

EIGHTH DIVISION

[CA-G.R. CV No. 99598, January 23, 2015]

GEORGE M. BOCANEGRA, PLAINTIFF-APPELLEE, VS. ANTONIO CONEJOS, AND AGAINST ALL THOSE PERSONS CLAIMING RIGHTS UNDER HIM, DEFENDANTS-APPELLANTS.

D E C I S I O N

ANTONIO-VALENZUELA, J.:

This is the appeal from the Decision dated 18 September 2012 ("assailed Decision"),^[1] of the Regional Trial Court, Branch 8, Manila ("RTC"), in Civil Case No. 07-118468.

THE FACTS

The facts are as follows: on 14 December 2007, George Bocanegra ("plaintiff-appellee Bocanegra") filed the Complaint^[2] for recovery of possession of the portion of a parcel of land covered by Transfer Certificate of Title ("TCT") No. 122452 ("subject property") against Cindy Digal, and against all those persons claiming rights under Cindy Digal.

Antonio Conejos ("defendant-appellant Conejos") filed the Urgent Motion to Intervene with Leave of Court with Motion to Dismiss,^[3] with the attached Answer In Intervention,^[4] and averred: defendant-appellant Conejos was the actual occupant of the subject property, being the owner of the furniture shop (under the name and style "Tagahanan Furniture") operating on the subject property; defendant-appellant Conejos employed Cindy Digal as a saleslady in defendant-appellant Conejos' furniture shop; plaintiff-appellee Bocanegra committed forum-shopping because plaintiff-appellee Bocanegra filed a similar case for recovery of possession of the subject property ("Civil Case No. 07-118495") against Regino Tagahanan, which case was pending before the RTC, Branch 52, Manila; the allegations in the Complaint in Civil Case No. 07-118495 were verbatim copies of the allegations in this Complaint (Civil Case No. 07-118468); the interests of defendant-appellant Conejos could be prejudiced should this case be decided in favor of the plaintiff-appellee Bocanegra.

The Urgent Motion to Intervene with Leave of Court with Motion to Dismiss prayed that the RTC allow defendant-appellant Conejos to intervene, and dismiss the Complaint on the grounds of forum-shopping and *litis pendentia*.

The RTC granted defendant-appellant Conejos' Motion to Intervene,^[5] and denied defendant-appellant Conejos' Motion to Dismiss, after finding that plaintiff-appellee Bocanegra did not violate the rules against forum-shopping.^[6]

Plaintiff-appellee Bocanegra filed the Motion to Declare the Defendants As In Default,^[7] and prayed that both Cindy Digal and defendant-appellant Conejos be declared as in default for failure to file their answer within the reglementary period.

Meanwhile, plaintiff-appellee Bocanegra filed the Motion with Leave to Admit the Attached Amended Complaint,^[8] and prayed that the attached Amended Complaint be admitted in the interest of justice.

In the Amended Complaint, defendant-appellant Conejos and all those persons claiming rights under him, replaced Cindy Digal and all those persons claiming rights under her, as defendants. The Amended Complaint averred: plaintiff-appellee Bocanegra was the absolute owner of the 1,000 square meter parcel of land described as Lot 1-B of the Subdivision Plan (LRC) Psd-230517, situated at Rizal Avenue Extension, Sta. Cruz, Manila, and covered by TCT No. 122452; defendant-appellant Conejos, and all those persons claiming rights under him, illegally occupied a portion of the parcel of land covered by TCT No. 122452, consisting of 65 square meters ("subject property"), through strategy and stealth, and without paying rent to the plaintiff-appellee Bocanegra; plaintiff-appellee Bocanegra discovered defendant-appellant Conejos' illegal occupancy when plaintiff-appellee Bocanegra's employees investigated and conducted an ocular inspection on the subject property; the proportionate assessed value of the area of the subject property illegally occupied by defendant-appellant Conejos was Php397,800.00; the reasonable compensation for the use and occupancy of the subject property occupied by defendant-appellant Conejos and all the persons claiming rights under him was Php2,000.00 per month; in March 2003, plaintiff-appellee Bocanegra, through his representative Cindy Digal, made verbal demands on defendant-appellant Conejos to vacate the subject property, but defendant-appellant Conejos refused to vacate the subject property, or pay reasonable compensation for the use thereof; plaintiff-appellee Bocanegra was compelled to retain the services of counsel, and pay Php20,000.00 (attorney's fees) because of the defendants' unjust refusal to vacate the subject property.

The Complaint prayed that the RTC render judgment: 1) ordering defendant-appellant Conejos, and all the persons claiming rights under him, to vacate the subject property, and return possession thereof to plaintiff-appellee Bocanegra; 2) ordering defendant-appellant Conejos, and all the persons claiming rights under him, to pay plaintiff-appellee Bocanegra Php20,000.00 (attorney's fees), and the cost of suit; 3) ordering defendant-appellant Conejos, and all the persons claiming rights under him, to pay jointly and severally, plaintiff-appellee Bocanegra reasonable compensation for the illegal use and occupation of the subject property in the amount of Php2,000.00 per month (from the date of the demand, until the defendants formally and actually vacate the subject property).

The RTC granted plaintiff-appellee Bocanegra's Motion with Leave to Admit the Attached Amended Complaint,^[9] denied plaintiff-appellee Bocanegra's Motion to Declare Defendants As In Default, and treated defendant-appellant Conejos' Answer in Intervention^[10] as the responsive pleading to the Amended Complaint.^[11]

In the Answer in Intervention, defendant-appellant Conejos prayed that the RTC dismiss the Amended Complaint, and countered: defendant-appellant Conejos was the actual occupant of the subject property, and the owner of "Tagahanan

Furniture," located in the subject property; plaintiff-appellee Bocanegra filed the Complaint against defendant-appellant Conejos' saleslady, Cindy Digal, who was not a resident of the barangay where the subject property was located; plaintiff-appellee Bocanegra discovered that Cindy Digal was not the actual occupant of the subject property, and plaintiff-appellee Bocanegra filed a similar case (Civil Case No. 07-118495) against defendant-appellant Conejos with allegations identical to the allegations in the Complaint in this case; plaintiff-appellee Bocanegra did not state in his verification and certification of non-forum shopping that there was a pending similar case involving the same subject matter; the defendant-appellant' Conejos' rights and interests could be prejudiced by the outcome of this case; Cindy Digal had no legal personality in the subject property; the RTC should dismiss the Amended Complaint outright because plaintiff-appellee Bocanegra was guilty of forum-shopping.

During the pre-trial, the RTC issued the Order dated 07 September 2010 which granted plaintiff-appellee Bocanegra's motion to present evidence *ex-parte* after defendant-appellee Conejos failed to attend the pre-trial.^[12]

Defendant-appellant Conejos moved for the reconsideration of the Order dated 07 September 2010.^[13] The RTC granted defendant-appellant Conejos' motion, and set the case anew for pre-trial.^[14]

However, defendant-appellant Conejos failed to file a pre-trial brief. Thus, on motion by plaintiff-appellee Bocanegra, the RTC allowed plaintiff-appellee Bocanegra to adduce evidence *ex-parte*.^[15]

Thus, the RTC conducted trial *ex-parte*.

The following persons testified for plaintiff-appellee Bocanegra: plaintiff-appellee Bocanegra; and Engineer Regino Sobrevinas.

Plaintiff-appellee Bocanegra's evidence is summarized thus: plaintiff-appellee Bocanegra, and Perpetua Bocanegra (plaintiff-appellee Bocanegra's mother) were the registered owners of the 1,000 square meter parcel of land covered by TCT No. 122452,^[16] and Tax Declaration No. 104524;^[17] defendant-appellant Conejos, and all the persons claiming rights under him, were illegally occupying the 65 square meter subject property (which was a portion of the 1,000 square meter parcel of land owned by plaintiff-appellee Bocanegra and Perpetua Bocanegra)^[18] through stealth and strategy, without the knowledge of, and permission from, plaintiff-appellee Bocanegra; in 2002, the staff of plaintiff-appellee Bocanegra conducted an investigation, and informed plaintiff-appellee Bocanegra that there were illegal occupants on the subject property; plaintiff-appellee instructed his staff to verify, and get the names of the actual occupants of the subject property, and the staff informed plaintiff-appellee Bocanegra that Cindy Digal was one of the occupants; whenever plaintiff-appellee Bocanegra passed by Rizal Avenue near the LRT, plaintiff-appellee Bocanegra would see the structures built on the subject property by the illegal occupants; plaintiff-appellee Bocanegra did not have any verbal or written contracts with the illegal occupants which allowed them to stay on the subject property; plaintiff-appellee Bocanegra made several demands on Cindy Digal to vacate the subject property, but Cindy Digal did not comply, thus plaintiff-appellee Bocanegra filed the Complaint against Cindy Digal and all the persons

claiming rights under her; defendant-appellant Conejos intervened in this case, and claimed that he was the actual occupant of the subject property, and that Cindy Digal was his employee; plaintiff-appellee Bocanegra did not make any demands on defendant-appellant Conejos to vacate the subject property because plaintiff-appellee Bocanegra already made the demand on Cindy Digal (defendant-appellant Conejos admitted that Cindy Digal was his employee); plaintiff-appellee Bocanegra filed the Amended Complaint and impleaded defendant-appellant Conejos as the defendant.

On 22 February 2012, the RTC rendered the assailed Decision which ruled in favor of plaintiff-appellee Bocanegra.^[19] The dispositive portion of the assailed Decision read:

WHEREFORE, premises considered, this Court finds in favor of the plaintiff GEORGE M. BOCANEGRA and against the defendants. Defendant ANTONIO CONEJOS, and all those persons claiming rights under him, are hereby ordered:

1. To vacate the portion of the property known as Lot 1-B of the Subdivision Plan (LRC) Psd-230517, being a portion of Lot 1 (LRC) Pcs-3279, LRC Cad Records Nos. 271 & 302 situated at 2976 Rizal Avenue Extension, Sta. Cruz, Manila covered by TCT No. 122452 and return possession thereof to the plaintiff;
2. To pay the plaintiff, jointly and severally, the amount of One Thousand Pesos (P1,000.00) per month as reasonable compensation for the use and occupation of the subject premises from the date of demand on March 2003 until defendants finally and actually vacate the subject premises being occupied;
3. To pay the plaintiff the amount of Twenty Thousand Pesos (Php20,000.00) representing attorney's fees; and
4. To pay the cost of suit.

ORDERED.

Aggrieved, defendants-appellants filed the Notice of Appeal.^[20]

In the Appellants' Brief,^[21] the defendants-appellants make the following assignment of errors:

II. ASSIGNMENT OF ERRORS

A. THE HONORABLE REGIONAL TRIAL COURT ERRED IN NOT APPRECIATING THAT IT HAS NO JURISDICTION OVER THE CASE.

B. THE HONORABLE COURT FAILED TO APPLY FORUM SHOPPING IN THE AMENDED COMPLAINT.

C. THE HONORABLE COURT ERRED IN RULING THAT DEMAND TO VACATE TO THE ORIGINAL DEFENDANT IS ALSO A

DEMAND TO THE INTERVENOR.

D. THE HONORABLE COURT ERRED THAT PLAINTIFF AND HIS SOLE WITNESS FAILED TO IDENTIFY THE SUBJECT PREMISES.

The issue is whether the RTC erred in not dismissing the Amended Complaint.

APPELLANTS' BRIEF

Defendant-appellant Conejos answers in the affirmative. The RTC erred in not dismissing the Amended Complaint. The Appellants' Brief thrusts: the Amended Complaint was an action for ejectment, which was not within the jurisdiction of the RTC; plaintiff-appellee Bocanegra, in filing the Amended Complaint, committed forum-shopping because plaintiff-appellee Bocanegra previously filed an ejectment case involving the same subject property and the same parties, and also filed another case pending before the RTC Manila, Branch 52; the RTC erred in holding that the demand to the original defendant, Cindy Digal, could be treated as the demand to defendant-appellant Conejos; plaintiff-appellee Bocanegra did not particularly describe the subject property.

APPELLEES' BRIEF

Plaintiff-appellee Bocanegra answers in the negative. The RTC did not err in not dismissing the Amended Complaint. The Appellee's Brief^[22] parries: the RTC had jurisdiction over the case because the allegations in the Amended Complaint clearly indicated that this case was an action for recovery of possession, and not an action for ejectment; plaintiff-appellee Bocanegra did not commit forum-shopping because Civil Case No. 07-118495 did not involve the same subject property; plaintiff-appellee Bocanegra made a verbal demand to vacate the subject property on defendant-appellant Conejos, through defendant-appellant Conejos' representative, Cindy Digal; Engineer Regino Sobrevinas clearly and specifically identified the subject property during his testimony before the RTC.

THE COURT'S RULING

Defendants-appellants' Appellants' Brief failed to comply with the requirements provided by law, and thus we must dismiss the appeal.

At the onset, we find that the defendants-appellants' appeal should be dismissed for failure to comply with the requirements of the law as to the contents of their appellants' brief.

The right to appeal is not a natural right but that which is merely granted by statute. As such, the right to appeal must be exercised in the manner prescribed by law.

Rule 44, Section 13, of the Rules of Court provides for the contents, and the prescribed format of an appellant's brief required in ordinary appealed cases, to wit: