ESMERALDO C. ROMULLO, PEDRO MANGUNDAYAO, MAXIMO ANES, ELVIRA BONZA, ROBERTO BELARMINO, TELESPORO GARCIA, BETH ZAIDA GIMENEZ, CELSO LIBRANDO, MICHAEL DELA CRUZ, AND ROBERTO ARAWA...

G.R. No. 180687. October 06, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Certiorari[1] under Rule 65 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Decision[2] dated August 22, 2007.

Culled from the records, the facts, as narrated by the CA, are as follows:

> In its Complaint, respondent [Samahang Magkakapitbahay ng Bayanihan Compound Homeowners Association, Inc., represented by its President, Paquito Quitalig] alleged that since it was qualified to avail of the benefits under the Community Mortgage Program of the government, it secured a loan from the National Home Mortgage Finance Corporation Development Fund (NHMFCDF) for the purchase of a land known as Bayanihan Compound located in Santan Street, Parang, Marikina. Said land would thereafter be distributed to members/beneficiaries of the respondent under its housing program. After the sale was consummated, two Transfer Certificates of Title were issued in the name of the respondent and the land was distributed in portions to respondent's members/beneficiaries. However, despite demand, petitioners [Esmeraldo C. Romullo, Pedro Mangundayao, Maximo Anes, Elvira Bonza, Roberto Belarmino, Telesporo Garcia, Beth Zaida Gimenez, Celso Librando, Michael dela Cruz, and Roberto Arawag] refused to pay their monthly dues and legal fees as well as the deposits and amortizations for their respective lot allocations. Resultantly, respondent approved a Resolution expelling the petitioners as its members and disqualifying them as beneficiaries of the housing project and in another Resolution, also approved the substitution of petitioners by qualified members/beneficiaries in accordance with the Rules and Regulations Implementing the Community Mortgage Program.
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> Despite notice of disqualification, petitioners continued to occupy the lots alloted to them and refused to execute a waiver of their lot allotments. The matter was referred to the barangay for conciliation but still no settlement was reached. Thus, final and formal demands were made by respondent on each of the petitioners to vacate and surrender peacefully [the] possession and control of their lots. Still, petitioners refused and failed to comply. Ultimately, respondent sought the eviction of the petitioners based on the provisions of the Implementing Corporate Circular of the NHMFCDF on Community Mortgage Program under RA [No.] 7279, specifically Sections 8.5.4 and 12.3.5 by filing an ejectment case against the petitioners praying that they vacate the premises and pay the sum of PhP3,000.00 as reasonable compensation until such time that they vacate the lots in question.
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> In their Answer with Compulsory Counterclaim, petitioners alleged that respondent neither informed them of the status of the housing project and its scheduled meetings, nor were they notified of respondent's registration with the Home Insurance Guaranty Corporation (HIGC), wherein some of them were excluded in the master

> list of members/beneficiaries. Petitioners further argued that the board resolutions expelling them as members and disqualifying them as beneficiaries of the respondent's housing project were null and void as the terms of office of the members of the Board of Directors who passed the said resolutions had already expired at the time the meeting was held. Moreover, they maintained that the case should have been suspended due to a prejudicial question brought about by the filing of another suit by some of them with the Housing and Land Use Regulatory Board (HLURB) entitled "Esmeraldo C. Romul[l]o, et al. v. Paquito Quitalig, et al." As counterclaims, petitioners sought awards of moral and exemplary damages as well as litigation expenses.
>
> In its Decision, the M[e]TC gave more weight to the arguments raised by the petitioners and the Complaint was dismissed without prejudice for alleged lack of jurisdiction in view of the pending case before the HLURB involving the same parties and issues. Petitioners' counterclaims were likewise dismissed for lack of merit. However, this judgment was reversed by the RTC on appeal. The dispositive portion of the RTC's Decision reads:
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> "WHEREFORE, foregoing premises considered, the appealed Decision of the Metropolitan Trial Court of Marikina City, Branch 75 in Civil Case No. 04-7591 is hereby REVERSED. The plaintiff-appellant is hereby declared the lawful possessor of the premises in question and judgment is hereby rendered against the defendants-appellees, as follows:
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> - Ordering the defendants-appellees and all persons claiming rights and interest under them to vacate the lots they are occupying located at Bayanihan Compound, Santan Street, Parang, Marikina City and surrender peaceful possession thereof unto the plaintiff-appellant;
>
> - Ordering the defendants-appellees to pay plaintiff-appellant the amount of P1,000.00 each per month as reasonable compensation for the use of the lots they occupy starting February 19, 2004, until such time that possession thereof is restored to the plaintiff-appellant;
>
> - Ordering the defendants-appellees to pay the amount of P20,000.00, as and by way of attorney's fees plus costs of the suit.
>
> SO ORDERED."[3]

Aggrieved, petitioners went to the CA with a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, claiming that the Regional Trial Court (RTC) erred in not affirming the dismissal of the complaint by the Metropolitan Trial Court (MeTC) for lack of jurisdiction.

On August 22, 2007, the CA ruled in favor of respondent. The CA held that the complaint filed by respondent against petitioners contained assertions that clearly established a cause of action for unlawful detainer which was well within the jurisdiction of the MeTC. Undaunted, petitioners and their counsel filed two separate Motions for Reconsideration which the CA both denied in its Resolution[4]dated November 22, 2007 for lack of merit.

Hence, this petition. Petitioners assign the following as issues:

> I. WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN HOLDING THAT THE LOWER COURT HAD JURISDICTION TO TRY THE INSTANT CASE; AND
>
> II. WHETHER OR NOT THE HON. COURT OF APPEALS ERRED IN NOT SUSTAINING PETITIONERS' ARGUMENT THAT THE RULING OF THE RTC MUST BE SET ASIDE DUE TO THE PENDENCY OF A CASE BEFORE THE HLURB INVOLVING THE SAME PARTIES AND ISSUES.[5]

At the outset, petitioners manifest that the Housing and Land Use Regulatory Board (HLURB) case is on appeal before the Office of the President (OP).[6] Petitioners asseverate that the CA arrogated unto itself, as the RTC did, the task of resolving the issue on the legality and propriety of petitioners' alleged disqualification as members/beneficiaries of respondent despite the fact that the determination of such issue is necessarily

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intertwined with the issue of whether or not a case of ejectment would prosper against petitioners. Petitioners opine that the CA is devoid of competence to decide on the following issues, namely: i) whether or not the corporate officers who passed the board resolution expelling/disqualifying petitioners from their membership with respondent acted within their authority; and (ii) whether or not the disqualification was valid and legal. It is petitioners' position that these issues could have been best resolved by the HLURB and/or the Home Insurance Guaranty Corporation, considering the administrative agencies' expertise on the matter and considering the pendency of petitioners' case against respondent before these bodies. Invoking the same ruling in Quiambao v. Hon. Osorio,[7] petitioners claim that the more prudent course in this case is to hold the ejectment proceedings in abeyance until after the determination of the administrative case because of the intimate correlation between the two proceedings, stemming from the fact that petitioners' ejectment from the property depends primarily on the resolution of the administrative case.[8]

On the other hand, respondent asserts that the complaint filed before the MeTC contains ample allegations for the latter to exercise jurisdiction over the case in accordance with the rules and prevailing jurisprudence. Respondent also claims that the issue involves questions of fact which were adequately passed upon by both the RTC and the CA when they made the finding that petitioners failed to perform their obligation under the Community Mortgage Program by refusing to pay their monthly dues, deposits, and amortizations for their allotted portions over the community property. Respondent insists that the factual findings of both the RTC and the CA must not only be accorded respect but also finality. Moreover, respondent stands by the ruling of the RTC and the CA that there exist no issues of litis pendentia and prejudicial question in this case since the HLURB case and the ejectment proceedings do not involve the same issues nor pray for the same reliefs.[9] Finally, respondent manifests that the HLURB case filed by petitioners was already dismissed, which the OP affirmed on appeal.[10] Thus, any matter related thereto has become moot and academic. Respondent submits that this case is a simple ejectment case which is well within the MeTC's jurisdiction.

The petition is bereft of merit.

A party desiring to appeal by certiorari from a judgment, final order, or resolution of the CA, as in this case, may file before this Court a verified petition for review on certiorari under Rule 45 of the Rules of Civil Procedure within 15 days from notice of the judgment, final order, or resolution appealed from. Petitioners, instead of a petition for review on certiorari under Rule 45, filed with this Court the instant petition for certiorari under Rule 65, an improper remedy. By availing of a wrong or inappropriate mode of appeal, the petition merits outright dismissal.[11]

Even on the merits, the petition must fail.

Settled is the rule that jurisdiction in ejectment cases is determined by the allegations pleaded in the complaint. It cannot be made to depend on the defenses set up in the answer or pleadings filed by the defendant. Neither can it be made to depend on the exclusive characterization of the case by one of the parties. The test for determining the sufficiency of those allegations is whether, admitting the facts alleged, the court can render a valid judgment in accordance with the prayer of the plaintiff.[12]

An action for forcible entry or unlawful detainer is governed by Rule 70 of the Rules of Court, Section 1 of which provides:

> 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.

Unlawful detainer is an action to recover possession of real property from one who illegally withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied. The possession of the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess. An unlawful detainer proceeding is summary in nature, jurisdiction of which lies with the proper municipal trial court or metropolitan trial court. The action must be brought within one year from the date of last demand; and the issue in said case is the right to physical possession.[13]

Based on the foregoing, we have held that a complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

> (1) initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
>
> (2) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
>
> (3) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
>
> (4) within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.[14]

In this case, respondent's allegations in the complaint clearly make a case for unlawful detainer, essential to confer jurisdiction on the MeTC over the subject matter. Thus, we accord respect to the CA's findings, to wit:

> A review of the Complaint readily reveals that land titles were issued in the name of the respondent after it purchased the land referred to as the Bayanihan Compound through the Community Mortgage Program (CMP) of the National Home Mortgage Finance Corporation. The lots allocated to the petitioners formed part of the Bayanihan Compound which they received as members/beneficiaries of the respondent. However, their refusal to pay the monthly amortizations despite demands resulted in their expulsion as members and loss of recognition as beneficiaries of the lots in question. Even when the case was referred to the barangay, no settlement was reached. Petitioners likewise did not conform to respondent's demand to vacate the premises and return its possession. As such, respondent sought to recover possession of the said lots by filing a case for ejectment within a year after final demand.[15]

Moreover, this Court rejects the contention of petitioners that the RTC and the CA erred in not dismissing the complaint of respondent on the ground of litis pendentia, in view of the pendency of the HLURB case.

The requisites of litis pendentia are the following: (a) identity of parties, or at least such as representing the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) identity of the two cases such that judgment in one, regardless of which party is successful, would amount to res judicata in the other.[16]

The causes of action and, logically, the issues in the two cases, are clearly different, each requiring divergent adjudication. In short, while there is identity of parties, there are different issues, causes of action, and reliefs prayed for between them. Contrary to petitioners' posture, not all the elements of litis pendentia are present.

Appropos is the CA's ruling:

> The suit filed with the HLURB involves: (1) the reinstatement of the petitioners as members of the respondent, which was their community association; (2) a call for regular annual meetings; (3) elections for board of directors; ([4]) an accounting of funds; and ([5]) the annulment of the board resolutions which expelled them as members and disqualified them to be beneficiaries of the housing program. On the other hand, the ejectment case has in issue the better right of the petitioners or of the respondent to the physical possession of the lots occupied by petitioners. Clearly, therefore, no identity of the rights asserted and the reliefs prayed for exist in both cases.[17]

In sum, we find no grave abuse of discretion, amounting to lack or excess of jurisdiction, on the part of the CA, which would warrant the reversal and/or modification of the assailed Decision.

WHEREFORE, the instant petition is DISMISSED, and the Court of Appeals Decision dated August 22, 2007 is AFFIRMED. No costs.

SO ORDERED.

Velasco, Jr.,[*] Peralta, Mendoza, and Sereno,[***]JJ., concur.

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[*] Additional member in lieu of Associate Justice Antonio T. Carpio per Special Order No. 897 dated September 28, 2010.

[**] In lieu of Associate Justice Antonio T. Carpio per Special Order No. 898 dated September 28, 2010.

[***] Additional member in lieu of Associate Justice Roberto A. Abad per Special Order No. 903 dated September 28, 2010.

[1] Rollo, pp. 3-11.

[2] Particularly docketed as CA-G.R. SP No. 96577, penned by Associate Justice Mariano C. del Castillo (now a member of this Court), with Associate Justices Arcangelita Romilla Lontok and Romeo F. Barza, concurring; id. at 15-25.

[3] Id. at 16-19. (Citations omitted.)

[4] Id. at 13.

[5] Id. at 149-150.

[6] Supra note 1, at 5.

[7] 242 Phil. 441, 445 (1988).

[8] Rollo, pp. 145-154.

[9] Id. at 171-182.

[10] Id. at 81.

[11] Sea Power Shipping Enterprises, Inc. v. Court of Appeals, 412 Phil. 603, 610-611 (2001).

[12] Larano v. Calendacion, G.R. No. 158231, June 19, 2007, 525 SCRA 57, 65.

[13] Canlas v. Tubil, G.R. No. 184285, September 25, 2009, 601 SCRA 147, 156-157.

[14] Cabrera v. Getaruela, G.R. No. 164213, April 21, 2009, 586 SCRA 129, 136-137.

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[15] Supra note 2, at 20.

[16] Spouses Arquiza v. Court of Appeals, 498 Phil. 793, 804 (2005).

[17] Supra note 2, at 22-23.

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