

## **NINETEENTH DIVISION**

**[ CA G.R. CEB SP NO. 04291, March 28, 2014 ]**

**BHAGWANI CHUGANI, PETITIONER, VS. HON. JUDGE FRANKLIN J. DEMONTEVERDE, PRESIDING JUDGE, RTC BRANCH 49, BACOLOD CITY[1] AND MA. CORAZON VASQUEZ-DULAY, RESPONDENTS.**

### **D E C I S I O N**

**DIY, J.:**

Petitioner, by way of a petition filed under Rule 42 of the 1997 Rules of Civil Procedure, assails the October 3, 2008 Decision<sup>[2]</sup> of Branch 49 of the Regional Trial Court of Bacolod City. Said court affirmed in toto the April 3, 2008 Decision<sup>[3]</sup> of Branch 4, Municipal Trial Court in Cities of Bacolod City. Petitioner likewise questions the May 21, 2009 Order<sup>[4]</sup> of the court *a quo* denying his motion for reconsideration.<sup>[5]</sup>

The subject of the dispute is a 338-square meter lot denominated as Lot No. 154-A-1-B located at Gonzaga St., Bacolod City. Said lot is covered by Transfer Certificate of Title No. T-139362 registered in the name of Angeles Vasquez. A building which is erected on said lot houses the Indian Emporium, owned by herein petitioner.

Petitioner had been leasing the property since the early 1950's from respondent Ma. Corazon Vasquez-Dulay's parents, Jose and Angeles Vasquez (respectively, Jose and Angeles, for brevity). Petitioner claimed that the lease was renewed annually. Further, the original lessors would also secure advances from him chargeable to the rent. Petitioner likewise alleged that the last contract of lease executed prior to the time this controversy arose varied from the previous ones since such contract provided for a term of nine (9) years beginning May 1, 1998 and to expire on April 30, 2007. Said contract likewise provided for an option for the lessee to renew the contract for another nine (9) years subject to the terms and conditions as may be agreed upon by the parties.

Angeles thereafter died and Jose waived his rights over the property in favor of their heirs, leaving to the latter the administration of the property.

Sometime in August 2006, respondent and petitioner conducted talks regarding the renewal of the contract of lease which was to expire on April 30, 2007. Petitioner was not, however, amenable to the new terms and conditions imposed by the heirs of the original lessors. He found the rent exorbitant since he was required to pay P130,000.00 per month with advance rental payment for two (2) years. A yearly increase of ten (10) percent on the rent to take effect on the fourth year of the effectivity of the new contract was likewise allegedly imposed. Petitioner's previous privilege to sublease the property was also eliminated. Petitioner offered to pay a

higher rent albeit a lower amount than that proposed by the heirs. However, the latter were not agreeable to petitioner's counterproposal. In short, petitioner and the heirs of the original lessors failed to forge a new agreement. The heirs thereafter repeatedly informed petitioner to signify his acceptance to their proposal on various dates which would be considered petitioner's deadlines. The heirs intended to start negotiations with other prospective lessees should they and petitioner fail to come to a new agreement. Petitioner, however, stood firm on his own counterproposals. The heirs thus entered into a new lease contract with Unitop International Group Co., which new contract was to take effect immediately after the expiry of the lease contract executed between petitioner and the original lessors.

On November 11, 2006, petitioner wrote to Jose asserting that petitioner had no unpaid obligation to his original lessors. Petitioner further demanded for Jose to pay the latter's promissory note with a face value of P720,000.000. Subsequently on February 15, 2007, Haresh Chugani (hereinafter, Haresh), petitioner's son and attorney-in-fact, likewise wrote to Jose informing the latter that they are exercising their option to renew the lease contract for another 9 years.

On March 7, 2007, Haresh again sent a letter to Jose requesting that they reconcile their records regarding the P700,000.00 obligation Jose allegedly still owed them. Roberto (Roberto, for brevity), one of the heirs of the original lessors, wrote back contesting the veracity and correctness of the accounting. Roberto likewise reiterated their demand that defendants should vacate the premises on or before April 30, 2007 and that whatever may be the result of their accounting, respondent and her co-heirs intend to recover possession of the property not later than May 1, 2007.

On March 22, 2007, Haresh, as petitioner's attorney-in-fact, filed a complaint for specific performance and/or to fix reasonable rent of the lease with damages against Jose (specific performance case, for brevity).<sup>[6]</sup> The complaint alleged that the parties could not forge an agreement and consequently, there was no renewal of the contract of lease since respondent had been imposing unreasonable terms and conditions. Petitioner further claimed that the onerous terms of the new contract were purportedly designed to ease him out of the leased premises. Petitioner likewise indicated in his complaint that Jose had an obligation to pay petitioner the amount of P1,401,099.00 plus interest of 3% per month. Petitioner, in said complaint, prayed that Jose be ordered to execute a contract of lease in his favor effective for another nine (9) years under such reasonable and just terms and conditions that the court may fix and that petitioner be allowed to stay on the leased premises in the meantime. Petitioner likewise sought that Jose be ordered to pay Jose's obligation amounting to P1,401,099.00 plus agreed interest of 3% per month or in the alternative, that the same be applied as rent. Petitioner further prayed for moral and exemplary damages as well as attorney's fees.

On May 25, 2007, Roberto filed a case for injunction and damages (injunction case, for brevity) against petitioner before Branch 46, RTC of Bacolod City.<sup>[7]</sup> Roberto alleged in the complaint that he took over the possession of the leased premises after the expiration of the contract of lease with petitioner. The latter, however, as well as other persons acting in petitioner's behalf made several attempts to re-enter and regain possession of the property despite the expiration of their contract of lease. Roberto thus prayed that injunctive relief be issued against petitioner, the

latter's agents, representatives, and other persons acting in his behalf from entering and interfering with the use, occupation and enjoyment of the property and that after trial on the merits, judgment be issued making such injunction permanent. Roberto likewise prayed that he be awarded actual damages, exemplary damages, and attorney's fees.

While both the specific performance and the injunction cases were pending, herein respondent claiming to represent all of the heirs of Jose and Angeles, filed an ejectment suit on September 21, 2007 before Branch 4, Municipal Trial Court in Cities (MTCC, for brevity), impleading petitioner, the latter's son, and attorney-in-fact Haresh Chugani, and an unnamed owner of another shop who is admittedly petitioner's sub-lessee. The case was docketed as Civil Case No. 31535 (ejectment suit, for brevity).<sup>[8]</sup>

On April 3, 2008, the MTCC granted respondent's complaint and directed petitioner, his son, and the unnamed sub-lessee to vacate the leased premises, remove the improvements thereon, and turn over the possession of the property to respondent. The MTCC likewise directed petitioner to pay the amount of P1,130,000.00 representing accrued rentals from May 1, 2007 to March 31, 2008 less any amount that may have been consigned with the court in the injunction case. The MTCC further ordered petitioner to pay the amount of P130,000.00 per month from the date of the decision until the time that petitioner, his son, and the unnamed sub-lessee shall vacate the premises and surrender possession thereof to respondent. The MTCC also awarded attorney's fees in the amount of P50,000.00 in respondent's favor.<sup>[9]</sup>

Petitioner thereafter elevated the matter before the court *a quo*. On October 3, 2008, the court *a quo* rendered the now appealed decision affirming *in toto* the decision of the MTCC.<sup>[10]</sup> Petitioner moved for reconsideration<sup>[11]</sup> of the decision but the motion proved unavailing as on May 29, 2009, the court *a quo* denied petitioner's motion.<sup>[12]</sup> Petitioner is thus now before Us via the instant petition raising the following –

#### ASSIGNMENT OF ERRORS

1. Respondent Court (RTC) erred in not dismissing the complaint for ejectment (Unlawful Detainer) for lack of jurisdiction, the subject matter of the litigation being incapable of pecuniary estimation.
2. Respondent Court erred in not dismissing the complaint for ejectment (Unlawful Detainer) for failure to join the other co-owners who are indispensable parties as party-plaintiff.
3. Respondent Court erred in not dismissing the complaint for ejectment (Unlawful Detainer) there being no demand to vacate.
4. Respondent Court (RTC) erred in not dismissing the complaint for ejectment (Unlawful Detainer) on the ground of forum shopping.
5. Respondent Court (RTC) erred in not awarding the compulsory

counterclaim of the petitioner in connection with the advances made by the original lessor.<sup>[13]</sup>

Petitioner seeks the reversal of the appealed decision contending that the court *a quo* erred in not dismissing the complaint on the aforesaid grounds. He further prays that respondent be directed to pay to petitioner the amount of P1,401,099.00 plus interest of 3% per month, which Jose owes to him, until fully paid, or in the alternative, to apply said amount to the extended lease and that respondent be directed to pay moral damages and exemplary damages as well as attorney's fees.

We shall resolve the aforestated assigned errors *in seriatim*.

In his first assigned error, petitioner contends that the ejectment suit was essentially for the interpretation of a lease contract. He remonstrates that the case extended beyond matters which are not commonly involved in an ejectment case. Petitioner thus, argues that the case was one incapable of pecuniary estimation thus jurisdiction lies not with the MTCC, but with the RTC.

It is an elementary rule of procedural law that jurisdiction over the subject matter of the case is conferred by law and is determined by the allegations of the complaint irrespective of whether the plaintiff is entitled to recover upon all or some of the claims asserted therein. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments in the complaint and the character of the relief sought are the matters to be consulted.<sup>[14]</sup>

The complaint filed in the case at bench is denominated as one for ejectment. An ejectment suit or *accion interdictal* is a summary action for the recovery of physical possession where the dispossession has not lasted for more than one year. An action for ejectment may either be for forcible entry (*detentacion*) or unlawful detainer (*desahucio*).<sup>[15]</sup>

It is alleged in the complaint that petitioner entered into a contract of lease with respondent's predecessors-in-interest. Administration over the properties was later on relinquished in favor of the heirs. Hence, when the contract of lease was nearing its expiration, respondent, who was one of the heirs, notified petitioner of such fact and proposed new terms for the renewal of the lease. The parties, however, failed to agree on the terms proposed by respondent, thus no new contract of lease was entered upon until the subsisting contract of lease expired. Since petitioner refused to vacate the leased premises and surrender possession thereof, respondent claimed to have been deprived of possession of the same. Respondent, through the ejectment suit, thus sought the eviction of petitioner from the property and the return of its possession to them.

The material allegations as well as the reliefs prayed for in the case at bench show that the complaint is one for unlawful detainer. Considering that these circumstances sufficiently allege a cause of action for unlawful detainer, the case was properly filed before the MTCC pursuant to Section, 1, Rule 70 of the 1997 Rules of Civil Procedure. It was thus erroneous for petitioner to say that the court *a quo* erred in not dismissing the complaint on this ground.

Petitioner next ascribes reversible error on the part of the court a quo in not dismissing the complaint for ejectment on the ground of respondent's failure to implead all the co-owners as party-plaintiffs. Petitioner argues that all the co-owners, being indispensable parties, should have been impleaded. Petitioner cites *Regner v. Logarta*<sup>[16]</sup> where it was held that co-owners who are not parties to the suit must be impleaded to avoid harassing a defendant by as many succeeding actions of ejectment as there might be co-owners.

Petitioner is mistaken.

Indeed, indispensable parties must be impleaded in order that final determination can be had of an action.<sup>[17]</sup> Jurisprudence in fact instructs that when indispensable parties are not before the court, the action should be dismissed.<sup>[18]</sup> Article 487 of the Civil Code, however, clearly provides that any of the co-owners may bring an action in ejectment.

In *Mendoza v. Coronel*,<sup>[19]</sup> it was categorically held:

We reiterate the Arcelona ruling that the controlling law is Article 487 of the Civil Code which categorically states:

Any one of the co-owners may bring an action in ejectment.

Article 487 is a departure from the rule laid down in the case of *Palarca v. Baguisi* which held that an action for ejectment must be brought by all the co-owners. As explained by Tolentino, the law now allows a co-owner to bring an action for ejectment, which covers all kinds of actions for the recovery of possession, including forcible entry and unlawful detainer, without the necessity of joining all the other co-owners as co-plaintiffs, because the suit is deemed to be instituted for the benefit of all.

In the earlier case of *Marmo v. Anacay*,<sup>[20]</sup> the Supreme Court made a thorough disquisition on the matter in this wise:

Section 7, Rule 3 of the Revised Rules of Court defines indispensable parties as parties-in-interest without whom there can be no final determination of an action and who, for this reason, must be joined either as plaintiffs or as defendants. Jurisprudence further holds that a party is indispensable, not only if he has an interest in the subject matter of the controversy, but also if his interest is such that a final decree cannot be made without affecting this interest or without placing the controversy in a situation where the final determination may be wholly inconsistent with equity and good conscience. He is a person whose absence disallows the court from making an effective, complete, or equitable determination of the controversy between or among the contending parties.

When the controversy involves a property held in common, Article 487 of the Civil Code explicitly provides that "any one of the co-owners may bring an action in ejectment".

We have explained in *Vencilao v. Camarenta* and in *Sering v. Plazo* that