

**ISMAEL AMORGANDA AND TRINIDAD G. AMORGANDA,
PETITIONERS, VS. HONORABLE COURT OF APPEALS, ESTANISLAO
SAYCON, AND CLARA SAYCON, RESPONDENTS.**

G.R. No. 80040. September 30, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

Review on certiorari of the decision[*] rendered by the respondent appellate court on 17 July 1987, in CA-G.R. SP No. 09614, entitled: "Estanislao Saycon, et al., petitioners, versus Hon. Eleuterio E. Chiu, etc. et al., respondents," which set aside, for being null and void, the order issued by Judge Eleuterio E. Chiu on 23 April 1986 in Civil Case No. 8794 of the Regional Trial Court of Negros Oriental, restraining the defendants therein, now private respondents, from cultivating, taking possession of, gathering the fishes and shrimps or other products thereon, or committing acts of interference or disturbance in the plaintiffs' possession of the fishpond in question, and directed the dismissal of said Civil Case No. 8794.

The facts of the case, in brief, are as follows:

On 30 July 1977, herein private respondents, spouses Estanislao and Clara Saycon, leased to herein petitioners, spouses Ismael and Trinidad Amorganda, a fishpond located at Cabalulan, Manipis, Tanjay, Negros Oriental, which "land is a part or portion of PLA No. 2086 containing an area of SEVEN (7) hectares, more or less, 'in the name of Pedro Saycon, lessors' deceased father,'" for a period of ten (10) years from said date. Rentals in the amount of P3,000.00 a year for the entire lease period were duly paid to and received by the lessors. On 30 January 1981, the lease period was extended for two (2) years, to expire on 30 July 1989. Again, rentals for the extended period were paid to and received by the lessors. Then, on 20 December 1982, the lessors, in consideration of another advance rental on the fishpond, again agreed to extend the lease period for another eight (8) years from 30 July 1989 and terminating on 31 July 1997.[1]

On 5 January 1986, however, the lessors, herein private respondents Estanislao and Clara Saycon, harvested bangus and shrimps from the fishpond without the knowledge and consent of the lessees, herein petitioners Ismael and Trinidad Amorganda. Consequently, the petitioners filed a criminal complaint for qualified theft against the private respondents before the Provincial Fiscal of Negros Oriental. The complaint was docketed as I.S. Case No. 86-F and is still pending preliminary investigation therein.[2]

Then, on 27 February 1986, the private respondents, allegedly with the aid of armed men, forcibly entered the leased fishpond and prevented the petitioners and their workers from entering the premises. As a result, the petitioners filed a complaint against the private respondents before the Regional Trial Court of Negros Oriental, docketed therein as Civil Case No. 8794, to compel the private respondents to return the leased premises to them and for damages in the amounts of: (1) P25,000.00 every three (3) months or P100,000.00 a year, until possession of the fishpond is restored to the lessees; (b) P20,000.00, as moral damages and P10,000.00, as exemplary damages; (c) P10,000.00, as attorney's fees and P500.00 per appearance in court of counsel; and (d)

such other actual expenses and damages as may be proved during the trial. The petitioners further prayed that a writ of preliminary injunction be immediately issued restraining the private respondents, their agents or persons acting in their behalf, from cultivating, taking possession of, or committing acts which would disturb or interfere with petitioners' possession of said fishpond.[3]

Finding the application for the issuance of a writ of preliminary injunction to be sufficient in form and substance, the trial court issued a temporary restraining order on 4 March 1986, directing the private respondents, defendants therein, to refrain from cultivating, taking possession of, gathering fishes, shrimps and other products from the land in question until further orders, and set the application for preliminary injunction for hearing on 13 March 1986.[4]

On 26 March 1986, the private respondents filed their Answer to the complaint, alleging that the private respondent Estanislao Saycon is not the true owner of the property which he had leased to the petitioners, but the government of the Philippines, because it reverted to the government after the license of Pedro Saycon, late father of private respondents Estanislao Saycon, was cancelled and all improvements existing in the area forfeited in favor of the government; that the petitioners have no right whatsoever to the fishpond because their earlier rights were lost upon the cancellation of the license of said Pedro Saycon and the area declared open for disposition to any interested party and qualified applicant; that the trial court has no jurisdiction to take cognizance of disputes relative to possessory rights over the fishpond in question, which belongs to the Bureau of Fisheries and Aquatic Resources (BFAR); that the herein petitioners failed to exhaust all administrative remedies before resort was made to the courts; and that the petitioners have no cause of action since the fishpond in question had been forfeited in favor of the government and petitioners are not applicants for permit to operate or lease the same from the government.[5]

On 23 April 1986, the trial court granted the application for issuance of a writ of preliminary injunction "restraining, enjoining, and prohibiting the defendants, their agents, servants, and/or any person acting in their behalves from cultivating, taking possession of, gathering the fishes and shrimps or other products thereon, or committing acts of interference or disturbance in the plaintiffs' possession" of the fishpond in question upon the filing of an injunction bond in the amount of P50,000.00.[6] The private respondents filed a motion for reconsideration of the order, but their motion was denied on 11 June 1986.[7]

Consequently, the private respondents filed a petition with the Intermediate Appellate Court (now Court of Appeals) to annul and set aside the order of 23 April 1986 on the grounds that: (1) the trial court has no jurisdiction over the case since the complaint filed is in the nature of recovery of possession and should have been filed in the Municipal Court of Tanjay, Negros Oriental, where the land is situated, in accordance with Rule 70 of the Rules of Court; (2) there is no cause of action because "(w)hen the BFAR issued an Order confiscating the fishpond in favor of the Government and declaring the contract of lease between Saycon and the Amorgandas to be null and void, the rights of the Amorgandas for (to) possession over the fishpond was (were) not anymore existing; they might have some rights for sum of money from the Saycons. The respondents have no right whatsoever to step in the shoes of the government;" and (3) non-exhaustion of administrative remedies in that the action should have been filed with the BFAR before resort was made to the courts.[8]

The herein petitioners in due course filed their comment with the Court of Appeals,[9] and on 17 July 1987, the respondent appellate court issued the decision in question, declaring null and void the order of the regional trial court of 23 April 1986, for the reason that the complaint is one for recovery of possession over which the regional trial court has no jurisdiction, and directing the trial court to dismiss Civil Case No. 8794 of the Regional Trial Court of Negros Oriental.[10]

On 10 August 1987, the petitioners filed, by registered mail, a motion for reconsideration of the decision,[11] but the respondent appellate court denied the motion for having been filed beyond the reglementary period.[12]

Hence, the present recourse. The Court gave due course to the petition.[13]

The petitioners raise two (2) issues, to wit:

(1)

whether or not the petitioners' motion for reconsideration of the decision of the respondent appellate court had been filed out of time and the said decision is already final and executory; and

(2)

whether or not the Regional Trial Court of Negros Oriental has jurisdiction over the case.

On the procedural issue, it appears that counsel for the herein petitioners received a copy of the decision of the Court of Appeals on 24 July 1987. Pursuant to the rules,[14] he had fifteen (15) days from said date, or up to 8 August 1987, within which to appeal therefrom or file a motion for its reconsideration. Counsel for the petitioners, however, filed the motion for reconsideration only on 10 August 1987, or two (2) days after the expiration of the reglementary period. Counsel for the petitioners, in explaining the delay, claimed that the last day for filing the motion for reconsideration, 8 August 1987, fell on a holiday, a Saturday, so that he filed the motion for reconsideration on Monday, 10 August 1987, the day following a holiday and Sunday.

Saturday, 8 August 1987, however, was not an official holiday so that the petitioners' motion for reconsideration was filed beyond the reglementary period. But a strong compelling reason, i.e., the prevention of a grave miscarriage of justice exists in this case that would warrant a suspension of the Rules and excuse the delay of two (2) calendar days in the filing of said motion for reconsideration.

The private respondents have admitted to have unilaterally terminated the lease contract executed between them and the petitioners, and prevented the latter from entering the fishpond, subject matter of the lease contract, despite the fact that the lease between them is to expire only on 31 July 1997, and that rentals have been paid to private respondents by the petitioners up to said date. Their (private respondents') excuse is that they have lost their right over the land since said land, which had been previously leased to their late father, Pedro Saycon, had been forfeited in favor of the government.

Indeed, the private respondents have lost whatever right they may have had over the fishpond in question after said land had been forfeited in favor of the government. In his Order, dated 11 April 1985, the Director of the Bureau of Fisheries and Aquatic Resources (BFAR) categorically stated that the heirs of Pedro Saycon, among them the private respondent Estanislao Saycon, "have no more leg to stand on, much less anymore personality to assert any right over the area under OFP. No. F-234-B." [15] That being the case, what right had the private respondents to enter the fishpond and exclude the petitioners therefrom? The fact that the Director of the BFAR, in his Order of 11 April 1985, had ordered that any occupant thereon should vacate the premises did not give the private respondents license to renege on their obligation under the contract of lease and eject the petitioners from the land. As correctly stated by the trial court in its order dated 23 April 1986, "(t)he Order of the BFAR (Exhibit 'L') relied upon by the defendant (private respondent herein) is of no moment, for the government is not a party in this case. The said Order would become material and relevant only when the government takes legal action against any possessor of the fishpond in question." [16]

Besides, the private respondents who appear to be guilty of coercion, stand to unjustly profit from their fraudulent

and deceitful act at the expense of the petitioners who may not be able to recover the rentals advanced by them to the private respondents.

One other reason for suspending the Rules and allowing the petitioners to appeal is that there is no indication that, in filing the motion for reconsideration on Monday, 10 August 1987, instead of Saturday, 8 August 1987, counsel for the petitioners was motivated by a desire to delay the proceedings or obstruct the administration of justice. His mistaken belief that Saturday is a legal holiday appears to be pardonable since the courts of justice do not hold office on Saturdays. Anyway, the delay of two (2) calendar days - one of which was a Sunday - in the filing of the motion for reconsideration did not prejudice the cause of the private respondents, or that said private respondents suffered material injury by reason of the delay.

In *Lagunzad vs. Court of Appeals*,^[17] the Court said, and we quote:

"We cannot just ignore petitioner's plea for a review of his case in this instance. There is not the slightest indication of malice on his part or of a desire to delay the proceedings and to transgress the rules on procedure. If at all, his was an honest mistake or miscalculation worsened by some fortuitous occurrence which we deem condonable under the circumstances. For we have, in many cases granted relief where a stringent application of the requirement of timeliness of pleadings would have denied a litigant substantial justice and equity. Suffice it to note that the rules on technicality were promulgated to secure not to override substantial justice. As it should be in this case especially because the petition appears also to be impressed with merit."

The other issue raised by the petitioners is: whether or not the Regional Trial Court of Negros Oriental has jurisdiction over the case.

The respondent appellate court, in its decision under review, found that the regional trial court has no jurisdiction over the case since the object of the complaint was to recover possession of the land which the herein private respondents had secured by means of force, threats and intimidation. Said the appellate court:

"x x x It is quite obvious from the foregoing that the object of the complaint is to recover possession of the property in question which private respondents acquired as lessees thereof, but of which they were deprived by petitioners by means of 'force, threats and intimidation.' The complaint thus alleges the facts which confer exclusive jurisdiction in the Municipal Trial Court to try the case. (Sec. 33(2), BP 129). The Honorable respondent Court being devoid of jurisdiction over the main case, it was, likewise, without jurisdiction to issue the writ of preliminary injunction dated 23 April 1986."^[18]

We do not agree. While the herein petitioners' complaint in the trial court alleges that they were dispossessed of the leased fishpond by the lessors, herein private respondents, by means of force, stealth and intimidation, so that the complaint would appear, at first blush, to be one for forcible entry and damages, the action is, in reality, one for specific performance, i.e., to compel the private respondents, as lessors, to comply with their obligations under the lease contract and return the possession of the leased premises to them, and for damages due to their (private respondents') unjust occupation of the land. Such action is one not capable of pecuniary estimation and comes within the exclusive original jurisdiction of regional trial courts. Thus, Article 1654 of the Civil Code provides:

"Art. 1654. The lessor is obliged:

"(a) To deliver the thing which is the object of the contract in such a condition as to render it fit for the use intended;

"(2) To make on the same during the lease all the necessary repairs in order to keep it suitable for the use it has been devoted, unless there is a stipulation to the contrary;

"(3) To maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the

contract."

In *De Rivera vs. Halili*,^[19] the Court said that the action to compel the lessor to comply with his obligation "to maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract" is within the exclusive original jurisdiction of the court of first instance, now the regional trial court.

In *Lapitan vs. Scandia, Inc.*,^[20] the Court, speaking through the eminent Mr. Justice Jose B. L. Reyes, also said:

"A review of the jurisprudence of this Court indicates that in determining whether an action is one not capable of pecuniary estimation, this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the courts of first instance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, or where the money claim is purely incidental to, or a consequence of, the principal relief sought like in the suits to have the defendant perform his part of the contract (specific performance) and in actions for support, or for annulment of a judgment or to foreclose a mortgage, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by courts of first instance. x x x"

Since the present action is to compel the private respondents to perform their part of the contract of lease "to maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract," the action is within the exclusive original jurisdiction of the regional trial court.^[21]

The respondent Court of Appeals, therefore, erroneously classified the present action as one for forcible entry and damages which is cognizable exclusively by the municipal trial court. Accordingly, the decision appealed from should be reversed and set aside.

We also find no merit in the claim of the private respondents that the Bureau of Fisheries and Aquatic Resources (BFAR) has exclusive jurisdiction over the case. In *Pitargue vs. Sorilla*,^[22] the Court ruled:

"x x x The vesting of the Lands Department with authority to administer, dispose, and alienate public lands, x x x must not be understood as depriving the other branches of the Government of the exercise of their respective functions or powers thereon, such as the authority to stop disorders and quell breaches of the 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."

WHEREFORE, the judgment appealed from is hereby REVERSED and SET ASIDE and another one entered affirming the order issued by the trial court on 23 April 1986 in Civil Case No. 8794 of the Regional Trial Court of Negros Oriental. With costs against the private respondents.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Justice Luis A. Javellana with the concurrence of Justices Ricardo L. Pronove, Jr. and Jaime M. Lantin.

[1] Rollo, p. 24

[2] *Id.*, p. 45

[3] *Id.*, p. 18

[4] *Id.*, p. 26

- [5] Id., p. 27
- [6] Id., p. 35
- [7] Id., p. 38
- [8] Id., p. 39
- [9] Id., p. 44
- [10] Id., p. 53
- [11] Id., p. 4
- [12] Id., p. 63
- [13] Id., p. 67-A
- [14] BP 129, Sec. 39; Interim Rules and Guidelines, Sec. 19(a)
- [15] Rollo, p. 33
- [16] Id., p. 36
- [17] G.R. No. 52007, September 24, 1987, 154 SCRA 199, 205
- [18] Rollo, p. 58
- [19] G.R. No. L-15159, September 30, 1963, 118 Phil. 901
- [20] G.R. No. L-24668, July 31, 1968, 133 Phil. 526, 528
- [21] BP 129, Section 19(1)
- [22] G.R. No. L-4302, September 17, 1952, 92 Phil. 5, 12

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