

HEIRS OF RICARDO OLIVAS, REPRESENTED BY POMPEYO F. OLIVAS, PETITIONERS, VS. THE HON. FLORENTINO A. FLOR (PRESIDING JUDGE, REGIONAL TRIAL COURT, FOURTH JUDICIAL REGION, BRANCH 79...

G.R. No. 78343. May 21, 1988

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This Petition for Review on Certiorari seeks to set aside the Decision of the respondent Regional Trial Court, Branch 79, Morong, Rizal, in the ejectment case entitled "Heirs of Ricardo Olivas vs. Jose Matawaran" (Civil Case No. 227-M), which affirmed the Order of the Municipal Trial Court of Morong, Rizal ordering the dismissal of said case.

The background facts disclose that:

On 16 May 1986, petitioners filed a complaint for Forcible Entry before the Municipal Trial Court of Morong, Rizal (MTC. for short), alleging that private respondent, through stealth and strategy, unlawfully took possession of the disputed property and ousted petitioners from their possession thereof.

The MTC issued summons stating that the Rule on Summary Procedure in Special Cases shall apply.

On 29 May 1986, private respondent filed an Answer with Counterclaim stating, inter alia:

"3. Paragraph 4 of the complaint is admitted insofar as the fact that defendant did complain to the Barangay Chairman regarding the repeated attempts of plaintiff to unlawfully grab possession of the property owned by defendant and his other brothers and sisters."

On 30 June 1986, the MTC granted the Temporary Restraining Order petitioners prayed for.

On 15 August 1986, the MTC required the parties to submit position papers within ten (10) days.

On 19 September 1986, or approximately four (4) months after the filing of the Answer, private respondent filed a Motion to Dismiss alleging that the case should be dismissed outright for failure to state a cause of action. Petitioners submitted an Opposition contending that a Motion to Dismiss is a prohibited pleading under the Rule on Summary Procedure.

On 29 December 1986, the MTC dismissed the case for failure of petitioners' Complaint to state a cause of action in that it failed to identify sufficiently the land subject matter of this case.

An appeal was seasonably interposed by petitioners to respondent Regional Trial Court (RTC), Branch 79, Morong, Rizal.

On 28 April 1987, Respondent RTC rendered a Decision affirming in toto the dismissal of the case by the MTC.

Before us now, petitioners maintain that the MTC Decision is violative of the Rule on Summary Procedure, and that Respondent RTC erred in affirming the MTC's dismissal of the case.

We resolved to give due course to the Petition finding, as we do, merit in the foregoing submissions.

Compliance by the MTC with the Rules on Summary Procedure in Special Cases was wanting. For example, "a preliminary conference during which the Court must clarify and define the issues of the case, which must be clearly and distinctly set forth in the Order to be issued immediately after such preliminary conference" (Section 6), was not followed. Neither was Section 7 thereof which further requires that within ten (10) days from receipt of the said order, "the parties shall submit the affidavits of witnesses and other evidences on the factual issues defined therein, together with a brief statement of their positions setting forth the law and the facts relied upon by them."

In the guise of a position paper, private respondent filed a Motion to Dismiss. While this is, indeed, a prohibited pleading (Sec. 15[a], Rule on Summary Procedure) it should be noted that the Motion was filed after an Answer had already been submitted within the reglementary period. In essence, therefore, it is not the pleading prohibited by the Rule on Summary Procedure. What the Rule proscribes is a Motion to Dismiss, which would stop the running of the period to file an Answer and cause undue delay.

Be that as it may, dismissal of the case by the MTC, as affirmed by Respondent RTC, for failure to state a cause of action, is not in order. The description of the land in the Complaint, quoted hereunder, may, indeed, have been wanting:

"Bounded on the North, by Francisco Ramos; on the East by Ramon Aquino & Cipriano Aquino; on the South by Felisa Aquino; on the West by Casimiro. Francisco & Benito Ramos."

Nonetheless, private respondent's Answer (paragraph 3. *supra*) left no room for doubt that the parties were acquainted with the identity of the disputed property. It would be sheer technicality, destructive of the ends of substantial justice, were the case to be dismissed on the ground of lack of particularity of the disputed property. In fact, if the Rule on Summary Procedure had been followed, such additional data as were needed to define the issues of the case could have been threshed out in the preliminary conference.[1]

It is true that the Rule on Summary Procedure allows the dismissal of a case outright due to failure to state a cause of action.[2] However, such dismissal is a permissible upon the filing of the complaint from a consideration by the Court of the allegations thereof. In this case, the proceedings had gone far afield. The outright dismissal was not ordered upon the filing of the complaint. On the contrary, the MTC made a determination that the case falls under summary procedure, issued summons stating that fact, and subsequently even issued a Temporary Restraining Order.

ACCORDINGLY, the Decision under review is hereby SET ASIDE and this case is hereby ordered remanded to the Municipal Trial Court of Morong, Rizal, for further proceedings on the merits. No costs.

SO ORDERED.

Yap,C.J., Paras, Padilla, and Sarmiento, JJ., concur.

[1] Section 6. Preliminary conference. — Not later than thirty (30) days after the last answer is filed, the case shall be calendared for a preliminary conference. Among other matters, should the parties fail to arrive at an amicable settlement, the court must clarify and define the issues of the case, which must be clearly and distinctly set forth in the order to be issued immediately after such preliminary conference, together with the other matters taken up

during the same."

[2] "Section 3. Duty of court upon filing of complaint. — Upon the filing of the complaint, the court, from a consideration of the allegations thereof

A. may dismiss the case outright due to lack of jurisdiction, improper venue, failure to state a cause of action, or for any other valid ground for the dismissal of a civil action; or B. if a dismissal is not ordered, shall make a determination whether the case falls under summary procedure. In the affirmative case, the summons must state that the summary procedure under this Rule shall apply."

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