against plaintiff-appellee.

SO ORDERED.[9]

Aggrieved, petitioner filed a petition for review[10] under Rule 42 of the Rules of Court before the Court of Appeals which promulgated the assailed Decision remanding the case to the Regional Trial Court. The dispositive portion thereof reads:

WHEREFORE, premises considered, this case is hereby REMANDED to Branch 20, Regional Trial Court of Cauayan, Isabela for further proceedings.

No costs.

SO ORDERED.[11]

Hence the present petition raising the sole issue:

[WHETHER] THE COURT OF APPEALS ERRED IN HOLDING THAT THE PROPER ACTION IN THIS CASE IS ACCION PUBLICIANA AND NOT UNLAWFUL DETAINER AS DETERMINED BY THE ALLEGATIONS IN THE COMPLAINT FILED BY PETITIONER.[12]

The petition lacks merit.

In this jurisdiction, the three kinds of actions for the recovery of possession of real property are:

- Accion interdictal, or an ejectment proceeding which may be either that for forcible entry (detentacion) or unlawful detainer (desahucio), which is a summary action for recovery of physical possession where the dispossession has not lasted for more than one year, and should be brought in the proper inferior court;
- Accion publiciana or the plenary action for the recovery of the real right of possession, which should be brought in the proper Regional Trial Court when the dispossession has lasted for more than one year; and
- Accion reivindicatoria or accion de reivindicacion, which is an action for the recovery of ownership which must be brought in the proper Regional Trial Court.[13]

Based on the foregoing distinctions, the material element that determines the proper action to be filed for the recovery of the possession of the property in this case is the length of time of dispossession. Under the Rules of Court, the remedies of forcible entry and unlawful detainer are granted to a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person. These remedies afford the person deprived of the possession to file at any time within one year after such unlawful deprivation or withholding of possession, an action in the

proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.[14] Thus, if the dispossession has not lasted for more than one year, an ejectment proceeding is proper and the inferior court acquires jurisdiction. On the other hand, if the dispossession lasted for more than one year, the proper action to be filed is an accion publiciana which should be brought to the proper Regional Trial Court.

After a careful evaluation of the evidence on record of this case, we find that the Court of Appeals committed no reversible error in holding that the proper action in this case is accion publiciana; and in ordering the remand of the case to the Regional Trial Court of Cauayan, Isabela, Branch 20, for further proceedings.

Well settled is the rule that jurisdiction of the court over the subject matter of the action is determined by the allegations of the complaint at the time of its filing, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.[15] On its face, the complaint must show enough ground for the court to assume jurisdiction without resort to parol testimony.[16]

From the allegations in the complaint, it appears that the petitioner became the owner of the property on April 11, 1995 by virtue of the waiver of rights executed by his mother-in-law. He filed the complaint for ejectment on March 2, 2001 after his February 1, 2001 letter to the respondent demanding that the latter vacate the premises remained unheeded. While it is true that the demand letter was received by the respondent on February 12, 2001, thereby making the filing of the complaint for ejectment fall within the requisite one year from last demand for complaints for unlawful detainer, it is also equally true that petitioner became the owner of the subject lot in 1995 and has been since that time deprived possession of a portion thereof. From the date of the petitioner's dispossession in 1995 up to his filing of his complaint for ejectment in 2001, almost 6 years have elapsed. The length of time that the petitioner was dispossessed of his property made his cause of action beyond the ambit of an accion interdictal and effectively made it one for accion publiciana. After the lapse of the one- year period, the suit must be commenced in the Regional Trial Court via an accion publiciana which is a suit for recovery of the right to possess. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title. It also refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.[17]

Previously, we have held that if the owner of the land knew that another person was occupying his property way back in 1977 but the said owner only filed the complaint for ejectment in 1995, the proper action would be one for accion publiciana and not one under the summary procedure on ejectment. As explained by the Court:

We agree with the Court of Appeals that if petitioners are indeed the owners of the subject lot and were unlawfully deprived of their right of possession, they should present their claim before the regional trial court in an accion publiciana or an accion reivindicatoria, and not before the metropolitan trial court in a summary proceeding for unlawful detainer or forcible entry. For even if one is the owner of the property, the possession thereof cannot be wrested from another who had been in physical or material possession of the same for more than one year by resorting to a summary action for ejectment.[18]

Hence, we agree with the Court of Appeals when it declared that:

The respondent's actual entry on the land of the petitioner was in 1985 but it was only on March 2, 2001 or sixteen years after, when petitioner filed his ejectment case. The respondent should have filed an accion publiciana case which is under the jurisdiction of the RTC.

However, the RTC should have not dismissed the case.

Section 8, Rule 40 of the Rules of Court provides:

SECTION 8. Appeal from orders dismissing case without trial; lack of jurisdiction. - If an appeal is taken from an order of the lower court dismissing the case without a trial on the merits, the Regional Trial Court may affirm or reverse it, as the case may be. In case of affirmance and the ground of dismissal is lack of jurisdiction over the subject matter, the Regional Trial Court, if it has jurisdiction thereover, shall try the case on the merits as if the case was originally filed with it. In case of reversal, the case shall be remanded for further proceedings.

If the case was tried on the merits by the lower court without jurisdiction over the subject matter, the Regional Trial Court on appeal shall not dismiss the case if it has original jurisdiction thereof, but shall decide the case in accordance with the preceding section, without prejudice to the admission of amended pleadings and additional evidence in the interest of justice.

The RTC should have taken cognizance of the case. If the case is tried on the merits by the Municipal Court without jurisdiction over the subject matter, the RTC on appeal may no longer dismiss the case if it has original jurisdiction thereof. Moreover, the RTC shall no longer try the case on the merits, but shall decide the case on the basis of the evidence presented in the lower court, without prejudice to the admission of the amended pleadings and additional evidence in the interest of justice.[19]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated June 30, 2005 in CA-G.R. SP No. 73857 ordering the remand of Civil Case No. Br. 20-1194 to the Regional Trial Court of Cauayan, Isabela, Branch 20, for further proceedings, is AFFIRMED.

No costs.

SO ORDERED.

Panganiban, C. J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 32-42. Penned by Associate Justice Romeo A. Brawner and concurred in by Associate Justices Edgardo P. Cruz and Jose C. Mendoza.

[2] Exhibit "C," records, p. 206.

[3] Lot No. 2121-B-1 covered by TCT No. T-256650 (Exhibit "F," records, p. 213) and Lot No. 2121-B-2 covered by TCT No. T-256651 (Exhibit "G," records, p. 214).

[4] MTCC Decision, CA rollo, pp. 65-66.

[5] Annex "K" of the Complaint, records, p. 26.

[6] Records, pp. 1-5.

[7] Id. at 32-33.

[8] CA rollo, pp. 70. Penned by Judge Bernabe B. Mendoza.

[9] Id. at 31. Penned by Judge Henedino P. Eduarte.

[10] Id. at 6-15.

[11] Rollo, p. 41.

[12] Id. at 17.

[13] REGALADO, Remedial Law Compendium, Volume 1, Sixth Revised Edition, pp. 767-768.

[14] RULES OF COURT, Rule 70, Sec. 1.

[15] Herrera v. Bollos, 424 Phil. 851, 856 (2002).

[16] Lopez v. David, Jr., G.R. No. 152145, March 30, 2004, 426 SCRA 535, 540.

[17] Id. at 543.

[18] Go, Jr. v. Court of Appeals, G.R. No. 142276, August 14, 2001, 362 SCRA 755, 769.

[19] Rollo, pp. 38-40; emphasis supplied.

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