

TRIUMFO GARCES, PETITIONER, VS. HON. COURT OF APPEALS AND DAISY ESCALANTE, RESPONDENTS.

G.R. No. 76836. June 23, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

Petitioner Triumfo Garces (plaintiff below) is owner of an apartment building located at No. 1603 Indiana Street, now General Malvar Street, Malate, Metropolitan Manila. On 14 August 1984, he filed with Branch 13 of the Metropolitan Trial Court of Manila a Complaint for ejectment[1] (docketed as Civil Case No. 102100-CV) against respondent Daisy Escalante (defendant below), the lessee of Room B in that apartment building. Petitioner Garces claimed in his complaint that the verbal contract of lease with respondent Escalante, being on a month-to-month basis, had already expired, but that the latter had unreasonably refused to vacate the leased premises despite oral and written demands. In an Amended Complaint dated 15 October 1984,[2] it was further alleged, as an additional ground for eviction, that respondent Escalante had converted the leased premises into a boarding house without the prior consent or approval of petitioner Garces, in violation of the terms and conditions of their verbal lease agreement.

On 30 August 1985, the Metropolitan Trial Court, in accordance with the Rule on Summary Procedure, rendered a Decision[3] the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff [Garces] and against the defendant [Escalante], ordering the latter:

(a) and all others claiming rights or title under her to vacate the premises known as Room B of a residential house designated as No. 1603 Indiana Street, Malate, Manila;

(b) to pay the plaintiff the sum of P3,000.00 as and for attorney's fees; and

(c) to pay the costs of suit.

For utter lack of merit, defendant's answer with counterclaim is hereby dismissed.

SO ORDERED."

Respondent Escalante subsequently interposed an appeal (docketed as Civil Case No. 85-33232) with Branch 13 of the Regional Trial Court of Manila which, in a Decision dated 28 January 1986,[4] reversed the decision of the Metropolitan Trial Court in the following manner:

"PREMISES CONSIDERED, the judgment appealed from as well as the writ of execution issued pursuant thereto, are hereby set aside for failure of the complaint to state a cause of action and/or want of jurisdiction on the part of the court a quo to take cognizance of the instant case by reason thereof."

The regional trial judge, noting that both parties were then residents of Manila, based his decision on the finding

that there had been a failure on the part of plaintiff to comply with the requirements of Section 6 of Presidential Decree No. 1508 — i.e., the controversy had not been submitted for conciliation before the barangay Lupong Tagapayapa or Pangkat ng Tagapagkasundo, and no Certification to File Action had been issued by the appropriate barangay official, prior to the institution of ejectment proceedings in court.

On 22 September 1986, upon Petition for Review filed by plaintiff Garces (docketed as CA-G.R. SP No. 08386), the Court of Appeals (Tenth Division) affirmed in toto the decision of the Regional Trial Court.[5] Petitioner's Motion for Reconsideration was subsequently denied for having been filed late.[6]

The present Petition for Review was filed on 14 January 1987. After a Comment thereon and a Reply to the comment had been submitted by respondent Escalante and petitioner Garces, respectively, the Court, in a Resolution dated 22 July 1987, gave due course to the Petition. The parties have since then filed their respective memoranda.

After careful consideration of the record, we find, however, that the Petition must fail.

In paragraph 1 of both the Complainant and the Amended Complaint filed with the Metropolitan Trial Court, it was alleged that "plaintiff [i.e., petitioner Garces] is a Filipino of legal age, and residing at 2363 Jacobo Street, Singalong, Manila, while defendant [i.e., respondent Escalante] is, likewise, of legal age, Filipino and residing at 1603 Indiana, Malate, Manila, where she may be served with summons and other court processes." [7] A similar allegation appeared in the Petition for Review filed by plaintiff Garces with the Court of Appeals.[8] Furthermore, the record of this case indicates that no Certificate to File Action was issued by the barangay official concerned prior to the initial filing by petitioner Garces of his complaint in court. Clearly, therefore, dismissal of the ejectment suit — ordered initially by the Regional Trial Court and later affirmed by the Court of Appeals — was not improper, especially considering that, per allegations of complainant himself in his pleadings, both parties were then in fact residents of barangays situated "in the same city or municipality." [9]

Petitioner Garces, however, in order to justify non-application in this case of P.D. 1508, would now urge the Court to reverse the dismissal of his complaint on the assertion that the leased apartment unit in Malate "is only the place where (respondent stays) during workdays as respondent Daisy Escalante is working in Manila" — i.e., "(respondent's) intention to establish residence is in Cavite where she has her house." [10] The argument is not persuasive. Section 3 of P.D. 1508 specifically provides that the Decree shall be applicable to disputes "between or among persons actually residing in the same barangay" and to disputes "involving actual residents of different barangays within the same city or municipality." We think it clear, and so hold, that P.D. 1508 does not refer here to one's legal residence or domicile which, for differing purposes, may differ from the actual or physical habitation of a litigant. The policy of the law is evidently to promote dispute settlement through non-litigious, compulsory conciliation procedures and disputes arise where people actually or physically reside. The fact that respondent Escalante stays in the apartment unit in Malate five (5) days a week, every week, is more than adequate proof that, within the meaning of the Decree, respondent "actually resides" in Manila.

In fine, we have held in the past that prior recourse to the conciliation procedure required under P.D. 1508 is not a jurisdictional requirement, non-compliance with which would deprive a court of its jurisdiction either over the subject matter or over the person of the defendant.[11] Where, however, the fact of non-compliance with and non-observance of such procedure has been seasonably raised as an issue before the court first taking cognizance of the complaint, dismissal of the action is proper.[12] We note from the record that respondent Escalante had filed with the Metropolitan Trial Court a total of four (4) pleadings — an Answer, a Motion for Opposition of Plaintiffs Motion for Leave to Amend Complaint, an Amended Answer, and a Position Paper — before a decision was rendered in this case. In those four pleadings, respondent, then defendant argued, among other things, that the

procedural requirement under Section 6 of P.D. 1508 had been improperly bypassed by the plaintiff Garces. It should also be borne in mind that this case was, before the Metropolitan Trial Court, governed by the Rule on Summary Procedure and that under Section 15 (a) and (g) of that Rule, no motion to dismiss and no petition for certiorari or prohibition against any interlocutory order issued by the trial court, is possible. Thus, respondent Escalante could not have moved to dismiss, in the Metropolitan Trial Court, upon the ground of failure to comply with the requirements of P.D. 1508. Neither could respondent Escalante have gone on certiorari before the Regional Trial Court at anytime before rendition by the Metropolitan Trial Court of its decision. We conclude that respondent Escalante (contrary to the suggestion of petitioner) had not waived expressly or impliedly the procedural requirement.

The precise technical effect of failure to comply with the requirement of P.D. 1508 where applicable is much the same effect produced by non-exhaustion of administrative remedies: the complaint becomes afflicted with the vice of pre-maturity; the controversy there alleged is not ripe for judicial determination.[13] The complaint becomes vulnerable to a motion to dismiss. [14]

It is not without reluctance that we reach the conclusion set forth above which would require petitioner to start again from the beginning, considering that the Metropolitan Trial Court had rendered a decision on the merits of the case. The facts of the present case, however, do not leave us any choice. To grant the Petition for Review under these circumstances would amount to refusal to give effect to P.D. 1508 and to wiping it off the statute books insofar as ejectment and other cases governed by the Rule on Summary Procedure are concerned. This Court has no authority to do that.

WHEREFORE, the Petition for Review is DENIED. The Decision of the Metropolitan Trial Court of Manila dated 30 August 1985 is SET ASIDE and the Complaint in Civil Case No. 102100-CV is hereby DISMISSED, without prejudice. Costs against the petitioner.

SO ORDERED.

Fernan (Chairman), Bidin, and Cortes, JJ., concur.

Gutierrez, Jr., J., on leave.

[1] RTC Rollo, pp. 7-10.

[2] *Id.*, pp. 2-5.

[3] *Id.*, pp. 82-84.

[4] *Id.*, pp. 152-153.

[5] CA Rollo, pp. 38-39, Decision.

[6] *Id.*, p. 55.

[7] RTC Rollo, pp. 2 and 7; italics supplied.

[8] Petition for Review, p. 1. par. A.3. Respondents address is designated in that petition as "1605-UP" instead of "1603."

[9] See Sees. 2 and 3, P.D. 1508.

[10] Rollo, pp. 9 and 10. This point was first raised, though insubstantially, in par. 7 of the Amended Complaint.

[11] *Miltare vs. Hernando*, G.R. No. 55480 [30 June 1987]; *Gonzales vs. Court of Appeals*, G.R. Nos. L-59495-97 [26 June 1987]; and *Ebol vs. Amin*, 135 SCRA 438 [1985].

[12] *Sec Royales vs. Intermediate Appellate Court*, 127 SCRA 470 [1984], under P.D. 1508 and that, since the Decree is applicable in the present case, petitioner Garces' complaint should have been dismissed outright.

[13] *Peregrina vs. Panis*, 133 SCRA 72 [1984]. See also *Abe-Abe vs. Mania*, 90 SCRA 524 [1979]; *Aboitiz and Company, Inc. vs. Collector of Customs*, 83 SCRA 265 [1978]; and *Municipality of Hinabangan vs. Municipality of Wright*, 107 Phil. 394 [1960].

[14] Except, of course, where, as in the present case motions to dismiss are prohibited under the Rule on Summary Procedure. Any ground for dismissal of the complaint should be raised in the Answer, or in such other pleading allowed under that Rule.

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