

ABAYA INVESTMENTS CORPORATION, Petitioner, vs. MERIT PHILIPPINES and SERVULO C. DOMINISE, Respondents.

G.R. No. 176324. April 16, 2008

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This Petition for Review on Certiorari assails the August 24, 2006 Decision[1] of the Court of Appeals in CA-G.R. SP No. 79495 which reversed and set aside the Decision of the Regional Trial Court of Manila, Branch 36 affirming with modification the Decision of the Metropolitan Trial Court of Manila, Branch 12, as well as the January 17, 2007 Resolution[2] denying the motion for reconsideration.

Petitioner leased a commercial building known as "Carmen Building" located at Sampaloc, Manila to respondents for the period September 1, 2000 to August 31, 2005. The contract contained a stipulation prohibiting respondents from subleasing any portion of the building.

Thereafter, respondents failed to pay the rentals for the months of January, February, March and April 2001 totaling P450,000.00. After several demands, respondents paid petitioner P150,000.00 in April 2001, P150,000.00 on May 7, 2001 and P150,000.00 on May 9, 2001.

However, respondents again failed to pay the rentals for the succeeding months. Petitioner also discovered that respondents subleased a portion of the building to a computer gaming entity without its consent. Hence, on July 30, 2001, petitioner sent a letter demanding respondents to pay the arrearages, electricity and water bills in the amount of P531,069.50 and to terminate the sublease.

Respondents made payments in August and September, 2001. However, they again reneged on their obligation to pay the rents due and to terminate the sublease contract which compelled petitioner to send another demand letter dated October 22, 2001. Petitioner categorically demanded payment of the balance due and for respondents to vacate the premises.

Respondents made partial payments in November and December, 2001. However, with the accrual of rentals, interest, and electricity bill, respondents' obligation amounted to P352,232.70. Finally, on January 2, 2002, petitioner filed a Complaint for Unlawful Detainer against respondents for non-payment of rentals and illegal subleasing before the Metropolitan Trial Court of Manila, docketed as Civil Case No. 171849-CV.

Respondents admitted that as of December 10, 2001, it owed petitioner P352,232.70 but denied subleasing a portion of the premises to another entity and repudiated petitioner's right to damages. It also assailed petitioner's personality to file the Complaint for ejectment stating that Ms. Abaya was not duly authorized to file the same.

During the pendency of the case, respondents paid petitioner P300,000.00 and vacated the premises in May, 2002. Petitioner however claimed that respondents left the premises stealthily sometime in June 2002 without paying the rentals due for the period January to May 2002.

On December 10, 2002, the Metropolitan Trial Court of Manila, Branch 12, rendered a Decision[3] in favor of petitioner the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered in favor of the plaintiff and against the defendants and all persons claiming rights under them, ordering them to immediately vacate the premises located at Carmen Building, 886 Espana corner Cataluna Street, Sampaloc Manila and to solidarily pay herein plaintiff:

- Php 482,885.02 - As earlier indicated; and

- Php 20,000.00 - Representing reasonable reimbursement of attorney's fees and litigation expenses.

SO ORDERED.[4]

Respondents appealed before the Regional Trial Court of Manila arguing that petitioner is not properly clothed with authority to file the ejectment case; that the case was considered moot since it vacated the premises; and that the award of damages is not proper.

On July 28, 2003, the Regional Trial Court of Manila, Branch 36, rendered a Decision[5] sustaining the ruling of the Metropolitan Trial Court but deleted the award of damages.

Thus, respondents filed a Petition for Review before the Court of Appeals which rendered the assailed Decision reversing the decisions of the Regional Trial Court and the Metropolitan Trial Court. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the instant petition for review is hereby GRANTED. ACCORDINGLY, the decision of the Regional Trial Court of Manila, Branch 36, dated July 28, 2003, affirming with modification the decision of the Metropolitan Trial Court of Manila is hereby SET ASIDE.

SO ORDERED.[6]

The Court of Appeals ruled that the trial court was without jurisdiction when it took cognizance of the complaint filed before it. It held that the issue was not one of possession but rather rescission of contracts over which the Metropolitan Trial Court is without jurisdiction, thus:

Evidently, under those circumstances, ejectment is not the proper remedy. This is because proof of any violation is a condition precedent to resolution or rescission of the contract. It is only when the violation has been established that the contract can be declared rescinded. Hence, it is only upon such rescission that there can be a pronouncement that possession of the realty has become unlawful. Thus, the basic issue is not possession but one of rescission of a contract, which is beyond the jurisdiction of the trial court to hear and determine.

In the case of *Nera vs. Vacante*, the Supreme Court said that:

"A violation by a party of any of the stipulations of a contract on agreement to sell real property would entitle the other party to resolve or rescind it. An allegation of such violation in a detainer suit may be proved by competent evidence. And if proved a justice of the peace court might make a finding to that effect, but it certainly cannot declare and hold that the contract is resolved or rescinded. It is beyond its power so to do. And as the illegality of the possession of realty by a party to a contract to sell is premised upon the resolution of the contract, it follows that an allegation and proof of such violation, a condition precedent to such resolution or rescission, to render unlawful the possession of the land or building erected thereon by the party who has violated the contract, cannot be taken cognizance of by a justice of the peace court..."

Hence, where the unlawful possession of the property by a party to a contract is premised upon the rescission of the contract, an allegation and proof of such violation is a condition precedent to such rescission to render

unlawful the possession of the property by the party who has violated the contract which cannot be taken cognizance of by a Metropolitan Trial Court.

The rescission of the contract is the basis of, and therefore a condition precedent for, the illegality of a party's possession of a piece of realty. Without judicial intervention and determination, even a stipulation entitling one party to take possession of the land and building in case the other party violates the contract cannot confer upon the former the right to take possession thereof, if that move is objected to.

In the instant case, the ejectment case filed by respondent before the trial court will not prosper. This is because the proof of violation is a condition precedent to rescission of the contract. Since violation has not been established, the pronouncement by the trial court that the possession by the petitioners of the building has become unlawful is premature.

While it is true that the contract between the parties provided for extrajudicial rescission, nevertheless, a judicial determination is necessary where it is objected to by the other party. As said by the Supreme Court in the case of JOSE ZULUETA vs. HON. HERMINIANO MARIANO, "A stipulation entitling one party to take possession of the land and building if the other party violates the contract does not ex proprio vigore confer upon the former the right to take possession thereof if objected to without judicial intervention and determination." [7] (Citations omitted)

Petitioner filed a motion for reconsideration but it was denied.

Hence, the instant petition for review on certiorari raising the following errors:

- The MTC and the RTC saw the Complaint as one for ejectment, but the Court of Appeals erroneously read it out of context and saw it as one for rescission, contrary to the very allegations of said Complaint;
- The Decision of the Court of Appeals is contrary to Art. 1673 of the New Civil Code, among others, existing Rules, opinions of experts and jurisprudence. It even encourages multiplicity of suit, and it is based on inapplicable decisions with totally different factual milieu;
- The Court of Appeals went beyond its jurisdiction over the case and the issue raised in the petition for review; and it deprived herein petitioner of due process of law.[8]

Petitioner argues that the subject Complaint is one for unlawful detainer and not rescission of contract; that the Complaint alleged the existence of the lease of land and building evidenced by a lease contract; that the lessee was in arrears for several months; and that the lessee, without any right, subleased part of the building in violation of the lease contract; that the legal bases of the ejectment case were violation of law and contract, specifically, Articles 1673, 1650, 1159, and 1315 of the Civil Code; that the reliefs prayed for in the Complaint are constitutive of those in an ejectment suit: vacate the subject premises, to pay the unpaid rentals and attorney's fees and other damages.

On the other hand, respondents contend that the filing of a complaint for rescission is a condition sine qua non before the ejectment; that in unilaterally terminating the lease contract without first rescinding the same, the respondents' right to address the alleged violation was effectively foreclosed.

This Court has consistently held that jurisdiction is determined by the nature of the action as pleaded in the complaint. The test of the sufficiency of the facts alleged in the complaint is whether or not admitting the facts alleged therein, the court could render a valid judgment upon the same in accordance with the prayer of the plaintiff.[9] In a complaint for unlawful detainer an allegation that the withholding of the possession or the refusal to vacate is unlawful without necessarily employing the terminology of the law is sufficient.[10]

A review of the averments of the Complaint reveals that there is an allegation that respondents' occupancy of the premises was by virtue of a lease contract and that infractions were committed which served as basis for terminating the same and for respondents to vacate the premises. Clearly, the complaint avers ultimate facts required for a cause of action in an unlawful detainer case which is within the jurisdiction of the Metropolitan Trial Court.

The ruling of the Court of Appeals requiring prior rescission of the subject lease contract is misplaced. *Nera v. Vacante*[11] and *Zulueta v. Mariano*[12] are inapplicable to the instant case. In the cases cited, the basis for the occupation of the parties thereon are contracts to sell the premises on installment. Thus, the contractual relations between the parties are more than that of a lessor-lessee. They involved violations of contracts to sell in installments the validity of which was the basis of the defendants' possession of the subject premises.

The instant case however involves a contract of lease. Article 1673 of the Civil Code[13] provides that the lessor may judicially eject the lessee for non-payment of the price stipulated and violation of any of the conditions agreed upon in the contract. In instituting an action for unlawful detainer, Section 2, Rule 70 of the Rules of Court[14] requires the lessor to make a demand upon the lessee to comply with the conditions of the lease and to vacate the premises. It is the owner's demand for the tenant to vacate the premises and the tenant's refusal to do so which makes unlawful the withholding of possession. Such refusal violates the owner's right of possession giving rise to an action for unlawful detainer.[15]

The availability of the action for rescission does not preclude the lessor to avail of the remedy of ejectment. In *Dayao v. Shell Company of the Philippines, Ltd.*,[16] where a complaint for unlawful detainer on the ground of violation of contract was filed, the Court held that a lessor is not required to bring first an action for rescission but could ask the Court to do so and simultaneously seek to eject the lessee in a single action for illegal detainer.[17]

Respondents next claim that the Complaint before the Metropolitan Trial Court of Manila was instituted by Ofelia C. Abaya, petitioner's Chairman and President, who signed the Verification and Certification against Forum Shopping without however proof of authority to sign for plaintiff-corporation.

Section 5, Rule 7 of the Rules of Court requires the plaintiff or principal party to execute a certification against forum shopping simultaneous with the filing of the complaint. In *Fuentebella v. Castro*,[18] the Court ruled that, if, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized. Where such party is a corporate body, an officer of the corporation can sign the certification against forum shopping so long as he has been duly authorized by a resolution of its board of directors and a certification which had been signed without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition.[19]

However, in *Shipside Inc. v. Court of Appeals*,[20] the Court ruled that technical rules of procedure should be used to promote, and not frustrate justice. While the requirement of the certificate of non-forum shopping is mandatory, nonetheless the requirements must not be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum shopping. The Court also held that on several occasions, it has excused non-compliance with the requirement as to the certificate of non-forum shopping and with more reason should it allow the petition submitted therein since petitioner did submit a certification on non-forum shopping, failing only to show that the signatory was authorized.[21]

In view of the merits of the case and to avoid a re-litigation of the issues and further delay in the administration of justice, we find it more in accord with substantial justice to relax the application of procedural rules and sustain the validity of the proceedings before the trial courts in the present case. In any event, we note that Ms. Abaya's authority to sign the certification was ratified by the Board.[22]

In *Benguet Corporation v. Cordillera Caraballo Mission, Inc.*,^[23] the Court gave due course to the petition considering that the signatory's authority to sign the certification was ratified by the Board and the purpose of the certification, which is to prohibit and penalize the evils of forum shopping, was not circumvented.^[24] Likewise, in *China Banking Corporation v. Mondragon International Philippines, Inc.*,^[25] the Court ruled that the complaint be decided on the merits despite the failure to attach the required proof of authority, because the board resolution subsequently attached recognized the signatory's preexisting status as an authorized signatory.^[26]

WHEREFORE, premises considered, the petition for review on certiorari is GRANTED. The Decision and Resolution of the Court Appeals dated August 24, 2006 and January 17, 2007, respectively, in CA-G.R. SP No. 79495 setting aside the Decision of the Regional Trial Court of Manila, Branch 36, are REVERSED and SET ASIDE. The Decision of the Regional Trial Court of Manila, Branch 36, affirming with modification the Decision of the Metropolitan Trial Court of Manila, Branch 12, is REINSTATED and AFFIRMED.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Nachura and Reyes, JJ., concur.

[1] Rollo, pp. 31-41; penned by Associate Justice Monina Arevalo-Zenarosa and concurred in by Associate Justices Martin S. Villarama, Jr. and Lucas P. Bersamin.

[2] Id. at 93-95.

[3] Id. at 180-186; penned by Judge Jose A. Mendoza.

[4] Id. at 186.

[5] Id. at 211-214; penned by Judge Wilfredo D. Reyes.

[6] Id. at 40.

[7] Id. at 38-40.

[8] Id. at 5.

[9] *Huionhua v. Court of Appeals*, 378 Phil. 386, 418 (1999).

[10] *Santos v. Spouses Ayon*, G.R. No. 137013, May 6, 2005, 458 SCRA 83, 91.

[11] G.R. No. L-15725, November 29, 1961, 3 SCRA 505.

[12] G.R. No. L-29360, January 30, 1982, 197 SCRA 195.

[13] See the Separate Opinion of Justice Vitug in *Dio v. Concepcion*, 357 Phil. 578, 595 (1998).

[14] Section 2. Lessor to proceed against lessee only after demand.--Unless otherwise stipulated, such action by the lessor shall be commenced only after demand to pay or comply with the conditions of the lease and to vacate is made upon the lessee, or by serving written notice of such demand upon the person found on the premises, or by posting such notice on the premises if no person be found thereon, and the lessee fails to comply therewith after fifteen (15) days in the case of land or five (5) days in the case of buildings.

[15] *Dio v. Concepcion*, 357 Phil. 578, 591 (1998).

[16] 186 Phil. 266 (1980).

[17] Id. at 274. See also *Dio v. Conepcion*, supra and *Huibonhua v. Court of Appeals*, supra note 9.

[18] G.R. No. 150865, June 30, 2006, 494 SCRA 183.

[19] Id. at 191.

[20] 404 Phil. 981 (2001).

[21] Id. at 996.

[22] Rollo, p. 224.

[23] G.R. No. 155343, September 2, 2005, 469 SCRA 381.

[24] Id. at 384-385.

[25] G.R. No. 164798, November 17, 2005, 475 SCRA 332.

[26] Id. at 339.

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