

## SECOND DIVISION

[ G.R. No. 202426, January 27, 2016 ]

**GINA ENDAYA, PETITIONER, VS. ERNESTO V. VILLAOS,  
RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> assails: 1) the January 2, 2012 Decision<sup>[2]</sup> of the Court of Appeals (CA) dismissing petitioner's Petition for Review in CA-G.R. SP No. 110427 and affirming the April 11, 2008 Decision<sup>[3]</sup> and May 29, 2009 Resolution<sup>[4]</sup> of the Regional Trial Court of Puerto Princesa City, Branch 49 in RTC Case No. 4344; and 2) the CA's June 11, 2012 Resolution<sup>[5]</sup> denying petitioner's Motion for Reconsideration.

#### ***Factual Antecedents***

The CA is succinct in its narration of the facts:

Gina Endaya (hereinafter petitioner) and the other heirs of Atilano Villaos (hereinafter Atilano) filed before the RTC, Branch 52, Palawan City, a complaint for declaration of nullity of deeds of sale, recovery of titles, and accounting of income of the Palawan Village Hotel (hereinafter PVH) against Ernesto V. Villaos (hereinafter respondent). Docketed thereat as Civil Case No. 4162, the complaint sought the recovery of several lots, including that on which the PVH and Wooden Summer Homes<sup>[6]</sup> are located.

The complaint in the main said that the purported sale of the affected lots, from Atilano to respondent, was spurious.

Subsequently or on 10 May 2006, respondent riled an ejectment case with preliminary mandatory injunction<sup>[7]</sup> against petitioner Gina Endaya and Leny Rivera before the Municipal Trial Court in Cities (MTCC), Puerto Princesa City, docketed as Civil Case No. 1940.

According to respondent, he bought from Atilano eight (8) parcels of land,<sup>[8]</sup> including those where PVH and WSH stood. Respondent then took possession of the lots and started to manage and operate the said hotels. Upon taking possession of the said lots, he told petitioner and the others who live in residential houses in the lots in question, to vacate the premises, giving them a period of six (6) months to do so.

However, instead of leaving, petitioner even participated in a violent and

unlawful take-over of portions of PVH and WSH, thus, the filing of the ejectment case.

Denying that Atilano, during his lifetime, had executed deeds of sale involving the subject lots in favor of respondent, petitioner stated that during the alleged execution of said deeds, Atilano was no longer ambulatory and could no longer talk and give assent to the deeds of sale. She added that Atilano, an educated and successful businessman, could have affixed his [signature] to the documents and not merely put his thumbmark on it. She claims that the deeds of sale were forged and could not have been executed with Atilano's consent.

Petitioner further contended that the deeds of sale could not have been properly notarized because the same were notarized in Palawan at a time when Atilano was purportedly confined at a hospital in Quezon City. Finally, petitioner questioned the propriety of the ejectment case since according to her, they already have filed Civil Case No. 4162 precisely to nullify the deeds of sale.

In its decision,<sup>[9]</sup> the MTCC held that an action questioning the ownership of a property does not bar the filing of an ejectment case since the only issue for resolution in an unlawful detainer case is the physical or material possession of the property independent of any claim of ownership. Such being the case, the MTCC had jurisdiction to decide as to who is entitled to the possession of the residential house. It ruled that respondent had the right to the possession of the residential house subject of the instant case and ordered the petitioners to vacate the same and pay attorney's fees in the amount of P20,000.00.

Aggrieved by the decision, petitioners appealed before the RTC of Palawan, docketed thereat as RTC Case No. 4344.

On 11 April 2008, the RTC promulgated its decision<sup>[10]</sup> affirming the ruling of the MTCC, holding that the pendency of Civil Case No. 4162 could not be considered as ground for the dismissal of the present ejectment case under the principle of *litis pendentia* because the parties therein assert contrasting rights and prayed for different reliefs. It further ruled that the MTCC simply took cognizance of the existence of the *deeds* of sale in favor of respondent without passing judgment as to whether these deeds were valid or not.

According to the RTC, the questioned deeds of absolute sale, being notarized documents, are considered to be public documents and carry with them the presumption of regularity.

However, the RTC deleted the award for attorney's fees, saying that there was no factual and legal basis to justify the same.

Petitioner filed a motion for reconsideration, arguing that the RTC should pass judgment on the legality of the *deeds* for the purpose of deciding who between the parties has a better right to possession even if the

same issue is pending before another court.

The RTC denied the motion in its Resolution<sup>[11]</sup> dated 29 May 2009 x x x.

The RTC held in its May 29,2009 Resolution that -

Appellants'<sup>[12]</sup> insistence that this Court pass judgment on the legality or illegality of the deeds of sale if only for the limited purpose of deciding who between the parties herein has the better right to possession of the properties subject hereof, even if the same issue is pending before another branch of this Court, is as highly improper as it is subversive of orderliness in the administration of justice, as it would put the presiding judges of both this and Branch 52 of this Court in a most inconvenient bind.

One cannot begin to think what consequences such suggested action shall spawn. Whichever way this Court decides the matter of the validity of the deeds of sale, not only shall the same be without any final weight and binding effect but it is likewise bound to slight, irate and/or humiliate either or both judges involved, and/or otherwise to adversely impact on judicial capacity to decide finally the issue with utmost freedom, which is indispensable to a fair and orderly administration of justice.

x x x x

In the end, it can even be added that when appellants decided to lodge civil case no. 4162, even while the ejectment case was pending with the court *a quo*, they have empowered Branch 52 of this Court, to which the former case was assigned, to decide squarely and bindingly the issue of the validity or invalidity of the deeds of sale. Consequently, they must have known and understood the legal and practical impacts of this decision of theirs on the capacity of the court *a quo*, and of this Court eventually, to make a similar determination even for a limited, and especially for a limited, purpose only.

For appellants, now, to ask both concerned branches of this Court to decide on one and the same issue, when the latter were compelled, by the former's aforesaid filing of action, to limit themselves only to the issue directly affecting the particular aspect of the controversy between the same parties-in-litigation that they are specifically handling, could be considered a myopic regard for the legal system that everyone should try to edify and sustain.<sup>[13]</sup>

### ***Ruling of the Court of Appeals***

Petitioner filed a Petition for Review<sup>[14]</sup> before the CA, docketed as CA-G.R. SP No. 110427. Petitioner later filed an Amended Petition for Review, with Supplement.<sup>[15]</sup> She claimed that the RTC erred in affirming the MTCC; that the MTCC and RTC erred in not passing upon the issue of validity of the deeds of sale executed by Atilano in favor of respondent and declaring that said issue should be resolved in Civil Case No. 4162 for declaration of nullity of said deeds of sale, recovery of titles, and accounting before the Palawan RTC Branch 52; that it was necessary to pass upon

the validity of the deeds of sale even if the same is the main point of contention in Civil Case No. 4162, because the question of possession in the ejectment case cannot be resolved without deciding the issue of ownership;<sup>[16]</sup> that while respondent claimed that the subject lots were sold to him, title to the same remains in the name of Atilano even up to this day; and that the MTCC had no jurisdiction over the case.

In a January 2, 2012 Decision, the CA denied the Petition, stating thus:

The petition is devoid of merit.

At the outset, it bears emphasis that the only issue for resolution in an ejectment case is the question of who is entitled to the physical or material possession of the property in dispute which is independent of any claim of ownership raised by any of the parties. If the question of ownership is linked to the issue of possession, then the MTCC may pass on the question of ownership only for the purpose of determining the issue of possession. Such determination is not final and does not affect the ownership of the property. This is clearly set forth in Section 16, Rule 70 of the Rules of Court which provides:

SEC. 16. Resolving defense of ownership. - When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

In this case, the MTCC was correct in refusing to dismiss the ejectment case despite the pendency of Civil Case No. 4162 which is an action for declaration of nullity of the deeds of sale in another court. The case then pending before the MTCC was concerned only with the issue of possession, or to be exact, who between petitioner and respondent had the better right to possess the properties in question.

Respondent has in his favour the deeds of sale which are notarized documents and hence, enjoy the presumption of regularity. Based on the said deeds of sale, the MTCC correctly awarded the possession of the properties in question to respondent. In effect, the MTCC provisionally ruled on the ownership of the subject properties, contrary to petitioner's insistence that said court completely avoided the issue.

It cannot also be said that the RTC likewise refused to rule on the issue of ownership, or on the validity of the deeds of sale. The RTC was one with the MTCC in ruling that the deeds of sale are presumed to be valid because these were notarized. While it categorically refused to rule on the validity of the deeds of sale, it may be considered to have ruled on the ownership of the properties on the basis of the presumption of regularity that attaches to the notarized deeds.

The RTC is justified in refusing to rule on the validity of the deeds of sale since this is a matter that pertains to Civil Case No. 4162. x x x

x x x x

To reiterate, the only duty imposed upon the RTC in resolving questions of possession where the issue of ownership is raised is to touch on said subject matter provisionally. When it ruled on the issue of possession on the basis of the aforesaid presumption, it cannot be said to have been remiss in its duty.

As to petitioner's argument that the MTCC should have dismissed the ejectment case for lack of jurisdiction since the present case was a forcible entry case and not an unlawful detainer case, this Court likewise finds it to be lacking in merit.

Records will show that petitioner never raised the said issue in the court below. In fact, it was raised only for the first time on appeal before this Court. Hence, petitioner cannot now impugn for the first time MTCC's lack of jurisdiction based on the rule that issues not raised or ventilated in the court *a quo* cannot be raised for the first time on appeal. To do so would offend the basic rules of fair play and justice.

*WHEREFORE*, premises considered, the petition is hereby DISMISSED. The assailed Decision dated 11 April 2008 and Resolution dated 29 May 2009 of the Regional Trial Court of Puerto Princesa City, Branch 49, in RTC Case No. 4344, are hereby AFFIRMED.

SO ORDERED.<sup>[17]</sup>

Petitioner moved to reconsider, but in its assailed June 11, 2012 Resolution, the CA held its ground. Hence, the present Petition.

### **Issues**

Petitioner submits that -

- A. The Honorable Court of Appeals erred in affirming the findings of the MTCC of Puerto Princesa City and RTC Branch 49 on the issue of ownership of the subject properties.
- B. The Honorable Court of Appeals erred in ruling that the issue of jurisdiction, or lack of it, of the MTCC over the complaint for ejectment filed by the Respondent cannot be raised for the first time on appeal.<sup>[18]</sup>

### ***Petitioner's Arguments***

Praying that the assailed CA dispositions be reversed and set aside and that the ejectment case - Civil Case No. 1940 - be dismissed, petitioner essentially insists in her Petition and Reply<sup>[19]</sup> that the MTCC and RTC should have resolved the issues of ownership and validity of the deeds of sale despite the pendency of Civil Case No. 4162 because these issues will settle the question of who between the parties has the better right of possession over the subject properties; that it was error for the MTCC and RTC to declare that respondent had the better right of possession based