

**MAXIMO GABRITO, ROGER LIBUT, CARMELITA UY, LIZA DE VERA,
THRU HER ATTORNEY-IN-FACT, JESUS DE LOS SANTOS,
PETITIONERS, VS. THE HON. NINTH DIVISION, COURT OF APPEALS,
THE HON. NIC...**

G.R. No. 77976. November 24, 1988

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for review on certiorari with preliminary injunction and restraining order of the decision of the Court of Appeals[*] dated March 4, 1987 in CA-G.R. No. SP No. 08710, "Maximo Gabrito et al. vs. Hon. Nicias O. Mendoza and Roberto Tan et al.," affirming the April 2, 1986 decision of the Regional Trial Court of Olongapo City[**] which also affirmed the decision of MTCC, Branch V, Olongapo City, and the Resolution of respondent court dated March 30, 1987 denying herein petitioners' motion for reconsideration.

The appeal originated as an unlawful detainer complaint filed by herein private respondents with the Municipal Trial Court, Branch V, Olongapo City.

The antecedent facts as summarized by the Court of Appeals are as follows:

"The spouses Roberto Tan and Benita Ching-Tan filed a complaint in the Municipal Trial Court against defendants Maximo Gabrito, et al., alleging that they are the possessors and legal owners of the pro-perty situated at No. 107 Gordon Ave., New Kalalake, Olongapo City as evidence by Tax Declaration No. 4-2046. The defendants are leasing portions of this parcel of land, each paying the corresponding monthly rentals due thereon.

"On the leased portion, the defendants constructed buildings and have allowed other persons to sublease the same for commercial purposes.

"As the spouses Tan have no other pro-perty where they could construct their residential house, the spouses Tan notified the defendants (in January 1984) that they intend to personally use the land to build their house thereon and gave defendants three (3) months to vacate the premises and remove the structures and improvements which defendants had constructed thereon.

"In April 1984, defendants requested for an extension of time within which to vacate, which was granted by the spouses Tan. However, from that time on, defendants also stopped paying monthly rentals due on the land they leased.

"In view of this, in July 1984, defendants were told to leave the premises and to pay rentals in arrears. As defendants refused to comply with both demands, the matter was brought to the Barangay Council for settle-ment. As no agreement was reached, a certification to file action was issued to the spouses Tan. Hence, the Tans filed an action for unlawful detainer with damages against Gabrito, et al.

"In answer to the complaint, defend-ants Gabrito, et al. denied the material allegations of the complaint and

alleged that: they are builders in good faith over the land as provided in Article 448 of the Civil Code; the land where the houses of defendants were built is a public land, not yet awarded nor titled to anybody; plaintiffs' alleged predecessor-in-interest not being the owner thereof could not have passed nor transferred ownership thereof to them (plaintiffs) considering that Gloria Carillo's Miscellaneous Sales Application No. (X-4-4320) has not yet been acted upon by the Bureau of Lands; plaintiffs and their predecessors-in-interest are absentee applicants over the land, hence, are disqualified to own the same; plaintiffs have never been in possession of the land while the defendants are in actual physical possession thereof; the sale of plaintiffs' alleged predecessor-in-interest in favor of plaintiffs is null and void for being in violation of P.D. No. 1517 as defendants being lessees of the land have the right of first refusal thereof.

"Defendants brought a counterclaim for damages against the plaintiffs." (Rollo, Annex 'C', pp. 39-40).

Respondent Municipal Trial Judge applied the rule on summary procedure in this case, rendered its decision dated November 22, 1985, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered for all the defendants to vacate the parcel of land described in par. 3 of the complaint, removing therefrom the buildings and any other improvements respectively owned by them; and to pay plaintiffs the following as reasonable compensation for the use of the premises:

Maximo Gabrito

-

at P250.00 per month from April 1984 until he vacates the premises;

Roger Libut

-

at P150.00 per month from May 1984 until he vacates the premises;

Liza de Vera

-

at P150.00 per month from April 1984, until she vacates the premises;

Carmelita Uy

-

at P170.00 per month from April 1984, until she vacates the premises.

for all defendants to pay, in equal shares, damages by way of attorney's fees in the amount of ONE THOUSAND PESOS (P1,000.00) as well as costs.

SO ORDERED." (Rollo, p. 35).

On appeal to the Regional Trial Court (Civil Case No. 450-0-85), the decision of the Municipal Trial Court was affirmed in its decision dated April 2, 1986, the dispositive portion of which reads:

"WHEREFORE, premised on all the foregoing consideration and finding no prejudicial and reversible error was ever committed by the lower Court, the Court affirms in toto the decision being appealed, with costs against the defendants-appellants.

SO ORDERED." (Rollo, Annex 'B' p. 38).

On review, herein respondent Court of Appeals sustained the decision rendered by the Regional Trial Court Branch LXXIV, and ruled:

"WHEREFORE, the Petition for Review herein is DISMISSED for lack of merit." (Rollo, Annex 'C', p. 44).

On March 16, 1987, the petitioner filed their "Motion for Reconsideration and Opposition to the Motion for Immediate Execution Pending Further Proceedings" which was denied by the Ninth Division of respondent Court of Appeals in its Resolution dated March 30, 1987 and granted the Motion for Immediate Issuance of a Writ of Execution filed by private respondents (Annex "F", Rollo, pp. 57-58).

Hence, this petition for review on certiorari filed on April 13, 1987.

On April 21, 1987, Acting Chief Justice Andres Narvasa, authorized the grant of Temporary Restraining Order in this case which was confirmed by the Second Division of this Court in its Resolution dated April 27, 1987 (Rollo, pp. 86, 87, 88).

In a Resolution dated June 8, 1987, petitioners were required to comment on the motion dated April 26, 1987 (Rollo, p. 94) of counsel for respondents, praying to set aside the temporary restraining order issued on April 21, 1987 and to issue a writ of execution pending appeal or to allow the Court of Appeals to proceed with the execution of the decision pending appeal (Rollo, p. 115), which was complied with by petitioners on July 22, 1987 (Rollo p. 143).

In the resolution of October 5, 1987 (Rollo, p. 187) the petition was given due course and the parties were required to submit their respective memoranda within twenty (20) days from notice. Petitioners' memorandum was submitted on December 3, 1987 (Rollo, p. 196). Respondents submitted their memorandum on April 12, 1988 (Rollo, p. 235).

Petitioners raised the following issues;

"1.

That a Municipal Trial Court has no jurisdiction to take cognizance of, a case for Unlawful Detainer under Sec. 1, of Rule 70 of the Rules of Court, where the plaintiffs are merely the legal possessors and recent transferees of a public land, and the defendants are the absolute owners of the building existing on the same land, for a number of years already.

2.

That the respondent Regional Trial Court, Branch LXXIV, Olongapo City, ought to have dismissed the action for Unlawful Detainer and as the same was also heard on appeal by the said Court on this jurisdictional challenge.

3.

The market value of the residential houses or buildings of the defendants on the said land is approximately

P170,000.00, and it was with plaintiffs' predecessor-in-interest, one Gloria Carillo-Potente that defendants caused said structures to be erected in said land plaintiffs having only acquired from said predecessor, by means of a Deed of Sale of such rights sometime on January 5, 1984.

4.

Upon this frame of facts which are admitted in the Decision of both Courts, only a Court of General jurisdiction, a Regional Trial Court, can have the competence to try and decide the same: the Court of Special Limited Jurisdiction, cannot take cognizance of such facts as an action for Unlawful Detainer.

5.

Arguendo, that the Court of Origin has jurisdiction to take cognizance of the cause of action for Unlawful Detainer, it should have not heard the case in accordance with the Rules of Summary Proceedings, and based its Decision on an Affidavit hearing, as the question of ownership was being contested between plaintiffs and defendants, with respect to who was the preferred grantee to the same land, and which falls under the complete administration and control of the Bureau of Lands.

6.

In fact, the Court of Origin, Branch V, Municipal Trial Court in Cities, Olongapo, should have suspended the proceedings, as there was an Administrative Protest being heard by the District Land Office of Olongapo City.

7.

On the question of suspension of proceedings denied by the Court of Origin, Municipal Trial Court in Cities, Branch V, Olongapo City, an action for Certiorari was filed before Branch LXXIII, of Regional Trial Court, Olongapo City, Civil Case No. 399-0-85, and although a Restraining Order against Municipal Trial Court in Cities, Branch V, City of Olongapo, was issued, the same was already academic as by that time said Municipal Trial Court, Branch V, Olongapo City, has already rendered its Decision in favor of private respondent hereat, plaintiff therein.

8.

Branch LXXIV, Regional Trial Court, Olongapo, in its Decision rendered on appeal, did not pass upon such matters, specified supra, so as to reverse the Decision of the Court of Origin: the subject Decisions, have not considered, the due process rights of petitioners toward their residences and structures, the same are facing the risk of condemnation and destruction without fair hearing, and such improvements have an aggregate value of P170,000.00, more or less.

9.

Respondent Honorable Judge Mendoza of Branch LXXIV, Regional Trial Court, Olongapo, may have been misled by the citation of authority, case of *vda. de Bocaling vs. Laguna, et al.*, 54 SCRA, 243, relied upon by appellees, said case being totally inapplicable to the facts of this case.

10.

Respondent Deputy Sheriff, Rogelio Lumanlan, without regard to the fifteen (15) days period finality of the Order and/or Writ of Demolition, harassed herein petitioners, notwithstanding the pendency of matters involved to their extreme discomfort and anxiety.

11.

The Decision of the Honorable Court of Appeals, Annex 'C', sustained the Decision of the Regional Trial Court and ignored the vital issues posed for resolution: A Motion For Reconsideration, copy is hereto attached as Annex 'D', was presented, precisely to stress the same but, a pointed or precise ruling upon such issues was avoided in the Resolution dated 30th of March, 1987, true copy attached herein as Annex 'E'.

12.

On the other (sic) upon Motion of private respondents, the Tans, despite Opposition thereto, Writ of Execution pending appeal was issued and respondent Deputy Sheriff Lumanlan enforced the same, copy of which is hereto attached as Annex 'F': true copy of Notice to Vacate served by said respondent Deputy Sheriff to petitioners is attached as Annex 'G' - herein.

13.

Per Annex 'D' Motion For Reconsideration a constitutional point, was reared-forth, on first impression, per proviso of Sec. 10, Art. XIII - new, 1986 Constitution, relevant to demolition and resettlement, and, Resolution, dated 30th March, 1987, Annex 'E', of the Honorable Appellate Authority, avoided said constitutional question, without passing-upon the same."

14.

Of Jurisdictional matters: Decision dated March 4, 1987, of the Honorable Court of Appeals was, received on March 6, 1987, Motion For Reconsideration was filed on March 16, 1987, and Resolution dated 30th of March, 1987, denying Motion For Reconsideration was received on April 1, 1987: thus, this Petition is filed within the 15 day period." (Rollo, pp. 4-8).

All of which boil down to the main issue of whether or not an action for unlawful detainer is the proper action to oust petitioners from their occupation of the land in dispute.

There is no question as to the ownership of the land in litigation as both petitioners and private respondents admit that the same is a public land and owned by the government. The bone of contention is, who has a better right to possess the land which definitely falls under the jurisdiction of the Municipal Trial Court and the rule of summary procedure may properly be applied.

In a preliminary conference held pursuant to Section 6 of the Rule on Summary Procedure, defendants admitted that they entered the premises as lessees and had been paying rentals for the use of the land to Gloria Carillo, private respondents' predecessor-in-interest (Order dated May 15, 1985 in Civil Case No. 2511, MTC, Olongapo City, Branch V; Rollo, pp. 72-73). When requested to vacate the premises, petitioners asked for an extension of time which request was granted. However, petitioners failed to vacate the premises and also stopped paying

rentals. In view of said admissions, petitioners had unquestionably recognized private respondents' prior right of possession over the questioned property.

Petitioners' allegation in their answer that they are builders in good faith over the land as provided for in Article 448 of the Civil Code is untenable. As ruled by this Court, Article 448 of the Civil Code, applies only where one builds on land in the belief that he is the owner of the land, but does not apply where one's interest in the land is that of a lessee under a rental contract (*Balucanag v. Francisco*, 122 SCRA 498 [1983/]). More than that, it has been settled that the mere fact that, in his answer, defendant claims to be the exclusive owner of the property from which plaintiff seeks to eject him is not sufficient to divest the Municipal Trial Court of jurisdiction (*Vivar v. Vivar*, 8 SCRA 847, 849 [1963/]; *De Santa v. Court of Appeals*, 140 SCRA 52 [1985/]).

In addition, this Court held in *Bocaling v. Laguna, et al* (54 SCRA 243, 250 [1973/]) that:

"The rule is well-settled that lessees, like petitioner, are not possessors in good faith, because he knew that their occupancy of the premises continues only during the life of the lease, and they cannot as a matter of right, recover the value of their improvements from the lessor, much less retain the premises until they are reimbursed. Their rights are governed by Article 1678 of the Civil Code which allows reimbursement of lessees up to one-half of the value of their improvements if the lessor so elects."

Petitioners contend that the above cited case is "completely inapplicable to the case at bar, because the genesis case of Ejectment therein was subjected to a Compromise Agreement" (Rollo, p. 18). Such contention is, however, untenable. One of the issues raised in the above-cited case was whether or not lessees are builders and/or possessors in good faith entitled to reimbursement for the value of their improvements. The Court categorically resolved the issue in the negative without qualification nor even a reference to the compromise agreement alluded to by the petitioner.

In a later development, petitioners filed a supplemental memorandum submitting the decision of the Bureau of Lands dated June 7, 1987, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING, the Miscellaneous Sales Application No. 4320 of Benita Ching Tan should be, as hereby as it is rejected forfeiting to the government whatever amount had been paid on account thereof. The miscellaneous sales application of Maximo Gabrito, Carmelita Uy, Roger Libut and Liza de Vera shall continue to be given due course after a subdivision survey of the portion occupied by them shall have been made at their pro-rata expense.

SO ORDERED."

In view thereof, petitioners maintain that they are the lawful owners of the buildings and the legal possessors of subject land and that the records of the court proceedings show the pendency of the administrative protest before the Bureau of Lands between the same litigating parties (Rollo, pp. 166-167).

Respondents countered that the decision of the Bureau of Lands granting preferential right to the petitioners to apply for the subject parcel of land is still on appeal before the Department of Natural Resources.[1] Hence, said decision which is not yet final, cannot affect the outcome of this case because the authority given to the land department over the disposition of public land does not exclude the courts from their jurisdiction over possessory actions, the character of the land notwithstanding (Rollo, pp. 246-247).

The contention of private respondents is well taken.

This issue has long been laid to rest by this Court. As early as the case of *Pitarque v. Sorilla* (92 Phil. 55 [1952/]), this Court ruled that:

"The vesting of the Lands Department with authority to administer, dispose of, and alienate public lands must, not be understood as depriving the other branches of the Government of the exercise of their respective functions of powers thereon, such as the authority to stop disorders and quell breaches of peace by the police and the authority on the part of the courts to take jurisdiction over possessory actions arising therefrom not involving, directly or indirectly, alienation and disposition."

Said ruling was reiterated in *Bahayang v. Maceren*, 96 Phil. 390 /1955/; in *Molina v. De Bacud*, 19 SCRA 956 /1967/ and in *Rallon v. Ruiz, Jr.*, 28 SCRA 331 /1969/. In the latter case, the Court specifically ruled on the jurisdictional question, as follows:

"Courts have jurisdiction over possessory actions involving public lands to determine the issue of physical possession (in forcible entry cases before the inferior court) on the better right of possession (in accion publiciana cases before court of first instance). And this is because the issue of physical possession raised before the courts is independent of the question of disposition and alienation of public lands which should be threshed out in the Bureau of Lands."

The above ruling was further reiterated in *Francisco v. Secretary of Agriculture and Natural Resources* (121 SCRA 380 [/1983/]) and in a recent case of *National Development Co., et al. v. Hervilla*, G.R. No. 65718, June 30, 1987 (151 SCRA 520), where it was held that:

"It is now well settled that the administration and disposition of public lands are committed by law to the Director of Lands primarily, and ultimately to the Secretary of Agriculture and Natural Resources. The jurisdiction of the Bureau of Lands is confined to the determination of the respective rights of rival claimants of public lands or to cases which involve disposition and alienation of public lands. The jurisdiction of courts is limited to the determination of who has the actual, physical possession or occupation of the land in question (in forcible entry cases, before municipal courts) or, the better right of possession (in accion publiciana, in cases before the Court of First Instance, now Regional Trial Court)."

And even more recently in the case of *Guerrero v. Amores, et al.*, G.R. No. L-34492 promulgated on March 28, 1988, the Court clearly stated that "pending final adjudication of ownership by the Bureau of Lands, the Court has jurisdiction to determine in the meantime the right of possession over the land." Corollary thereto, the power to order the sheriff to remove improvements and turn over the possession of the land to the party adjudged entitled thereto, belongs only to the courts of justice and not to the Bureau of Lands.

In the same case, the application of the principle of exhaustion of administrative remedies with reference to public lands, was further clarified by this Court as follows:

"On the other hand, the application of the principle of exhaustion of administrative remedies as a condition precedent to the filing of a juridical action is confined to controversies arising out of the disposition of public lands (*Geukoko vs. Araneta*, 102 Phil. 706 (1957); *Marukot vs. Jacinto*, 98 Phil. 128 (1957), alienation of public lands (*Rallos vs. Ruiz, Jr.*, supra) or to the determination of the respective rights of rival claimants to public lands (*Pitarque vs. Sorilla*, supra) and not to possessory actions involving public lands which are limited to the determination of who has the actual, physical possession or occupation of the land in question (*Rallos vs. Ruiz, Jr.*, supra)."

In fact, the Bureau of Lands in its decision of June 7, 1987, admitted the jurisdiction of the courts to decide the case on the question of physical possession, although not on the question of ownership (*Rollo*, p. 179).

Under the circumstances, a careful study of the records failed to show any cogent reason to disturb the findings of the Municipal Trial Court in Cities; of the Regional Trial Court, both of *Olongapo City* and finally of the Court of Appeals.

WHEREFORE, the decision of respondent Court of Appeals is Affirmed and the temporary restraining order is lifted. Costs against petitioners.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

[*] Penned by Justice Jose C. Campos, Jr., concurred in by Justices Gloria C. Paras and Conrado T. Limcaoco.

[**] Penned by Judge Nicias O. Mendoza, RTC, Branch LXXIV, Olongapo City.

[1] In a "Motion For Leave To Enter Into The Records, the Decision Of The Department Of Environment And Natural Resources" dated August 25, 1988, respondents alleged that a decision on the appeal was promulgated on July 22, 1988 by the DENR setting aside the decision of the Bureau of Lands dated July 7, 1987; consequently, the miscellaneous sales application of petitioners was rejected and the miscellaneous sales application of private respondent Benita Ching Tan was given due course.

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