

## NINETEENTH DIVISION

[ CA-G.R. C.V. No. 03455, July 31, 2014 ]

**MARIA ALAR, LOLITA ALAR AND SOCRATES ALAR JR.,  
PLAINTIFFS-APPELLANTS, VS. PETRA ASIS, SPS. PABLITO JR.,  
AND LYNLYN ASIS, SPS. ARMANDO JR., AND GLORIA ASIS-DALA,  
SPS. SALVADOR AND GRACE ASIS, AND JOSIE ASIS,  
DEFENDANTS-APPELLEES.**

### D E C I S I O N

**LAGURA-YAP, J.:**

The present appeal seeks to nullify the March 1, 2010 Order<sup>[1]</sup> and the March 25, 2010 Order<sup>[2]</sup> rendered by the Regional Trial Court (RTC), Branch 1, of Borongan, Eastern Samar in Civil Case No. 3815. The latter Order denied defendants-appellants' Motion for Reconsideration<sup>[3]</sup> of the March 1, 2010 Order of the RTC which dismissed the case for lack of jurisdiction over the subject matter.

#### ***The Antecedent Facts***

On January 21, 2003, Maria Alar, Lolita Alar and Socrates Alar Jr., (plaintiffs) filed a Complaint<sup>[4]</sup> against Petra Asis, Spouses Pablito Jr. and Lynlyn Asis, Spouses Armando Jr. and Gloria Asis-Dala, Spouses Salvador and Grace Asis, and Josie Asis, (defendants) for *Property and/or Partition with Prayer for Preliminary Injunction and Damages* before the Regional Trial Court (RTC), Branch 1, of Borongan, Eastern Samar, docketed as Civil Case No. 3815.

In their Complaint, plaintiffs alleged that they are the absolute owners of a parcel of land<sup>[5]</sup> situated in G. Alido St., Brgy. D-1 Poblacion, Borongan, Eastern Samar. Plaintiffs and their predecessors in interest had been in public, peaceful, continuous and adverse possession of the subject property for decades before the controversy arose.

Plaintiffs averred that on March 17, 2001, defendants, by means of stealth and strategy, occupied the entirety of the residential land by building a concrete fence made of hollow-blocks along G. Alido Street, blocking the only ingress and egress to the property. As a result, the store of Ana Marie Ty-Lira and Encarnacion Ty, lessees of the subject property, was completely shut-off from the street. Consequently, plaintiffs were deprived of the rentals from the leased premises as customers no longer had access to the store.<sup>[6]</sup>

Despite repeated demands, defendants refused to vacate the premises. Instead, defendants manifested their intention of staying in the subject property by increasing the height of the fence. In the hope of reaching a settlement, the matter was referred to the *barangay* authorities, but to no avail.<sup>[7]</sup> Hence, plaintiffs had no

recourse but to bring the matter before the court.

As an alternative cause of action, plaintiffs averred that they are co-owners of the property with the defendants in at least four (4) equal parts, being the heirs and successors-in-interest of Faustino Alar and Clotilde Alar-Asis, respectively. For that reason, plaintiffs asked for a partition of the property. Further, plaintiffs prayed for a Writ of Preliminary Mandatory Injunction (WPMI) or Temporary Restraining Order (TRO), as the defendants were in the process of encumbering the property subject of litigation.<sup>[8]</sup>

The only documentary exhibit attached to the Complaint is a 1940 Declaration of Real Property<sup>[9]</sup> (Tax Declaration No. 47638), which shows that the assessed value of the property is only two hundred twenty pesos (PhP 220.00).

In their Answer with Counterclaim<sup>[10]</sup>, defendants countered that plaintiffs have never been in possession of the lot in question. On the contrary, it is the defendants and their predecessors-in-interest who have been in open possession and peaceful occupation of the property since time immemorial. Defendants pointed out that they even have a residential house on the subject property, constructed sometime in the 1960s, where they were born and raised.<sup>[11]</sup>

As the rightful owners, defendants posit that they had all the right in the world to construct a fence on their property, regardless of its height. Further, Ana Marie Ty-Lira and Encarnacion Ty are not really lessees, as they are mere possessors by tolerance. Defendants stated that Ana Marie was abandoned by her husband and was left with no means of living, and out of pity, defendants allowed her to construct a store in their property. Defendants likewise argued that plaintiffs' plea for *injunctive relief* has no basis in fact and law, as the latter are not in possession of the property in question.<sup>[12]</sup>

As special and affirmative defenses, defendants averred that plaintiffs are already barred by laches, estoppel and prescription as defendants' adverse, public and open possession of the subject property would now be more than forty (40) years. On plaintiffs' prayer for partition, defendants maintained that there is really nothing to divide as they are the sole and rightful owners of the property, and not plaintiffs.<sup>[13]</sup>

After filing of the last pleading, plaintiffs moved ex-parte to set the case for Pre-Trial, and thereafter the parties filed their respective Pre-Trial Briefs. In their Brief,<sup>[14]</sup> defendants raised as an issue the improper joinder of causes of action, as the Complaint incorporated two incompatible causes of action, one for recovery of ownership and possession of the property, and the other for partition.

In its November 22, 2004 Order,<sup>[15]</sup> the RTC ruled that there is *misjoinder* of causes of action and it directed plaintiffs to sever the causes of action. Plaintiffs then filed a Notice of Severance<sup>[16]</sup> stating that they are severing the cause of action for property while maintaining the action for partition.

After a series of postponements, Preliminary Conference<sup>[17]</sup> was conducted on November 5, 2008, during which plaintiffs marked Tax Declaration No. 47638 as their Exhibit A, with the reservation of presenting other documentary exhibits that

may be produced during trial.

Another series of postponements followed as the parties manifested that they are ironing out an amicable settlement. No such settlement ever happened and the case proceeded. Out of nowhere, and perhaps after reading Tax Declaration No. 47638 for the first time, defendants filed a Motion to Dismiss,<sup>[18]</sup> alleging that the RTC has no jurisdiction over the subject matter of the case. Defendants pointed out that the lone documentary exhibit of plaintiffs (Tax Declaration No. 47638) shows that the assessed value of the subject property does not exceed twenty thousand pesos (PhP 20,000.00), and as such, the Municipal Trial Court (MTC) has jurisdiction, and not the RTC.

Plaintiffs filed an Opposition to the Motion to Dismiss,<sup>[19]</sup> contending that the assessed value of the the subject property should be determined on the basis of the tax declaration *as updated*. Since the sum of all the updated tax declarations exceeds twenty thousand pesos (PhP 20,000.00), then the RTC has jurisdiction.

On March 1, 2010, the RTC issued an Order<sup>[20]</sup> granting the Motion to Dismiss, the dispositive portion whereof reads:

“WHEREFORE, premises considered, the herein motion to dismiss filed by the defendants is hereby granted. Accordingly, this case is hereby ordered DISMISSED for lack of jurisdiction over the subject matter of this case.

SO ORDERED.”

Plaintiffs filed a Motion for Reconsideration of the March 1, 2010 Order but it was denied. Plaintiffs then filed a Notice of Appeal<sup>[21]</sup> assailing the Order<sup>[22]</sup> granting the Motion to Dismiss and the Order<sup>[23]</sup> denying their Motion for Reconsideration. Plaintiffs now come before Us raising the sole assignment of error:

THE TRIAL COURT ERRED IN RULING THAT IT HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE CASE BECAUSE THE ASSESSED VALUE OF THE PROPERTY INVOLVED IS NOT MORE THAN PHP 20,000.00.

### ***The Ruling of the Court***

The appeal is bereft of merit.

The settled rule is that jurisdiction of the court over the subject matter is determined by the allegations of the complaint. In the case of ***Actuel v. Valdez***,<sup>[24]</sup> the Supreme Court ruled that:

“It is axiomatic that the jurisdiction of a tribunal, including a quasi-judicial officer or government agency, over the nature and subject matter of a petition or complaint is determined by the material allegations therein and the character of the relief prayed for, irrespective of whether the petitioner or complainant is entitled to any or all such reliefs. Jurisdiction over the nature and subject matter of an action is conferred by the Constitution and the law, and not by the consent or waiver of the