

JASMIN S. NOGOY, SPECIAL ADMINISTRATRIX, INTESTATE ESTATE OF THE LATE LEONARDA O. NOGOY, ETC., PETITIONER-APPELLANT, VS. CITY JUDGE FILEMON MENDOZA, JR., BRANCH III, CALOOCAN CI...

G.R. Nos. 54324-28. November 19, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

Respondent city judge in his decision dated May 29, 1980 dismissed the five ejectment cases filed by the petitioner against the private respondents on the ground of lack of jurisdiction because the cases involve "more the issue of ownership than possession and should have been filed" in the Court of First Instance (p. 50, Rollo).

That decision is wrong because Republic Act No. 5967, which took effect on June 21, 1969, enlarged the jurisdiction of city courts by providing in its section 3 that city courts shall have concurrent jurisdiction with the Court of First Instance "in ejectment cases where the question of ownership is brought in issue in the pleadings" and that in such a case "the issue of ownership shall therein be resolved in conjunction with the issue of possession" (See *Contreras vs. Villaraza*, G. R. No. 53372, August 21, 1980). The issue of ownership was raised in defendants' answer in the city court.

Section 5 of Republic Act No. 5967 provides that the decision of a city court in civil actions, other than those falling within its original exclusive jurisdiction, shall be "directly appealable to the Court of Appeals or Supreme Court, as the case may be". The instant certiorari case may be regarded as an appeal from respondent judge's decision pursuant to Republic Act No. 5440, a law not well-known to some law practitioners and judges.

Petitioner's counsel in his motion for reconsideration called respondent judge's attention to the concurrent jurisdiction of the city court of Caloocan City and the Court of First Instance to decide the issue of ownership in an ejectment case but petitioner's counsel cited the wrong law. He cited Republic Act No. 1657, a law creating barrios in the municipality of Mabini, Davao. Hence, respondent judge was not convinced by that motion for reconsideration. He denied it.

It is evident that because of Republic Act No. 5967 the rule in section 4, Rule 70 of the Rules of Court, formerly section 4, Rule 72 of the 1940 Rules of Court, that "evidence of title to the land or building may be received solely for the purpose of determining the character and extent of possession and damages for detention", does not apply to the ejectment cases filed in city courts which are now empowered to decide the issue of ownership.

With respect to respondent judge's finding that the petitioner's cause of action suffers from "fatal jurisdictional defects" because there were no demands to vacate (p. 49, Rollo), the petitioner alleged that her counsel made a formal demand to vacate as shown in his letter dated June 17, 1978 wherein the private respondents were required to "vacate the premises after five days from receipt of this demand letter" (p. 53, Rollo). The city court should take into account that demand letter.

WHEREFORE, respondent judge's decision is set aside. He is directed to try and decide the issue of ownership in the five ejectment cases. Costs against the private respondents.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

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