

**QUERICO DELA CRUZ AND EUGENIA BALAJADIA, PETITIONERS, VS.
HON. COURT OF APPEALS AND MARIA DE JESUS, RESPONDENTS.***G.R. No. 85450. July 03, 1990*

Ponente: PARAS, J.

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Challenged in this petition for review on certiorari is the validity of the August 3, 1988 decision of the Court of Appeals* in CA-G.R. CV No. 02957 entitled "Querico De la Cruz, et al. vs. Maria De Jesus" which affirmed the decision of the Court of First Instance (now Regional Trial Court), of Nueva Ecija, Branch VII, Cabanatuan City** in Civil Case No. 4844 between the same parties for 'ownership, quieting of title and damages'.

Petitioners are the plaintiffs in Civil Case No. 4844 while private respondent is the defendant.

The summary of the facts and evidences narrated by the trial court which was quoted by the Intermediate Appellate Court, now Court of Appeals, is as follows:

"Plaintiffs' evidence tends to establish that they caused the construction of the house in question on or about October 7, 1962 through his brother-in-law Perfecto Balajadia and two helpers, Gavino Reyes and Pedro Antonio. They secured a building permit dated October 3, 1962 (Exh. 'A'). The main house was finished in two weeks at the cost of P500.00. They made additional constructions thereafter and the house was completely finished in 1968. They lost all the receipts for the materials used in the initial construction of the house in 1962 but he was able to save some of the receipts for the materials used in the additional construction (Exhs. D, D-1, D-2, D-3, D-4, D-5, Dd-6 & D?8). Sometime in 1963, Querico dela Cruz caused the construction of a shed through his brother-in-law Perfecto in front of the house and another shed at the back by the defendant as a transient 'visitor'.

"Before the construction of the house in question, plaintiffs were residing in another house on a lot leased by them from the Manila Railroad Company. This house was razed to the ground by the fire in the vicinity of the MRR lots and the lot they were leasing was thereafter occupied by the Luzon Bus Line (Now Philippine National Railway Motor Service). Plaintiffs looked for another lot so that they could build a new house. The defendant sold her rights to the plaintiffs over the lot on lease to her by MRR. The agreement, however, was only verbal. The house in question was declared for taxation purposes in the name of Eugenia Balajadia on September 10, 1964 (Exh. B) and they paid taxes thereon (Exhs. C, C-1 & C-2). It is admitted that they were sued for Unlawful Detainer by the defendant on May 26, 1964 before the Municipal Court (now City Court) of Cabanatuan in Civil Case No. 3355 (Exh. 19). After they received the complaint in said case, they still made improvements and constructed additional parts on the house in question.

"On the other hand, defendant's evidence tends to establish that after her first house erected on the same lot leased to her by the MRR was burned down by the fire she caused the construction of the house in question within the month after she secured a building permit on March 9, 1962 (Exh. 'A'). The house was finished in two weeks time by the carpenters Vicente Robles and Salvador Catalan. Immediately after the construction, plaintiffs requested that they be allowed to rent a portion of her house by putting a partition at the rate of P30.00 a month. Six days after, plaintiffs transferred to her house with only one (1) sewing machine of

Eugenia Balajadia who is a seamstress. The lot on which the house in question stands is leased to her by the MRR at P100.00 a year (Exh. 2). Plaintiffs paid rentals in the sum of P30.00 for the first month and thereafter, payments were irregularly made at P1.00 to P2.00 for a total of five months. After her husband died, the rental payments stopped. Plaintiffs likewise constructed against her will a shed ('sibi') in front of the house near the street when they expanded their sewing business and added five (5) more sewing machines to the original one (1) sewing machine when they first transferred to her house. Plaintiffs spent for this shed and for other additional constructions made against her will which they occupied in addition to the original portion of her house which they were renting from her. She demanded payments for the rentals in arrears but plaintiffs repeatedly refused to pay and was even driving her away. She consulted a lawyer who sent demand letter to plaintiff to vacate the house in question (Exhs. 17, 18 and 18-A). Thereafter, she filed Civil Case No. 3355 for Unlawful Detainer in the Municipal Court of Cabanatuan (Exh. 19) and a decision was rendered in her favor (Exh. 21) ordering the plaintiffs to vacate the premises and to pay the rentals in arrears. Plaintiffs were evicted as per Sheriff's return of service (Exh. 29) but plaintiffs returned the next day with their belongings. A Criminal Case was filed against plaintiff Querico dela Cruz when he attempted to stab her when defendant wanted to enter her house. Being a childless old widow, with no other companion in the house, she was forced to reside in another place at del Pilar Street." (Rollo, pp. 165-167)

On November 16, 1979, the trial court rendered its decision, rejecting petitioners' right over the house in controversy, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered, ordering the plaintiffs as follows:

1. To vacate the house in question;
2. To pay rentals in arrears from the filing of this case until they vacate the house at P30.00 a month;
3. To pay defendant the sum of P5,000.00 as exemplary and moral damages;
4. To pay defendant the sum of P2,000.00 for attorney's fees; and
5. To pay the costs.

SO ORDERED." (Ibid., pp. 69-73).

On appeal to the Court of Appeals, petitioners moved to present certain pieces of evidence which were not brought before the court a quo but which the appellate court denied, it appearing that said documents could have been presented in the lower court, but were not, and therefore not considered newly-discovered evidence (Ibid., p. 172).

On October 29, 1984, while pending appeal in the Court of Appeals, respondent Maria De Jesus died in Cabanatuan City as shown by a Death Certificate (Ibid., p. 154) and prior to her death she ceded her rights to lease the lot owned by the PNR to Jose Bagaybagayan of Cabanatuan City for and in consideration of the sum of P1.00 and other valuable considerations as shown in a deed of Transfer of Rights dated June 13, 1980 (Ibid., p. 151). Counsel for respondent moved for substitution of parties which was opposed by the petitioners.

On August 3, 1988, the Court of Appeals rendered its decision affirming the trial court's judgment with the modification that Maria De Jesus, the deceased defendant, was ordered substituted by Jose Bagaybagayan and Mercedes Bagaybagayan who were transferees pendente lite under Section 20, Rule 3 of the Rules of Court (Ibid., pp. 173-174). Petitioners' motion for reconsideration of aforesaid decision was denied in the resolution of October 6, 1988 (Ibid., p. 188).

Hence, the instant petition.

After the required pleadings were filed, the petition was given due course and the parties were required to file

simultaneous memoranda in the Resolution of May 15, 1989 (Rollo, p. 220). The petitioners' memorandum was filed on June 26, 1989 (Rollo, p. 222) while private respondents' memorandum was submitted on August 22, 1989 (Rollo, p. 252).

The pivotal issue in this case as to who of the contending parties is the legitimate possessor of the lot and owner of the house in dispute, is a question of fact resting mainly on the credibility of witnesses.

It is a basic legal precept that factual issues may not be reviewed by the Supreme Court under Rule 45 of the Rules of Court (*Amurao v. Court of Appeals, et al.*, 168 SCRA 737 [1988]). The Supreme Court is not a trier of facts. The conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons. The fact that the appellate court adopted the findings of the trial court make the same binding upon the Supreme Court for the factual findings of the appellate court are generally binding on the Supreme Court. The findings of the Court of Appeals when supported by substantial evidence are almost beyond the power of review by the Supreme Court (*Sabena Belgian World Airlines v. Court of Appeals*, G.R. No. 82068, March 31, 1989).

As found by both the trial court and the Intermediate Appellate Court, respondent De Jesus is the lessee of the lot situated at Cabanatuan City owned by the PNR, as early as 1954 and built a house thereon in March 1962, right after her first house had been razed to the ground in the same year, and that petitioners are occupying the house in dispute as mere lessees.

On the other hand, petitioners' alleged right to occupy the lot leased to the respondent as having sprang from a verbal contract of sale of right to lease the lot remained unestablished, unsubstantiated and self-serving.

Verily, petitioners' claim that there was a verbal contract of sale of right to lease between them and respondent is inconceivable, it appearing that: (a) prior demands to pay lease rentals in arrears were given upon them by respondent's counsel in March 1964; (b) they were sued for unlawful detainer by respondent in May 1964 before the Municipal Court of Cabanatuan City; (c) aforesaid court rendered its judgment in December 1966, ordering petitioners' eviction from the house in controversy for non-payment of rentals; (d) subsequent eviction of petitioners in execution of the said decision; and (e) admissions by petitioners that they were sued for unlawful detainer and that they introduced additional constructions on the controversial house despite protestations of the respondent during and after the proceedings in the unlawful detainer case.

Moreover, respondent's alleged sale of right to lease is in the nature of an assignment of lease, a prohibited and illegal practice without the consent of the lessor, unless there is a stipulation to the contrary enunciated under Article 1649 of the New Civil Code (*Dakudao v. Consolacion*, 122 SCRA 881 [1983]).

As aforesaid, the right to lease PNR's subject lot over which the subject house was built belonged to respondent as far back as 1954 while petitioners' additional evidence submitted before the Court of Appeals tends to show that they became lessees of PNR of the lot only in January 14, 1982 (Rollo, p. 141) that is, 28 years after and rentals for the lot were paid only in 1977 (*Ibid.*, p. 139), which is about 23 years, both reckoned from respondent's lease contract with PNR.

Consideration of petitioners' forgotten evidence, i.e., temporary building permit (1977), rental payments (1977), lease contract (1982) and tax declarations, which were not presented before the court a quo would not alter the findings of fact in the case at bar as they merely corroborate and add up to petitioners' existing evidence on record.

The decision in the ejectment case which had already attained finality operates as the 'law of the case' as to who between the parties has the right of possession over the subject house but not *res judicata* with respect to the issue

of ownership since the municipal court's jurisdiction is confined to issues involving physical possession of the property, under Section 88, Judiciary Act of 1948 (now Section 33(2), Judiciary Reorganization Act of 1980).

The less familiar concept or less terminological usage of *res judicata* as a rule on conclusiveness of judgment refers to the situation where the judgment in the prior action operates as an estoppel only as to the matters actually determined therein or which were necessarily included therein (*Machoca v. Carriaga*, G.R. No. 75109-10, June 28, 1989).

In addition, the substitution of party on the basis of the "Transfer of Rights" executed by respondent De Jesus in favor of Jose Bagaybagayan covering the lot was not proper and erroneously allowed for the following reasons: (1) the transfer pendente lite of the right to lease the lot admittedly owned by the PNR has no bearing on the main case since the property litigated concerns only the house located at PNR's land; (2) what was transferred by respondent unto Bagaybagayan was the right to lease the PNR's lot, which, as heretofore discussed, is a prohibited act without the owner's consent. The right to choose one's lessee is a prerogative of PNR being owner of the leased lot; and (3) the instrument itself does not speak of transfer/cession/assignment of the house subject of the suit, but only of rights and interests over the lot.

PREMISES CONSIDERED, the petition for review is hereby DENIED for lack of merit and the assailed decision of the Intermediate Appellate Court is hereby AFFIRMED but MODIFIED to disallow the improper substitution of Jose Bagaybagayan as party in this case in lieu of Maria de Jesus.

SO ORDERED.

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

* Penned by Justice Bonifacio A. Cacdac, Jr. and concurred in by Justices Floreliana Castro-Bartolome and Ricardo L. Pronove, Jr.

** Penned by Judge Leticia P. Morales.

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