

THIRD DIVISION

[G.R. No. 134090, July 02, 1999]

**ERNESTO R. CRUZ, LUCIA NICIO AND GUILLERMO COQUILLA,
PETITIONERS, VS. COURT OF APPEALS AND SPOUSES JOSE AND
MIGUELA LOMOTAN, RESPONDENTS.**

D E C I S I O N

PURISIMA, J:

At bar is a special civil action for *certiorari* under Rule 65 of the Revised Rules of Court ascribing grave abuse of discretion to the Court of Appeals when, despite a finding of forum-shopping, it did not order the dismissal of the two cases filed by the respondent spouses, Jose Lomotan and Miguela Lomotan, against the herein petitioners, one for injunction and the other for unlawful detainer, and instead, allowed the said cases to prosper.

The antecedent facts of the case are as follows:

Sometime in 1975, the spouses Jose Lomotan and Miguela Lomotan purchased from Jose San Pedro a parcel of land located at No. 16 Tawiran Street, Interior Evangelista, Santolan, Pasig City, with an area of 4, 689 square meters. The corresponding Transfer Certificate of Title No. 477687 was issued to them by the Register of Deeds of Pasig City. Jose San Pedro, the vendor, executed the necessary affidavit attesting that subject property deeded out was not tenanted. Thereafter, the respondent spouses went to the United States.

In 1996, upon their return from the United States, they had the said land subdivided into smaller lots and enclosed the same with a concrete fence. At that time, however, the area was already occupied by the petitioners, Ernesto Cruz, Guillermo Coquilla and Lucita Nicio, who constructed their houses thereon. Respondent spouses sent written demands to the petitioners asking them to leave the place but the latter not only refused to vacate; they even prevented the workers hired by the respondent spouses from constructing the perimeter fence.

On December 6, 1996, respondent spouses brought before the Regional Trial Court in Pasig City a petition for injunction with prayer for the issuance of a temporary restraining order, in the interim, to enjoin the petitioners from preventing and obstructing the construction of the fence around the property in question. Respondent spouses allege that: (1) they own subject property and had the same subdivided into smaller lots; (2) they hired construction workers to build a concrete fence around the area; and (3) the workers were in the process of constructing the fence when the petitioners, armed with bolos, stopped and barred the workers from finishing their job.

Petitioners, on the other hand, theorize that they started residing within subject lot

in 1964 and their father, Braulio Cruz, occupied the same since 1948; that respondent Miguela Lomotan offered to pay them P20,000.00 as consideration for their vacating the place but they would be effectively blocked off from the property with the construction of the fence.

On December 18, 1996, before the Regional Trial Court could resolve the petition and prayer for a temporary restraining order, the respondent spouses instituted a case for unlawful detainer against the same parties, the petitioners here, before the Metropolitan Trial Court of Pasig City. In their complaint, respondent spouses claimed that sometime in 1975, Braulio Cruz, the father of petitioners, requested permission from them (*Lomotans*) to plant on subject lot, to which request they agreed under the condition that once they (*Lomotans*) would need the property, Braulio Cruz will vacate the same. However, unknown to them, Braulio Cruz and his family constructed shanties on the subject area and resided therein.

On January 6, 1997, the Regional Trial Court which was hearing the injunction case issued an Order denying the prayer for a temporary restraining order. On the same day, they (*petitioners herein*) sent in their Answer to the complaint for injunction, alleging that subject property titled under the names of the spouses, Jose Lomotan and Miguela Lomotan, had been part of an agricultural land, a portion of which had been in the possession of petitioners for more than thirty (30) years. By way of counterclaim, petitioners prayed for the issuance of a temporary restraining order to prevent the respondent spouses from ejecting them. The answer petitioners submitted to the Metropolitan Trial Court before which court the unlawful detainer case was brought contained substantially the same arguments.

On January 27, 1997, petitioners moved to dismiss the injunction case before the Regional Trial Court on the ground of forum shopping, action *auter pendant* and/or lack of jurisdiction, contending that the issue in the case before the Regional Trial Court - which is possession of subject property - is interlinked with or inextricably involved in the issue before the Metropolitan Trial Court such that any decision to be rendered by the former court would constitute a bar to the action pending before the latter court. On the same day, a motion for contempt based on forum-shopping was presented by the petitioners in the ejectment case before the Metropolitan Trial Court.

But both the Motion to Dismiss and Motion for Contempt were denied by the two courts. The motions for reconsideration of the orders of denial met the same fate. They were likewise denied.

On August 11, 1997, the Metropolitan Trial Court handed down a decision in the ejectment case, disposing as follows:

"WHEREFORE, the foregoing premises considered judgment is hereby rendered

1. Ordering defendants and all persons claiming rights under them to vacate the subject premises and surrender peacefully possession thereof to possession thereof (sic) to plaintiffs;
2. Defendants to pay plaintiffs as reasonable compensation for use and occupation of the land, as follows:

a. Defendant Ernesto Cruz - Two Thousand Pesos (P2,000.00) and defendants Guillermo Coquilla and Lucita Nicio, One Thousand Pesos (P1,000.00) each, beginning January, 1997 and every month thereafter until they completely vacate the subject property;

3. To pay plaintiffs P5,000.00 as attorney's fees; and

4. Cost of suit.

SO ORDERED."

From the aforesaid decision of the Metropolitan Trial Court petitioners appealed to the Regional Trial Court, the appeal was raffled off to the same Regional Trial Court which was then hearing the injunction case.

On October 24, 1998, in view of the refusal of the Regional Trial Court to dismiss both Civil Case No. 6625 and the appealed Metropolitan Trial Court Civil Case No. 5771 on the ground of forum shopping, action *auter pendant* and/or lack of jurisdiction, the petitioners went to the Court of Appeals on a Petition for Certiorari under Rule 65, docketed as CA-G.R. Sp. No. 45723.

On February 19, 1998, the Court of Appeals came out with a decision finding the respondent spouses guilty of forum shopping for the reason that the issue raised before it and the reliefs therein sought were no different from the reliefs they sought before the Metropolitan Trial Court in Civil Case No. 5771. The Court of Appeals then ordered the dismissal of RTC Civil Case No. 6625, but affirmed the orders of the Metropolitan Trial Court and refused to dismiss Civil Case No. 5771 for unlawful detainer.

The next step taken by petitioners was to move for a partial reconsideration of the decision of the Court of Appeals insofar as it denied the prayer for the dismissal of the unlawful detainer case. But on June 9, 1998, the Court of Appeals denied petitioners' motion.

Hence, the present petition ascribing to the Court of Appeals grave abuse of discretion amounting to lack or excess of jurisdiction for:

I. Refusing to dismiss MTC Civil Case No. 5771 based on the court's lack of jurisdiction because the issue of possession is interwoven into the issue of ownership; and

II. Refusing to dismiss MTC Civil Case No. 5771 based on forum shopping and/or *res judicata* or by action *auter pendant* doctrine.

Petitioners contend that the issue of *de facto* possession enjoyed by the petitioners could not be resolved by the Metropolitan Trial Court because the same is inseparably linked with the question of ownership then pending resolution before the Regional Trial Court, on the evidence so far presented before that more superior court, which divested the Metropolitan Trial Court of its jurisdiction over the issue of possession and ownership between the parties.

This contention is untenable. In ejectment cases, it is not unusual that the issue of