

ROSA J. SALES, EARL RYAN CHENG AND EMIL RALPH CHENG, PETITIONERS, VS. WILLIAM BARRO, RESPONDENT.

G.R. No. 171678. December 10, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Decision [1] dated January 3, 2006 of the Court of Appeals in CA-G.R. SP No. 90381, which reversed the Decision[2] dated March 10, 2005 of the Regional Trial Court (RTC) of Manila, Branch 39, in Civil Case No. 04-111243.

The facts are as follows:

This case originated from the ejectment complaint filed by the petitioners against the respondent, his wife, and all persons claiming rights under them before Branch 28 of the Metropolitan Trial Court (MeTC) of Manila. In their complaint,[3] the petitioners alleged among others that (1) they are owners of the lot described and embraced in Transfer Certificate of Title (TCT) No. 262237[4] of the Registry of Deeds of the City of Manila; (2) the respondent constructed a shanty thereon without their consent; (3) the respondent and his co-defendants have not been paying any rent to the petitioners for their occupation thereof; (4) the respondent and his co-defendants refused the formal demand made by the petitioners for them to vacate the subject lot; and (5) the Office of the Barangay Captain of Barangay 464, Zone 46, 4[th] District, Manila issued the necessary Certification to File Action.[5]

In his answer, the respondent denied the allegations of the complaint, and essentially claimed that (1) his construction of the temporary makeshift house on the lot was tolerated by the petitioners, considering that he acted as the caretaker thereof; and (2) he does not remember receiving any demand letter and summons from the barangay and so he was surprised to know that an ejectment complaint was filed against him.[6]

In its Decision[7] dated September 27, 2004, the MeTC found in favor of the petitioners. It held that the respondent, his wife, and all persons claiming rights under them, being possessors by tolerance, can be validly ejected from the lot at any time and after due notice. It then directed them to vacate the lot, pay P5,000 a month from January 2004 up to such time that the lot is actually turned over to the petitioners, and pay P10,000 as attorney's fees.

The respondent appealed to the RTC which affirmed in toto the assailed MeTC decision.

Unfazed by the decision of the RTC, the respondent elevated the case to the Court of Appeals. After finding the complaint to be substantially lacking in the requisite allegations that would make out a case either for forcible entry or unlawful detainer,[8] the Court of Appeals reversed the RTC decision and accordingly dismissed the petitioners' complaint. The dispositive portion of the Court of Appeals decision reads:

WHEREFORE, premises considered, we hereby GRANT the petition on the basis of the lower tribunals' lack of jurisdiction, and accordingly DISMISS respondents' ejectment complaint.

SO ORDERED.[9]

The petitioners moved for reconsideration, but the Court of Appeals denied the motion. Hence, this petition on the following grounds:

I.

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN DISMISSING PETITIONERS' EJECTMENT COMPLAINT ON THE ALLEGED GROUND THAT THE COMPLAINT FAILED TO STATE THE JURISDICTIONAL FACT OF PRIOR PHYSICAL POSSESSION.

II.

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING THAT THE RESPONDENT WAS IN ESTOPPEL FROM QUESTIONING THE JURISDICTION OF THE METROPOLITAN TRIAL COURT ASSUMING, WITHOUT ADMITTING, THAT THE LOWER COURT HAD NO JURISDICTION OVER THE COMPLAINT.[10]

Simply put, we are asked to resolve: (1) whether the Court of Appeals correctly dismissed the complaint; and (2) whether the respondent was already estopped from questioning the jurisdiction of the MeTC.

Anent the first issue, the petitioners argue that the complaint was for unlawful detainer, and hence, there was no need for them to allege prior physical possession of the lot. They further contend that their position that the complaint was for unlawful detainer is supported by the claim of the respondent in his answer that "he made a temporary makeshift structure on the lot to serve as his living place and that the same was tolerated by the petitioners considering that he acted as caretaker of the property." [11] For his part, the respondent insists that the Court of Appeals was correct in dismissing the complaint. [12]

After carefully examining the averments of the petitioners' complaint and the character of the reliefs sought therein, [13] we hold that the Court of Appeals did not err in finding that the complaint was for forcible entry, and that the Court of Appeals correctly dismissed it.

There are two reasons why we could not subscribe to the petitioners' submission that their complaint was for unlawful detainer. Firstly, the petitioners' own averment in the complaint "that the defendant constructed a shanty in the lot of the plaintiffs without their consent," [14] and the relief asked for by the petitioners that the respondent and his wife "pay the amount of P10,000 a month beginning January 2004 as for reasonable rent of the subject premises," [15] clearly contradict their claim. It must be highlighted that as admitted by the petitioners in their motion for reconsideration [16] before the appellate court, and as evidenced by the TCT No. 262237 annexed to the complaint, the petitioners became owners of the property only on January 6, 2004. By averring that the respondent constructed his shanty on the lot without their consent and then praying that the MeTC direct the respondent to pay them rent from January 2004, or from the inception of the respondent's occupation of the lot, no other conclusion can be made except that the petitioners had always considered respondent's occupation of the same to be unlawful from the very beginning. Hence, the complaint can never support a case for unlawful detainer. "It is a settled rule that in order to justify an action for unlawful detainer, the owner's permission or tolerance must be present at the beginning of the possession." [17]

Secondly, the nature of the complaint is neither changed nor dependent upon the allegations and/or defenses made in the answer. As we had previously stated in *Cañiza v. Court of Appeals*, [18] "it is axiomatic that what determines the nature of an action as well as which court has jurisdiction over it, are the allegations of the complaint and the character of the relief sought."

As correctly found by the Court of Appeals, what the petitioners actually filed was a fatally defective complaint

for forcible entry, considering that there was no allegation therein regarding the petitioners' prior physical possession of the lot.[19] In *Tirona v. Alejo*, we held that "in actions for forcible entry, two allegations are mandatory for the municipal trial court to acquire jurisdiction: first, the plaintiff must allege his prior physical possession of the property; and second, he must also allege that he was deprived of his possession by any of the means provided for in Section 1,[20] Rule 70 of the Rules of Court, namely, force, intimidation, threats, strategy, and stealth." [21]

The petitioners' allegation that they are the registered owners of the lot miserably falls short of satisfying the required averment of prior physical possession. As we had clarified and stressed in *Tirona*, "the word possession as used in forcible entry and unlawful detainer, means nothing more than physical possession, not legal possession in the sense contemplated in civil law." [22]

Finally, was the respondent already estopped from questioning the jurisdiction of the MeTC to try the petitioners' complaint? The petitioners argue that the respondent is already estopped because the respondent failed to assail the jurisdiction of the MeTC at the earliest opportunity and actively participated in the proceedings before it.[23] The respondent counters that he could not be held guilty of estoppel because he questioned in his answer and pleadings petitioners' allegation that he was served a demand letter. By questioning the veracity of the allegation of the existence of a jurisdictional requirement, he, in effect, questioned the jurisdiction of the MeTC in trying the case.[24]

It is well-settled that a court's jurisdiction may be raised at any stage of the proceedings, even on appeal. The reason is that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.[25] The rule remains that estoppel does not confer jurisdiction on a tribunal that has none over the cause of action or subject matter of the case.[26] In any event, even if respondent did not raise the issue of jurisdiction, the reviewing court is not precluded from ruling that it has no jurisdiction over the case. In this sense, dismissal for lack of jurisdiction may even be ordered by the court *motu proprio*. [27]

WHEREFORE, the instant petition is DENIED for lack of merit. Costs against the petitioners.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., Azcuna,[*] JJ., concur.

[*]Designated in lieu of Associate Justice Arturo D. Brion, the ponente in the Court of Appeals.

[1] Rollo, pp. 25-38. Penned by Associate Justice Arturo D. Brion (now a member of this Court), with Associate Justices Bienvenido L. Reyes and Mariflor P. Punzalan Castillo concurring.

[2] Id. at 61-68. Penned by Presiding Judge Noli C. Diaz.

[3] Id. at 47-51.

[4] Records, Vol. I, p. 38.

[5] Id. at 223.

[6] Id. at 13-14.

[7] Id. at 43-46. Penned by Judge Ruben Reynaldo G. Roxas.

[8] Rollo, p. 34.

[9] Id. at 38.

[10] Id. at 13-14.

[11] Id. at 157-160.

[12] Id. at 187-190.

[13] *Tirona v. Alejo*, G.R. No. 129313, October 10, 2001, 367 SCRA 17, 28; *Cañiza v. Court of Appeals*, G.R. No. 110427, February 24, 1997, 268 SCRA 640, 647-648.

[14] Rollo, p. 49.

[15] Id. at 50.

[16] Id. at 40-43.

[17] *Heirs of Demetrio Melchor v. Melchor*, G.R. No. 150633, November 12, 2003, 415 SCRA 726, 734.

[18] *Supra* note 13, at 647-648.

[19] Rollo, p. 35.

[20] SECTION 1. Who may institute proceedings, and when.-Subject to the provisions of the next succeeding section, 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 may at any time within one (1) year after such unlawful deprivation or withholding of possession, bring 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.

[21] *Supra* note 13, at 30.

[22] Id. at 29.

[23] Rollo, p. 10.

[24] Id. at 115-118.

[25] *Venancio Figueroa y Cervantes v. People*, G.R. No. 147406, July 14, 2008, pp. 1, 12.

[26] *Eustacio Atwel, et al. v. Concepcion Progressive Association, Inc.*, G.R. No. 169370, April 14, 2008, pp. 1, 12.

[27] *Andaya v. Abadia*, G.R. No. 104033, December 27, 1993, 228 SCRA 705, 717.

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