

JESUS C. JAKIHACA, PETITIONER, VS. SPS. LILIA AQUINO AND APOLONIO AQUINO, JOSE TORALDE, AND HON. EMMA CENIDOZA-ONA, RESPONDENTS.

G.R. No. 83982. January 12, 1990

Ponente: PARAS, J.

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PARAS, J.:

On September 10, 1986, petitioner Jesus Jakihaca filed an ejectment suit against respondents-spouses Lilia Aquino and Apolonio Aquino, and Jose Toralde before the Municipal Trial Court of San Mateo, Rizal, docketed as Civil Case No. 616, on account of the latter's refusal to remove their houses which they have allegedly illegally constructed without the knowledge and consent and against the will of the former on a residential land situated in Buntong Palay, Ampid, San Mateo, Rizal, covered by TCT No. N-103650, despite verbal demand.

Initially, the matter was referred to the Barangay Captain of Ampid, San Mateo, Rizal, for conciliation processes pursuant to the requirements of P.D. No. 1508. But due to repeated refusal of respondents to appear before the Barangay Lupon, the Lupon Chairman and Secretary thereafter issued a "certification to file action."

Served with summons pursuant to the Rules on Summary Procedure, the defendants on November 3, 1986 filed an answer with Special and Affirmative Defenses alleging among others, that there was a verbal contract of tenancy between the defendants and the former owner of the land in question which they planted to fruit bearing trees and devoted the same primarily to rice and corn products, and so therefore, they can not be ejected under the Land Reform Law more particularly P.D. No. 1 from this land which they had occupied and cultivated for more than ten (10) years with the consent of the former owner Gloria Gener. In addition, they said that there is no showing that the case was first brought to the attention of the Ministry of Agrarian Reform for certification that this case is proper for trial before said Court.

On December 22, 1987, the respondent trial court found that the private respondents are not agricultural tenant-farmers of the land in question, either through its former owner Gloria Gener or through the present owner-petitioner Jesus Jakihaca; that private respondents entered the premises some 10 to 20 years ago and built their houses thereon by tolerance from the former owner Gloria Gener and as such they are bound by their implied promise that they will vacate the land upon demand. Private respondents were ordered to: (1) remove their respective houses on the portion of the land occupied by them and surrender possession thereof to the petitioner; (2) pay the petitioner jointly and severally the amount of P3,000.00 for attorney's fees; and (3) reimburse the petitioner for the cost of the suit. Their claim for moral and exemplary damages was dismissed for lack of merit.

On appeal by the private respondents to the Regional Trial Court, said appellate court on April 8, 1988 dismissed the case on the ground that the lower court acted without jurisdiction as the complaint shows nothing when the verbal demand to remove the houses on the lot of the petitioner was made on the private respondents. (Decision of the RTC, p. 13, Rollo).

Petitioner filed a motion for reconsideration of the order of dismissal on April 21, 1988 which was denied on June

25, 1988. Not satisfied, this petition was filed on July 12, 1988. On March 15, 1989, this Court in a minute resolution gave due course to the petition.

Petitioner claims that the Regional Trial Court erred in dismissing Civil Case No. 616 for lack of jurisdiction of the Municipal Trial Court. On the other hand, private respondents contended that the petition was filed out of time; that the petition was filed with the wrong court; that the Municipal Trial Court has no jurisdiction over the subject matter of the action; and that there was no allegation in the complaint of prior physical possession of the land by the petitioner.

The petition is impressed with merit.

The records show that the complaint explicitly alleged that "plaintiff verbally asked the defendants to remove their houses on the lot of the former but the latter refused and still refuse to do so without just and lawful grounds." (p. 44, Rollo) Such is sufficient compliance with the jurisdictional requirements, in accordance with the doctrine laid down in the case of *Hautea v. Magallon*, 12 SCRA 514, to wit:

"An allegation in an original complaint for illegal detainer that in spite of demands made by the plaintiff the defendants had refused to restore the land, is considered sufficient compliance with the jurisdictional requirement of previous demand."

As to whether or not the demand was brought within the one-year period, this We have to say. As a general rule, jurisdiction over the subject matter of a case may be objected to at any stage of the proceeding even on appeal, but this is not without exception. In the case of *Tijam v. Sibonghanoy*, 23 SCRA 30, cited in *Tejones v. Cironella*, 159 SCRA 104, We held:

"It is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief to afterwards deny that same jurisdiction to escape penalty. Upon this same principle is what we said x x x to the effect that we frown upon the undesirable practice of a party submitting his case for decision and then accepting the judgment only if favorable and attacking it for lack of jurisdiction."

Nowhere in the Answer of respondents contain an allegation attacking the jurisdiction of the Municipal Trial Court based on the issue on demand. Again, in *PNB v. Intermediate Appellate Court*, 143 SCRA 305, We held:

"While petitioners could have prevented the trial court from exercising jurisdiction over the case by seasonably taking exception thereto, they instead invoke the very same jurisdiction by filing an answer and seeking affirmative relief from it. What is more, they participated in the trial of the case by cross-examining respondent Planas. Upon that premise, petitioners cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the court to which they had submitted themselves voluntarily." (p. 48, Rollo)

Another reason for the lower court's lack of jurisdiction over the subject matter as alleged by the respondents in their answer to the complaint filed with the Municipal Trial Court, was that said court has no jurisdiction to try the case as they are tenants-farmers and that as such they cannot be ejected from their farmholdings without a certification by the Secretary of Agrarian Reform that the case is proper for hearing. On the other hand, petitioners argue that when the Municipal Trial Court required them to submit their respective position papers, respondent did not raise this particular issue anymore but instead centered on the issue of actual possession and the elements of forcible entry and illegal detainer. Petitioners, in their position paper, attached the report of Mr. Maines of the Agrarian Office which categorically states that there is no evidence whatsoever to show that the subject land is devoted to the production of rice and corn; that the occupants are not sharing with the present landowner, hence, they are classified as illegal occupants; that the subject land is not tenanted, not devoted to the production of palay and/or corn, hence, not covered by P.D. No. 27 or the Operation Land Transfer of the government (p. 47, Rollo). Considering the report of said office, the assumption of jurisdiction by the Municipal Trial Court of San Mateo,

Rizal was proper.

Respondents contend that the petition was filed out of time. They allege that when petitioner received the decision of the Regional Trial Court on April 20, 1988 and the appeal to this Court was filed only on July 12, 1988 or only after a 3 month period, such appeal was definitely outside the 15 day reglementary period within which to appeal. Respondents added that the motion for reconsideration filed with said Regional Trial Court did not stop the running of the period within which to validly file his appeal. The instant case, being an ejectment case was prosecuted under the Rule on Summary Procedure where it expressly prohibits a Motion for Reconsideration. (Memorandum for private respondents, p. 49, Rollo).

Respondents are in error. The Rule on Summary Procedure applies only in cases filed before the Metropolitan Trial Court and Municipal Trial Courts, pursuant to Section 36 of Batas Pambansa Blg. 129. Summary procedures have no application to cases before the Regional Trial Courts. Hence, when the respondents appealed the decision of the Municipal Trial Court to the Regional Trial Court, the applicable rules are those of the latter court.

Respondents likewise contend that the petition was filed with the wrong court. Again, they are mistaken.

In the case of *Lacsamana v. Second Special Cases Division of the Intermediate Appellate Court*, 143 SCRA 643, We held that the final judgment or order of the Regional Trial Court in an appeal from the final judgment or order of the Metropolitan Trial Court, Municipal Trial court and Municipal Circuit Trial Court, may be appealed to the Court of Appeals through a petition for review in accordance with Section 22 of the Interim Rules, or to the Supreme Court through a petition for review on certiorari in accordance with Rule 45 of the Rules of Court and Section 25 of the Interim Rules. Clearly, the petitioners filed this appeal with a proper court.

PREMISES CONSIDERED, the petition is hereby GRANTED. The decision dated April 8, 1988 and the order dated June 25, 1988 both of the Regional Trial Court, Branch 76, San Mateo, Rizal, in Civil Case No. 415, are hereby SET ASIDE. The decision of the Municipal Trial Court of San Mateo, Rizal, dated December 22, 1987 in Civil Case No. 616 is hereby REINSTATED.

SO ORDERED.

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

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