

RUPERTO DE GUZMAN, PETITIONER, VS. THE HONORABLE COURT OF APPEALS (SPECIAL FIFTEENTH DIVISION) AND DR. FORTUNATO V. CORREA, RESPONDENTS.*G.R. No. 83959. April 08, 1991*

Ponente: MEDIALDEA, J.

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The instant petition for review on certiorari seeks to set aside the decision of the Court of Appeals dated May 11, 1988 (p. 17, Rollo) in CA-G.R. SP No. 11639 entitled "Ruperto de Guzman vs. Hon. Gualberto J. dela Llana, Regional Trial Court, Branch 16, Malolos, Bulacan and Fortunato V. Correa," and its resolution dated June 22, 1988, denying petitioner's motion for reconsideration of said decision which sustained the judgment of the Regional Trial Court, which in turn, affirmed an earlier decision of the Municipal Trial Court of Angat, Bulacan ordering the ejectment of herein petitioner (p. 25, Rollo).

The factual backdrop of the case is as follows:

Petitioner was the tenant of the late Teodora Villarama, mother of herein private respondent, over a rice mill and a warehouse located in Angat, Bulacan. After the expiration of the written lease contract on April 29, 1975, private respondent allegedly took over the management of the premises and orally agreed with petitioner that the lease over said premises shall be on a month to month basis. Petitioner continued to occupy the premises but he failed to pay the monthly rentals for May and June, 1977. Subsequently, private respondent notified petitioner that he was terminating their agreement and demanded from petitioner the return of the subject premises. Because of petitioner's failure to comply with his demand, private respondent filed an ejectment case against the former before the Municipal Trial Court of Angat, Bulacan docketed as Civil Case No. 183. On June 29, 1978, the trial court rendered a decision in favor of private respondent and on December 28, 1978, the trial court issued an order declaring the said decision final and executory.

On June 29, 1979, petitioner filed with the Court of First Instance (now Regional Trial Court) of Bulacan a petition for relief from judgment and order with prayer for preliminary injunction to restrain the enforcement of the writ of execution issued. On the date set for the hearing for the issuance of a writ of preliminary injunction, petitioner filed with the same trial court a petition for certiorari, prohibition and mandamus with restraining order, injunction and damages against private respondent, docketed as Special Civil Action SM-960. Pending resolution of said petition, a restraining order was issued and petitioner was ordered to post an injunction bond and to deposit rentals. Acting on said petition, the trial court declared null and void, the proceedings held in Civil Case No. 183 and ordered the dismissal of the case in view of the lack of the requisite demand under Section 2, Rule 70, Rules of Court.

Subsequently, private respondent again filed with the Municipal Trial Court of Angat, Bulacan, another ejectment case against petitioner, this time docketed as Civil Case No. 286. The trial court, in a decision dated October 16, 1984, ordered petitioner to vacate the leased premises; to pay private respondent a monthly rental in the amount of

P175.00 starting May 1977 until petitioner vacates the premises with 14% interest per annum until fully paid; to pay private respondent the sum of P10,000.00 as moral damages, P5,000.00 as exemplary damages, P5,000.00 as attorney's fees and costs of the proceedings.

On November 14, 1984, petitioner filed in Special Civil Action No. SM-960, which was reassigned to Regional Trial Court, Branch 16, Malolos, Bulacan after the judicial reorganization, a petition for contempt with restraining order and injunction to prevent the execution of the above decision. This petition was considered by said court as a petition for certiorari, prohibition and restraining order with damages, and on the same date, it issued an order restraining the execution of the decision until further orders (p. 21, Rollo).

Meanwhile, petitioner's appeal from the aforesaid decision docketed as Civil Case No. 7903-M was also raffled to the same branch of the Regional Trial Court, presided by then Judge Gualberto dela Llana, who, in a decision dated April 11, 1986, sustained the judgment of the Municipal Trial Court.

After petitioner's motion for reconsideration of the April 11, 1986 decision was denied, he filed with the Court of Appeals, a petition for certiorari, prohibition and mandamus wherein he alleged that, in affirming the decision of the Municipal Trial Court, the Regional Trial Court acted with grave abuse of discretion amounting to lack of jurisdiction or, was without or, in excess of jurisdiction, considering that Civil Case No. 286 should have been dismissed on the grounds of lack of jurisdiction, *litis pendencia*, and lack of cause of action.

In a decision dated May 11, 1988, respondent court dismissed the petition for lack of merit (Annex "A", p. 17, Rollo). In dismissing the petition, respondent court held that the decision of the Regional Trial Court in Special Civil Action No. SM-960 was not an adjudication on the merits as the dismissal of Civil Case No. 183 was by reason of lack of demand as required in Section 2, Rule 70 of the Rules of Court, hence the Municipal Trial Court had no jurisdiction. Accordingly, it said that *litis pendencia* cannot act as a bar to a new complaint when the judge who took cognizance of the former complaint was disqualified by reason of lack of jurisdiction over the subject matter thereof and in order that the defense of *litis pendencia* may be set up, it is necessary that the judge who took cognizance of the first case should also have jurisdiction over the subject matter of the same. Respondent court also found out that the written lease contract was never renewed up to the death of the mother of private respondent. This being so, it ruled that said contract automatically expired at the end of the period covered without need of demand. It also held that petitioner failed to show by what right he continued to occupy the premises as private respondent owned the premises by virtue of TCT No. 178491, issued to him on February 9, 1973. With the denial of his motion for reconsideration, petitioner is now before this Court for a review of the above adverse decision.

Contending once again that the decision of the Municipal Trial Court in the second ejectment case which was affirmed by the Regional Trial Court and respondent court was rendered without or in excess of jurisdiction, petitioner alleged that the premises and the deposited rentals were the same matters pending disposition in Special Civil Action No. SM-960 before the Regional Trial Court, Branch 16 of Malolos, Bulacan where the motions filed by private respondent for the delivery to him of the deposited rentals were denied by the Regional Trial Court. He argued that the Municipal Court, therefore, did not have jurisdiction to pre-empt the former court from disposing of those matters and to reverse the Regional Trial Court's rulings to the effect that the estate of the late Teodora Villarama was entitled to receive the premises and the rentals.

This contention is entirely devoid of merit, if not misleading. It must be stressed that Special Civil Action No. SM-960 was an independent action brought to annul or modify the proceedings held in the first ejectment case and to restrain the enforcement of the writ of execution on the ground that the decision of the Municipal Court was rendered without or in excess of its jurisdiction or with grave abuse of discretion. True, the petition was

granted and the first ejectment case was dismissed. However, its dismissal in SM-960 960 cannot be pleaded as a bar to the second ejectment case as the dismissal was only due to non-compliance with the jurisdictional requisite of demand under Section 2, Rule 70 of the Rules of Court. The fact that petitioner was ready and willing to return the leased premises and to have the deposited rentals delivered to the private respondent in said SM-960 provided private respondent submits a quitclaim executed by all the other heirs of the lessor, Teodora Villarama, cannot prevent respondent from taking the proper legal action to obtain whatever cause of action he may have against petitioner. The matter of disposition of rentals in SM-960 is a personal undertaking of petitioner that is distinct and separable from the issue in said case. It is, therefore, incorrect for petitioner to argue that said court still had jurisdiction over the matter which bars other courts from taking cognizance. SM-960 is already a terminated case. Thus, neither can the defense of *litis pendencia* be pleaded.

Equally untenable is petitioner's argument that private respondent did not have a cause of action against him because the written lease contract was between him and the deceased mother of the former. Private respondent holds absolute title over the subject premises by virtue of TCT No. 178491 issued to him in February 9, 1973. Clearly then, the essential elements of a valid cause of action existed in favor of private respondent namely: 1) his right to demand from petitioner payment of rent for the use and occupation of the premises; 2) the correlative obligation of petitioner to pay rent; 3) the act of petitioner in refusing to pay rent and vacate the premises in violation of said right. Petitioner's argument that he is not unlawfully withholding possession of the leased premises from private respondent and that he has acted in good faith as an officious manager under the concept of *negotiorum gestio*, entitled to an honorarium of P200.00 a month from May, 1980 until the proper parties, the successors-in-interest of Teodora Villarama, or her estate receive the property was correctly brushed aside by respondent Court of Appeals. Indeed, if this Court were to sustain said claim, it would bring about the anomalous and absurd situation wherein petitioner would continue occupying and enjoying the leased premises while getting paid for it.

Petitioner further claims that the Regional Trial Court did not have jurisdiction to decide the appeal because he had abandoned the same when he failed to set aside the decision rendered in the second ejectment case, which was given due course by the issuance of a restraining order. He said that the appeal (Civil Case No. 7903) was originally assigned to the Regional Trial Court Branch X but was consolidated with SM-960 without any order of consolidation and it was decided without notice for oral arguments or to file memoranda in lieu thereof.

This claim deserves scant consideration. Under the pretext of having filed a petition for certiorari, prohibition, mandamus and contempt (which is false because what petitioner filed in SM-960 was a petition for contempt with restraining order and injunction; p. 76, Rollo), he now professed to have abandoned the appeal he had perfected earlier. Petitioner's inconsistent positions unraveled his true intention and that was to delay the early execution of the decision in the second ejectment case. Even assuming that he filed said petition in SM-960, said remedy was ineffective to obtain relief from the effects of the decision in the second ejectment case considering that SM-960 was already terminated.

The lack of an approved order for the consolidation of his appeal and that of SM-960 did not also affect the jurisdiction of the Regional Trial Court to decide the appeal. It must be stressed that these remedies are distinct and separate in nature and purpose. Basically, petitioner's appeal from the decision in the second ejectment case involved a review of said decision on the merits while SM-960 was intended to correct the jurisdictional error of the Municipal Trial Court, in taking cognizance of the first ejectment case and to compel dismissal of the same by reason of said error.

Lastly, petitioner assails the appealed decision as requiring him to pay double rent and also to pay rent from 1980 when he was ready to turn over the premises to the legal representative of the late Teodora Villarama. He further

questioned the award of moral and exemplary damages and attorney's fees as contrary to prevailing jurisprudence in ejectment cases.

The matter of payment of double rent is utterly baseless. The injunction bond which was required of petitioner in Special Civil Action No. SM-960 was cancelled in the decision rendered in said case, dated January 11, 1980 (see Resolution on Motion for Reconsideration, pp. 25-26, Rollo). However, the affirmed award of moral and exemplary damages is erroneous. The only damages that can be recovered in an ejectment suit are the fair rental value or the reasonable compensation for the use and occupation of the real property (*Felisida vs. Judge Villanueva*, No. 60372, October 29, 1985, 139 SCRA 431; *Reyes vs. CA*, L-28466, March 27, 1971, 38 SCRA 138; *Ramirez vs. Chit*, L-22032, December 26, 1967, 21 SCRA 1364).

The petitioner failed to rebut the propriety of the award of attorney's fees before the Municipal Trial Court on the ground that private respondent was compelled to incur expenses to protect his interest as a result of petitioner's failure to vacate the premises (Article 2208 (2) Civil Code). The simple allegation that private respondent was represented by a brother-in-law does not prove anything.

ACCORDINGLY, the petition is hereby DENIED and the questioned decision is AFFIRMED but with the modification that the award of moral and exemplary damages be deleted. Costs against petitioner.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

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