

## FIRST DIVISION

[ G.R. No. 149554, July 01, 2003 ]

**SPOUSES JORGE J. HUGUETE AND YOLANDA B. HUGUETE,  
PETITIONERS, VS. SPOUSES TEOFEDO AMARILLO EMBUDO AND  
MARITES HUGUETE-EMBUDO, RESPONDENTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This is a petition for review assailing the Orders dated June 27, 2001<sup>[1]</sup> and July 26, 2001<sup>[2]</sup> of the Regional Trial Court of Cebu City, Branch 7, in Civil Case No. CEB-24925.

On March 2, 2000, petitioner spouses Jorge and Yolanda Huguete instituted against respondent spouses Teofredo Amarillo Embudo and Marites Huguete-Embudo a complaint for "*Annulment of TCT No. 99694, Tax Declaration No. 46493, and Deed of Sale, Partition, Damages and Attorney's Fees,*" docketed as Civil Case No. CEB-24925 of the Regional Trial Court of Cebu City, Branch 7. Petitioners alleged that their son-in-law, respondent Teofredo, sold to them a 50-square meter portion of his 150-square meter parcel of land, known as Lot No. 1920-F-2, situated in San Isidro, Talisay, Cebu, for a consideration of P15,000.00; that Teofredo acquired the lot from Ma. Lourdes Villaber-Padillo by virtue of a deed of sale,<sup>[3]</sup> after which Transfer Certificate of Title No. 99694 was issued solely in his name; that despite demands, Teofredo refused to partition the lot between them.

On March 15, 2001, respondents filed a Motion to Dismiss<sup>[4]</sup> the complaint on the ground of lack of jurisdiction over the subject matter of the case, arguing that the total assessed value of the subject land was only P15,000.00 which falls within the exclusive jurisdiction of the Municipal Trial Court, pursuant to Section 33(3)<sup>[5]</sup> of Batas Pambansa Blg. 129, as amended by Republic Act No. 7691.<sup>[6]</sup>

Petitioners filed an Opposition to the Motion to Dismiss<sup>[7]</sup> alleging that the subject matter of the action is incapable of pecuniary estimation and, therefore, is cognizable by the Regional Trial Court, as provided by Section 19(1) of B.P. 129, as amended. <sup>[8]</sup>

The trial court dismissed the complaint for lack of jurisdiction. Petitioners filed a Motion for Reconsideration,<sup>[9]</sup> which was denied on July 26, 2001.

Hence, this petition for review based on the following errors:

THE HONORABLE COURT ERRED IN HOLDING THAT IT HAS NO JURISDICTION OVER THE CASE PURSUANT TO SECTION 33 (3) OF BATAS PAMBANSA BILANG 129 IN UTTER DISREGARD OF SECTION 19 (1) OF THE SAME LAW AS WELL AS SETTLED JURISPRUDENCE ENUNCIATED IN RUSSEL VS. VESTIL, 304 SCRA 738 (MARCH 17, 1999) WHICH, WITH DUE RESPECT, WAS TAKEN OUT OF CONTEXT.

## II

THE HONORABLE COURT COMMITTED AN ERROR IN NOT HOLDING THAT RESPONDENTS WHO SEEK AFFIRMATIVE RELIEF AND THEREBY INVOKE THE AUTHORITY OF THE COURT IN THEIR COUNTERCLAIM ARE ESTOPPED TO DENY THE JURISDICTION OF THE HONORABLE COURT.<sup>[10]</sup>

The petition lacks merit.

Petitioners maintain that the complaint filed before the Regional Trial Court is for the annulment of deed of sale and partition, and is thus incapable of pecuniary estimation. Respondents, on the other hand, insist that the action is one for annulment of title and since the assessed value of the property as stated in the complaint is P15,000.00, it falls within the exclusive jurisdiction of the Municipal Trial Court.

The pertinent portions of the complaint alleged:

4. Sometime in the year 1995, Teofredo A. Embudo, the son-in-law of plaintiffs offered them portion of Lot No. 1920-F-2, situated in San Isidro, Talisay, Cebu, which defendants bought on installment basis from Ma. Lourdes Villaber-Padillo. Desirous to live near their daughter and grandchildren, they accepted defendant's offer. Immediately, plaintiffs paid defendants the sum of FIFTEEN THOUSAND PESOS (P15,000.00) as full consideration and payment of the purchase of 50-square meter lot at a price of THREE HUNDRED PESOS (P300.00) per square meter;
5. Happily, plaintiffs built their house on the portion they bought from defendants which is adjacent to defendant's house. Plaintiffs were issued Tax Declaration No. 53170 for the house, copy is hereto attached to form part hereof and marked as Annex "A";
6. Notwithstanding repeated demands for the execution of the Deed of Sale, defendants with insidious machination led plaintiffs to believe that the necessary document of conveyance could not as yet be executed for the reason that they have not yet paid in full their obligation to Ma. Lourdes Villaber-Padillo, the original owner of the lot in question, when in truth and in fact, as plaintiffs came to know later, that the aforesaid defendants were already in possession of a Deed of Sale over the entire lot in litigation in which it appeared that they are the sole buyers of the lot, thusly consolidating their ownership of the entire lot to the exclusion of the plaintiffs. A copy of the Deed of Sale is hereto attached to form part hereof and

marked as Annex "B."

7. As a way to further their fraudulent design, defendants secured the issuance of Transfer Certificate of Title No. T-99694 solely in their names on the basis of the Deed of Sale aforementioned (Annex "A" hereof), without the knowledge of the plaintiffs. A copy of the aforesaid Transfer Certificate of Title is hereto attached as an integral part hereof and marked as Annex "C."
8. Since considerable time had already elapsed that defendants had given plaintiffs a run-around, plaintiffs then demanded for the partition of the lot, segregating a portion in which their residential house stands, and despite such demand defendants, without qualm of conscience refused and still refuse to partition the lot;

xxx                      xxx                      xxx;

#### PRAYER

WHEREFORE, premises considered, this Honorable Court is most respectfully prayed to render judgment in favor of plaintiffs and against defendants, ordering -

1. Defendants to partition, divide and segregate a portion on which the house of plaintiffs is situated, with an area of Fifty (50) Square Meters;
2. That the Deed of Sale dated December 28, 1995 entered into by and between defendants and the previous owner of the lot in question be annulled and cancelled;
3. The Register of Deeds of the Province of Cebu to annul/cancel Transfer Certificate of Title No. 99694 in the name of the defendants and in lieu thereof directing him to issue Transfer Certificate of Title in favor of plaintiffs for the 50-square meter lot and another Transfer Certificate of Title in favor of defendants for the remaining 100-square meter lot;
4. The Municipal Assessor of Talisay, Cebu to cancel Tax Declaration No. 46493 in the name of the defendants and directing him to issue Tax Declaration in the name of the defendants for the 50-square meter lot and another Tax Declaration in the name of the plaintiffs for the remaining 100-square meter lot;

xxx                      xxx                      xxx.<sup>[11]</sup>

In *Cañiza v. Court of Appeals*,<sup>[12]</sup> it was held that what determines the nature of an action as well as which court has jurisdiction over it are the allegations of the complaint and the character of the relief sought. Moreover, in *Singsong v. Isabela Sawmill*,<sup>[13]</sup> we ruled that:

In determining whether an action is one the subject matter of which is not capable of pecuniary estimation this Court has adopted the criterion