

THIRD DIVISION

[G.R. No. 142131, December 11, 2002]

**SPOUSES DARIO LACAP AND MATILDE LACAP, PETITIONERS, VS.
JOUVET ONG LEE, REPRESENTED BY REYNALDO DE LOS SANTOS,
RESPONDENT.**

D E C I S I O N

CORONA, J.:

Before us is a petition for review of the decision^[1] dated February 28, 2000 of the Court of Appeals^[2] affirming the decision^[3] of the Regional Trial Court (RTC, for brevity) of Davao City, Branch 11. The said courts affirmed on appeal the decision dated April 30, 1997 of the Municipal Trial Court in Cities (MTCC, for brevity) of Davao City in a case^[4] for unlawful detainer filed by respondent Jovet Ong Lee against the petitioner spouses Dario and Matilde Lacap.

The facts, as found by the Court of Appeals and the Regional Trial Court, are as follows:

Before 1981, a certain Victor Facundo mortgaged two parcels of land and the improvements thereon to Monte de Piedad Savings Bank (the bank, for brevity). In 1981, herein petitioner spouses Dario and Matilde Lacap assumed to pay Facundo's mortgage obligation to the bank. Due to their failure to pay their obligation to the bank, however, the latter foreclosed on the mortgage. During the auction sale, the bank emerged as the highest bidder and title passed on to it.

The bank allowed the petitioner spouses to stay in the premises as lessees paying a monthly rental of P800. The petitioner spouses introduced improvements thereon allegedly amounting to some P500,000 after relying on the bank's assurance that the property would be sold back to them. On May 1, 1996^[5], the petitioner spouses' representative went to the bank to pay the monthly rental. However, the bank refused to accept the rentals inasmuch as, according to the bank, the property had already been sold to another person. When the petitioner spouses called the bank's head office, the Vice-President of the Assets Division of the bank advised them to submit a written offer to the bank for P1,100,000. The petitioner spouses complied that same day. But, on May 22, 1996, the bank turned down the petitioner spouses' offer. On June 20, 1996, the petitioner spouses received a letter demanding that they vacate the premises because it was already owned by herein respondent, Jovet Ong Lee.

The petitioner spouses instituted a civil case against the respondent for cancellation of sale and damages with an application for preliminary injunction. This case is now pending before Branch 13 of the Regional Trial Court (RTC, for brevity) of Davao City.^[6]

Meanwhile, on October 30, 1996, the respondent filed a complaint for unlawful detainer against the petitioners. After trial, the Municipal Trial Court of Davao City, Branch 4, rendered judgment as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the latter to:

- a) vacate the subject premises;
- b) pay P1,500.00 as reasonable compensation for the use of the said premises commencing the date of this decision until defendants vacate the same;
- c) pay P10,000.00 as and by way of attorney's fees; and
- d) cost of suit.

SO ORDERED.^[7]

On appeal, the RTC of Davao City, Branch 11, affirmed the assailed decision of the municipal trial court, with the modification that respondent should reimburse the petitioner spouses for the improvements the latter introduced to the premises. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered affirming the decision of the court a quo with the modification that plaintiff should reimburse the defendant for the improvements the latter introduced on the premises.^[8]

The respondent filed a motion for reconsideration praying for the deletion of the order to reimburse petitioner spouses for the improvements introduced on the subject premises. On August 25, 1998, the RTC issued an order granting respondent's motion, to wit:

WHEREFORE, the Motion for Reconsideration of Plaintiff-Appellee is hereby granted to leave the premises therein even if the property may suffer damage. But they shall not cause more damage than what is necessary. They shall likewise remove the ornamental improvements introduced therein.

SO ORDERED.^[9]

On August 23, 1999, the said court denied the petitioner spouses' motion for reconsideration.

Petitioner spouses appealed the decision of the RTC to the Court of Appeals. According to them, the courts a quo committed serious errors of fact and law in entertaining the complaint for unlawful detainer despite the lack of jurisdiction considering that the issue – recovery of the right to possess – was the subject matter of an *accion publiciana* which was properly cognizable by the Regional Trial Courts.^[10] On February 28, 2000, the appellate court rendered a decision, the dispositive portion of which reads:

WHEREFORE, for lack of merit, the instant petition is DISMISSED and the assailed Decision dated February 20, 1998 and Order dated August 25,

1998 are AFFIRMED.

SO ORDERED.^[11]

The appellate court held that the municipal trial court had jurisdiction over the case inasmuch as the complaint itself sufficiently alleged that possession was unlawfully withheld from the respondent who was the registered owner thereof, and that the petitioner spouses refused to vacate the subject premises despite demands to vacate the same. In brushing aside the petitioner spouses' argument that respondent's ownership was assailable due to the bank's violation of its promise to first offer the subject property to them, the appellate court ruled that it could not touch upon said issue as it was the subject matter of a separate case filed by the spouses before the RTC of Davao City, Branch 13. Reiterating the rulings of the courts *a quo*, the appellate court held that the petitioner spouses could not be builders in good faith inasmuch as their payment of rentals to the bank was an indication that they were lessees. Thus, in the indemnification for improvements made, Article 1678, not Article 448, of the Civil Code should govern.

Hence, this petition seeking a resolution on the following assigned issues:

I

WHETHER OR NOT THE COURT OF APPEALS CORRECTLY RULED ON THE JURISDICTIONAL QUESTION, THAT IS THE JURISDICTION OF THE DAVAO CITY MUNICIPAL COURT OVER THE UNLAWFUL DETAINER CASE FILED BY THE RESPONDENT; AND AS AN ALTERNATIVE TO, BUT ASSOCIATED WITH, THE ABOVE ISSUE, AND ASSUMING THAT THE DAVAO CITY MUNICIPAL COURT HAD JURISDICTION,

II

WHETHER OR NOT THE COURT OF APPEALS CORRECTLY APPLIED ARTICLE 1678 INSTEAD OF ARTICLE 448 OF THE CIVIL CODE WITH REGARD TO INDEMNITY FOR THE IMPROVEMENTS INTRODUCED BY THE PETITIONERS ON THE SUBJECT PROPERTY.^[12]

Abandoning their previous position of lack of jurisdiction on the part of MTC, the petitioner spouses now claim that the courts *a quo* erred in oversimplifying the issue in the case at bar. Since they were questioning the title of the respondent over the subject property, the case for unlawful detainer was no longer limited to the question of possession but also involved the question of ownership. Thus, the courts *a quo* should not have evaded ruling on the issue of ownership as a pre-requisite to the determination and resolution of the issue of physical possession.

Section 16 of the 1997 Rules of Civil Procedure provides that:

Sec. 16. *Resolving defense of ownership.*- When the defendant raises the defense 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.

The petitioner spouses are questioning the respondent's ownership by raising as an issue the alleged failure of the bank to first offer to them the subject property, thereby making respondent's title defective. This, according to the petitioner