

GODOFREDO BACAR, PETITIONER, VS. HONORABLE AMELIA DEL ROSARIO, PRESIDING JUDGE, BRANCH IV, CFI OF ILOILO, AND VALERIANO BACABAC AND FIDELA BACABAC, RESPONDENTS.

G.R. No. 51208. March 29, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for certiorari with a prayer for the issuance of a writ of preliminary injunction, to annul and set aside the order, dated 3 May 1979, issued by the Court of First Instance of Iloilo, 11[th] Judicial District, Branch IV, presided over by respondent Judge, in Civil Case No. 32415, entitled "Godofredo Bacar, Plaintiff, versus Valeriano Bacabac and Fidela Bacabac, Defendants."

The antecedents are, as follows:

On 11 May 1978, petitioner, as plaintiff, filed with the Court of First Instance of Iloilo, 11[th] Judicial District, Branch IV, a complaint[1] for injunction and damages with a prayer for the issuance of a writ of preliminary injunction against the private respondents, as defendants, docketed therein as Civil Case No. 12415, alleging:

"2. That plaintiff is a leasehold tenant and in actual possession of a two-hectare landholding belonging to Guadalupe Bacabac Batapa and Faustino Bacabac, situated at Barrio Lanjagan, Municipality of Ajuy, Province of Iloilo, Philippines, which is planted to palay;

"3. That sometime on April 26, 1978, the defendants conspiring and confederating with each other, illegally and unjustifiedly caused to be set on fire a big pile of palay straw piled by the plaintiff in the middle of his landholding, to be converted into compost for use as fertilizer on his said landholding, through the instrumentality of one Ernesto Bacabac, whom they hired and ordered to do the illegal and unjustified act described above, causing damage upon the plaintiff in the sum of P500.00;

"4. That sometime on April 28, 1978, the defendants again conspiring and confederating with each other, illegally and unjustifiably ordered and caused the plowing of the landholding of the plaintiff by means of a hired tractor, and the very same landholding of the plaintiff was fully plowed, against his will and consent;

"5. That the foregoing acts of the defendants caused disturbance and molestation in the possession and cultivation by the plaintiff of his landholding, and the defendants are further determined and earnest to cause further molestation and disturbance of the possession of the plaintiff by sowing palay seeds on the said landholding, and thereby to ultimately divest and eject the plaintiff from his possession of the landholding, thus depriving him of the possession and cultivation thereof, to his damage and prejudice;

X X X

X X X

X X X

"7. That unless the defendants are prevented, enjoined and stopped from what they intend and contemplate to do against the plaintiff, the plaintiff will be divested of and ejected from the possession of his landholding to his great and irreparable damage and prejudice;

X X X

X X X

X X X

and praying:

"WHEREFORE, it is most respectfully prayed that the Honorable Court immediately upon the filing of this complaint causes the issuance of a preliminary prohibitory injunction, upon the plaintiff filing a bond fixed by the Honorable Court, enjoining, restraining and preventing defendants, as well as such other persons acting for and in their behalf and/or under their order and command, from molesting and disturbing the plaintiff in his possession and cultivation of his landholding in question described in paragraph 2 of his complaint;

and in the event that the Honorable Court decides to hear this application of the plaintiff, that the Honorable Court directs the issuance of a restraining order against the defendants, as well as such other persons acting for and in their behalf and/or under their order and command, from molesting and disturbing the possession of the plaintiff of the said landholding until such time as the Honorable Court shall decide that the plaintiff is entitled to the said preliminary prohibitory injunction.

"And after due trial, the plaintiff prays that the Honorable Court renders judgment ordering that the said preliminary prohibitory injunction be made permanent; and condemning the defendants jointly and severally, to pay plaintiff the sum of P500.00 as actual damages, P10,000.00 as moral damages, the further sum of P2,000.00 as attorney's fees and finally the sum of P2,000.00 as expenses of litigation." [2]

Acting upon the complaint, the trial court issued on 19 May 1978 a restraining order, pending hearing on the merits of the case and upon plaintiff's filing of a bond in the sum of P1,000.00 [3]

Instead of filing an answer, the private respondents filed a motion to dismiss⁴ the complaint on the ground that the court a quo has no jurisdiction over the case. Petitioner opposed the motion. [5] after which, the trial court issued an order [6] denying the motion to dismiss.

Thereafter, the private respondents filed their answer. [7] denying the allegations of the complaint, and as special defense alleged that they are the owners of the land in dispute. Petitioner filed a reply [8] thereto.

On 12 December 1978, the trial court issued an order, [9] directing an ocular inspection of the premises in dispute, with the counsel of both parties and the branch clerk of court as Commissioners. In their report, [10] the Commissioners stated that they "believed that said Godofredo Bacar had worked on the land from 1976 up to the present, with the ownership of the two-hectare land apparently that of defendant(s) Valeriano Bacabac and Fidela Bacabac." (italics supplied)

On 3 May 1978, the court a quo issued an order [11] directing plaintiffs counsel to amend the complaint by joining Guadalupe Bacabac Batapa and Faustino Bacabac as parties, reasoning out as follows:

"It being alleged in the complaint that the land in question belongs to Guadalupe Bacabac and Faustino Bacabac while it is alleged in the answer that the land in question is owned by the defendants, the Court

believes that Guadalupe Bacabac and Faustino Bacabac are indispensable parties under Sec. 7, Rule 3, Revised Rules of Court, inasmuch as the question of ownership has to be resolved by this Court to be able to resolve the right of the plaintiff to the possession of the land in question and the question of ownership cannot be finally determined without the joinder of the said persons." (italics supplied)

Petitioner moved for reconsideration,[12] but his motion was denied in the order[13] of 18 June 1979.

Hence, petitioner filed the instant petition, claiming that respondent Judge committed grave abuse of discretion amounting to lack of jurisdiction in issuing the orders of 3 May 1979 and 18 June 1979.

The petition is meritorious. Ownership is different from possession. A person may be declared owner, but he may not be entitled to possession. The possession may be legally in the hands of another either as a lessee or a tenant.[14]

In the present case, petitioner does not claim but recognizes that ownership over the land in dispute belongs to Guadalupe Bacabac Batapa and Faustino Bacabac and that he is in possession thereof as tenant of the former. As possessor, he has the right to be respected in his possession, and should he be disturbed therein he shall be protected in said possession by the means established by the laws and the Rules of Court.[15] Thus, when the private respondents intruded into the land in dispute, by setting on fire a big pile of palay straw and by plowing the aforesaid land by means of a hired tractor, petitioner as possessor filed with the court a quo a complaint for injunction with damages against the private respondents, praying that the court issue a writ of preliminary prohibitory injunction, enjoining, restraining and preventing the private respondents, as well as other persons acting for and in their behalf and/or order and command from molesting and disturbing him in his possession and cultivation of the land in question. Evidently, the relief prayed for by petitioner could be granted by the court without impleading Guadalupe Bacabac Batapa and Faustino Bacabac as parties. They are not, therefore, indispensable parties[16] as erroneously held by respondent judge.

Private respondents put in issue the question of ownership by claiming that they are the owners of the land in dispute. The said issue, however, should be ventilated in a separate action and not in the present case, which is an action for injunction (with damages) to prevent the private respondents particularly from committing further acts of dispossession. If they believe themselves to be the owners of the land in dispute and entitled to the possession thereof, they should invoke the aid of the competent court, by filing the proper action against the petitioner together with Guadalupe Bacabac Batapa and Faustino Bacabac, wherein the question of ownership will be resolved; they cannot take the law into their own hands by getting possession through force or intimidation.[17]

All the foregoing, considered, the Court holds that respondent Judge committed a grave abuse of discretion in issuing the order of 3 May 1979 directing the petitioner to amend his complaint by joining Guadalupe Bacabac Batapa and Faustino Bacabac as parties as well as the order of 18 June 1979 denying the petitioner's motion for reconsideration.

WHEREFORE, the petition is GRANTED, and the orders dated 3 May 1979 and 18 June 1979 are hereby SET ASIDE and the case is REMANDED to the court of origin for further proceedings. With costs against the private respondents.

SO ORDERED.

Melencio-Herrera (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] Rollo, p. 26.

[2] Rollo, pp. 26-29.

[3] Id., p. 31.

[4] Id., p. 33.

[5] Id., p. 35.

[6] Id., p. 37.

[7] Id., p. 38.

[8] Id., p. 40.

[9] Id., p. 42.

[10] Id., p. 43.

[11] Id., p. 48.

[12] Id., p. 49.

[13] Id., p. 55.

[14] Jabon, et al, vs. Alo. et al., 48 O.G. 3348. Article 525 of the Civil Code, provides: "The possession of things or rights may be had in one of two concepts, either in the concept of owner, or in that of a holder of the thing or right to keep or enjoy it. the ownership pertaining to another person."

[15] Article 539. Civil Code of the Philippines.

[16] Sec. 7, Rule 3. Revised Rules of Court, provides: "Sec. 7. Compulsory joinder of indispensable parties. — Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants."

[17] Art. 536 of the Civil Code, provides: "In no case may possession be acquired through force or intimidation as long as there is a possessor who objects thereto. He who believes that he has an action or right to deprive another of the holding of a thing, must invoke the aid of the competent court, if the holder should refuse to deliver the thing."

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