

## FIRST DIVISION

[ G.R. No. 152438, June 17, 2004 ]

**LOLITA R. AYSON, PETITIONER, VS. MARINA ENRIQUEZ VDA. DE CARPIO, RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

Defects in a complaint are deemed waived when the parties go to trial without challenging them. Thus, when the plaintiff, without objection from the defendant, introduces evidence to prove a particular cause of action not alleged in the original complaint, and the defendant voluntarily produces witnesses and other evidence to meet the cause of action thus established, the issue is joined as fully and as effectively as if it were previously pleaded.

#### The Case

Before us is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, challenging the October 9, 2001 Decision<sup>[2]</sup> and the February 5, 2002 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-GR SP No. 63088. The assailed Decision disposed as follows:

"WHEREFORE, FOREGOING PREMISES CONSIDERED, this petition is **DENIED DUE COURSE** and accordingly **DISMISSED**."<sup>[4]</sup>

The assailed Resolution denied petitioner's Motion for Reconsideration.

#### The Facts

The facts were summarized by the appellate court as follows:

"Petitioner was the owner of three (3) parcels of land in Manibang, Porac, Pampanga covered respectively by Transfer Certificates of Title (TCT) Nos. 147096-R, 155262-R and 155362-R.

"Petitioner has been in possession of the aforesaid properties being the owner thereof.

"On August 29, 1980, petitioner mortgaged said properties to the Philippine National Bank, Angeles City Branch ('Bank'). These were subsequently foreclosed by the Bank. After failing to redeem within the prescribed period, petitioner's TCTs were canceled and new ones were issued in the name of the Bank on May 14, 1985, to wit:

- a) TCT No. 220195-R (from 147096-R);
- b) TCT No. 220196-R (from 155262-R);
- c) TCT No. 220197-R (from 155362-R).

"On April 14, 1999, the Bank sold the property covered by TCT No. 220195-R to the respondent herein and is now covered by TCT No. 466519-R in favor of the respondent.

"On October 22, 1999, petitioner filed a Complaint (docketed as Civil Case No. 9582) before the Regional Trial Court of Angeles City for the annulment of TCT No. [466519-R] and the deed of sale between the Bank and the respondent as well as for reconveyance and damages.

"With said Civil Case No. 9582 still pending, respondent, on January 3, 2000, sent demand letters dated December 29, 1999 demanding petitioner to vacate the premises covered by TCT No. 466519-R.

"On March 7, 2000, respondent filed a complaint with the MTC for ejectment with damages.

"On June 23, 2000, the MTC rendered a decision in favor of respondent ordering petitioner to vacate the subject property.

"On appeal, the RTC rendered a decision affirming with modification the MTC's decision.

"Respondent then filed a Motion with the RTC on February 1, 2001 for issuance of a writ of execution pending appeal."<sup>[5]</sup>

Consequently, petitioner interposed an appeal to the CA, assigning only one error:

"The trial court had no jurisdiction over the action. The Decision of the Regional Trial Court affirming the trial court's decision is accordingly erroneous and consequently null and void."<sup>[6]</sup>

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

The appellate court held that the continued possession of the property by petitioner had merely been tolerated by respondent. Possession by petitioner became unlawful when she was divested of her ownership of the premises. Holding that a summary action for ejectment was the proper remedy against her, the CA explained that the parties were not precluded from ventilating their grievances in another action based on a separate and distinct cause involving ownership of the land.<sup>[7]</sup>

Hence, this Petition.<sup>[8]</sup>

### **The Issue**

In her Memorandum,<sup>[9]</sup> petitioner raises the following issues for our consideration:

"I.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court for in ascertaining the trial court's jurisdiction it digressed into matters not alleged in the Complaint, and by which it breached the cardinal rule that jurisdiction of the court is

determined by the allegations in the complaint.

“II.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court for despite the clear want of essential content, it erred in not holding that the Complaint failed to aver facts constitutive of unlawful detainer.

“III.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court for despite attestation by the averments of the Complaint, it erred in not holding that the action for the purported right to possess was anchored on the elemental attribute of ownership and accordingly was of the nature of an *accion publiciana*.

“IV.

Whether the Decision of the Court of Appeals is not in accord with the applicable decisions of the Supreme Court as it erred in not holding that the action suffered from a jurisdictional defect with the manifest absence of proof of receipt of the demand letters.

“V.

Whether the petitioner is estopped from assailing the trial court’s jurisdiction.”<sup>[10]</sup>

The main issue is simply whether the Municipal Trial Court (MTC) had jurisdiction over respondent’s Complaint for ejectment.

**This Court’s Ruling**

The Petition has no merit.

**Main Issue:**  
**Jurisdiction**

Petitioner bases on *Serdoncillo v. Benolirao*<sup>[11]</sup> her adamant objection to the MTC’s jurisdiction. She argues that a complaint that fails to aver how entry was effected or to state the circumstances that brought about the owner’s alleged dispossession is not a valid action for ejectment, but is actually a complaint for *accion publiciana* or *accion reivindicatoria*. Thus, she infers, it is the Regional Trial Court (RTC), not the MTC, that has jurisdiction over the case.<sup>[12]</sup> Respondent arrogated the title to herself and anchored her purported right to possess the property on her right of ownership thereof, according to petitioner.<sup>[13]</sup>

Respondent counters that ejectment is the proper remedy, because she is asking only for possession *de facto*.<sup>[14]</sup> She posits that in an action for unlawful detainer, it suffices to allege, without necessarily employing the terminology of the law, that the