

## THIRD DIVISION

[ G.R. NO. 139442, December 06, 2006 ]

**LOURDES DELA CRUZ, PETITIONER, VS. HON. COURT OF  
APPEALS AND MELBA TAN TE, RESPONDENTS.**

### DECISION

**VELASCO, JR., J.:**

*For unto every one that hath shall be given, and he shall have abundance: but from him that hath not shall be taken away even that which he hath.*

—Holy Bible, Matthew 25:29

#### The Case

This petition for review seeks to nullify the April 30, 1999 Decision and the July 16, 1999 Resolution of the Court of Appeals in CA-G.R. SP No. 49097, which reversed the Decision of the Manila Regional Trial Court (RTC), Branch 35, in Civil Case No. 98-89174, and reinstated the Decision of the Manila Metropolitan Trial Court (MeTC), Branch 20, which ordered petitioner Dela Cruz to vacate the subject lot in favor of respondent Tan Te.<sup>[1]</sup>

#### The Facts

The Reyes family, represented by Mr. Lino Reyes, owned the lot located at No. 1332 Lacson Street (formerly Gov. Forbes Street), Sampaloc, Manila. Petitioner Lourdes Dela Cruz was one of their lessees, and she religiously paid rent over a portion of the lot for well over 40 years. Sometime in 1989, a fire struck the premises and destroyed, among others, petitioner's dwelling. After the fire, petitioner and some tenants returned to the said lot and rebuilt their respective houses; simultaneously, the Reyes family made several verbal demands on the remaining lessees, including petitioner, to vacate the lot but the latter did not comply. On February 21, 1994, petitioner was served a written demand to vacate said lot but refused to leave. Despite the setback, the Reyes family did not initiate court proceedings against any of the lessees.

On November 26, 1996, the disputed lot was sold by the Reyeses to respondent Melba Tan Te by virtue of the November 26, 1996 Deed of Absolute Sale. Respondent bought the lot in question for residential purposes. Despite the sale, petitioner Dela Cruz did not give up the lot.

On January 14, 1997, petitioner was sent a written demand to relinquish the premises which she ignored, prompting respondent Tan Te to initiate conciliation

proceedings at the barangay level. While respondent attempted to settle the dispute by offering financial assistance, petitioner countered by asking PhP 500,000.00 for her house. Respondent rejected the counter offer which she considered unconscionable. As a result, a certificate to file action was issued to Tan Te.

On September 8, 1997, respondent Tan Te filed an ejectment complaint with damages before the Manila MeTC, entitled *Melba Tan Te v. Lourdes Dela Cruz* and docketed as Civil Case No. 156730-CV. The complaint averred that: (1) the previous owners, the Reyeses were in possession and control of the contested lot; (2) on November 26, 1996, the lot was sold to Tan Te; (3) prior to the sale, Dela Cruz forcibly entered the property with strategy and/or stealth; (4) the petitioner unlawfully deprived the respondent of physical possession of the property and continues to do so; and, (5) the respondent sent several written demands to petitioner to vacate the premises but refused to do so.

On October 24, 1997, petitioner filed her answer and alleged that: (1) the MeTC had no jurisdiction over the case because it falls within the jurisdiction of the RTC as more than one year had elapsed from petitioner's forcible entry; (2) she was a rent-paying tenant protected by PD 20;<sup>[2]</sup> (3) her lease constituted a legal encumbrance upon the property; and (4) the lot was subject of expropriation.

### **The Ruling of the Manila MeTC**

On April 3, 1998, the MeTC decided as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff as follows:

1. Ordering the defendant and all persons claiming right under her to vacate the premises situated at 1332 Lacson Street (formerly Gov. Forbes Street), Sampaloc, Manila and peacefully return possession thereof to plaintiff;
2. Ordering the defendant to pay the plaintiff the amount of P360.00 a month from December 1996 to November 1997; P432.00 a month from December 1997 to November 1998, plus 20% for each subsequent year until the premises shall have been vacated and turned over to the plaintiff;
3. Ordering the defendant to pay the plaintiff the amount of P10,000.00 as attorney's fees; and, the costs of the suit.

SO ORDERED.<sup>[3]</sup>

### **The Ruling of the Regional Trial Court**

Unconvinced, petitioner Dela Cruz appealed the Decision of the MeTC in the Manila RTC and the appeal was docketed as Civil Case No. 98-89174. On September 1, 1998, the RTC rendered its judgment setting aside the April 3, 1998 Decision of the Manila MeTC and dismissed respondent Tan Te's Complaint on the ground that it was the RTC and not the MeTC which had jurisdiction over the subject matter of the case. The RTC believed that since Tan Te's predecessor-in-interest learned of petitioner's intrusion into the lot as early as February 21, 1994, the ejectment suit

should have been filed within the one-year prescriptive period which expired on February 21, 1995. Since the Reyes did **not** file the ejectment suit and respondent Tan Te filed the action only on September 8, 1997, then the suit had become an *accion publiciana* cognizable by the RTC.

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

Disappointed at the turn of events, respondent Tan Te appealed the adverse Decision to the Court of Appeals (CA) which was docketed as CA-G.R. SP No. 49097. This time, the CA rendered a Decision in favor of respondent Tan Te reversing the Manila RTC September 1, 1998 Decision and reinstated the Manila MeTC April 3, 1998 Decision.

Petitioner tried to have the CA reconsider its Decision but was rebutted in its July 16, 1999 Resolution.

Unyielding to the CA Decision and the denial of her request for reconsideration, petitioner Dela Cruz now seeks legal remedy through the instant Petition for Review on Certiorari before the Court.

### **The Issues**

Petitioner Dela Cruz claims two (2) reversible errors on the part of the appellate court, to wit:

A

THE HON. COURT OF APPEALS, WITH DUE RESPECT, WENT BEYOND THE ISSUES OF THE CASE AND CONTRARY TO THOSE OF THE TRIAL COURT.

B

THE HON. COURT OF APPEALS, WITH DUE RESPECT, ERRED IN REVERSING THE DECISION OF THE RTC AND IN EFFECT, REINSTATING THE DECISION OF THE [MeTC] WHICH IS CONTRADICTED BY THE EVIDENCE ON RECORD.<sup>[4]</sup>

### **The Court's Ruling**

#### **Discussion on Rule 45**

Before we dwell on the principal issues, a few procedural matters must first be resolved.

Petitioner Dela Cruz asks the Court to review the findings of facts of the CA, a course of action proscribed by Section 1, Rule 45. Firm is the rule that findings of fact of the CA are final and conclusive and cannot be reviewed on appeal to this Court provided they are supported by evidence on record or substantial evidence. Fortunately for petitioner, we will be liberal with her petition considering that the CA's factual findings contradict those of the RTC, and there was an asseveration that the court *a quo* went beyond the issues of the case. Indeed, these grounds were considered exceptions to the factual issue bar rule.

Secondly, the petition unnecessarily impleaded the CA in violation of Section 4, Rule 45. We will let this breach pass only because there is a need to entertain the petition due to the conflicting rulings between the lower courts; however, a repetition may result to sanctions.

The actual threshold issue is which court, the Manila RTC or the Manila MeTC, has jurisdiction over the Tan Te ejectment suit. Once the jurisdictional issue is settled, the heart of the dispute is whether or not respondent is entitled to the ejectment of petitioner Dela Cruz from the premises.

However, the petition is bereft of merit.

### **On the Issue of Jurisdiction**

Jurisdiction is the power or capacity given by the law to a court or tribunal to entertain, hear and determine certain controversies.<sup>[5]</sup> Jurisdiction over the subject matter is conferred by law.

Section 33 of Chapter III -- on Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts of B. P. No. 129<sup>[6]</sup> provides:

**Section 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:

x x x x

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question 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.

Thus exclusive, original jurisdiction over ejectment proceedings (*accion interdital*) is lodged with the first level courts. This is clarified in Section 1, Rule 70 of the 1997 Rules of Civil Procedure that embraces an action for forcible entry (*detentacion*), where one is deprived of physical possession of any land or building by means of force, intimidation, threat, strategy, or stealth. In actions for forcible entry, three (3) requisites have to be met for the municipal trial court to acquire jurisdiction. First, the plaintiffs must allege their prior physical possession of the property. Second, they must also assert that they were deprived of possession either by force, intimidation, threat, strategy, or stealth. Third, the action must be filed within one (1) year from the time the owners or legal possessors learned of their deprivation of physical possession of the land or building.

The other kind of ejectment proceeding is unlawful detainer (*desahucio*), where one unlawfully withholds possession of the subject property after the expiration or termination of the right to possess. Here, the issue of rightful possession is the one decisive; for in such action, the defendant is the party in actual possession and the plaintiff's cause of action is the termination of the defendant's right to continue in possession.<sup>[7]</sup> The essential requisites of unlawful detainer are: (1) the fact of lease

by virtue of a contract express or implied; (2) the expiration or termination of the possessor's right to hold possession; (3) withholding by the lessee of the possession of the land or building after expiration or termination of the right to possession; (4) letter of demand upon lessee to pay the rental or comply with the terms of the lease **and** vacate the premises; and (5) the action must be filed within one (1) year from date of last demand received by the defendant.

A person who wants to recover physical possession of his real property will prefer an ejectment suit because it is governed by the Rule on Summary Procedure which allows immediate execution of the judgment under Section 19, Rule 70 unless the defendant perfects an appeal in the RTC and complies with the requirements to stay execution; all of which are nevertheless beneficial to the interests of the lot owner or the holder of the right of possession.

On the other hand, Section 19, of Chapter II of B.P. No. 129 on Regional Trial Courts provides:

**Section 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, except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts.

Two (2) kinds of action to recover possession of real property which fall under the jurisdiction of the RTC are: (1) the plenary action for the recovery of the real right of possession (*accion publiciana*) when the dispossession has lasted for more than one year or when the action was filed more than one (1) year from date of the last demand received by the lessee or defendant; and (2) an action for the recovery of ownership (*accion reivindicatoria*) which includes the recovery of possession.

These actions are governed by the regular rules of procedure and adjudication takes a longer period than the summary ejectment suit.

To determine whether a complaint for recovery of possession falls under the jurisdiction of the MeTC (first level court) or the RTC (second level court), we are compelled to go over the allegations of the complaint. The general rule is that what determines the nature of the action and the court that has jurisdiction over the case are the allegations in the complaint. These cannot be made to depend upon the defenses set up in the answer or pleadings filed by the defendant.<sup>[8]</sup>

This general rule however admits exceptions. In *Ignacio v. CFI of Bulacan*, it was held "that while the allegations in the complaint make out a case for forcible entry, where tenancy is averred by way of defense and is proved to be the real issue, the case should be dismissed for lack of jurisdiction as the case should properly be filed with the then Court of Agrarian Relations."<sup>[9]</sup>

The cause of action in a complaint is not what the designation of the complaint