

HUBERT NUÑEZ, PETITIONER, VS. SLTEAS PHOENIX SOLUTIONS, INC., THROUGH ITS REPRESENTATIVE, CESAR SYLIANTENG RESPONDENT,*G.R. No. 180542. April 12, 2010*

Ponente: PEREZ, J.

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The determination of the jurisdiction of first level courts over ejectment cases is at the heart of this Petition for Review on Certiorari filed pursuant to Rule 45 of the 1997 Rules of Civil Procedure, which seeks the nullification and setting aside of the 31 July 2007 Decision rendered by the Special Twelfth Division of the Court of Appeals in CA-G.R. SP No. 91771. [1]

The Facts

The subject matter of the instant suit is a 635.50 square meter parcel of land situated at Calle Solana, Intramuros, Manila and registered in the name of respondent SLTEAS Phoenix Solutions, Inc. under Transfer Certificate of Title (TCT) No. 87556 of the Manila City Registry of Deeds. Despite having acquired the same thru the 4 June 1999 Deed of Assignment executed in its favor by the Spouses Ong Tiko and Emerenciana Sylianteng,[2] it appears that respondent was constrained to leave the subject parcel idle and unguarded for some time due to important business concerns. In October 2003, an ocular inspection conducted by respondent's representatives revealed that the property was already occupied by petitioner Hubert Nuñez and 21 other individuals.[3] Initially faulting one Vivencia Fidel with unjustified refusal to heed its verbal demands to vacate the subject parcel, respondent filed its 5 December 2003 complaint for forcible entry which was docketed as Civil Case No. 177060 before Branch 4 of the Metropolitan Trial Court (MeTC) of Manila.[4]

Additionally impleading petitioner and the rest of the occupants of the property, respondent filed its 9 January 2004 amended complaint, alleging, among other matters, that thru its representatives and predecessors-in-interest, it had continuously possessed the subject realty, over which it exercised all attributes of ownership, including payment of real property taxes and other sundry expenses; that without the benefit of any lease agreement or possessory right, however, petitioners and his co-defendants have succeeded in occupying the property by means of strategy and stealth; and, that according to reliable sources, the latter had been in occupancy of the same parcel since 1999. Together with the ejectment of the occupants of the subject premises, respondent prayed for the grant of its claims for reasonable rentals, attorney's fees, litigation expenses and the costs.[5]

Specifically denying the material allegations of the foregoing amended complaint in his 14 February 2004 Answer, petitioner averred that the property occupied by him is owned by one Maria Ysabel Potenciano Padilla Sylianteng, with whom he had concluded a subsisting lease agreement over the same, and that, in addition to respondent's lack of cause of action against him, the MeTC had no jurisdiction over the case for lack of prior demand to vacate and referral of the controversy to the barangay authorities for a possible amicable settlement.[6] Likewise questioning the MeTC's jurisdiction over the case, the rest of the defendants filed a Motion to

Dismiss[7] which they adopted as their answer subsequent to its 27 February 2004 denial upon the finding that a sufficient cause of action can be gleaned from the allegations of the complaint.[8]

After an ocular inspection conducted on 9 June 2004, it appears that the MeTC concluded that the crowding of the residential units on the subject parcel rendered the determination of its exact metes and bounds impossible.[9] Unable to present his lessor's title, petitioner also appears to have agreed to the use of TCT No. 87556 as basis for determining the exact measurement of respondent's property.[10] With the parties' further failure to abide by their agreement to cause a survey of the property thru an impartial surveyor from the Office of the City Assessor or City Engineer, the record shows that respondent submitted a survey plan prepared by Geodetic Engineer Joseph Padilla who determined that petitioner was, indeed, occupying a portion of the subject parcel.[11] Relying on said report, the MeTC went on to render a Decision dated 23 November 2004,[12] resolving the complaint in the following wise:

Wherefore, premises considered, judgment is hereby rendered in favor of the plaintiff and against all the defendants and ordering the latter to:

1. vacate the subject premises located at Lot 11, Block 45, Solana St., Intramuros, Manila;
2. for each [defendant], to pay Php5,000.00 a month counted from October 2003 until defendants vacate the subject property;
3. to pay Php15,000.00 as and for attorney's fees; and
4. to pay the costs of suit.[13]

On appeal, the foregoing decision was affirmed in toto in the 14 July 2005 Order issued by the Regional Trial Court (RTC) of Manila in Civil Case No. 05-112490.[14] Dissatisfied with said Order, petitioner elevated the case to the Court of Appeals by way of a petition for review filed pursuant to Section 1, Rule 42 of the 1997 Rules of Civil Procedure.[15] Finding that the allegations in respondent's amended complaint sufficiently made out a cause of action for forcible entry against petitioner, the Court of Appeals rendered the herein assailed decision, dismissing said petition for review upon the following findings and conclusions:

Parenthetically, although the dispossession took place more than one year from the illegal entry of petitioner and his co-defendants, knowledge of the same was only acquired by petitioner in 2003 when the ocular inspection was made. While ordinarily, the one-year prescriptive period should be reckoned from the date of the actual entry on the land, the same however, does not hold true when entry was made through stealth, in which case, the one year period is counted from the time the plaintiff learned thereof.

Neither may petitioner seek refuge in the alleged demand letter dated 31 July 1996 sent by respondent's counsel which sought his ouster from the subject premises. Not only was the existence of this letter immaterial to the issue of illegal entry into the subject premises but the same cannot bind respondent who has no participation therein. Moreover, it also bears stressing that not once did petitioner refute the lack of knowledge on the part of respondent of the alleged lease contract and their usurpation of the disputed property. Verily, granting that a lease contract truly existed, respondent's lack of knowledge of the lease contract and the failure to register the same in the Register of Deeds cannot bind third parties like respondent and therefore, withhold respondent's right to institute the action for ejectment.

As to the identity of the premises occupied by petitioner Nuñez, We find that the RTC committed no reversible error in admitting the evidence of respondent which consists of the plan prepared by Geodetic Engineer Padilla. Suffice it to state that petitioner, during the proceedings below, agreed to secure an impartial survey from the Assessor's Office or the Office of the City Engineer. However, when he took no action after failing to obtain the survey from said offices, his consequent failure to secure, on his own, the services of an impartial

surveyor to determine and rebut respondent's allegation, he did so on his own accord and had no other person but himself to blame.[16]

The Issues

Upon receipt of the Court of Appeals' 4 November 2007 Resolution denying his motion for reconsideration of the aforequoted decision,[17] petitioner filed the petition at bench on the following grounds:

I

THE COURTS HAVE NO JURISDICTION TO TRY THE INSTANT CASE CONSIDERING THAT THE ELEMENTS OF FORCIBLE ENTRY ARE NOT PRESENT AND ADDITIONALLY THERE IS A QUESTION OF OWNERSHIP.

II

THE PETITIONER SHOULD NOT VACATE THE LEASED PREMISES CONSIDERING THAT THERE IS AN EXISTING LEASE CONTRACT WITH THE OWNER WHICH IS IN VIOLATION OF THE PROVISION OF ARTICLE 1671 OF THE NEW CIVIL CODE.[18]

The Court's Ruling

We find the petition bereft of merit.

Designed to provide an expeditious means of protecting actual possession or the right to possession of the property involved,[19] there can be no gainsaying the fact that ejectment cases fall within the original and exclusive jurisdiction of first level courts[20] by express provision of Section 33 of Batas Pambansa Blg. 129, in relation to Sec. 1, Rule 70 of the 1997 Rules of Civil Procedure.[21] In addition to being conferred by law,[22] however, a court's jurisdiction over the subject matter is determined by the allegations of the complaint[23] and the character of the relief sought,[24] irrespective of whether or not the plaintiff is entitled to recover all or some of the claims asserted therein.[25] In much the same way that it cannot be made to depend on the exclusive characterization of the case by one of the parties,[26] jurisdiction cannot be made to depend upon the defenses set up in the answer, in a motion to dismiss or in a motion for reconsideration.[27]

The rule is no different in actions for forcible entry where the following requisites are essential for the MeTC's acquisition of jurisdiction over the case, viz.: (a) the plaintiffs must allege their prior physical possession of the property; (b) they must assert that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and, (c) the action must be filed within one (1) year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.[28] As it is not essential that the complaint should expressly employ the language of the law, it is considered a sufficient compliance of the requirement where the facts are set up showing that dispossession took place under said conditions.[29] The one-year period within which to bring an action for forcible entry is generally counted from the date of actual entry on the land, except that when the entry is through stealth, the one-year period is counted from the time the plaintiff learned thereof.[30]

Even prescinding from the fact that the parties had admitted the MeTC's jurisdiction,[31] our perusal of the record shows that respondent's 9 January 2004 amended complaint was able to make out a cause of action for forcible entry against petitioner. As the registered owner of the subject parcel, respondent distinctly alleged that, by its representatives and thru its predecessors-in-interest, it had been in possession of the subject parcel and had exercised over the same all attributes of ownership, including the payment of realty taxes and other expenses; that an ocular inspection conducted in October 2003 revealed that petitioner and his co-defendants have succeeded in occupying the property by means of stealth and strategy; and, that its subsequent demands to vacate had been

unheeded by said interlopers.[32] Considering that the test for determining the sufficiency of the allegations in the complaint is whether, admitting the facts alleged, the court can render a valid judgment in accordance with the prayer of the plaintiff,[33] we find that the Court of Appeals correctly ruled that the MeTC had jurisdiction over the case.

Then as now, petitioner argues that, aside from the admission in the complaint that the subject parcel was left idle and unguarded, respondent's claim of prior possession is clearly negated by the fact that he had been in occupancy thereof since 1999. While prior physical possession is, admittedly, an indispensable requirement in forcible entry cases, the dearth of merit in petitioner's position is, however, evident from the principle that possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right.[34] Because possession can also be acquired by juridical acts to which the law gives the force of acts of possession, e.g., donations, succession, execution and registration of public instruments, inscription of possessory information titles and the like, it has been held that one need not have actual or physical occupation of every square inch of the property at all times to be considered in possession.[35]

In this case, the subject parcel was acquired by respondent by virtue of the 4 June 1999 Deed of Assignment executed in its favor by the Spouses Ong Tiko and Emerenciana Sylanteng. Although it did not immediately put the same to active use, respondent appears to have additionally caused the property to be registered in its name as of 27 February 2002[36] and to have paid the real property taxes due thereon[37] alongside the sundry expenses incidental thereto. Viewed in the light of the foregoing juridical acts, it consequently did not matter that, by the time respondent conducted its ocular inspection in October 2003, petitioner had already been occupying the land since 1999. Ordinarily reckoned from the date of actual entry on the land, the one year period is counted from the time the plaintiff acquired knowledge of the dispossession when, as here, the same had been effected by means of stealth.[38]

Petitioner had, of course, endeavored to establish that respondent's predecessors-in-interest had served him a demand to vacate the subject parcel as early as 31 July 1996.[39] Correctly brushed aside by the Court of Appeals on the ground, among others, that respondent had no participation in its preparation, we find said demand letter of little or no use to petitioner's cause in view of its non-presentation before the MeTC. However, much as it may now be expedient for petitioner to anchor his cause thereon, said demand letter was first introduced in the record only as an attachment to his reply to respondent's comment to the motion for reconsideration of the 14 July 2005 order issued by the RTC.[40] The rule is settled, however, that points of law, theories, issues and arguments not brought to the attention of the trial court will not be and ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal.[41] Basic consideration of due process impels this rule.[42]

A similar dearth of merit may be said of the exceptions petitioner continues to take against the MeTC's reliance on the survey plan prepared by Geodetic Engineer Joseph Padilla to the effect that that the premises occupied by petitioner lies within the metes and bounds of respondent's property. As mere allegation is not evidence,[43] the rule is settled that plaintiff has the burden of proving the material allegations of the complaint which are denied by the defendant, and the defendant has the burden of proving the material allegations in his case where he sets up a new matter.[44] Given the parties' failure to make good on their agreement to cause a survey of the property thru an impartial surveyor from the Office of the City Assessor or City Engineer, respondent's submission of said report was evidently for the purpose discharging the onus of proving petitioner's encroachment on the subject parcel, as alleged in the complaint. As the party asserting the contrary proposition, petitioner cannot expediently disparage the admissibility and probative value of said survey plan to compensate for his failure to prove his own assertions.

Petitioner is, finally, out on a limb in faulting the Court of Appeals with failure to apply the first paragraph of Article 1676 of the Civil Code of the Philippines^[45] in relation to the lease he claims to have concluded with one Maria Ysabel Potenciano Padilla Sylanteng. In the absence of proof of his lessor's title or respondent's prior knowledge of said contract of lease, petitioner's harping over the same provision simply amounts to an implied admission that the premises occupied by him lie within the metes and bounds of the subject parcel. Even then, the resolution of said issue is clearly inappropriate since ejectment cases are summary actions intended to provide an expeditious manner for protecting possession or right to possession without involvement of title.^[46] Moreover, if a defendant's mere assertion of ownership in an ejectment case will not oust the MeTC of its summary jurisdiction,^[47] we fail to see why it should be any different in this case where petitioner merely alleged his lessor's supposed title over the subject parcel.

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Mendoza^[*], JJ., concur.

[*] Per Special Order No. 832, Associate Justice Jose Catral Mendoza is hereby designated as Additional Member of the Second Division in place of Associate Justice Roberto A. Abad, who is on Official Leave from April 6-8, 2010.

[1] Rollo, pp. 61-73.

[2] Records, p. 10a.

[3] Vivencia Fidel, Maximo Mahipus, Jr., Hermigildo Mangubat, Epifanio Casolita II, Erlinda Inciong, Edgar Amador, Joseph Duerme, Rolando Jamang, Romeo Granada, Romeo Figueroa, Brando Galciso, Eunice Banaag, Cecilia Agonos, Beth De Guzman, Mario P. Tampol, Elizabeth Francisco, Edmundo R. Barela, Reynaldo Granada, Zedric Bananag, Estanislao J. La Fuente and Danilo P. Jerusalem.

[4] Records, pp. 15-20.

[5] Rollo, pp. 24-30.

[6] Id. at 31-34.

[7] Records, pp. 59-64.

[8] Id. at 58.

[9] Id. at 76-77.

[10] Id. at 145.

[11] Id. at 128.

[12] Rollo, pp. 37-43.

[13] Id. at 43.

[14] Id. at 44-50.

[15] Id. at 15-21.

[16] Id. at 70-71.

[17] Id. at 79-80.

[18] Id. at 9.

[19] Tubiano v. Razo, 390 Phil. 863, 868 (2000).

[20] Corpuz v. Court of Appeals , G.R. No. 117005, 19 June 1997, 274 SCRA 275, 279.

[21] 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 a contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person may at anytime 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.

[22] Deltaventures Resources, Inc. v. Cabato , 384 Phil. 252, 259-260 (2000).

[23] Gochan v. Young , 406 Phil. 663, 673-674 (2001).

[24] Sunny Motor Sales, Inc. v. Court of Appeals , 415 Phil. 517, 520 (2001).

[25] Ty v. Court of Appeals, 408 Phil. 793, 798 (2001).

[26] Pilipinas Bank v. Court of Appeals , 383 Phil. 18, 28 (2000).

[27] Tamano v. Ortiz, 353 Phil. 775, 780 (1998).

[28] De La Cruz v. Court of Appeals, G.R. No. 139442, 6 December 2006, 510 SCRA 103, 115.

[29] Cajayon v. Sps. Batuyong, G.R. No. 149118, 16 February 2006, 482 SCRA 461, 471-472.

[30] Ong v. Parel, 407 Phil. 1045, 1053 (2001).

[31] Records, pp. 94 and 145.

[32] Rollo, pp. 25-28.

[33] Heirs of Demetrio Melchor v. Melchor, 461 Phil. 437, 443-444 (2003).

[34] Habagat Grill v. DMC-Urban Property Developer, Inc., 494 Phil. 603, 619 (2005).

[35] Quizon v. Juan, G.R. No. 171442, 17 June 2008, 554 SCRA 601, 612.

[36] Records, p. 21.

[37] Id. at 86.

[38] Ong v. Parel, *supra* note 30.

[39] Rollo, pp. 18 and 59.

[40] Records, pp. 310-314.

[41] *Almocera v. Ong*, G.R. No. 170479, 18 February 2008, 546 SCRA 164, 178.

[42] *Magaling v. Ong*, G.R. No. 173333, 13 August 2008, 562 SCRA 152, 170-171.

[43] *Gateway Electronics Corporation v. Asianbank Corporation*, G.R. No. 172041, 18 December 2008, 574 SCRA 698, 718-719.

[44] *Republic v. Vda. De Neri*, 468 Phil. 842, 862 (2004).

[45] Art. 1676. The purchaser of a piece of land which is under a lease that is not recorded in the Registry of Property may terminate the lease, save when there is a stipulation to the contrary in the contract of sale, or when the purchaser knows of the existence of the lease.

[46] *Cayabyab v. Gomez de Aquino*, G.R. No.159974, 5 September 2007, 532 SCRA 353, 361.

[47] *Tecson v. Gutierrez*, 493 Phil. 132, 138 (2005).

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