

FIRST DIVISION

[G.R. No. 152145, March 30, 2004]

SALUD D. LOPEZ, REMEDIOS LOPEZ-MARZAN, ROSE LOPEZ-CO, AMADO D. LOPEZ, CYNTHIA LOPEZ-PORTUGAL, JOSE D. LOPEZ JR., AND MAY LOPEZ RUEDA REPRESENTED BY SALUD D. LOPEZ, PETITIONERS, VS. ROBERT P. DAVID JR. AND CLEOPATRA DAVID CAMPO-RUIZ, RESPONDENTS.

DECISION

PANGANIBAN, J.:

Ejectment proceedings must observe jurisdictional requirements to complement their summary nature. Among them is the one-year bar within which to bring the suit. After the lapse of this period, plaintiffs can no longer avail themselves of the summary suits in the Metropolitan Trial Court (MeTC) or the Municipal Trial Court (MTC), but must litigate in the Regional Trial Court in an ordinary action to recover possession.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, seeking to set aside the April 26, 2001 Decision^[2] and the February 5, 2002 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 59724. The assailed Decision disposed as follows:

"WHEREFORE, the petition is **GIVEN DUE COURSE**. The appealed decision of the Regional Trial Court of Quezon City (Branch 95) is **REVERSED** and **SET ASIDE** and another rendered **DISMISSING** the ejectment case."^[4]

On the other hand, the challenged Resolution denied petitioners' Motion for Reconsideration.

The Facts

The facts of the case are narrated by the CA as follows:

"Subject of an action for ejectment before the Metropolitan Trial Court [MeTC] of Quezon City (Branch 38) was a 540 square-meter land (or 'subject property'), located at No. 174 Sct. Fuentebella, Quezon City and covered by TCT No. RT-109698 (26613) in the name of Jose C. Lopez (or 'Lopez').

"The action was instituted on October 2, 1996 by Salud D. Lopez, Remedios Lopez-Marzan, Rose Lopez-Co, Amado D. Lopez, Cynthia Lopez-Portugal, Jose D. Lopez, Jr. and May Lopez-Rueda [or 'petitioners']

against Robert P. David and Cleopatra David Campo-Ruiz [or 'respondents']. It was predicated on the averments that [petitioners] are the owners of the subject property which was purchased from the People's Homesite and Housing Corporation by Lopez, deceased husband of [petitioner] Salud D. Lopez (or 'Salud') and father of the rest of the [petitioners]; that in 1954, upon her request, Cirila Sadsad Vda. De David (or 'Cirila'), Salud's mother and [respondents'] grandmother, was allowed by Salud to build a residential house on the subject property and to stay thereon until she could find a suitable residence of her own; that upon Cirila's death, [respondents] continued her occupancy of the subject property; that the possession of Cirila and [respondents] of the subject property, without paying rentals and a written contract, was upon tolerance of Salud; that [petitioners] withdrew their consent to [respondents] occupancy of the subject property per their lawyer's letter dated August 10, 1995 demanding of them to vacate the same on or before September 15, 1995, which [respondents] did not heed.

"In their defense, [respondents] alleged that the subject property is owned in common by Cirila's children, Salud, Robert S. David, Sr. (father of [respondent] Robert P. David) and Celestina S. David (mother of the other [respondent]); that the subject property was placed in the name of Lopez upon the agreement that it would be held in trust for Cirila's children; and that Salud, Ligaya S. David (mother of [respondent] Robert P. David) and Celestina S. David built a three-door apartment on the subject property which equally belongs to them.

"On August 15, 1997, the [MeTC] rendered a decision, the dispositive portion of which reads:

'WHEREFORE, premises considered, judgment is hereby rendered in favor of [petitioners] and against [respondents]. Accordingly, the latter is hereby ordered as follows:

- a) To vacate the disputed property, specifically located at No. 174 Sct. Fuentebella St., Diliman, Quezon City and completely surrender possession thereof to [petitioners];
- b) To pay [petitioners] the amount of P10,000.00 as a reasonable amount of compensation or rental for the use and occupancy thereof per unit each month, to be reckoned from September 15, 1995 until they shall have vacated the same;
- c) To pay [petitioners] the sum of P10,000.00 as and for attorney's fees; and
- d) To pay the costs of suit.

The counter-claim of [respondents] is hereby dismissed for lack of merit.

'SO ORDERED.'

"Petitioners appealed to the Regional Trial Court (or 'RTC') of Quezon City (Branch 95) which, on December 17, 1999, rendered a decision affirming *en toto* that of the [MeTC]. x x x."^[5]

Ruling of the Court of Appeals

The CA found that the MeTC erred in taking cognizance of the ejectment suit, since the case had been filed beyond one year from the withholding of possession.^[6] The appellate court ruled thus:

"It appears that pursuant to the demand letter dated August 10, 1995 of [petitioners'] lawyer, [respondents] were given until September 15, 1995 within which to vacate the subject property and surrender possession thereof to [petitioners]. Under the situation, [respondents'] possession became unlawful on September 16, 1995, or upon expiration of the grace period, when they continued occupying the subject property. However, the ejectment suit was only instituted on October 2, 1996, or more than one year from expiration of the period given [respondents] to vacate the subject property.

"The one-year period provided for in Sec. 1, Rule 70 of the 1997 Rules of Civil Procedure commences from accrual of the cause of action or from the unlawful withholding of possession of the realty. In an action for unlawful detainer, as in the case at bench, it is counted from the last letter of demand to vacate.

"Since the ejectment suit was instituted after a year from the demand to vacate, it is an *accion publiciana* which is cognizable by the RTC. *Accion publiciana* is the plenary action to recover the right of possession when the dispossession has lasted for more than one year.

"Consequently, the MTC has no jurisdiction over the subject matter of the action. And in affirming the decision of the MTC, the RTC had committed a palpable error and/or had acted with grave abuse of discretion amounting to lack or excess of jurisdiction."^[7] (Citations omitted)

In denying petitioners' Motion for Reconsideration,^[8] the CA noted that "among the affirmative defenses pleaded in the Answer was that 'this Honorable Court does not have any jurisdiction over the case' because the real issue is ownership, while in the [pretrial] brief, [respondents] posed the issue of whether the court of origin 'has jurisdiction over the subject matter of the case considering that there is no lessor-lessee relationship between the parties.'"^[9]

Hence, this Petition.^[10]

The Issue

In their Memorandum, petitioners raised this sole issue for our consideration:

"Whether the Honorable Court of Appeals erred in dismissing the case for ejectment [on] the ground of lack of jurisdiction despite the submission of respondents to the MTC and RTC and all the proceedings therein."^[11]

The Court's Ruling

The Petition is bereft of merit.

Sole Issue: **Jurisdiction**

Petitioners contend that, having participated in the trial of the case and having belatedly raised the issue of jurisdiction for the first time on appeal with the CA, respondents are estopped from questioning the jurisdiction of the MeTC.

Jurisdiction Lies **with the RTC**

Well-settled is the rule that the jurisdiction of the court and the nature of the action are determined by the averments in the complaint.^[12] To give the court jurisdiction to effect the ejectment of an occupant or a deforciant from the land, it is necessary that the complaint should embody a statement of facts that brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature.^[13] On its face, the complaint must show enough ground for the court to assume jurisdiction without resort to parol testimony.^[14]

Pertinent allegations in petitioners' complaint are as follows:

"3. That [petitioners] x x x are co-owners of a parcel of land located at Diliman, Quezon City x x x;

"4. That sometime in 1954, [petitioner] SALUD D. LOPEZ's mother, CIRILA SADSAD Vda. DE DAVID, requested herein [petitioners] to allow the former to temporarily build a residential house at [petitioners'] property and stay in the premises until her mother shall [have] found a suitable residence of her own;

"5. That since then, [petitioners] allowed said Cirila David to occupy the premises without paying monthly rent and without the benefit of a written contract but thru sheer tolerance of the [petitioners];

"6. That upon the death of [petitioner] Salud D. Lopez's mother, [respondents] continued to occupy the subject premises without paying any rentals and were allowed to continue to occupy two (2) separate units thru sheer generosity and mere tolerance of herein [petitioners];

"7. That subsequently, [petitioners] withdrew their consent and repeated demands were made upon [respondents] to vacate the subject premises but [respondents] refused and failed to heed the demand violative of [petitioners'] preferential right of possession over the subject 2 units;

"8. That on August 4, 1995, [petitioners] were constrained to refer the matter to their previous lawyer for appropriate legal action, to which a

letter of demand was sent to [respondents] to vacate the premises but x x x the latter refused x x x to vacate the subject premises; x x x”^[15]

To summarize, petitioners aver that (1) they are the owners of the property; (2) they allowed respondents to occupy it by tolerance; (3) they withdrew their consent; and (4) they demanded that respondents leave the property, but the latter refused to do so.

Based on the foregoing averments, the case at bar involves unlawful deprivation or withholding of possession. Hence, it could either be one for unlawful detainer cognizable by the MeTC under Rule 70 or one for *accion publiciana*, which is cognizable by the regional trial court.^[16]

The Complaint filed by petitioners alleges that the demand letter required respondents to leave on September 15, 1995. The ejectment case was filed on September 24, 1996.^[17] Thus, the MeTC had no jurisdiction to hear the case.

Under Section 1 of Rule 70,^[18] the one-year period within which a complaint for unlawful detainer can be filed should be counted from the date of demand, because only upon the lapse of that period does the possession become unlawful.^[19] In the present case, it is undisputed that petitioners’ Complaint was filed beyond one year from the time that respondents’ possession allegedly became unlawful.

We have ruled that “forcible entry and unlawful detainer are quieting processes and the one-year time bar to the suit is in pursuance of the summary nature of the action.”^[20] Thus, we have nullified proceedings in the MeTC when it improperly assumed jurisdiction of a case in which the unlawful deprivation or withholding of possession had exceeded one year.^[21]

After the lapse of the one-year period, the suit must be commenced in the RTC via an *accion publiciana*.^[22] *Accion publiciana* is a suit for recovery of the right to possess. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title.^[23] It also refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.^[24] The CA was thus correct in declaring that jurisdiction belonged to the RTC.

Estoppel Does Not Apply

It is settled that any decision rendered without jurisdiction is a total nullity and may be struck down at any time, even on appeal before this Court.^[25] Indeed, the general rule is that a question of jurisdiction may be raised at any time, provided that doing so does not result in the mockery of the tenets of fair play.^[26] An exception to this rule arises when the party is barred by estoppel, in which case the issue of jurisdiction may not be raised.^[27]

In bringing up the issue of estoppel, petitioners principally anchor their argument on *Tijam v. Sibonghanoy*.^[28] Applying the rule on estoppel by laches, we declared