

**LIM KIEH TONG, INC., PETITIONER, VS. THE COURT OF APPEALS,
HON. JUDGE ROGELIO M. PIZARRO, PRESIDING JUDGE OF BRANCH
16 OF THE METROPOLITAN TRIAL COURT OF MANILA, AND
REGINALDO Y...**

G.R. No. 93451. March 18, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The issue of whether a complaint filed in the Metropolitan Trial Court of Manila is one for forcible entry and detainer or one for specific performance is the center of this litigation.

The facts are not disputed as related by the respondent Court of Appeals in its questioned decision dated December 7, 1988 -

"The record reveals that on October 23, 1987, the appellee, Reginaldo Y. Lim, had filed a complaint before the Metropolitan Trial Court of Manila, in part, alleging, as follows:

'3. Plaintiff and his family had for some time resided in Room 301 of the building adverted to in the next preceding paragraph, until they transferred to their present residence at No. 3 Igdalig Street, Quezon City;

'4. The said room 301 has thereafter been utilized by plaintiff as a place where he keeps some of his important belongings, such as his law books, important documents, appliances, etc.;

'5. The aforementioned building has only one common main door through which all the occupants of the various rooms therein, including that of plaintiff, can get in and out therefrom;

'6. Accordingly, each and every occupant of any and all of the rooms of the building including plaintiff has been given a key or a duplicate key to the doorlock by Rafael Lim, the Officer-in-Charge of defendant corporation;

'7. When plaintiff wanted to go inside his room in the following morning of September 30, 1987 to fetch three (3) of his law books, which he needed to read in connection with a case he is handling, he was surprised to find out that the key given him could no longer fit the door lock which was then already changed;

'8. Consequently, plaintiff had to buy three (3) new law books for which he incurred expenses in the sum of P1,253.00, if only to be able to prepare for his cases;

'9. Plaintiff was only able to contact defendant through its Officer-in-Charge, Mr. Rafael Lim, the following day, October 1, 1987, but his request for him to be provided with the appropriate key produced negative result, hence, this suit where plaintiff incurred expenses in the form of attorney's fees and costs of suit.

'ALLEGATIONS IN SUPPORT OF PRAYER FOR PRELIMINARY MANDATORY INJUNCTION/RESTRAINING ORDER

'10. Plaintiff repleads all the foregoing allegations by way of reference to form part of the prayer for the

issuance of a writ of preliminary mandatory injunction;

'11. The failure and/or refusal of defendant to furnish plaintiff the appropriate key, above-cited, constitutes a violation of the substantial rights of plaintiff, who has a clear and unmistakable right to the use and enjoyment of Room 301 of the building owned by defendant corporation, such that there is an urgent and paramount necessity for the issuance of the writ of preliminary injunction/restraining order commanding defendant to furnish plaintiff the appropriate key in order to prevent great and and/or irreparable damages and injury upon plaintiff.

In conclusion, the said appellee prayed, as follows:

'PREMISES CONSIDERED, it is most respectfully prayed of the Honorable Court that a writ of preliminary mandatory injunction/restraining order commanding defendant to provide plaintiff the appropriate key or a duplicate key to the lock of the main door of the building be immediately issued, and, after hearing the case on its merits, judgment be rendered in favor of plaintiff and against defendant, ordering:

'1. the injunction prayed for in the complaint;

'2. defendant to pay plaintiff the sum of P1,253.00 as actual compensatory damages;

'3. defendant to pay plaintiff the sum of P5,000.00 as and for attorney's fees; and

'4. the cost of suit.

'Plaintiff prays for such other reliefs and/or remedies which the Honorable Court may deem just and proper in the premises.' (p. 13, orig. rec.)

The opening paragraphs of the questioned decision relate what had happened in the courts below:

'This is a special civil action for certiorari under Rule 65, grounded on pure questions of law.

'The case is simplicity itself.

'The undisputed facts are as follows:

'Petitioner is a duly organized domestic corporation and is the owner of a building located at 1231 Piedad Street corner Benavidez Street, Manila;

'Public respondent is the Presiding Judge of the Metropolitan Trial Court, Branch 16;

'For sometime prior to the filing of this petition, Lim Eng Piao, father of private respondent, occupied said premises as a dwelling unit at the above given address together with all the members of his family. Lim Eng Piao subsequently died. Said occupancy was continued by private respondent. Later, the latter was able to acquire a house and lot at No. 3 Igdalig Street, Quezon (sic). In spite of having transferred residence, private respondent did not vacate Room 301 of the building in question. Instead, he utilized the same as a place where he keeps some of his important belongings, papers, books, documents and appliances xxx.

'On or about September 1987, petitioner changed the lock of the common main door of the building.

'On the morning of September 30, 1987, private respondent tried to go to Room 301 but found that the key given him could not fit and open the main door. As one of the occupants of the building in question, private respondent demanded from petitioner's officer-in-charge the delivery to him of the appropriate keys to the said common main door so that he could enter the premises and be restored to possession of said Room No. 301 of the building, but his efforts proved futile as the officer in charge did not heed his demand xxx.

'On October 2, 1987, by reason of the unjustifiable ouster of private respondent from said premises, he instituted Civil Case No. 122546 entitled Reginaldo Y. Lim vs. Rafael Lim and Lim Kieh Tong & Co., Inc.

before the Metropolitan Trial Court which was raffled to Branch 25. Said complaint was denominated as an action for damages with injunction despite the allegations contained therein xxx. The aforesaid case was subsequently dismissed for lack of jurisdiction xxx.

'On October 23, 1987, private respondent again instituted another action at the Metropolitan Trial Court docketed as Civil Case No. 122775 which was raffled to Branch 16. The complaint reiterated the same allegations xxx.

'On November 2, 1987, a temporary restraining order was issued by respondent judge pending trial on the merits, commanding petitioner to deliver the appropriate keys to private respondent and allow him to enter the premises and occupancy of Room No. 301 of the building xxx.

'On November 3, 1987, petitioners instituted the instant petition;

'On the same date after an ex-parte hearing, the Executive Judge of this Court, in order to obviate any possible injustice pending the determination of the issuance of the injunctive writ, issued a temporary restraining order, enjoining the enforcement of the temporary restraining order earlier issued by respondent judge and from further taking cognizance of said Civil Case No. 122775; xxx.'

In ruling in favor of the private appellee, the appellee judge, in part, stated:

'In this case force was used by petitioner to deprive private respondent of the physical possession of Room 301 when the lock of the main door was changed without his knowledge and consent.

'The issued (sic) involved is mere physical possession (possession de facto) and not juridical possession (possession de jure) nor ownership (Mercado vs. Go Bio, 78 Phil. 279; Masallo vs. Cesar, 39 Phil. 134).

'The purpose of forcible entry is that regardless of the actual condition of the title to property, the party in peaceable and quiet possession shall not be turned out by strong hand, violence or terror x x x. In affording this remedy, breaches of the peace and criminal disorder would be minimized. A party out of possession must respect and resort to the law alone to obtain what he claims is his. (Supia and Batioco vs. Quintero and Ayala, 59 Phil. 312).

'Considering that respondent judge found the applicability of the Rule in Summary Procedure, the motion to dismiss was correctly denied. A motion to dismiss being one of the prohibited pleadings and motions under Section 15 of the 1983 Rules on Summary Procedure.

'Hence, the petition must fail on this score alone.

'Anent the second issue, petitioner contended that when the amount of damages claimed is not specifically alleged in the complaint, jurisdiction over the case would fall under the Regional Trial Courts, as the failure to so allege would characterize the subject matter as one which is incapable of pecuniary estimation.

'Petitioner's contentions is (sic) not well-taken.

'In Singson vs. Aragon, 92 Phil. 514, the Supreme Court held that exemplary damages must be specified and if not, the municipal trial court could still grant it, if together with the other money claims, the amount of the total claim does not exceed P10,000.00 (now P20,000.00).

'As to moral damages, the aforesaid ruling can likewise be made to apply.

'What confers jurisdiction on the inferior court in forcible entry and illegal detainer cases is NOT the amount of unpaid rentals or damages involved, but rather the nature of the action because the rents or damages are only incidental to the main action (Vichanco vs. Laurilla, L-13935, June 30, 1960).'"[1]

An appeal was taken to the Court of Appeals. The appeal was dismissed for lack of merit.[2] A motion for

reconsideration filed by petitioner was denied in a resolution dated May 9, 1990.[3]

Hence, this petition for review the main thrust of which is that the action being one for specific performance the jurisdiction thereof is vested in the Regional Trial Court.

The petition must fail.

A reading of the allegations of the complaint show that private respondent and his family resided in Room 301 of the building of petitioner until they transferred to their present residence at No. 3 Igdaig St., Quezon City. However, private respondent retained possession of said room to keep his important belongings, such as his law books, important documents, appliances, etc. The building has only one common main door through which all the occupants of the various rooms therein can get in and out. Accordingly, all occupants including private respondent were given a key to the main doorlock by petitioner.

However, when private respondent wanted to go inside his room on September 30, 1987 to get three (3) of his lawbooks which he needed to read in connection with a case he was then handling, he found that the key he possessed was no longer compatible with the lock, i.e., the same was changed. Private respondent had to buy three (3) new lawbooks for P1,253.00 to prepare for his cases. He requested private respondent to provide him the appropriate key but his request was denied. Petitioner also alleges that he has a clear and unmistakable right to the use of said room entitling him to the writ of preliminary mandatory injunction to command petitioner to provide him the appropriate key to the lock of the main building; and to pay damages in the amount of P1,253.000, P5,000.00 attorney's fees and costs of the suit.

From the foregoing facts alleged in the complaint, the Court holds that the suit is one for forcible entry and detainer under Rule 70 of the Rules of Court. Private respondent retained the possession of Room 301 of petitioner's building which he claimed to have the right to use and enjoy, but petitioner prevented him from enjoying his right by depriving him of the right of egress and ingress through the main door of the building. Through stealth, petitioner changed the key to the main door thus depriving private respondent of the possession of his rented room.

Any person deprived of possession of any land or building or part thereof, may file an action for forcible entry and detainer in the proper inferior court against the person unlawfully depriving or withholding possession from him.[4] This relief is not only available to a landlord, vendor, or vendee, but also to a lessee or tenant or any other person against whom the possession of any land or building, or a part thereof, is unlawfully withheld, or is otherwise unlawfully deprived possession thereof, within one (1) year after such unlawful deprivation or withholding of possession.

WHEREFORE, the petition is DENIED. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 23 to 29, Rollo.

[2] Justice Nathanael P. de Pano, Jr. was the ponente. Justices Celso L. Magsino and Alicia V. Sempio-Diy concurred.

[3] Page 36, Rollo.

[4] Section 1, Rule 70 of the Rules of Court; Supia vs. Quintero, 59 Phil. 312 (1933); Bago vs. Garcia, 5 Phil. 524

(1906); Yuson vs. Diaz, 42 Phil. 22 (1921); De la Cruz, et al. vs. Burgos, 28 SCRA 977 (1969); Drilon vs. Gaurana, 149 SCRA 342 (1987); Roxas vs. Mijares, 9 Phil. 252 (1907); Rodriguez vs. Taiño, 16 Phil. 301 (1910); Santiago vs. Cruz, 54 Phil. 640 (1930); Tambunting vs. City of Manila, 5 Phil. 590 (1906); Padin vs. Humpreys, 19 Phil. 254 (1911); and Bishop of Cebu vs. Mangabon, 6 Phil. 286 (1906).

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