

**DOMINGO VERGARA, SR., PETITIONER, VS. HON. JOSE T. SUELTO,
PRESIDING JUDGE OF THE MUNICIPAL TRIAL COURT IN DAVAO
CITY, BRANCH IV, MANOLITO GUINOO, ROMEO MONTEBON AND
PORFERIO CA...**

G.R. No. 74766. December 21, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

Two issues are involved in the instant special civil action of mandamus. The first is whether or not the appropriateness of a summary judgment may ever be so self-evident in a case as to make it well nigh a duty on the part of the Trial Judge to grant the plaintiff's motion therefor. The second relates to the propriety of the filing directly with this Court an application for a writ of mandamus against a municipal trial court, considering that jurisdiction to issue this extraordinary writ is also possessed by the Court of Appeals as well as the Regional Trial Court of the district.

To resolve the first issue it will be necessary to deal with the facts in some detail.

Petitioner Vergara commenced in the Municipal Trial Court of Davao City an action for illegal detainer against the private respondents.[1] His complaint[2] alleged in essence that-

- 1) he is the owner of a commercial building consisting of three (3) sections, each of which is separately occupied by the defendants (private respondents herein) as lessees;
- 2) the defendants' lease contracts, two of which were written, were all on "a month to month basis," and originally prescribed a monthly rental of P350.00, later increased to P450.00;
- 3) because the defendants all defaulted in the payment of their rentals for many months, Vergara's lawyer sent each of them a letter "(1) demanding payment of their unpaid rentals, (2) terminating their lease contracts effective at the end of December 1985 on two grounds: non-payment of rentals and plaintiff's need of the property for some other purpose, and (3) demanding that defendants vacate the leased premises not later than the end of said month of December 1985;"
- 4) the defendants sent Vergara a joint reply pertinently reading as follows:

"This is to confirm our verbal commitment with you to leave the said premises as soon as you need it. However due to mainly economic reason, we request for an extension of three months (3) to enable us to find new space wherein we can continue our sole livelihood.";

in addition, defendant Montebon also paid a part of his arrearage;

- 5) later however, the defendants wrote Vergara another letter; this time, while acknowledging the latter's ownership of the building and their status as lessees thereof, they announced their refusal to vacate the premises on the ground that the lot on which the building stands, though titled in Vergara's name, was part of a

tract of land identified as Lot 508 which had been ordered reverted to the public domain by the Regional Trial Court (Branch XIV) in a decision rendered in Civil Case No. 16192 for "Cancellation of Titles and Reversion" entitled "Republic of the Philippines vs. Kwong Tai Lung y Cia., et al.";

6) Vergara wrote back to them, pointing out the error of the position thus taken by them, and reiterating his demand to vacate; his reply having gone unheeded, he initiated the requisite proceedings before the Office of the Barangay Captain; and when the controversy was not settled by conciliation, he instituted the ejectment suit at bar.

In their answer to the complaint,¹ defendants Guinoo, Montebon and Cabase -

- 1) denied the averments of the complaint relative to their and the plaintiff's personal circumstances;
- 2) denied Vergara's ownership of the building and the fact that it consisted of three sections separately leased by them;
- 3) claimed that their lease contracts with Vergara were null and void;
- 4) denied having initially paid rentals but thereafter defaulting and incurring arrearages in the amounts specified in the complaint, claiming that they had been "occupying the premises in the concept of an owner";
- 5) denied knowledge and hence professed inability to form a belief regarding either their joint letter to Vergara (copy of which was attached to the complaint) or of the reply thereto by Vergara's lawyer;
- 6) denied liability to Vergara for damages because as "member(s) of good standing of (a group calling itself) Salandanan et al Landless Association, Inc., ** (they were) occupying the land as owners"; and
- 7) claimed that in virtue of the judgment of the Regional Trial Court in Civil Case No. 16192 declaring null and void the title issued over "lot 508" -- of which Vergara's was formerly a part -- they were claiming Vergara's land "as their share as member of Salandana et al Landless Association," which was "a recognized intervenor" in the case.

Vergara presented a reply to the defendants' answer, chiefly making the point that neither he nor any of the defendants was a party to Civil Case No. 16192 and hence could not be bound by whatever judgment or orders might be rendered therein; that his title to the land was not void nor had it ever been subject of any action for annulment; and that in any event Civil Case No. 16192 had no relevance to the "case for ejectment against defendants for non-payment of rents on ** (his) commercial building."¹

Under date of March 7, 1986 Vergara filed a Motion for Summary Judgment.² The motion was verified and had 8 supporting documents annexed to it.³ It asserted and sought to substantiate the following propositions, to wit:

1. The 3 defendants were lessees of Vergara's commercial building, their status as such being established by-
 - a) the 2 written contracts of lease of Guinoo and Cabase, copies of which were attached to the verified complaint as Annexes A and B;
 - b) the demand letters sent by Vergara's lawyer to each of the 3 defendants, copies of which were attached to the motion for summary judgment as Annexes A, B, and C thereof;
- a) the payment by Montebon on December 20, 1985 of back rentals for November and December 1984, evidenced by Official Receipt No. 2300, a copy of which was appended to the motion as Annex D;
- b) the joint letter dated December 6, 1985 confirming their "verbal commitment to leave the ** premises" as soon as needed and asking for an "extension of three (30 months to enable ** (them) to find new space", a copy of which was attached to the verified complaint as Annex C thereof.

2. Neither he (Vergara) nor the defendants were parties in Civil Case No. 16192 and consequently could not be bound by any judgment or order therein promulgated, a proposition confirmed by the Order of the Court in that action dated February 24, 1986, a copy of which he attached to his motion as Annex E.

3. Civil Case No. 16192, involving "parcels of land", was irrelevant to the ejectment case at bar involving ejectment from Vergara's "commercial building"; and defendants had acknowledged in their joint letter dated January 7, 1976 that the building belongs to Vergara, a copy of the letter being attached to the motion as Annex F.

4. In view of their acknowledgment of Vergara's ownership of the building, the defendants' claim of ownership of the land on which it stands is "false and absurd." "Moreover, defendants as lessees are estopped from asserting any adverse claim or title against plaintiff (Art. 1436 of the Civil Code)."

5. The defendants' answer is patently defective. It flatly denies their own personal circumstances, and professes lack of knowledge sufficient to form a belief about the exchange of letters between them and Vergara's lawyer -- matters about which they could not but have direct, personal awareness and about which they could not therefore claim ignorance.¹

Against this motion defendants filed an "Opposition to Motion for Summary Judgment and Motion to Dismiss."² They argued that -

1. A genuine issue exists which "cannot be resolved by mere resort to summary judgment," that issue having arisen from defendants' controversion of Vergara's claim "of possession and ownership over the commercial building and the land on which the same is constructed."

2. Their answer "tendered a genuine issue and does not only consist of a mere general denial" since in the main "it specifically denied the material averment of facts in the complaint setting forth the substance of the matters in support of their denial"; and as regards their declared ignorance of some of the facts alleged in the complaint, an averment of lack of knowledge was under the Rules equivalent to a specific denial.

3. The Court had no jurisdiction over the case because "the real issue involved ** is title and/or ownership of the property and not physical possession", and "this case should not be by accion interdictal but accion de reivindicacion (sic)".

Vergara submitted a reply dated April 9, 1986, adverting to the distinction between a summary judgment under Rule 34 and a judgment on the pleadings under Rule 19, and reiterating and amplifying the propositions and arguments set out in his motion for summary judgment.¹

The incidents were resolved by the respondent Judge in two separate orders promulgated on the same day, April 15, 1986. The first order denied the defendants' motion to dismiss.² The Judge ruled that -

" * * Ownership by the plaintiff of this building has not been seriously denied by defendants who instead insist that their claim to ownership of the land be a ground for a dismissal of this case for the court's lack of jurisdiction. But the court believes that this case properly is an Unlawful Detainer action as it assesses the respective claims of the parties and it (the court), in accordance with the provisions of Section 33 of Batas Pambansa Blg. 129 is not without authority to resolve the issue of ownership if only to determine the issue of possession."³

The second order⁴ denied Vergara's motion for summary judgment. The denial was grounded on the following observations of the respondent Judge:

" * * Of course, the (plaintiff's) discussion seeks to convince the court that there is no more need of a trial because conclusively it is claimed that no genuine issue on a material fact was raised. But it appears from the answer that the material allegations of facts in the complaint constituting plaintiff's cause of action are

specifically denied and in addition thereto, defendants have put up affirmative defenses in avoidance of plaintiff's claims. * *.

"The rule gives the court limited authority to enter summary judgment. Upon a motion for summary judgment, the court's sole function is to determine whether there is an issue of fact to be tried. It does not vest the court with authority to try the issues on depositions, pleadings, letters or affidavits. ** (I)f there is a controversy upon any question of fact, there should be a trial of the case upon its merits.⁵

His Honor's observations expose no little confusion about the fundamental nature of a summary judgment. The confusion is further bared by his statement that the "only issue in this motion (for summary judgment) is whether, in this Unlawful Detainer action the material averments of facts constituting plaintiff's cause of action have been specifically denied in accordance with Section 10, Rule 8 of the Rules of Court." He seems to think it is the same as a judgment on the pleadings which, of course, it is not.

The confusion is shared by the defendants (private respondents), this being revealed by their argument that in view of their denial of plaintiff's assertion of ownership over the premises in question, and their controversion of "the material facts of the adverse party," their answer did not only consist of a mere "general denial" but "definitely tendered a genuine issue" "which cannot be resolved by resort to mere summary judgment."¹ Indeed, they point out that in their answer they have dealt with each paragraph of the complaint; and "considering therefore the totality of the allegations of ** (said) answer vis-a-vis the allegations of the complaint, ** the answer tendered a valid issue."²

The essential question however is not whether the answer does controvert the material allegations of the complaint but whether that controversion is bona fides. The fundamental issue is not whether the answer does tender valid issues -- as by setting forth specific denials and/or affirmative defenses -- but whether the issues thus tendered are genuine, or fictitious, sham, characterized by bad faith.

Section 1, Rule 19 of the Rules of Court provides that where an answer "fails to tender an issue, or otherwise admits the material allegation of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading."³ The answer would fail to tender an issue, of course, if it does not comply with the requirements for a specific denial set out in Section 10 (or Section 8) of Rule 8; and it would admit the material allegations of the adverse party's pleadings not only where it expressly confesses the truthfulness thereof but also if it omits to deal with them at all.⁴

Now, if an answer does in fact specifically deny the material averments of the complaint in the manner indicated by said Section 10 of Rule 8, and/or asserts affirmative defenses (allegations of new matter which, while admitting the material allegations of the complaint expressly or impliedly, would nevertheless prevent or bar recovery by the plaintiff) in accordance with Sections 4 and 5 of Rule 6, a judgment on the pleadings would naturally not be proper.

But even if the answer does tender issues -- and therefore a judgment on the pleadings is not proper -- a summary judgment may still be rendered on the plaintiff's motion if he can show to the Court's satisfaction that "except as to the amount of damages, there is no genuine issue as to any material fact,"¹ that is to say, the issues thus tendered are not genuine, are in other words sham, fictitious, contrived, set up in bad faith, patently unsubstantial.² The determination may be made by the Court on the basis of the pleadings, and the depositions, admissions and affidavits that the movant may submit, as well as those which the defendant may present in his turn.³

In this case, the defendants' answer appears on its face to tender issues. It purports to deal with each of the material allegations of the complaint, and either specifically denies, or professes lack of knowledge or information

to form a belief as to them. It also sets up affirmative defenses. But the issues thus tendered are sham, not genuine, as the slightest reflection and analysis will readily demonstrate.

1. To begin with, the defendants' denial of their own personal circumstances, as these are stated in the complaint, is obviously sham. The accuracy of those stated circumstances is quite evident. They are in truth all residents of Davao City, doing business at Cabaguio Avenue, where the plaintiff's building is located, and in which they have rented space and where they have been maintaining their commercial establishments under one trade name or another. As fictitious is their denial of plaintiff's own personal circumstances. They could not but know that those circumstances had been correctly set down in the complaint, having been dealing with the plaintiff for years, and he being the owner of the building occupied by them.

2. Their disavowal of the plaintiff's ownership of the building occupied by them, and also that the building is composed of three (3) sections, also cannot be genuine. They had each been occupying those three (3) sections for years and been paying rentals therefor to the plaintiff. Their answer contains their admission that the plaintiff has title over the land on which the building stands.⁴ There are two (2) written contracts showing the lease by two of them of the building from the plaintiff, and a receipt evidencing payment by another of rentals to the plaintiff, documents which they have made no serious or effective effort to controvert but which, on the contrary, they have impliedly admitted. There is, too, their own letter to the plaintiff dated December 6, 1985, acknowledging receipt of the communication of the latter's lawyer (demanding their vacation of the premises and payment of rentals in arrears), and confirming their "verbal commitment to you to leave the said premises as soon as you need it."¹ There is, finally, another letter of theirs dated January 7, 1986 referring to Vergara's demand for the payment of their "rental in arrears" and for them "to vacate the building rented by us."²

3. Also patently sham is their professed ignorance of the joint letter sent by them to the plaintiff under date of December 6, 1985, just referred to. It should be noted that they have not denied writing or sending the letter. What they say is that "they have no knowledge or information sufficient to form a belief" as to it. This is ridiculous. Either they wrote the letter or they did not. Either way, they cannot but have knowledge of it. To say that they are ignorant of it is palpable dishonesty. In any event, we have already pronounced such a profession of ignorance about a fact which is patently and necessarily within the pleader's knowledge, or means of knowing, as ineffectual, as no denial at all.³

4. So, too, their denial of ever having paid rents to the plaintiff is fictitious. The facts on record, to which the plaintiff has drawn attention, inclusive of the official receipt issued to defendant Montebon, prove this beyond cavil.

5. Finally, their affirmative defense, in which they assert title in themselves over the land on which the plaintiff's building stands, is also sham, even an absurdity. They base their claim on a judgment rendered by the Regional Trial Court in an entirely separate action in which title over a large tract of land -- of which the plaintiff's once formed a part -- had been annulled, and the land ordered reverted to the public domain. But neither the plaintiff nor the defendants are parties to this action. The judgment has moreover been appealed. And the defendants' connection with the case rests on nothing more substantial than their alleged membership in an association at whose relation the reversion suit had supposedly been instituted by the Republic, and which association would presumably have preferential rights to occupy or acquire the land once finally reverted to the public domain. It is apparent that defendants' claim of title to the particular lot of the plaintiff is so tenuous and conjectural as to be practically nonexistent. In any event, the claim is utterly irrelevant to the ejectment suit at bar, which involves merely the question of whether or not their possession of the plaintiff's premises had become illegal in virtue of their extended failure to pay rentals and their refusal to vacate the premises and pay those arrears despite due demand.

They are moreover estopped to dispute the plaintiff's title. "The tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation of landlord and tenant between them."¹

Under the circumstances herein set forth at some length, the fitness and propriety of a summary judgment cannot be disputed. The failure of the respondent Judge to render such a judgment was due solely to his unfortunate unfamiliarity with the concept of a summary judgment. It is a failure which we have it in our power to remedy. No genuine issue having been tendered by the defendants, judgment should be directed as a matter of right in the plaintiff's favor. To yet require a trial notwithstanding the pertinent allegations of the pleadings and the other facts indubitably appearing on record would be a waste of time, and an injustice to the plaintiff whose obtention of the relief to which he is plainly and patently entitled would be further delayed. As it is, the delay has already been considerable.

The remedy properly available to the petitioner in the premises, however, is not the writ of mandamus. Well known is the rule that mandamus issues only to compel performance of a mandatory, ministerial duty.² The determination that under the facts and circumstances obtaining in a case a summary judgment is proper, and the motion therefor should be granted and summary judgment consequently rendered, rests in the sound discretion of a trial court and can not be regarded as a duty or ministerial function compellable by the extraordinary writ of mandamus. In this case, the respondent Judge had discretion to make that determination. What happened was that His Honor made that determination with grave abuse of discretion. Despite the plain and patent propriety of a summary judgment, he declined to render such a verdict. The writ of certiorari will lie to correct that grave abuse of discretion.³

We turn now to the second question posed in the opening paragraph of this opinion, as to the propriety of a direct resort to this Court for the remedy of mandamus or other extraordinary writ against a municipal court, instead of an attempt to initially obtain that relief from the Regional Trial Court of the district or the Court of Appeals, both of which tribunals share this Court's jurisdiction to issue the writ. As a matter of policy such a direct recourse to this Court should not be allowed. The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor. Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another, are not controllable by the Court of Appeals. Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is and should continue to be the policy in this regard, a policy that courts and lawyers must strictly observe.

In the case at bar, however, to apply the policy by referring the action to the Regional Trial Court of the district would serve no useful purpose. It would on the contrary work injustice to the petitioner to whom the relief rightly due has already been withheld for many years. The case having been filed before this Court as early as 1986, and having already been subject of an extensive exchange of pleadings, it should and will now be decided without further delay.

WHEREFORE, the Order of the respondent Judge dated April 15, 1986 denying the petitioner's (plaintiff's) motion for summary judgment, and that dated April 30, 1986 declining to reconsider the same, are hereby annulled and set aside. Said respondent Judge is hereby commanded forthwith to render a summary judgment in favor of the petitioner (plaintiff) against the private respondents (defendants), namely: Manolito Guinoo, Romeo Montebon and Porferio Cabase, in accordance with the prayer of the former's motion for summary judgment dated

March 7, 1986. The appropriateness and correctness of a summary judgment in the premises having already been adjudged by this Court, His Honor is further commanded to direct execution of the judgment immediately upon its rendition. This decision is immediately executory and no motion for extension of time to file a motion for reconsideration shall be entertained. Costs against private respondents.

Teehankee, C.J., Cruz, Paras, and Gancayco, JJ., concur.

[1] Docketed as Civil Case No. 343-D-M

[2] Rollo, pp 21-34

1 Id., pp. 34-37

1 Id., pp. 38-39; joined to the reply was his answer to counterclaim

2 Id., pp. 40-49

3 Id., pp. 50-61

1 Citing Warner, Barnes & Co., Ltd., v. Reyes, et al., 55 O.G. 3109-3111

2 Rollo, pp. 62-68

1 Id., pp. 69-74

2 See footnote 2 at page 4, supra

3 Rollo, p. 75

4 Id., p. 76

5 Emphasis supplied

1 Set out in their Opposition to Motion for Summary Judgment, etc.: rollo, pp. 62, 63

2 See Opposition to Motion for Reconsideration: rollo, pp. 88-89

3 Emphasis supplied

4 Section 1, Rule 9

1 Sec. 1, Rule 34. N.B. A defendant may also move for summary judgment in his favor on the theory that the plaintiff's complaint raises no genuine issue (Sec. 2, Rule 34)

2 See Cadirao v. Estenzo, 132 SCRA 93, citing Viajar v. v. Estenzo, 89 SCRA 684; Gorospe v. Santos, 69 SCRA 191, 203; de Leon v. Faustino, G.R. NO. L-15804, Nov. 29, 1960; PNB v. Philippine Leather Co., Inc., et al., G.R. No. L-10884, Mar. 31, 1959; Bautista, et al. v. Gonzalez, 78 Phil. 390; Jugador v. de Vera, G.R. No. L-6308, March 30, 1954

3 Sec. 3, Rule 34; Cadirao v. Estenzo, 132 SCRA 93, 100, supra

4 Rollo, p. 35-36

1 Id., pp. 23, 30, 42

2 Id., pp. 24, 57-58

3 See cases collated: Moran, Comments on the Rules, 1970 ed., Vol. 1, p. 335; J.P. Juan & Sons, Inc. v. Lianga Industries, Inc., 28 SCRA 807; Phil. Advertising Counsellors, Inc. v. Revilla, 52 SCRA 26; Gutierrez v. CA, 74 SCRA 127

1 Sec. 3 (b), Rule 131, Rules of Court

2 Sec. 3, Rule 65 of the Rules of Court; Marcelo vs. Tantuico, Jr., 142 SCRA 439, 440, 445 citing PAL Employees' Association vs. PAL, 111 SCRA 758; Reparations Commission vs. Morfe, 120 SCRA 460, 461; Darnoc Realty Dev. Corp. v. Ayala Corporation, 117 SCRA 538, 539

3 Silverio vs. Court of Appeals, 141 SCRA 527, 539 citing Herrera vs. Barreto, 25 Phil. 245; Albert vs. CFI of Manila 23 SCRA 948; De Castro vs. Delta Motor Sales Corp.; L-34971, May 31, 1974, 57 SCRA 344; Aguilar Tan, 31 SCRA 205; Ilacad vs. Court of Appeals and Prudential Bank & Trust Co., L-24435, Aug. 20, 1977, 78 SCRA 301

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