

JOSE LEE AND FELIX LIM, PETITIONERS, VS. HON. PRESIDING JUDGE, MUNICIPAL TRIAL COURT OF LEGAZPI CITY, BRANCH I, HON. INTERMEDIATE APPELLATE COURT, AND SPOUSES ROY PO LAM AND JOS...

G.R. No. 68789. November 10, 1986

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari and mandamus seeking to set aside and annul (1) the decision dated December 19, 1983 of the respondent Municipal Trial Court of Legazpi, Branch I, in Civil Case No. 2687, entitled "Spouses ROY PO LAM and JOSEFA PO LAM, plaintiff, versus JOSE LEE, defendant; FELIX LIM, Intervenor," which declared the plaintiffs as lawful owners of the property in question and ordered the defendant to vacate said property; (2) the Resolution of the respondent Intermediate Appellate Court dated July 9, 1984 which dismissed the appeal of herein petitioner Jose Lee from the decision in Civil Case No. 2687; and (3) the Resolution dated September 5, 1984 which denied petitioner's motion for reconsideration; or in the alternative to order the respondent Intermediate Appellate Court to give due course to the appeal or to certify and remand the case to the proper court for determination on the merits (Rollo, pp. 2-13).

The facts of the case are as follows:

On September 2, 1981, herein private respondents Spouses Roy Po Lam and Josefa Po Lam filed a complaint for ejectment and/or unlawful detainer against herein petitioner Jose Lee with the then City Court of Legazpi, Branch III, docketed as Civil Case No. 2687, on the ground that the oral contract of lease entered into between the private respondents and said petitioner, over a commercial lot and building owned by the private respondents, had already expired and the said petitioner refused to vacate said property despite demands from private respondents. The private respondents accordingly prayed that judgment be rendered requiring the defendant Jose Lee, one of the petitioners herein, to vacate the premises of the property in question as well as ordering said defendant to pay accrued monthly rentals, attorney's fees and expenses, and exemplary damages (Rollo, pp. 14-16).

In his answer filed on September 7, 1981 to the complaint, herein petitioner Jose Lee, specifically denied the allegation of private respondents of ownership over the property, on the basis of a final decision rendered by the then Court of Appeals on March 11, 1981 in CA-G.R. No. 44770, wherein a certain Felix Lim intervenor therein, was declared as owner of a portion of the property in question as well as entitled to exercise the right of redemption over the remaining portion of said property from the subsequent buyer thereof who is the predecessor-in-interest of the private respondents (Rollo, pp. 19-23).

On November 12, 1981, herein petitioner Felix Lim, filed an answer in intervention in Civil Case No. 2687, which was admitted by the respondent trial court, wherein he, as the declared owner of a portion of the property in question and redemptioner of the rest thereof by virtue of the March 11, 1981 decision of the then Court of Appeals, questioned the right of the private respondents to receive rentals thereon (Rollo, pp. 32-33).

It appears that on November 3, 1981, or previous to the filing of the answer in intervention, petitioner Felix Lim filed a complaint with the then Court of First Instance of Albay against private respondents spouses Roy Po Lam and Josefa Po Lam, docketed as Civil Case No. 6696, where he questioned the right of ownership and possession by the private respondents of the property subject of Civil Case No. 2687.

It appears further that on February 9, 1982, petitioner Felix Lim filed another complaint with the Court of First Instance of Albay against the private respondents for the reconveyance and annulment of the sale and title involving the same property, docketed as Civil Case No. 6767.

Subsequently, the presiding judge of the City Court of Legazpi, Branch III, in which Civil Case No. 2687 was pending, inhibited himself from hearing the case, for which reason the same was transferred to Branch I of the City Court of Legazpi, which is now Branch I of the Municipal Trial Court of Legazpi City, presided by the respondent trial judge.

Before the hearing of the merits of Civil Case No. 2687 commenced, petitioner Jose Lee moved for the suspension of the proceedings in said case until final decision in Civil Cases Nos. 6697 and 6767 pending before the Court of First Instance of Albay. The trial court denied the motion of said petitioner in an order dated June 29, 1982 (Rollo, p. 34).

The intervenor, petitioner Felix Lim, on his part, moved to dismiss Civil Case No. 2687 on the ground that the City Court of Legazpi (now the Municipal Trial Court of Legazpi City) has no jurisdiction over the nature and subject matter of the complaint. The trial court denied the motion of the intervenor in an order also dated June 29, 1982 (Rollo, p. 35).

On August 29, 1982, the intervenor reiterated his motion for the dismissal of the complaint on the ground that jurisdiction over the issue ownership of the land in question pertains to the Court of First Instance of Albay in Civil Cases No. 6696 and 6767, resolution of which was reserved while the case proceeded to trial.

On December 19, 1983, the respondent trial judge rendered his decision where he ruled that the Municipal Trial Court of Legazpi City has jurisdiction over the issue of ownership of the property in question. The dispositive portion reads:

"WHEREFORE, judgment is hereby rendered: (1) declaring the plaintiffs as lawful owners of, and rightfully entitled to the immediate possession of the leased commercial building and lot 1557, covered by TCT No. 8102 (formerly TCT 2580), as described in paragraph 2 of the complaint; (2) directing the defendant his agent, or anyone acting in his behalf, to vacate said leased building and lot, and to restore the actual possession thereof, to the plaintiffs; (3) ordering the defendant to pay directly the plaintiffs the whole rentals which accrued, from October, 1982 up to the time he shall have vacated the leased premises, at the rate of P2,500.00 a month, minus the amounts already deposited with the City Treasurer's Office of Legazpi, which amounts are hereby retained to be withdrawn by the plaintiffs, their counsel or representative; (4) directing the defendant to also pay the plaintiffs the amounts of (a) P2,500.00, and P1,200.00, as exemplary damages and attorney's fees, respectively; and (b) the costs of the suit.

"The intervenor's claim and prayer are denied for lack of merit."

Thereafter, petitioner Jose Lee filed a notice of appeal of the aforesaid decision to the Intermediate Appellate Court and the case was docketed as AC-G.R. CV No. 3397-UDK.

On July 9, 1984, the Intermediate Appellate Court promulgated a resolution in the case, copy of which was received by petitioner on July 12, 1984, the dispositive portion of which reads as follows:

"WHEREFORE, this Court RESOLVED to dismiss the present appeal, which should have been brought to the

Regional Trial Court (Sec. BP 129).

SO ORDERED." (Rollo, p. 59).

On July 12, 1984, petitioner Jose Lee filed a motion for reconsideration of the aforesaid resolution (Rollo, p. 60).

On September 5, 1984, the Intermediate Appellate Court promulgated a resolution, copy of which was received by petitioner on September 20, 1984, which denied the motion for reconsideration (Rollo, p. 63).

Hence, this petition for certiorari and mandamus was filed on October 4, 1984.

Private respondents filed their comment on the petition on December 7, 1984 (Rollo, p. 79) in compliance with the resolution of this Court, First Division, dated October 15, 1984.

On January 9, 1985, the Supreme Court resolved to give due course to the petition and required the parties to submit simultaneous memoranda (Rollo, p. 130).

On February 15, 1986, petitioners filed their memorandum (Rollo, p. 134) while that of private respondents was filed on March 7, 1986 (Rollo, p. 142).

The issues raised in the instant petition are:

I. Whether or not the respondent trial judge of the Municipal Trial Court of Legazpi City, Branch I, acted without or in excess of jurisdiction; or with grave abuse of discretion tantamount to lack of jurisdiction when it promulgated its decision dated December 19, 1983 declaring private respondents as lawful owners of the property subject of Civil Case No. 2687.

II. Whether or not the respondent Intermediate Appellate Court acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack of jurisdiction when it promulgated its resolutions dated July 9, 1984 and September 5, 1984 dismissing the appeal sought by herein petitioners.

I

Petitioners contend that the respondent trial court has no jurisdiction over the complaint for ejectment in Civil Case No. 2687 because the issue of ownership was raised in the pleadings, hence, when the court resolved the issue of ownership over the property in question, it acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack of jurisdiction.

The contention is without merit.

When the complaint for ejectment was filed before the respondent trial court on September 2, 1981, said court, as City Court of Legazpi City, had concurrent jurisdiction with the then Court of First Instance (now Regional Trial Court) in ejectment cases where the question of ownership is involved. This is expressly provided for in Section 3 of Republic Act No. 5967 which took effect on June 21, 1969, and which reads:

"SEC. 3. Besides the civil cases over which the City Courts have jurisdiction under Section eighty-eight of Republic Act Numbered Two hundred ninety-six, as amended, it shall likewise have concurrent jurisdiction with the Court of First Instance over the following:

(a) Petition for change of name of natu-ralized citizens after the judgment has become final and executory;

(b) Cancellation or correction of entries in the City Civil Registry where the corrections refer to typographical errors only; and

(c) In ejection cases where the question of ownership is brought in issue in the pleadings. The issue of ownership shall therein be resolved in conjunction with the issue of pos-session." (Underscoring supplied).

Evidently, when the complaint for ejectment was filed on September 2, 1981, R. A. 5967 was the governing law; hence, the respondent trial court had jurisdiction over the case and had validly rendered the December 19, 1983 decision. For, it is well-settled that jurisdiction is determined by the law in force at the time of the commencement of the action. (*Laperal vs. Cruz*, 63 SCRA 329, 330 [1975]; *Rilloraza vs. Arciaga*, 21 SCRA 717 [1967].

It is true that intervenor Felix Lim, petitioner herein, filed Civil Case No. 6696 on November 3, 1981 with the then Court of First Instance of Albay against spouses Roy Po Lam and Josefa Po Lam, private respondents herein, questioning the ownership and possession of the property in question, and on February 9, 1982, he filed Civil Case No. 6767 also before the Court of First Instance of Albay, for the recovery and annulment of the sale and title of the property in question.

However, at that time when the aforesaid civil were filed before the Court of First Instance of Albay, the City Court of Legazpi had long acquired jurisdiction over Civil Case No. 2687 to the exclusion of the Court of First Instance of Albay.

It has been held that "even in cases of concurrent jurisdiction, it is, also, axiomatic that the court first acquiring jurisdiction excludes the other courts" (*Laquian vs. Baltazar*, 31 SCRA 552, 556 [1970], please see cases cited therein).

In addition, it is a familiar principle that when a court of competent jurisdiction acquires jurisdiction over the subject matter of a case, its authority continues, subject only to the appellate authority, until the matter is finally and completely disposed of, and that no court of co-ordinate authority is at liberty to interfere with its action. This doctrine is applicable to civil cases, to criminal prosecutions, and to courts-martial. The principle is essential to the proper and orderly administration of the laws; and while its observance might be required on the grounds of judicial comity and courtesy, it does not rest upon such considerations exclusively, but is enforced to prevent unseemly, expensive, and dangerous conflicts of jurisdiction and of process. (14 Am. Jur. 435-436, cited in *Francisco, Vicente*, Revised Rules of Court, pp. 57-58, Vol. I, 1965 ed.).

Furthermore, assuming that the respondent trial court has no jurisdiction over the ejectment case, petitioners are already estopped to raise the question of jurisdiction. As found by the City Court (now Municipal Trial Court) the issue of ownership was formulated and raised not only in the September 2, 1981 complaint of plaintiffs Roy Po Lam and Josefa Po Lam but also in the answer and rejoinder of defendant Jose Lee which were filed on September 7, 1981 and September 23, 1981, respectively, as well as in the answer in intervention of Felix Lim which was filed on November 12, 1981. Likewise confirmatory is defendant's admission that "the issue of ownership over the property in question is an integral part of the main issue in the instant case as well as the intervenor's submission that the question of possession is intimately linked with that of ownership. (Decision, Civil Case No. 2687; Rollo pp. 108-109). Surely, petitioners, as defendants in Civil Case No. 2687, submitted to the jurisdiction of the trial court when they filed their answer to the complaint and sought reliefs therefore; participated in the trial of the aforesaid case; examined private respondent's witnesses; and adduced testimonial and documentary evidence. They cannot now be allowed to belatedly adopt an inconsistent posture by attacking the jurisdiction of the respondent trial court to which they submitted their cause voluntarily. While generally, jurisdiction is conferred by law and cannot be conferred by consent of the parties or by their failure to object to the lack of it, the Supreme Court, however, in *Tijam vs. Sibonghanoy* (23 SCRA 20, 35 [1968], has declared that "x x x a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (*Dean vs. Dean*, 136 Or. 694, 86 A.L.R. 79)." Therefore, the respondent trial court has not acted without or in excess of jurisdiction when it rendered the decision dated December 19, 1983.

II

Petitioners likewise contend that the respondent Intermediate Appellate Court has acted with grave abuse of discretion amounting to lack of jurisdiction or without or in excess of jurisdiction when it dismissed the appeal from the decision of the respondent trial court dated December 19, 1983 in Civil Case 2687 instead of certifying the case to the proper court.

The contention is impressed with merit.

The appropriate procedure should have been to certify the case to the proper court, which is the Regional Trial Court, instead of dismissing the appeal. While it is true that under Section 5 of R.A. 5967, decisions of the City Courts are directly appealable to the Court of Appeals, the said law, however, can be said to have been repealed when Batas Pambansa 129, otherwise known as the Judiciary Reorganization Act of 1980, took effect on August 14, 1981.[1] Under Section 22 of BP 129 the "Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions." Therefore, Civil Case 2687 was erroneously brought on appeal before the respondent Intermediate Appellate Court. And Section 3 of Rule 50 of the Revised Rules of Court, states that:

"Where appealed case erroneously brought. - Where the appealed case has been erroneously brought to the Court of Appeals, it shall not dismiss the appeal, but shall certify the case to the proper court, with specific and clear statement of the grounds therefor."

Under Sec. 22, B.P. 129 which was already in force and effect when petitioners appealed from the decision of the City Court, the appeal should have been brought to the Regional Trial Court. (See *Bello vs. Court of Appeals*, March 29, 1974, 56 SCRA 509). Hence, respondent Intermediate Appellate Court erred in failing to certify the case to the Regional Trial Court.

PREMISES CONSIDERED, the resolutions of the respondent Intermediate Appellate Court in AC-GR 3397 dated July 9, 1984 and September 5, 1984 are SET ASIDE, and the decision dated December 19, 1983 of the Municipal Trial Court of Legazpi City in Civil Case 2687 is hereby REMANDED to the Regional Trial Court of Albay.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

[1] Implementation, however, was on January 17, 1983.

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