

MARIETTA E. DAKUDAO, ANTONIETTA E. QUINTOS, ELSA E. ALMEDA, JOSE R. EBRO, JR., AND LUCIA E. PELAYO, PETITIONERS, VS. HON. JUDGE FRANCISCO Z. CONSOLACION, FRANCISCO ANG SINGCO, F...

G.R. No. 54753. June 24, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review on certiorari with preliminary mandatory injunction seeking to reverse the orders of the respondent Court of First Instance of Davao dated June 10, 1980 and July 18, 1980. The petitioners have come to this Court on pure questions of law.

There is no dispute over the basic facts of this case which are summarized by the respondent court as follows:

"Plaintiffs are co-owners of a parcel of land identified as Lot 202-F-13 embraced on Transfer Certificate of Title No. T-34254 of the Registry of Deeds of Davao City. On this land stands the house of defendant Francisco Ang Singco who had a verbal lease contract with herein plaintiffs. The monthly agreed rental is P25.00.

"On July of 1977, without the knowledge and consent of plaintiffs, defendant Ang Singco sold his house to his co-defendants, the Laurecios. When plaintiff Marietta Dakudao visited the premises in question, she was told of the transaction that transpired between Ang Singco and the Laurecios. Ang Singco left the premises in July or August of 1977 knowing that he was in arrears in his rentals for one year and seven months.

"Since the house is at present occupied by the Laurecios, plaintiffs through Marietta Dakudao demanded that they vacate the premises and for the payment of the use and occupation of the same at P100.00 a month. The Laurecios were willing to pay P50.00 a month and for failure to reach an agreement for the rental of the premises, plaintiffs filed this suit. Having received an adverse judgment, applicants elevated the same with the assignment of errors . . ."

In its decision dated July 18, 1979, the City Court of Davao City, Branch II dismissed the case for unlawful detainer against the Laurecios. With respect to defendant Ang Singco, the Court ruled that the action against him was converted into a simple one for collection of back rentals since he was no longer in possession of the land leased to him. (Decision of City Court, Annex "C", Rollo, p. 58)

As regards the respondents Federico and Carmen Laurecio, the City Court held:

- That there has never been a contract of lease, expressed or implied, between the plaintiff and the defendant Laurecios as regards that portion of land occupied by the house sold to then by the original lessee, Francisco Ang Singco. This is the contention and theory of the plaintiffs. The defendants Laurecios cannot be considered as the lawful successor-in-interest of the original lessee of the land occupied by the house sold. (Art. 1649 Civil Code);

- That the demand of the plaintiffs upon the defendant Laurecios was to vacate the premises occupied by the house they purchased from the defendant Ang Singco and to pay the reasonable compensation for the use of said premises, not back rentals.

With the foregoing facts as background, are the plaintiffs entitled to the remedy of unlawful detainer as against the defendants? The Court does not believe so because the essence of the action for unlawful detainer is the existence of a contract, expressed or implied, between the plaintiff and the defendant. . . . (Decision of the City Court of Davao, Annex "C", Rollo, p. 57).

Having received an adverse judgment, the petitioners elevated the case to the Court of First Instance of Davao, Branch II. (Annex "H", Rollo, p. 69)

On January 15, 1980, the CFI of Davao modified the above-mentioned decision of the City Court of Davao City. The Court held:

"This Court does not agree with the foregoing findings. When defendant Ang Singco sold his house to his co-defendants without the consent and knowledge of herein plaintiffs, there was stealth employed and this allegation is incorporated in the pleadings as well as in the trial of this case. However, an implied contract of lease was created when plaintiffs demanded of the Laurecios to pay rental over the parcel of land as compensation for the occupation thereof hence an unlawful detainer case can be filed against the Laurecios."

On February 14, 1980, the private respondents filed a motion for reconsideration of the decision of the CFI of Davao on the following grounds:

I — THAT THE EVIDENCE IS INSUFFICIENT TO JUSTIFY THE DECISION; and

II — THAT THE DECISION IS AGAINST THE LAW AND/OR JURISPRUDENCE.

In its order dated June 10, 1980, the CFI of Davao City reconsidered and set aside its decision and entered a new one affirming in toto the appealed decision of the City Court. According to the amended decision:

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"The Court, after a thorough consideration of the pleadings filed, finds that it committed an error in modifying the decision of the court a quo. The fact of lease and the expiration of its terms are the essential elements of an unlawful detainer case. Since no contract had been executed, either express or implied, an action for unlawful detainer will not lie against the Laurecios."

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The petitioners moved for the reconsideration of the amended ruling. However, the CFI of Davao, in its order dated July 18, 1980, denied the motion for reconsideration of the plaintiffs-appellees for lack of merit.

The plaintiffs-appellees, therefore, filed this instant petition for review on certiorari raising the following arguments:

- That although there is no contract express or implied, between plaintiffs and defendants Laurecios, an action for unlawful detainer nevertheless lies against said respondents.

- That respondents Laurecios who occupy the land of petitioners at the latter's tolerance, without any contract between them, are necessarily bound by an implied promise that they will vacate upon demand, failing which a summary action for unlawful detainer is the proper remedy against them.

- That even assuming for the sake of argument that an action for unlawful detainer will not lie against respondents Laurecios, petitioners have nevertheless alleged and proven strategy and stealth on the part of said

respondents regarding their entry into, and occupation of, the leased premises sufficient to make out an action for forcible entry against them.

This is a good example of how persons who have failed to adduce any legal grounds for their continued stay on property belonging to another have nonetheless managed to stave off eviction for more than four years through the improper use of procedural technicalities and reliance on delays caused by heavy caseloads of courts of justice.

In its June 18, 1979 decision, the City Court of Davao City admitted that the plaintiffs had a right to recover possession of the land involved in the litigation but "unfortunately" for them their cause of action did not fit within an unlawful detainer case. Neither could it be a forcible entry case, according to the judge, because the plaintiffs failed to allege in the pleadings or prove with evidence the fact that the defendants occupied the land through stealth and strategy.

The primary argument of the respondents Laurecio in this petition is that they are not unlawfully withholding possession from the petitioners after the expiration or termination of the right to hold possession by virtue of any contract because there never was any contract express or implied between them and the petitioners.

The private respondents further claim that they cannot be considered privies or successors-in-interest of the former lessee, Francisco Ang Singco, because Article 1649 of the Civil Code provides that "the lessee cannot assign the lease without the consent of the lessor, unless there is a stipulation to the contrary." The respondents fail to state by what right they are occupying the land. If they have no contract, express or implied, with the owners and they have no claim as successors-in-interest of the former lessee, they become mere usurpers or squatters through their own admission. Article 1649 of the Civil Code is intended to protect the owner of the leased property. It was never intended to permit one who claims no right to the premises to avoid ejectment by the dubious allegation that his occupation is not lawful as the Civil Code prohibits it.

As a matter of fact, the respondents averred in their answer filed with the City Court of Davao City that the plaintiffs, now petitioners, gave their consent when the Laurecios purchased the house from Ang Singco "otherwise the defendants Laurecio could have desisted from buying the subject house." The defendants averred that the Laurecios and the petitioners agreed to maintain the P25.00 monthly rentals at the time of the sale in July, 1977 but a year later, the lot owners suddenly raised the rent to P50.00 monthly and that "if defendants Laurecio have failed to pay their rental, the same is due to plaintiffs' unreasonable and Malicious refusal to receive the payments." The present claim of the respondents on the absence of any contract or agreement is due to their taking advantage of the ruling of the respondent court that "since no contract had been executed, either express or implied, an action for unlawful detainer will not lie against the Laurecios." It was not an original defense.

The City Court found the averments of the private respondents in their answer as contrary to the evidence. The facts are:

"It is established by the evidence that the plaintiffs have never consented or ratified the sale of the house in question by the defendant Ang Singco to the Laurecios. There has never been any definite agreement between the plaintiff and the Laurecios as to the amount of rentals the latter were going to pay. In fact the Laurecios have not paid any amount by way of rentals to the plaintiff except that which they deposited in Court during the pendency of this case on February 2, 1979 in the amount of P450.00 for the period from August, 1977 to January, 1979 (Exhibit '3' and Exhibit '4').

Since there was no contract between the lot owners and the Laurecios, the latter's occupation of the land is only as successors of Ang Singco from whom they purchased the house built on the lot. If Article 1649 had been followed and the consent of the owners to the sale secured, the Laurecios would be more than mere successors-in-interest.

They would have become the new lessees. The unlawful detainer case was proper.

If we view the failure of the petitioners to file an ejectment case from February, 1978 when they first learned of the respondents presence on their land up to June 1, 1978 when the letter demanding that they vacate the lot was sent, as tolerance or permission by the owners, the unlawful detainer case is still proper.

We held in the case of *Vda. de Cachuela v. Francisco* (98 SCRA 172) citing the case of *Calubayan v. Pascual* (21 SCRA 146, 148) that a person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against him. The status of the defendant is analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner. In such a case, the unlawful deprivation or withholding of possession is to be counted from the date of the demand to vacate. Likewise in the case of *Yu v. de Lara* (6 SCRA 785), we ruled that the proper remedy against a person who occupies the land of another, who has no contract with the owner, and whose possession is merely tolerated, but who refuses to vacate despite demand, is the summary action for ejectment.

The respondents Laurecios argue that the tolerance by the petitioners must be present right from the start of the possession sought to be recovered, to categorize a cause of action as one of unlawful detainer, not of forcible entry, citing the cases of *Sarona, et al. v. Villegas, et al.* (22 SCRA 1257) and *Monteblanco v. Hinigaran Sugar Plantation* (63 Phil. 797, 802, 803). We fail to see what advantage to the administration of justice would be served if we allow the private respondents to argue that, perhaps, they should be prosecuted for forcible entry and not unlawful detainer. In their opposition dated July 9, 1979, the private respondents alleged as ground for the opposition:

THAT PLAINTIFFS' ALLEGATIONS IN THEIR COMPLAINT AND THE EVIDENCE THEY ADDUCED DO NOT PROVE ANY CAUSE OF ACTION FOR FORCIBLE ENTRY AGAINST THE DEFENDANTS LAURECIOS.

Moreover, there is no conflict between the cases above-mentioned and the case of *Cachuela v. Francisco*. As far as the petitioners are concerned, it may rightly be said that any supposed tolerance of the occupation by the respondents Laurecios was from February, 1978, when they first discovered the respondents to be in possession of the premises. To petitioners, this was the start of the respondent Laurecios' occupation since the latter's actual entry into the premises in July or August, 1977 had been concealed from the petitioners.

Considering the foregoing, we see no need to discuss the third "question of law" raised in the petition.

Equitable considerations also dictate that procedural technicalities, even if valid which they are not, should not be allowed to stand in the way of substantial justice. The certification from the Clerk of Court of the City Court of Davao shows that no deposits for rentals have been made from February, 1980 up to the date of the certification on March 9, 1982. The certification of the Acting Clerk of Court of the Court of First Instance of Davao shows that no deposits for rentals in this case are being made in that court.

WHEREFORE, the judgment of the respondent court is hereby set aside. The private respondents are ordered to vacate the disputed premises. Respondents Laurecio are ordered to pay the amount of Fifty Pesos (P50.00) a month as reasonable compensation for the use and occupation of the premises beginning August, 1977 until they finally vacate the premises, minus whatever amounts may have been deposited as rentals with the court for delivery to the petitioners and to pay P500.00 in attorney's fees. The portion of the decisions of the City Court and the respondent court as regards *Francisco Ang Singco* is affirmed. This decision is immediately executory.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Vasquez and Relova, JJ., concur.

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