

SECOND DIVISION

[G.R. No. 183357, March 15, 2010]

HONORIO BERNARDO, PETITIONER, VS. HEIRS OF EUSEBIO VILLEGAS, RESPONDENTS.

D E C I S I O N

PEREZ, J.:

This petition for review on *certiorari* under Rule 45 of the Rules of Court seeks to assail the validity of the Decision^[1] dated 21 April 2008 of the Court of Appeals, which affirmed the judgment of the Regional Trial Court (RTC) of Binangonan, Rizal in Civil Case No. R-00-035.

This controversy stemmed from a Complaint dated 14 November 2000 for *accion publiciana* filed by respondent Heirs of Eusebio Villegas against petitioner Honorio Bernardo, Romeo Gaza (Gaza) and Monina Francisco (Francisco). Respondents had earlier filed an ejectment case against the trio, docketed as Civil Case No. 99-065 with the Municipal Trial Court (MTC) of Binangonan, Rizal, which case was dismissed on the ground of lack of jurisdiction for having been filed beyond the one-year prescriptive period for filing a forcible entry case.^[2]

Respondents alleged in the Complaint that their father, Eusebio Villegas, is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. 46891 with an area of 18,369 square meters and situated in *Barangay* Pag-asa, Binangonan, Rizal; that petitioner, by stealth and in the guise of merely grazing his cattle, surreptitiously entered into possession of a portion of respondents' land; that petitioner conspired and confederated with Gaza and Francisco by illegally constructing their own houses on the subject land; that the issue of possession was brought to the *barangay* for conciliation but no settlement was reached by the parties; and that petitioner, Gaza and Francisco had forcibly, unlawfully and unjustly possessed and continue to possess the subject property and had refused to vacate the same.

In his Answer, petitioner denied taking possession of any portion of the property of respondents. He argued that the cause of action is barred by the judgment in the ejectment case. He claimed that he had been in possession of his land since the early 1950s.^[3] As he did before the MTC, petitioner also alleged lack of jurisdiction on the part of the RTC.

Gaza alleged that he has been occupying an abandoned river bed adjacent to the property allegedly owned by respondents.^[4] Gaza averred that he entered into a written agreement with petitioner, who claimed to own the land and allowed him to build a *nipa* hut thereon.^[5]

An ocular inspection was conducted by the trial court judge. On 5 March 2007, the trial court rendered judgment in favor of respondents and ordered petitioner, Gaza and Francisco to vacate the subject land covered by TCT No. 46891 and to pay jointly and severally respondents the amount of P30,000.00 as attorney's fees and the cost of suit.^[6]

The trial court held that the suit, being an *accion publiciana*, falls within its jurisdiction. It found that the houses of petitioner and Gaza were inside the titled property of respondents. Its findings were based on the testimony of one of the respondents, Estelito Villegas; the relocation plan prepared by Engineer Rico J. Rasay; and the Technical Report on Verification Survey submitted by Engineer Robert C. Pangyarihan, petitioner's own witness.^[7] The trial court noted that petitioner failed to present any title or tax declaration to prove ownership or possessory right.^[8]

On appeal, the Court of Appeals affirmed the ruling of the trial court.

In his appeal, petitioner questioned the jurisdiction of the trial court over the subject matter and argued that in their complaint, the respondents failed to state the assessed value of the property in dispute. The appellate court ruled that petitioner is estopped from raising the issue of jurisdiction because he failed to file a motion to dismiss on such ground and, instead, actively participated in the proceedings before the trial court.

With respect to the argument that being indispensable parties, all of the heirs of Eusebio Villegas should have been impleaded as parties, the appellate court disagreed and invoked Article 487 of the Civil Code, which provides that any one of the co-owners may bring an action for ejectment. The appellate court construed said provision to cover all kinds of actions for recovery of possession.^[9]

The appellate court sustained the trial court's finding that the portions of the land occupied by petitioner and Gaza are owned by respondents. The appellate court likewise ruled that respondents could not be guilty of laches considering that Estelito Villegas, upon seeing for the first time in 1996 that petitioner was already building his house on the premises, verbally asked him to discontinue the construction.^[10]

His motion for reconsideration having been denied, petitioner filed the instant petition.

Petitioner insists that the trial court had no jurisdiction over the subject matter of the action for failure of respondents to allege the assessed value of the property involved in their complaint. Petitioner belies the ruling of the appellate court that he failed to raise objections before the trial court. Petitioner reiterates that he raised the defense of lack of jurisdiction as early as in his Answer filed before the trial court. Moreover, he argues that even if he did not raise the defense of lack of jurisdiction, the trial court should have dismissed the complaint *motu proprio*. Petitioner disputes the application to him of the doctrine of estoppel by laches in *Tijam v. Sibonghanoy*.^[11] Petitioner avers that unlike in *Tijam*, he raised the issue of jurisdiction, not only in his answer, but also in his appeal. ^[12]

Respondents defend the ruling of the Court of Appeals and maintain that petitioner is estopped from challenging the jurisdiction of the trial court.^[13]

The issue presented before this Court is simple: Whether or not estoppel bars petitioner from raising the issue of lack of jurisdiction.

Under *Batas Pambansa Bilang* 129, the plenary action of *accion publiciana* must be brought before the regional trial courts. With the modifications introduced by Republic Act No. 7691^[14] in 1994, the jurisdiction of the regional trial courts was limited to real actions where the assessed value exceeds P20,000.00, and P50,000.00 where the action is filed in Metro Manila, thus:

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

x x x x

(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.

Under the law as modified, jurisdiction is determined by the assessed value of the property.

A reading of the complaint shows that respondents failed to state the assessed value of the disputed land. The averments read:

x x x x

3. EUSEBIO VILLEGAS, deceased father of hte plaintiffs, is the registered owner of a parcel of land situated in Barangay Pag-asa (formerly Barangay Tayuman), Binangonan, Rizal with a land area of 18,369 square meters. The same is covered by and embraced in Transfer Certificate of Title No. 46891 of the Registry of Deeds for the Province of Rizal. x x x.

4. Plaintiffs are the legal heirs of EUSEBIO VILLEGAS and succeeded to the subject parcel of land by virtue of their inheritance rights as compulsory heirs of said deceased Eusebio Villegas and upon his death, immediately took over and were enjoying the peaceful possession of the said parcel of land and exercising said rights of possession and ownership thereof;

5. That sometime in 1996, defendant Honorio Bernardo, by stealth and in guise of merely grazing his cattle, without the consent of the plaintiffs,

surreptitiously entered into the possession of a portion of the subject parcel of land. Employing threats and intimidations, he claimed later that the area he illegally occupied is purportedly not part and parcel of the land owned by the plaintiff's predecessor, Eusebio Villegas, and forcibly fenced and built his house on the portion of land he illegally occupied;

6. Not being content with his own forcible and unlawful invasion, usurpation and incursion into the plaintiffs' parcel of land, and in furtherance of his desire to forcibly exclude the plaintiffs of their lawful and for possession of the subject portion of plaintiffs' parcel of land, defendant Bernardo, conspired and confederated with defendants Romeo Gaza and Monina Francisco by surreptitiously and illegally constructing their own houses on the subject parcel of land through stealth and intimidation;

7. That the issue of the possession of the subject parcel of land was brought under the Barangay Justice System in 1996 for conciliation but, no settlement was reached by the parties. Copies of the Certifications issued by the Barangay for that matter is hereto attached and marked as Annex "B";

8. That the defendants have forcibly, unlawfully, and unjustly dispossessed and still continues to forcibly, unlawfully, and unjustly dispossesses the plaintiffs of their lawful rights of possession and ownership on a portion of the subject property since 1966 up to the present;

9. Because of the unjust refusal of the defendants to vacate the premises, plaintiffs were constrained to engage the services of counsel to protect their interest on the property for an agreed attorney's fee of P50,000.00, and have incurred litigation expenses[;]

10. By reason of the unlawful and forcible invasion by the defendants of the property of the plaintiffs which was accompanied by threats and intimidation, the plaintiffs have suffered and continue to suffer anxiety and sleepless nights for which the defendants should be made to indemnify by way of moral damages in the amount of at least P100,000.00;

11. To serve as an example to others who might be minded to commit similar wanton and unlawful acts, defendants should be held answerable for exemplary damages of not less than P50,000.00.^[15]

This fact was noted by the Court of Appeals in its Decision but it proceeded to rule in this wise:

Records show that at the time plaintiffs-appellees filed their complaint below, R.A. No. 7691 which amended Batas Pambansa Blg. 129 was already in effect. However, the complaint failed to allege the assessed value of the real property involved. Although appellant indeed raised the