

## FIRST DIVISION

[ G.R. No. 121939, October 04, 1999 ]

**SPOUSES ROMAN & AMELITA T. CRUZ AND SPOUSES SEVERINO & PRIMITIVA T. BAUTISTA, PETITIONERS, VS. SPOUSES ALFREDO & MELBA TORRES AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.**

### DECISION

**PARDO, J.:**

The case before the Court is an appeal *via certiorari* from the decision of the Court of Appeals<sup>[1]</sup> affirming that of the Regional Trial Court, Pasig City, Branch 162<sup>[2]</sup> ordering petitioners to surrender to respondents the lot described in TCT No. 42806 and remove petitioners' house and other improvements thereon, and to pay respondents P5,000.00 as reasonable attorneys fees.

The facts as found by the Court of Appeals and which bind the parties in this appeal are the following:

"x x x plaintiff Alfredo Torres is the elder brother of defendants Amelia Torres Cruz and Primitiva Torres Bautista. Their parents are the late Simplicio and Gregoria Castañeda Torres. In 1946, while in his youthful years, Alfredo worked as a mechanic for a US Army ambulance unit stationed at Manila. From his earnings, he purchased by installments from Ortigas Madrigal Co., Inc. a parcel of land in Barangay Saniga, Mandaluyong, Rizal (now Mandaluyong City), with an area of 299 square meters. When his American employer left, he was employed as a municipal electrician in Mandaluyong. In 1956, he was issued the land title (T.C.T. No. 42806).

"Meanwhile, the Torres family were being evicted from their residence. Alfredo allowed them to construct their dwelling on the lot. Eventually, Alfredo's sisters married and left the house, except his sisters Amelia and Primitiva and their spouses.

"On February 2, 1958, Alfredo and co-plaintiff Melba Baldeo were married. They lived with his parents and defendants-sisters but left after a year because the house was overcrowded and they wanted privacy.

"Subsequently, Alfredo mortgaged the lot to finance his wife's medical board examinations and internship but redeemed it a year later.

"In 1962, Alfredo verbally asked his sisters Amelia and Primitiva to vacate the premises because he needed the lot to construct a medical clinic for his wife. Amelia and Primitiva requested an extension and Alfredo agreed.

"After the death of his father Simplicio in 1970, Alfredo again demanded from his sisters to vacate the place but the latter stubbornly refused and even claimed that their father is the real owner of the lot.

"Despite the refusal of Amelia and Primitiva to vacate the premises, Alfredo continued paying the realty taxes on the lot. However, after 1982, he stopped paying the taxes for he realized that only his sisters are benefiting from the lot.

"On September 2, 1987, Alfredo and Melba through counsel, sent Amelia and Primitiva a final letter of demand for them to vacate the lot.

"The case was referred to the barangay which issued a certificate to file action when the parties failed to settle amicably. Thus, the instant complaint was filed on October 7, 1987."<sup>[3]</sup>

On December 18, 1990, the trial court rendered decision, the decretal portion of which reads:

"WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered in favor of plaintiffs Alfredo and Melba Torres and against defendants spouses Roman and Amelia Cruz and spouses Severino and Primitiva Bautista, ordering the latter and all other persons claiming rights over them to surrender the lot described in TCT No. 42806 to plaintiffs, and remove at their expense the house they are now occupying as well as additional constructions thereon; to pay the amount of P5,000.00 pesos as reasonable attorney's fees.

"With costs against defendants.

"SO ORDERED."

In due time, defendants appealed to the Court of Appeals.<sup>[4]</sup>

After due proceedings, on June 23, 1995, the Court of Appeals rendered decision affirming the appealed decision, with costs against appellants.

Hence, this appeal.<sup>[5]</sup>

On March 20, 1996, the Court required private respondents to comment on the petition within ten (10) days from notice.<sup>[6]</sup>

On September 6, 1996, private respondents filed their belated comment.<sup>[7]</sup> On October 30, 1996, petitioners filed a reply to the comment.<sup>[8]</sup>

We deny the petition.

The sole issue raised is whether it is the regional trial court or the municipal trial court which has jurisdiction over the subject of the action or suit, petitioners contending that the action is one for unlawful detainer within the jurisdiction of a municipal trial court.

We find petitioners' contention untenable.