

SPOUSES MANUEL AND TEODORA CAPULONG, PETITIONERS, VS. COURT OF APPEALS AND GONZALO TOLENTINO, RESPONDENTS.

G.R. No. 85790. May 09, 1990

Ponente: REGALADO, J.

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REGALADO, J.:

A little more insight and a little less technicality could have prevented this simple ejectment case involving a small parcel of land from reaching this Court, after going through the three lower courts of the judicial hierarchy over a litigation period of around three years.

We are now asked to review on certiorari the decision promulgated on July 20, 1988 by respondent Court of Appeals in CA-G.R. SP No. 13741[1] reversing the decision dated January 5, 1988 of the Regional Trial Court of Valenzuela, Branch 171, in its Civil Case No. 2716-V-87 and dismissing the complaint for ejectment filed by herein petitioners before the Metropolitan Trial Court of Valenzuela, Branch 82, in Civil Case No. 3825 thereof.

The records show that petitioners are the registered owners of a residential lot consisting of one hundred square meters, more or less, situated at Dulong Tangke, Malinta, Valenzuela, Metro Manila, which is covered by Transfer Certificate of Title No. 119628 of the Register of Deeds of Caloocan City. It appears that private respondent Gonzalo Tolentino leased the said property from petitioners' parents and in 1958 built his residential house thereon where he and his family reside.

On July 24 and September 16, 1985, petitioners, who had acquired said parcel of land from their parents, sent demand letters[2] addressed to Salvador Tolentino at the above-mentioned address, reiterating their previous oral demands that private respondent vacate the premises since petitioner's son and his family need the same for residential purposes. Private respondent's refusal to vacate prompted petitioners to refer the matter to the Lupon Tagapayapa which sent a notice of hearing to the former at the same address but in the name of Salvador Tolentino. When private respondent failed to appear before the Lupon, a certificate to file action[3] was issued.

On December 23, 1985, petitioners filed a complaint for ejectment[4] in the Metropolitan Trial Court of Valenzuela, Branch 82, docketed therein as Civil Case No. 3825, against herein private respondent who was then known to them as Salvador Tolentino and was so named in the complaint as defendant.

In the sheriff's return dated January 7, 1986,[5] Deputy Sheriff Napoleon Villanueva certified that copies of the summons and the complaint were personally served upon therein defendant Salvador Tolentino "as evidenced by the signature of one Gonzalo Tolentino on January 6, 1986 at the given address," and that the latter "further claimed that he and the former are the same and the only one (sic) person." Parenthetically but significantly, prior thereto private respondent had never called the attention of petitioners and the Lupon Tagapayapa of their erroneous belief regarding private respondent's true given name.

In his answer,[6] private respondent averred that said metropolitan trial court had no jurisdiction over the case because there was no demand made on him to vacate the premises and he was not notified of the proceedings had

before the Lupon Tagapayapa; that his name is Gonzalo Tolentino and not Salvador Tolentino; and that herein petitioners' son is actually living in a separate house also owned by petitioners.

On April 2, 1986, petitioners filed an amended complaint^[7] impleading the private respondent by his true and real name of Gonzalo Tolentino and alleging therein, as an additional ground for ejectment, the fact of private respondent's failure to pay rentals. In its order of July 7, 1986,^[8] the amended complaint was admitted by the trial court and the name Salvador Tolentino was changed to Gonzalo Tolentino.

On October 14, 1987, said court rendered judgment ordering therein defendant and all persons claiming rights under him to vacate the premises in question and to restore possession thereof to the plaintiffs.^[9]

Private respondent appealed to the Regional Trial Court of Valenzuela, Branch 171, which affirmed the decision of the lower court.^[10] Thereafter, private respondent filed a petition for review with respondent Court of Appeals which, in a decision dated July 20, 1988, rendered judgment, the decretal portion of which reads:

"WHEREFORE, the judgment of the trial court a quo and the questioned Decision of respondent court affirming the same are reversed; and in lieu thereof the instant amended complaint for ejectment is hereby DISMISSED on the grounds of prematurity, lack of cause of action and want of jurisdiction. No pronouncement as to costs."^[11]

Petitioners' motion for reconsideration was denied, hence this petition raising for resolution the issues as to whether or not private respondent was properly notified of the proceedings in the Lupon Tagapayapa, and whether or not demand letters were properly addressed to him.

We hold in the affirmative on both counts.

The decision of respondent Court of Appeals is anchored mainly on the fact that the two demand letters to vacate sent by petitioners, as well as the notice of hearing issued by the Lupon Tagapayapa, were addressed to Salvador Tolentino, and not to herein private respondent Gonzalo Tolentino. Hence, since there was allegedly no substantial compliance with Presidential Decree No. 1508 and Section 2, Rule 70 of the Rules of Court, the complaint for ejectment was dismissed on the grounds of lack of jurisdiction and cause of action and for being premature. Respondent court's conclusion is based on the erroneous assumption that Salvador Tolentino and Gonzalo Tolentino are two different individuals or, in its own words, "the defendant complained against was Salvador Tolentino, who is not the same person as petitioner Gonzalo Tolentino."^[12]

On the contrary, the evidence shows that Salvador and Gonzalo Tolentino are one and the same person. As earlier observed, the sheriff's return contains a statement to the effect that Gonzalo Tolentino, who signed the summons, and Salvador Tolentino, the addressee thereof, are one and the same person, as declared by private respondent Gonzalo Tolentino himself. While private respondent raised a token objection questioning the authenticity of the sheriff's return, neither did he present any evidence to disprove the veracity of the contents of the same. In the absence of proof to the contrary, the presumption is that official duty has been regularly performed.

Again, while private respondent Gonzalo Tolentino was erroneously addressed as Salvador Tolentino in the two demand letters and the notice of hearing before the Lupon Tagapayapa, there is no dispute at all that the parcel of land on which private respondent built his house and where he now lives is the same property subject of the ejectment case and the same one referred to in the demand letters and conciliation proceedings, as well as the same address to which said letters and notice were sent. Consequently, the true name of the person occupying the premises is immaterial. As petitioners correctly asseverate, there is no other person residing in the subject premises and who has a lease agreement with petitioners except the private respondent herein. For purposes of the suit, the demand could even have been served on any person found on the premises or merely posted thereon.^[13]

The rules on pleadings even authorize a suit against an unknown defendant or by such other designation as the case may require.[14]

In addition, petitioners aver, and private respondent does not deny, that oral demands were made upon the occupants of the subject premises to vacate the same, which were later followed by the two demand letters. Private respondent already knew beforehand that the petitioners wanted to eject them from the premises. Thus, by the time he received the demand letters addressed to Salvador Tolentino, he knew perfectly well that the same were actually intended for him and for no other person. It is significant that private respondent never claimed that there was any other person leasing the subject property of herein petitioners. The reason is simple. Private respondent and his family were the only ones occupying the same.

What evidently happened here is that private respondent, to subserve his desire for continued occupancy of the lot, capitalized upon the mistake on his real first name as a cloak on which to weave the technicality of lack of jurisdiction over the case and over his person. What is likewise obvious, however, is that there was only an error on his first name but not as to the physical and legal identity of the person involved, that is, the private respondent in this petition now unnecessarily forced upon us. As the maxim goes, *error nominis nunquam nocet, si de identitate rei constat*. A mistake in the name is never prejudicial where the identity or the person intended is certainly known.

WHEREFORE, the judgment of respondent court is hereby REVERSED and SET ASIDE. The decision of the Regional Trial Court of Valenzuela, Branch 171, in Civil Case No. 2716-V-87 is hereby REINSTATED, with double costs against private respondent. This judgment is immediately executory.

SO ORDERED.

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

[1] Justice Fidel P. Purisima, ponente, concurred in by Justice Segundino G. Chua and Nicolas P. Lapeña, Jr.; Petition, Annex L, Rollo, 85.

[2] Petition, Annexes A-1 & A-2; Rollo, 22, 23.

[3] Id., Annex A-3; *ibid.*, 24.

[4] Id., Annex A; *ibid.*, 19.

[5] Id., Annex B; *ibid.*, 25.

[6] Id., Annex D; *ibid.*, 30.

[7] Id., Annex C; *ibid.*, 26.

[8] Id., Annex D; *ibid.*, 29.

[9] Penned by Acting Presiding Judge Floro P. Alejo; Petition, Annex G; Rollo, 46-51.

[10] Petition, Annex I; Rollo, 60.

[11] Rollo, 93.

[12] *Ibid.*, 90.

[13] Sec. 2, Rule 70, Rules of Court.

[14] Sec. 14, Rule 3, id.

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