

SECOND DIVISION

[G.R. No. 110174, March 19, 1998]

**NONITO LABASTIDA AND CONSTANCIA LABASTIDA,
PETITIONERS, VS. COURT OF APPEALS, JOSE C. DELESTE,
SR., JOSE L. DELESTE, JR., RAUL L. DELESTE AND RUBEN L.
DELESTE, RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a petition seeking review of the decision of the Court of Appeals,^[1] holding petitioners estopped from questioning the jurisdiction of the Regional Trial Court of Iligan City^[2] in an ejectment case brought against them and affirming in toto the decision^[3] of the aforesaid trial court.

The facts are summarized in the following portion of the decision of the Court of Appeals:

Plaintiffs [private respondents Jose C. Deleste, Sr., Jose L. Deleste, Jr., Raul L. Deleste and Ruben L. Deleste] are the owners of a parcel of land identified as Lot 226 of Iligan Cadastre survey and covered by TCT No. T-22148 located at Sabayle Street, Poblacion, Iligan City. A portion of said lot was leased to defendants [herein petitioners Nonito Labastida and Constancia Labastida] for the sum of ₱200.00 as monthly rental.

On December 6, 1983, plaintiffs filed a case against defendants denominated as one for recovery of possession and damages with preliminary mandatory injunction (pp. 1-4, records). The complaint alleged, among others, that in the latter part of 1979 plaintiffs served notice to the occupants-lessees on their land, including defendants, to vacate the property because the owners would erect a commercial building thereon; that defendants, instead of heeding the request, repaired their (defendants') building, put additional constructions on the lot, partitioned the first storey of the building and converted the same into four (4) stores or business spaces and subleased the same to other persons without the knowledge and consent of the plaintiffs; that on October 24, 1980 or after other previous notices, plaintiffs sent a written demand to defendants to vacate the land but the latter refused; that "again, on February 20, 1983 plaintiffs made and sent another written notice to defendants to vacate" but to no avail; and that plaintiffs suffered actual damage in the amount of ₱40,000.00 which was the increase of construction materials and labor costs since 1979 and moral damages in the amount of ₱100,000.00.

Plaintiffs prayed that defendants be ordered, *inter alia*, to remove their building, makeshift structures and fence, vacate the premises and pay defendants the sum of ₱100,000.00 as moral damages and ₱40,000.00 for actual damages "or the difference of the cost of construction materials and labor in 1979 and at the time when the defendants will be able to vacate the premises."

Defendants filed a motion to dismiss the complaint on two grounds, namely: (a) lack of jurisdiction of the trial court over the person of one of the defendants and over the nature or

subject matter of the action and (b) pendency of an ejectment case filed by the plaintiffs against the same defendants in the municipal court of Iligan City involving the same property.

In support of the first ground, defendants contended that “[in as much] as the written notice to vacate was only mailed to defendants last February 20, 1983 and there is no showing that defendants even received said notice to vacate and therefore there is no evidence to show that the one (1) year period has elapsed from the time defendants received the written notice to vacate, coupled by the fact that this is a clear case of Unlawful Detainer and this case was filed on December 6, 1983, therefore, the court that has jurisdiction over the case is the Municipal Trial Court in Cities, Iligan City, as provided for in Sections 1 and 2 of Rule 70, of the Revised Rules of Court.” Additionally, defendants’ counsel allegedly “failed to contact” the other defendant, Constanica Labastida, so that no jurisdiction had been acquired over her person.

The motion to dismiss was denied by the lower court, ruling that the complaint was filed after one year from the date of demand. The trial court also said that it was the manifestation of defendants’ counsel in open court that summons was in fact served on Constanica Labastida. On the issue of *lis pendens*, it was brought out that the ejectment case was dismissed on December 2, 1983 or before the complaint in Civil Case No. 186 was filed.

In their answer, defendants alleged that no verbal or written demand to vacate was made by the plaintiffs in 1979 or in 1980 and that “if ever there was any demand it was on February 20, 1983.” They alleged that they were personally operating the small sari-sari store, carinderia and snack center whose capitalization did not exceed ₱5,000.00. They insisted that the house was residential and denied that they expanded the area of their occupancy by building additional structures, make-shifts or fence thereon.

As affirmative defenses, defendants reiterated their defense of lack of jurisdiction of the trial court, insisting that the case should have been filed before the municipal court.^[4]

Petitioners also claimed before the trial court that the case was covered by the Rent Control Law (B.P. Blg. 25) and the Urban Land Reform Act (P.D. No. 1517) and therefore private respondents did not have a cause of action against them.

The trial court gave judgment for the private respondents based on the findings

. . . that the contract of lease was on a month-to-month basis which gave the plaintiffs the right to eject the defendants after the expiration of each month; that the demands to vacate had been made more than a year before the filing of the complaint; that [in violation of the provisions of B.P. Blg. 25] defendants had subleased portions of the premises for business purposes; that even assuming that the beauty parlor, carinderia and snack center in the premises were operated by defendants themselves, the total capitalization thereof was more than ₱6,000.00; that defendants failed to pay the monthly rentals starting March, 1981.^[5]

Petitioners appealed to the Court of Appeals which, as already stated, affirmed the decision of the trial court.

The basic issue raised in the petition before us is whether the trial court had jurisdiction to try the case filed against petitioners. The subsidiary questions are whether the action is for recovery of possession (*accion publiciana*) or for ejectment (*desahucio*) and whether it was brought within one year.

First. Although entitled “For Recovery of Possession, Damages, with Preliminary Mandatory Injunction,” it is evident from the allegations of the complaint filed by private

respondents that the case was actually for unlawful detainer. Thus, the complaint alleged in pertinent parts:^[6]

2. That your plaintiffs are the absolute and registered owners in common of a parcel of a commercial lot situated at Sabayle Street, Poblacion, Iligan City which is more particularly described hereunder as follows, to wit:

“COVERED BY TRANSFER CERTIFICATE OF TITLE

NO. T-22,148 (a.f.)

. . . A parcel of land (Lot #226 of the cadastral survey of Iligan, Cadastral Case #N-1, LRC Cad. Rec. #N-146), with improvements thereon, situated in the City of Iligan. Bounded on the N. by Sabayle St.; on the E. by Lots Nos. 227 & 2772; on the S. by Lot #221; and on the W. by Lots Nos. 221 & 220; containing a total area of 1117 square meters, more or less, and declared for taxation purposes in the Office of the City Assessor of Iligan City under Tax Declaration No. 79-57502 for the year 1982...”

a portion of which is being occupied by the herein defendants at a monthly rental of P200.00, the lease agreement being verbal and on a month to month basis;

3. That sometime in the latter part of the year 1979, plaintiffs verbally advised and served notice to the occupants/lessees of the land above-described, especially those along Sabayle Street including the herein defendants, to vacate the land for the reason that the plaintiffs are ready to erect a commercial building on the land above-described, but the herein defendants instead of heeding to the plaintiff's notice to vacate, repaired their building, replaced the nipa roofing with galvanized sheets, and put up additional constructions on the lot, fencing the backyard which was not included in the lease agreement;

4. That aside from the expansions made by defendants on their house, they instead partitioned the first storey such that four (4) stores or business spaces were subleased to other persons without the knowledge and consent of the plaintiffs;

5. That after repeated verbal demands to vacate the land [in question] which defendants only ignored, plaintiffs sent on October 24, 1980 a written demand to the herein defendants, but in spite of said demand, defendants continued to fail and still refuse to vacate the premises complained of; again, on February 20, 1983, plaintiffs made and sent another written notice to the defendants to vacate the above-described property for the reason that plaintiffs are likely to suffer a more serious and continuing damages on the unabated rising prices on construction materials and labor costs, but all those demands fell on deaf ears, just being ignored and refused until the present;

Rule 70, §1 provides:

SECTION 1. *Who may institute proceedings, and when.* - Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a landlord, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such landlord, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action