

VERONICA I. BATONGBACAL, PETITIONER, VS. HONORABLE COURT OF APPEALS AND EUGENIA CONTRERAS, FR. REGINO ASUNCION, AURORA ASUNCION, ANDREA ASUNCION, AND BERNARDITA ASUNCION, RESPON...*G.R. No. 86134. February 08, 1993*

Ponente: DAVIDE, JR., J.

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Petitioner urges this Court to set aside and annul, for having been issued without jurisdiction or with grave abuse of discretion, the 22 July 1988 Decision of respondent Court of Appeals in CA-G.R. SP No. 11963[1] and the 14 December 1988 Resolution therein denying the motion to reconsider the said decision.[2]

The assailed decision reversed the Order (actually the Amended Decision) of Branch 172 of the Regional Trial Court (RTC) of Valenzuela, Metro Manila in Civil Case No. 2140-V-84 and reinstated the decision of the Metropolitan Trial Court (MTC) of Valenzuela in an ejectment case, Civil Case No. 3512. The said MTC had dismissed a complaint for forcible entry filed before it.

The records disclose the following factual and procedural antecedents:

Petitioner filed a complaint for ejectment (Civil Case No. 3512) on 30 June 1983 against Antonio Asuncion, predecessor-in-interest of the herein private respondents. The former alleged in her complaint that she is the owner of a parcel of land located in Coloong, Valenzuela, Metro Manila and covered by Transfer Certificate of Title (TCT) No. T-217969 in the Registry of Deeds of Bulacan; that without her knowledge and consent, and by means of strategy and stealth, Antonio Asuncion occupied a portion thereof and constructed thereon two (2) houses of strong materials; and that despite repeated demands to vacate -- the last of which was made on 31 May 1983 -- Antonio refused to do so. In his Answer, the latter denied that he had entered the property by means of stealth and strategy. He then presented his version, which his evidence supported, as follows:

"The parcel of land was formerly owned by private respondent's (petitioner herein) mother, Trinidad Batongbakal. After Trinidad's death, private respondent inherited the property jointly with her father, Julio Batongbakal, and finally became the sole owner thereof after the settlement of her mother's estate. During the lifetime of Trinidad Batongbakal, a portion of 550 square meters of her property was leased to Petra Marcos who had a house thereon. Petra paid a yearly rental of P2.00 to the owner. When Petra Marcos died in 1953, her house was inherited by her daughter Eugenia Contreras who is married to Antonio Asuncion. Eugenia continued paying the rental to private respondent and her father. The yearly rental was later increased to P5.00 and then to P10.00. In 1969 and 1978, private respondent offered to sell the property to Antonio Asuncion. In 1981, it was Antonio Asuncion himself who manifested his interest to buy the property. But in all these occasions, the negotiations failed because the parties could not agree on the price." [3]

This account was given full credit by the MTC which, thereafter, rendered a decision dismissing the case on the ground that Antonio Asuncion did not, contrary to the petitioner's theory, enter the property through stealth and

strategy. The dispositive portion of the decision reads:

"WHEREFORE, in the light of the foregoing, judgment is hereby rendered in favor of the defendant and against the plaintiff, dismissing the above-entitled case, without pronouncement as to costs. Defendants counterclaim are (sic) likewise dismissed. However, on the ground of fairness and equity, defendant should pay the plaintiff the reasonable rental for the use and occupancy of the premises the (sic) amount of P30.00 a month from the year 1966 to 1970; P40.00 a month from 1971 up to 1978 and P50.00 a month from 1979 up to the present." [4]

Petitioner appealed the said decision to the RTC of Valenzuela. The case was docketed as Civil Case No. 2140-V-84 and was raffled off to Branch 172, presided over by Judge Teresita Dizon-Capulong. Antonio Asuncion did not live to see the resolution of the appeal. Upon his demise during the pendency of the appeal, he was substituted by his heirs, the herein private respondents. [5]

On 17 March 1987, the RTC, per Judge Capulong, rendered a decision dismissing the appeal and declaring that the MTC had no jurisdiction over the ejectment case, Civil Case No. 3512. The dispositive portion of the decision reads:

"WHEREFORE, in view of the foregoing, the appeal interposed by plaintiff is hereby dismissed there being lack of jurisdiction on the part of the Metropolitan Trial Court. Consequently, the decision including the awarding of rental for the use and occupancy of the premises amounting to P30.00 a month from the year 1966 to 1970; P40.00 a month from 1971 to 1978; and P50.00 a month from 1970 to the present must necessarily be set aside." [6]

The ruling on the lack of jurisdiction is based on the finding and observation that:

"As to the second issue, although this Court maintains that the plaintiff can file a case of unlawful detainer, cannot (sic) sustain the appeal and has to dismiss it on the ground that the Metropolitan Trial Court where the unlawful detainer action was filed had no jurisdiction over it. The records show that the receipt of the demand letter to vacate sent to defendant's husband was in February 1981. The complaint for ejectment was filed only on June 30, 1983 which covers a period of more than one (1) year from unlawful (sic) deprivation or withholding of possession from the date of demand to vacate.

'It has been ruled that the action for forcible entry and unlawful detainer must be brought within one (1) year after the unlawful deprivation or withholding of possession (Sec. 1, Rule 70, Rules of Court, *Torres vs. Ocampo*, 90 Phil. 36). Where the action to recover possession and to collect due and unpaid rentals is brought more than one year from the time the lessees began to withhold unlawfully the possession of both, the action is publiciana or plenaria de posesion falling within the jurisdiction of the Court of First Instance (*Barredo, et al. vs. Santiago, et al.*, 102 Phil. 127). (Pp. 35-26, rollo.)" [7]

Petitioner moved for a reconsideration of the above decision claiming that the trial court erred in holding that the MTC had no jurisdiction over the case on the premise that the complaint therein was filed more than one (1) year after the demand to vacate was made. She pointed out that the demand letter of 11 February 1981 was followed by a demand letter dated 31 May 1983.

Acting favorably thereon, the RTC, per Judge Capulong, issued an Order on 23 April 1987 the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of plaintiff and against the defendant, ordering:

'1. The defendant and all persons claiming rights under him to vacate the premises above-mentioned and to surrender the peaceful possession thereof to plaintiff;

‘2. To pay plaintiff reasonable rental for the use and occupancy of the premises in the amount of P30.00 a month from 1966 to 1970, P40.00 a month from 1971 to 1978; and P50.00 a month from 1979 up to the present;

‘3. To pay attorney’s fees in the amount of P5,000.00; and

‘4. To pay the costs of suit.’”[8]

Unable to accept the sudden turnabout by the RTC, private respondents filed with the respondent Court of Appeals a petition for review, docketed as CA-G.R. SP No. 11963, which was given due course in the Resolution of the said court dated 10 June 1987.[9] In its decision promulgated on 22 July 1988,[10] the appellate court reversed the challenged RTC Order of 23 April 1987 in this wise:

"In view of the foregoing considerations, the decision of the Regional Trial Court as amended by its order dated April 23, 1987 is hereby REVERSED and the judgment of the Metropolitan Trial Court dismissing the complaint for forcible entry REINSTATED. With costs.”[11]

Respondent Court anchors its reversal of the said order on the following disquisitions:

"It is crystal clear from the findings of both the Metropolitan Trial Court and the Regional Trial Court that Antonio Asuncion did not enter the property of private respondent through stealth and strategy. On the contrary, Antonio Asuncion and his wife Eugenia Contreras were bona-fide tenants on the 550-square meter lot. Eugenia, like her mother from whom she inherited the house built on private respondent's land, had been paying rentals on the land. Having legally entered the land, Antonio Asuncion could not have been sued for forcible entry.

Obviously, the legal basis of the Regional Trial Court in reversing its original decision and evicting Antonio Asuncion from the leased premises is that, while his possession of the property was "legal at the start" it became illegal or was transformed into "possession by tolerance" when private respondent became the owner of the property after her mother's death. The court's conclusion stems from the mistaken conception that private respondent was not bound by the verbal contract of lease which her mother entered into with the predecessor-in-interest of Antonio Asuncion's wife. Private respondent lost sight of the fact that she merely stepped into the shoes of her mother with respect to the inherited property, thereby acquiring all the rights as well as the obligations that inhered therein. Section 5 of Batas Pambansa Blg. 25 specifically provides that 'xxx (I)n no case shall the lessor or his successor-in-interest be entitled to eject the lessee upon the ground that the leased premises has been sold or mortgaged to a third person.' The same restriction should apply with equal force to an heir who acquired the same rights and obligation of his predecessor-in-interest with respect to the leased premises transmitted by the latter.

It is of no moment, therefore, whether the complaint for ejectment was filed within or beyond the 1-year period from the last demand to vacate. Even assuming that the complaint was one of illegal detainer as private respondent would insist because of the allegations therein that demands to vacate had been made, still, the suit cannot succeed because it was not anchored on any of the grounds for ejectment enumerated in Section 5 of B.P. 25.”[12]

Her motion for the reconsideration of the said decision having been denied by the respondent Court in its Resolution of 14 December 1988,[13] petitioner filed the instant petition in support of which she contends that respondent Court (a) lacks jurisdiction to review the decision of the RTC, as amended by the Order of 23 April 1987, (b) abused its discretion in reversing the RTC decision, as amended, on the basis of B.P. Blg. 25 and (c) committed grave abuse of discretion amounting to lack of jurisdiction in ignoring the arguments stressed in the petitioner's motion for reconsideration which were squarely raised before it. In support of the first, petitioner maintains that pursuant to the third paragraph of Section 45 of the Judiciary Act, as amended by Section 1 of R.A.

No. 6031, the RTC's decision had become final and unappealable; hence it was no longer subject to review by the respondent Court. She calls Our attention to the ruling of this Court in *Buenbrazo vs. Marave*[14] which, according to her, was reiterated in *Merino vs. Court of Appeals*[15] and *Que vs. Court of Appeals*. [16]

Anent the second ground, petitioner vehemently insists that no lessor-lessee relationship exists between her and the private respondents or their predecessor-in-interest. The latter are merely possessors by tolerance as held by the RTC; thus, B.P. Blg. 25 cannot be invoked because by its very title -- "An Act Regulating Rentals of Dwelling Units or of Land on which Another's Dwelling is Located and For Other Purposes" -- it covers cases with existing lessor-lessee relationships.

As to the third ground, petitioner contends that as stressed in her motion for reconsideration, even assuming that her mother had verbally leased the premises to Antonio Asuncion, the agreement is not binding upon her (petitioner) as she is not privy to it; moreover, on the basis of cited authority, she claims that a verbal lease is not one in perpetuity.

After the filing of the private respondents' Comment to the Petition and of the petitioner's Reply thereto, this Court gave due course to the petition and required the parties to submit their respective Memoranda, which they dutifully complied with.

After further examination of the issues raised and the arguments adduced by the parties in their pleadings, this Court finds no compelling reason to grant this petition. The respondent Court committed no reversible error.

1. Petitioner has not only misread the third paragraph of Section 45 of the Judiciary Act of 1948, as amended by Section 1 of R.A. No. 6031, and the above-cited cases of *Buenbrazo vs. Marave*, *Merino vs. Court of Appeals* and *Que vs. Court of Appeals*, she has, as well, deliberately misinterpreted such provision and doctrine to suit her own purpose in a rather deceiving manner. In the first place, she quotes only a portion of the third paragraph of Section 45 of the Judiciary Act of 1948, as amended by R.A. No. 6031. She suppressed the entire last proviso therein which is obviously unfavorable to her stand. The third paragraph, as so amended, reads in full as follows:

"In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the court of appeals whose decision shall be final: Provided, however, That the supreme court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal."

It is clear from this provision that what is proscribed is an ordinary appeal, and not a petition for review to the Court of Appeals. It is to be noted that at the time the private respondents filed the petition for review in CA-G.R. SP No. 11963, the governing law was the en banc Resolution of this Court of 11 January 1983 providing for the Interim or Transitional Rules and Guidelines Relative to the Implementation of the Judiciary Reorganization Act of 1981 (B.P. Blg. 129). Paragraph (b) of Section 22 thereof provides:

"22. Appellate procedure in the Intermediate Appellate Court. --

x x x

(b) Review of appealed cases from regional trial courts. --

In actions or proceedings originally filed in the metropolitan trial courts, municipal trial courts and municipal

circuit trial courts appealed to the regional trial courts, the final judgments or orders of the latter may be appealed by petition for review to the Intermediate Appellate Court which may give due course only when the petition shows *prima facie* that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or formal order sought to be reviewed.

The petition for review shall be governed by the Resolution of the Court of Appeals dated August 12, 1971, as modified in the manner indicated in the preceding paragraph hereof."

Undoubtedly, the petition for review filed by the private respondents was in order and the respondent Court had jurisdiction to entertain it and resolve the issues raised therein.

Secondly, petitioner suppressed the fact that in *Buenbrazo*, this Court had already alluded to the exception under the second proviso of the third paragraph of the aforequoted Section 45, as amended by R.A. No. 6031, of the Judiciary Act. We had explicitly ruled in the said case that what is prohibited is an ordinary appeal. Thus:

"Section 45 further provides in its third paragraph that this Court 'in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal.'

x x x

In the instant case, it is not necessary to rule on those questions because there is no controversy that the review of the decision of the Court of First Instance in a case exclusively cognizable by the inferior court (as in this case) cannot be made in an ordinary appeal or by record on appeal.

That should be known to the members of the bench and bar since the enactment of Republic Act No. 6031 in 1969 in the same way that, by this time, the bench and bar should know that appeal by record on appeal to the Supreme Court under Rule 42 of the Rules of Court was abolished by Republic Act No. 5440 which, as already stated, took effect on September 9, 1968.

An appeal by record on appeal presupposes that the appeal is a matter of right. An appeal by petition for review or certiorari means that the appellate court has discretion to reject the appeal. Under section 45, the review by the appellate court of a decision of the Court of First Instance in cases originally cognizable by the inferior court is not a matter of right.

Therefore, respondent Jose B. Abelardo could not appeal by record on appeal. The lower court's order giving due course to Abelardo's appeal by record on appeal is erroneous.

The lower court's decision should now be considered as final and executory because, obviously, the period during which Abelardo could secure a review of the same had already expired. That is the only point decided in this case."^[17]

On the other hand, in *Merino*, the issue raised is whether an ordinary appeal to review the facts was available to an aggrieved party. In that case, Merino filed against Alarcon an ejectment case in the City Court of Manila. From the adverse decision of the said court, Merino appealed to the Court of First Instance (CFI) of Manila. After trial *de novo*, the CFI rendered a decision in favor of Merino. Alarcon then filed a Notice of Appeal informing the CFI that he was appealing the decision to the Court of Appeals. He then filed the appeal bond and his Record on Appeal. Early on, the CFI approved the Record on Appeal, but subsequently issued an order recalling such approval and directing the execution of judgment on the ground that the decision, under existing laws, is no longer appealable. Alarcon then went to the Court of Appeals which set aside the challenged order. Upon Merino's petition for review, We set aside the decision of the Court of Appeals and reinstated the ruling of the Court of First Instance on the ground that an ordinary appeal from the decision of the CFI is no longer available pursuant to

Section 45 of the Judiciary Act of 1948, as amended by R.A. No. 6031.

Clearly then, these cases do not support the petitioner's stand.

2. Both the MTC and the RTC found that there existed, indeed, a lessor-lessee relationship between the petitioner and Asuncion. However, in its Order of 23 April 1983, the RTC opined that demands to vacate were made, the last of which was on 31 May 1983, or well within the one (1) year period to file an ejectment case. This being so, the contention of the petitioner that B.P. Blg. 25 should not have been applied by the respondent Court because there was no lessor-lessee relationship is clearly untenable and baseless. The respondent Court of Appeals therefore correctly ruled that the ejectment suit could not also prosper because it was not anchored on any of the grounds provided for in B.P. Blg. 25.

3. In view of the foregoing, it is no longer necessary to discuss the petitioner's third grievance.

WHEREFORE, finding no reversible error in the challenged Decision and Resolution of the respondent Court of Appeals of 22 July 1988 and 14 December 1988, respectively, in CA-G.R. SP No. 11963, the instant petition is hereby DENIED with costs against the petitioner.

SO ORDERED.

Bidin, Romero, and Melo, JJ., concur.

Gutierrez, Jr., J., (Chairman), on leave.

[1] Annex "A" of Petition; Rollo, 28-36. Per Associate Justice Santiago M. Kapunan, concurred in by Associate Justices Arturo B. Buena and Eduardo R. Bengzon.

[2] Annex "B", Id.; Id., 37.

[3] Rollo, 29-30.

[4] Id., 30.

[5] Id., 8.

[6] Rollo, 31.

[7] Id., 33-34.

[8] Rollo, 28-29.

[9] Id., 29.

[10] Annex "A" of Petition; Rollo, 28-36.

[11] Id., 36.

[12] Rollo, 35-36.

[13] Annex "B" of Petition; Id., 37.

[14] 101 SCRA 849, 852 [1980].

[15] 124 SCRA 248, 256 [1983].

[16] 101 SCRA 13 [1980].

[17] Buenbrazo vs. Court of Appeals, *supra.*, at pages 853-855.

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