

FIRST DIVISION

[G.R. No. 169691, July 23, 2008]

**PEDRITO SALMORIN, PETITIONER, VS. DR. PEDRO ZALDIVAR,
RESPONDENT.**

R E S O L U T I O N

CORONA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Pedrito Salmorin assails the January 31, 2005 decision^[1] and September 8, 2005 resolution^[2] of the Court of Appeals (CA).

On July 15, 1989, respondent Dr. Pedro Zaldivar, as legal possessor^[3] of Lot No. 7481-H^[4] situated in Mapatag, Hamtic, Antique, entered into an agreement (*Kasugtanan*)^[5] with Salmorin designating him as administrator of the lot with a monthly salary of P150. Salmorin allegedly did not comply with the terms of the *Kasugtanan* when he failed to till the vacant areas.^[6] This compelled Zaldivar to terminate his services and eject him from the lot. When Salmorin refused to vacate the property, Zaldivar filed a complaint for unlawful detainer against him in the Municipal Circuit Trial Court (MCTC) of Tobias Fornier-Anini-y-Hamtic. The complaint was docketed as Civil Case No. 229-H.

In his answer, Salmorin alleged the existence of a tenancy relationship between him and Zaldivar. Thus, he claimed that the case was an agrarian matter over which the MCTC had no jurisdiction.

After an examination of the position papers submitted by the parties, the MCTC found that the case was in the nature of an agrarian dispute and dismissed the case for lack of jurisdiction.

Zaldivar appealed to the Regional Trial Court (RTC) of San Jose, Antique which ruled in his favor. The RTC found that the consent of the landowner and sharing of the harvest, which were requisites for the existence of a tenancy relationship,^[7] did not exist. Thus, it ruled that the MCTC had jurisdiction over the case and ordered the reinstatement of Civil Case No. 229-H.

Salmorin appealed the RTC decision to the CA but the latter upheld the decision of the RTC. He now seeks a reversal of the RTC and CA decisions.

Salmorin argues that the regular court had no jurisdiction over the case and Zaldivar had no right to possess the subject property.

We disagree.

On one hand, the Department of Agrarian Reform Adjudication Board has primary and exclusive jurisdiction over agrarian related cases, *i.e.*, rights and obligations of persons, whether natural or juridical, engaged in the management, cultivation and use of all agricultural lands covered by the Comprehensive Agrarian Reform Law and other related agrarian laws, or those cases involving the ejectment and dispossession of tenants and/or leaseholders.^[8] On the other, Section 33 (2) of Batas Pambansa Blg. 129, as amended by Republic Act 7691, provides that exclusive original jurisdiction over cases of forcible entry and unlawful detainer is lodged with the metropolitan trial courts, municipal trial courts and MCTCs.

It is well-settled that the jurisdiction of a court over the subject matter of the action is determined by the material allegations of the complaint and the law, irrespective of whether the plaintiff is entitled to recover all or some of the claims or reliefs sought therein.^[9]

In his complaint, Zaldivar alleged the following:

- (1) he possessed the subject lot;
- (2) he instituted Salmorin as administrator thereof;
- (3) Salmorin failed to administer the subject lot by not having the vacant areas thereof planted;
- (4) for Salmorin's failure to administer the subject lot, Salmorin's service as administrator was terminated;
- (5) he advised Salmorin through registered mail to leave or vacate the subject lot and
- (6) Salmorin refused to vacate the subject lot without justification.

Thus, Zaldivar's complaint concerned the unlawful detainer by Salmorin of the subject lot. This matter is properly within the jurisdiction of the regular courts. The allegation of tenancy in Salmorin's answer did not automatically deprive the MCTC of its jurisdiction. In *Hilado et al. v. Chavez et al.*,^[10] we ruled:

[T]hat **the jurisdiction of the court over the nature of the action and the subject matter thereof cannot be made to depend upon the defenses set up in the court or upon a motion to dismiss.** Otherwise, the question of jurisdiction would depend almost entirely on the defendant. xxx The [MTCC] does not lose its jurisdiction over an ejectment case by the simple expedient of a party raising as defense therein the alleged existence of a tenancy relationship between the parties. But it is the duty of the court to receive evidence to determine the allegations of tenancy. If after hearing, tenancy had in fact been shown to be the real issue, the court should dismiss the case for lack of jurisdiction. (emphasis supplied; citations omitted)

Contrary to the findings of the MCTC, both the RTC and the CA found that there was no tenancy relationship between Salmorin and Zaldivar. A tenancy relationship cannot be presumed.^[11] In *Saul v. Suarez*,^[12] we held: