

THIRD DIVISION

[G.R. No. 215640, November 28, 2016]

**NESTOR CABRERA, PETITIONER, VS. ARNEL CLARIN AND WIFE;
MILAGROS BARRIOS AND HUSBAND; AURORA SERAFIN AND
HUSBAND; AND BONIFACIO MORENO AND WIFE, RESPONDENTS.**

DECISION

PERALTA, J.:

For resolution of this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by petitioner Nestor *Cabrera* (*Cabrera*) assailing the Decision^[1] dated July 25, 2014 and Resolution^[2] dated November 21, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 100950, which reversed and set aside the Decision^[3] of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 10, in Civil Case No. 752-M-2006.

The facts are as follows:

The instant petition originated from a Complaint^[4] for *accion publiciana* with damages filed before the RTC by Cabrera^[5] against respondents Arnel Clarin (*Clarin*) and wife, Milagros Barrios (*Barrios*) and husband, Aurora Serafin (*Serafin*) and husband, and Bonifacio Moreno (*Moreno*) and wife.^[6] Cabrera alleged that he is the lawful and registered owner of a parcel of agricultural land located at Barangay Maysulao, Calumpit, Bulacan, with a total area of 60,000 square meters (sq. m.) covered by Transfer Certificate of Title (TCT) No. T-4439. He was in actual and physical possession of the land until he discovered the encroachment of respondents sometime in December 2005. By means of fraud, strategy and stealth, respondents usurped and occupied portions of the said property, viz.: Clarin with 63 sq. m. thereof, Barrios with 41 sq. m. thereof, Serafin with 30 sq. m. thereof, and Moreno with 11 sq. m. thereof. He made numerous oral and written demands to vacate the premises but the respondents refused to heed. They also failed to settle amicably when the case was brought before the barangay for conciliation.

In their Motion to Dismiss,^[7] respondents claimed that the complaint failed to state the assessed value of the property which is needed in determining the correct amount of docket fees to be paid. Also, Cabrera did not fulfill an essential condition prior to the filing of the complaint which was submission of a government approved technical survey plan to prove the alleged encroachment. Cabrera anchors his claim of ownership in the certificate of title registered in his and his father Ciriaco Cabrera's name. Cabrera did not aver that it was his portion of property that respondents have intruded as there was no proof of partition of the property since his father who was an American citizen died in the United States of America.^[8]

In an Order dated June 19, 2007, the RTC denied respondents' motion, and directed

them to file their Answer.^[9] The RTC cited the case of *Aguilon v. Bohol*^[10] in ruling that based on the allegations in the complaint, the case is the plenary action of *accion publiciana* which clearly falls within its jurisdiction. The trial court, in an Order^[11] dated October 19, 2007, declared respondents in default upon failing to file their Answer, and allowed Cabrera to present his evidence *ex parte*. On February 5, 2009, respondents filed an Omnibus Motion^[12] to set aside the order of default, to admit Answer, and to set the hearing for the presentation of their evidence.

In a Decision dated May 30, 2012, the RTC ruled in favor of Cabrera. The dispositive portion reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the [petitioner]:

1. ORDERING the [respondents] and all other persons claiming rights under them to vacate the subject portions of [the] land and surrender possession thereof to the plaintiff;
2. ORDERING the [respondents] to pay attorney's fees in the amount of Fifty Thousand Pesos ([P]50,000.00) and Ten Thousand Pesos ([P]10,000.00) litigation expenses.

SO ORDERED.^[13]

Aggrieved, respondents elevated the case before the CA which then reversed and set aside the decision of the RTC in a Decision dated July 25, 2014. The *fallo* of the decision reads:

WHEREFORE, the appeal is hereby GRANTED. The Decision dated May 30, 2012 of the Regional Trial Court, Branch 10, Malolos, Bulacan is REVERSED and SET ASIDE. In lieu thereof, the complaint for *accion publiciana with damages* filed by [petitioner] Nestor Cabrera is DISMISSED without prejudice for lack of jurisdiction.

SO ORDERED.^[14]

Finding no cogent reason to deviate from its previous ruling, the CA denied the Motion for Reconsideration filed by Cabrera.

Hence, the instant petition raising the following issues:

- A. The Honorable Court of Appeals committed a reversible error when it held that "since [petitioner] failed to allege the assessed value of the subject property, the court *a quo* has not acquired jurisdiction over the action and all proceedings thereat are null and void," as such conclusion is contradictory to the doctrine of estoppel.
- B. The Honorable Court of Appeals committed a reversible error when it failed to take into consideration the tax declaration annexed to the Appellee's Brief which provided the assessed value of the property subject matter of the case.

The instant petition lacks merit.

In essence, the issue presented before this Court is whether or not estoppel bars respondents from raising the issue of lack of jurisdiction.

Batas Pambansa Bilang 129, (the Judiciary Reorganization Act of 1980), as amended by Republic Act (R.A.) No. 7691 provides:

x x x x

Section 19. *Jurisdiction in civil cases.* - Regional Trial Courts shall exercise exclusive original jurisdiction.

(2) In **all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (P50,000.00)**, except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;

x x x x

Sec. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in Civil Cases.* - Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(3) **Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000.00)**, or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.

x x x^[15]

Before the amendments, the plenary action of *accion publiciana* was to be brought before the RTC regardless of the value of the property. With the modifications introduced by R.A. No. 7691 in 1994, the jurisdiction of the first level courts has been expanded to include jurisdiction over other real actions where the assessed value does not exceed P20,000.00, P50,000.00 where the action is filed in Metro Manila. Accordingly, the **jurisdictional element is the assessed value of the property.**^[16]

A perusal of the complaint readily shows that Cabrera failed to state the assessed value of the disputed land, thus:

x x x x

[T]he plaintiffs are the lawful and the registered owner of a parcel of agricultural land and more particularly described under Transfer Certificate of Title No. T-4439, a copy of which is hereto attached and marked as Annex "A" and made an integral part hereof;

[T]he defendants had illegally encroached the property of the plaintiff by means of fraud and stealth and with force and intimidation. Defendant Arnel Clarin had encroached an approximate area of SIXTY THREE (63) SQUARE METERS, while defendant Milagros Barrios had encroached an approximate area of FORTY-ONE (41) SQUARE METERS, defendant Aurora Serafin had encroached an approximate area of THIRTY (30) SQUARE METERS while defendant Bonifacio Moreno had encroached an approximate area of ELEVEN (11) SQUARE METERS, copy of the relocation plan is hereto attached and marked as Annex "B" and made an integral part of this complaint;

The plaintiffs had already informed the defendants of the illegal encroachment but the defendants refused to heed the call of the plaintiffs to vacate the land in question and threaten plaintiff with bodily harm;

That prior to the discovery of the encroachment on or about December 2005, plaintiff was in actual and physical possession of the premises.

That this matter was referred to the attention of the Office of the Barangay Chairman of Barangay Maysulao, Calumpit, Bulacan and a Lupong Tagapamayapa was constituted but no conciliation was reached and the Lupon issued a Certificate to File Action, copy of the Certificate to File Action is hereto attached and marked as Annex "C" and made an integral part hereof;

That notwithstanding numerous and persistent demands, both oral and written, extended upon the defendants to vacate the subject parcel of land, they failed and refused and still fail and refuse to vacate and surrender possession of the subject parcel of land to the lawful owner who is plaintiff in this case. Copy of the last formal demand dated January 18, 2006 is hereto attached and marked as Annex " " and the registry receipt as well as the registry return card as "D" Annexes "D-1," and "D-2," respectively;

That because of this unjustifiable refusal of the defendants to vacate the premises in question which they now unlawfully occupy, plaintiffs [were] constrained to engage the services of counsel in an agreed amount of FIFTY THOUSAND PESOS ([P]50,000.00) Philippine Currency, as acceptance fee and THREE THOUSAND PESOS ([P]3,000.00) Philippine Currency, per day of Court appearance, which amount the defendants should jointly and solidarity pay the plaintiffs, copy of the retaining contract is hereto attached and marked as Annex "E" and made an integral part of this complaint;

That in order to protect the rights and interest of the plaintiffs, litigation

expenses will be incurred in an amount no less than TEN THOUSAND PESOS ([P]10,000.00), which amount the defendants should jointly and solidarily pay the plaintiffs;

That the amount of THREE THOUSAND PESOS ([P]3,000.00) per month should be adjudicated in favor of the plaintiff as against the defendants by way of beneficial use, to be counted from the day the last formal demand until they fully vacate and surrender possession of the premises in question to the plaintiffs. x x x.^[17]

In dismissing the case, the CA noted such fact, to wit:

In the case at bench, the complaint for *accion publiciana* filed by [Cabrera] failed to allege the assessed value of the real property subject of the complaint or the interest therein. Not even a tax declaration was presented before the court *a quo* that would show the valuation of the subject property. As such, there is no way to determine which court has jurisdiction over the action or whether the court *a quo* has exclusive jurisdiction over the same. Verily, the court *a quo* erred in denying the motion to dismiss filed by [respondents] and in taking cognizance of the instant case.^[18]

Indeed, nowhere in the complaint was the assessed value of the subject property ever mentioned. On its face, there is no showing that the RTC has jurisdiction exclusive of the MTC. Absent any allegation in the complaint of the assessed value of the property, it cannot readily be determined which court had original and exclusive jurisdiction over the case at bar. The courts cannot take judicial notice of the assessed or market value of the land.^[19]

We note that Cabrera, in his Comment/Opposition to the Motion to Dismiss,^[20] maintained that the *accion publiciana* is an action incapable of pecuniary interest under the exclusive jurisdiction of the RTC.^[21] Thereafter, he admitted in his Brief before the CA that the assessed value of the subject property now determines which court has jurisdiction over *accion publiciana* cases. In assailing the trial court's jurisdiction, petitioner averred that his failure to allege the assessed value of the property in his Complaint was merely innocuous and did not affect the jurisdiction of the RTC to decide the case.

Cabrera alleges that the CA erred in concluding that the RTC has not acquired jurisdiction over the action in the instant case being contrary to the doctrine of estoppel as elucidated in *Honorio Bernardo v. Heirs of Villegas*.^[22] Estoppel sets in when respondents participated in all stages of the case and voluntarily submitting to its jurisdiction seeking affirmative reliefs in addition to their motion to dismiss due to lack of jurisdiction.

We are not persuaded. It is axiomatic that the nature of an action and the jurisdiction of a tribunal are determined by the material allegations of the complaint and the law at the time the action was commenced.^[23] A court's jurisdiction may be raised at any stage of the proceedings, even on appeal for the same is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.^[24] It applies even if the issue on jurisdiction was