

## SECOND DIVISION

[ G.R. No. 111676, March 04, 1999 ]

**SILVINA TORRES VDA. DE CRUZ, PETITIONER, VS. COURT OF APPEALS AND PRISCILLA CRUZ-GATCHALIAN, RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

A recurring question in unlawful detainer and forcible entry cases is whether the municipal/metropolitan trial court is ousted of jurisdiction when the issue of ownership is raised.

In its decision,<sup>[1]</sup> dated March 17, 1993, the Court of Appeals, in affirming the decisions of the Regional Trial Court of Malolos, Bulacan, Branch 19<sup>[2]</sup> and the Municipal Trial Court of Bulacan, Bulacan,<sup>[3]</sup> ruled in the negative.

After a review of the facts and the pertinent law, we see no reason to disturb the ruling of the appellate court.

The facts culled from the records are as follows:

Petitioner Silvina Torres Vda. de Cruz and private respondent Priscilla Cruz-Gatchalian are sisters-in-law. Petitioner is the widow of private respondent's brother, Jose Cruz, Sr. Private respondent and her siblings (Jose, Maria, and Emilio) inherited from their mother, Emilia Gloria-Cruz, a parcel of land in San Nicolas, Bulacan, Bulacan. The land, with a total area of 924 sq. m., is part of a larger tract of land consisting approximately of 1,848 sq. m. A portion of this land, consisting of 693 sq. m., is covered by OCT No. P-397-C issued in the name of private respondent.<sup>[4]</sup> On this 693 sq. m. lot is built the house (with a floor area of 319 sq. m.) of petitioner and her children.

On May 29, 1989, private respondent, through counsel, sent a letter to petitioner demanding that she vacate the premises and remove the house built thereon. As petitioner refused to do so, private respondent brought the matter to the barangay authorities for conciliation. However, the parties failed to settle their dispute amicably, prompting private respondent to file the case in the Municipal Trial Court of Bulacan, Bulacan, where it was docketed as Civil Case No. 734. Private respondent alleged that she was the owner of the lot in question and that petitioner had been merely allowed to stay on it.

In her answer, petitioner denied private respondent's ownership and claimed the land to be hers on the basis of Tax Declaration No. 9124 indicating her and her late husband Jose Cruz, Sr. and spouses Emilio Cruz and Engracia Villanueva as owners. Moreover, she alleged that on July 25, 1989, she had in fact filed a complaint for reconveyance, damages, and injunction against private respondent before the

Regional Trial Court of Malolos, Bulacan, Branch 22, docketed as Civil Case No. 409-M-89. Hence, she argued that the Municipal Trial Court had no jurisdiction to decide the ejectment case because the question of ownership is an underlying issue which must first be determined.<sup>[5]</sup>

It appears that petitioner's action for reconveyance was dismissed without prejudice on May 2, 1990 precisely because of petitioner's failure "to amend the complaint so as to include only reconveyance and damages," and exclude matters pertaining to the ejectment case as ordered by the Court.<sup>[6]</sup> For this reason, petitioner and her children filed on April 12, 1991 another complaint for reconveyance and damages before the Regional Trial Court of Malolos, Bulacan, Branch 15, docketed as Civil Case No. 225-M-91.<sup>[7]</sup>

On May 16, 1991, the Municipal Trial Court rendered a decision in the ejectment case ordering petitioner to vacate the property.

Petitioner appealed to the Regional Trial Court of Malolos, Bulacan, Branch 19 which, on March 30, 1992, affirmed the decision of the Municipal Trial Court *in toto*.<sup>[8]</sup> The dispositive portion of the RTC's decision reads:

WHEREFORE, after a careful scrutiny of the evidence submitted, the Court finds preponderance of evidence in favor of the Plaintiff, Priscilla Cruz-Gatchalian, and against the Defendant, Silvina Torres Vda. de Cruz, to vacate the lot consisting of 698<sup>[9]</sup> sq. m. more or less covered by the Original Certificate of Title No. P-397-C located at San Nicolas, Bulacan, Bulacan and all person claiming rights under her, to pay P100.00 a month for the reasonable use of the property from the extra-judicial demand on May 29, 1989 until she vacates the premises and pay P500.00 as attorney's fee without pronouncement as to cost.

Petitioner appealed the case to the Court of Appeals, which rendered the questioned decision. The appellate court upheld the jurisdiction of the Municipal Trial Court and affirmed private respondent's right to material possession, as distinguished from possession *de jure*, of the property in question.

Hence, this petition for review on *certiorari*. Petitioner argues that the primary issue in this case is the ownership of the land in question since private respondent relies on a certificate of title while she (petitioner) relies on a tax declaration in support of their respective right to the possession of the lot. She contends that the question of possession cannot be determined without first resolving the question of ownership. For this reason, petitioner maintains that the Municipal Trial Court has no jurisdiction over this case.<sup>[10]</sup> Petitioner cites the following excerpt from this Court's ruling in *Dante v. Sison*,<sup>[11]</sup> which is actually a quotation from the case of *Ching v. Malaya*:<sup>[12]</sup>

There is one exception, however, and that is where it appears during the trial that, by the nature of the evidence presented, the issue of possession cannot be decided without deciding the issue of ownership. In such a case, the jurisdiction of the municipal court is lost and the action should be dismissed.... An illustration is the case of *Teodoro v. Balatbat*, where the defendant claims possession by virtue of a deed of sale