

## **SECOND DIVISION**

**[ G.R. NO. 154282, April 07, 2006 ]**

**VANGIE BARRAZONA, PETITIONER, VS. REGIONAL TRIAL COURT, BRANCH 61, BAGUIO CITY AND SAN-AN REALTY AND DEVELOPMENT CORPORATION, HEREIN REPRESENTED BY RODRIGO CHUA TIU, RESPONDENTS.**

### **D E C I S I O N**

**SANDOVAL-GUTIERREZ, J.:**

For our resolution is the instant Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing the Order dated June 19, 2002 of the Regional Trial Court (RTC), Branch 61, Baguio City, denying petitioner's Motion to Dismiss Civil Case No. 5238-R, entitled "SAN-AN REALTY and DEVELOPMENT CORPORATION, herein represented by RODRIGO CHUA TIU, plaintiff, v. VANGIE BARRAZONA, defendant."

San-an Realty and Development Corporation, respondent, owns a building located at Naguilian corner Asin Road, Baguio City. Vangie Barrazona, petitioner, has been leasing portions of the building identified as Units 203 A and B at the second floor. The period of the lease is for two (2) years, commencing July 15, 2001 and ending June 30, 2003. The monthly rental is P400.00 per square meter for Unit 203 A and P500.00 per square meter for Unit 203 B.

Starting August 2001, petitioner defaulted in the payment of the monthly rentals and failed to pay despite demands by respondent. Thus, on May 14, 2002, respondent filed with the RTC, Branch 61, Baguio City, a Complaint for Collection of Sum of Money with Damages, docketed as Civil Case No. 5238-R.

On June 3, 2002, petitioner filed with the RTC a Motion to Dismiss on the ground, among others, that the RTC has no jurisdiction over the complaint considering that the allegations therein clearly indicate that the action is one for ejectment (illegal detainer) which is under the exclusive jurisdiction of the Municipal Trial Court (MTC). Petitioner pointed out the following allegations in paragraphs 4 and 5 of the complaint showing that it is not for sum of money but for ejectment:

4. That the defendant has failed to pay the rentals for the said leased premises for the month of August 2001 up to the present;
5. That the plaintiff has demanded the defendant to pay her overdue account, now amounting to P971,838.15, the last demand to vacate and payment of arrears having been made in writing on March 27, 2002 xxx.

In an Order dated June 19, 2002, the RTC denied the Motion to Dismiss for lack of merit.

Forthwith, petitioner filed the instant Petition for Certiorari alleging that: (1) the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying her Motion to Dismiss; and (2) the Resolution denying her Motion to Dismiss is unconstitutional as it does not state its legal basis.

On the other hand, respondent, in praying for the dismissal of the petition, contends that (1) the complaint is for the collection of unpaid rentals as there is absolutely no allegation that its intent is to eject petitioner from the premises; (2) petitioner should have first filed a motion for reconsideration before resorting to the extraordinary suit of certiorari; and (3) the assailed order denying petitioner's motion to dismiss is interlocutory and, therefore, cannot be the subject of a petition for certiorari.

We hold that in denying petitioner's motion to dismiss the complaint, the RTC acted with grave abuse of discretion.

Petitioner's motion to dismiss the complaint for lack of jurisdiction is pursuant to Section 1, Rule 16 of the 1997 Rules of Civil Procedure, as amended, which provides:

Sec. 1. Grounds. Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

x x x x x x x x

b.) That the court has no jurisdiction over the subject matter of the claim.

As mentioned earlier, petitioner stated in her motion that respondent's allegations in its complaint show that it is one for ejectment cognizable, not by the RTC but, by the MTC of Baguio City.

In *Herrera, et al. v. Bollos, et al.*,<sup>[1]</sup> we emphasized the basic rule that jurisdiction of the court over the subject matter of the action is determined by the allegations of the complaint at the time of its filing, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.

It bears reiterating paragraph 5 of the complaint, thus:

5. That the plaintiff has demanded the defendant to pay her overdue account, now amounting to P971,838.15, the last demand to vacate and payment of arrears having been made in writing on March 27, 2002 xxx.

This allegation clearly shows that respondent made several demands upon petitioner to pay her overdue rentals and to vacate the premises; and that the last demand to pay and vacate in writing was on March 27, 2002. Respondent thus complied with