

## **ELEVENTH DIVISION**

**[ CA G.R. SP NO. 86489, August 29, 2006 ]**

**SPOUSES RENATO R. CO AND VIVIAN CO REPRESENTED BY  
THEIR ATTORNEY-IN-FACT BELEN CO, PETITIONERS, VS.  
LIBERTY LOCSIN, RESPONDENT.**

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

**VILLON, J.:**

Before this Court is a Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure which seeks to annul and set aside the decision<sup>[1]</sup> dated February 6, 2004 of Branch 23, Regional Trial Court (RTC) of Trece Martirez City, Cavite in Civil Case No. TMCV-0032-03, which reversed the June 9, 2003 decision<sup>[2]</sup> of the Municipal Trial Court (MTC) of Tanza, Cavite in Civil Case No. 527 entitled "Sps. Renato R. Co & Vivian Co, represented by their Attorney-in-fact, Belen Co, plaintiffs, vs. Liberty Locsin and all persons claiming rights under her, defendant", for ejectment with damages. Likewise assailed is the order<sup>[3]</sup> dated August 30, 2004 of the RTC denying petitioners' Motion for Reconsideration.

In the complaint for unlawful detainer, plaintiffs (herein petitioners) averred: that they are the registered owners of a certain commercial building situated at A-17 Soriano Hi-way, Tanza, Cavite and erected on a lot covered by TCT No. T-792865 wherein respondent is a lessee paying P15,000.00 a month as rental; that the contract of lease had already expired in 1996 and respondent incurred arrearages in the amount of P47,000.00, exclusive of interest; that respondent violated the parties' agreement by having a portion of the building subleased without the petitioners' written consent; that demands made by petitioners upon respondent to pay their rental arrears remained unheeded; and that on December 9, 2002, petitioners, thru counsel, sent a demand letter to respondent for payment of rental arrears but despite receipt of said letter, respondent failed to do so.

In her answer, defendant (herein respondent) averred by way of special and affirmative defenses that: the court a quo has no jurisdiction over the case; that she is the owner of subject commercial building as evidenced by Tax Declaration and Tax receipt in her name; that petitioners have no cause of action against her; that the construction of subject commercial building was completed in November 2000; that she did not receive any demand letter for her to vacate the premises and to pay rental arrears; that sometime in November 2000, there was an old house on the subject property, the frontal portion of which was cut off due to road widening; that petitioners requested her to help them construct a two-storey building on the land owned by them which she agreed; that they also agreed that petitioners would pay her the amount spent for the construction of said building as soon as they could afford to do so, but in the meantime, she would have the right to use, possess and occupy the same; that she is using the building in the concept of an owner; and that since petitioners did not pay for the expenses incurred by her in the construction of

the said building, they have no right to use and utilize the same, much less to eject her from the premises.

On June 9, 2003, the MTC rendered its decision, the decretal portion of which reads:

**"WHEREFORE, by preponderance of evidence, judgment is hereby rendered in favor of the plaintiffs against the defendant and all other persons claiming rights under her:**

- 1. Enjoining the defendant and all persons acting in her behalf from exercising proprietary acts over the commercial unit erected on a parcel of land covered by TCT No. T-792865;**
- 2. To pay arrearages in the amount of P47,000.00 with legal interest per month till and after the defendant and all other persons claiming rights under her, vacate the premises;**
- 3. To vacate the premises;**
- 4. To pay P30,000.00 as reasonable attorney's fees and P3,000.00 per Court appearance; and**
- 5. To pay the cost of suit."**

On appeal, the RTC, in its decision dated February 6, 2004, reversed the decision of the MTC and ruled as follows:

**"WHEREFORE, the assailed Decision is hereby set aside and the parties are hereby ordered to adhere to the provisions of Article 448 of the New Civil Code."**

Their motion for reconsideration having been denied in an order dated August 30, 2004, petitioners filed the instant petition for review, raising the following issues, to wit:

## **I**

**WHETHER OR NOT THE APPELLATE COURT ERRED IN DISTURBING THE FINDINGS OF FACTS OF THE LOWER COURT.**

## **II**

**WHETHER OR NOT THE APPELLATE COURT ERRED IN FINDING THAT IT WAS THE DEFENDANT WHO CONSTRUCTED THE BUILDING OVER THE PIECE OF LAND COVERED BY TRANSFER CERTIFICATE OF TITLE NO. T-795865 OWNED BY PLAINTIFF, WHEN THE BUILDING HAS ALREADY BEEN IN EXISTENCE AT THE TIME DEFENDANT LEASED THE PREMISES SUBJECT MATTER OF THE INSTANT CASE.**

## **III**

**WHETHER OR NOT THE DEFENDANT WAS THE ONE WHO BUILT**

**THE BUILDING AND AT THE SAME TIME WHETHER OR NOT SHE IS A BUILDER IN GOOD FAITH PURSUANT TO ART. 448 OF THE NEW CIVIL CODE.**

**IV**

**WHETHER OR NOT THE QUESTION OF OWNERSHIP OF THE BUILDING IS ESSENTIAL IN THIS SUMMARY ACTION OF EJECTMENT.**

Petitioners argue that the issue of ownership in the instant case for ejectment is irrelevant and that the same should be raised in the appropriate action. They further insist that they are the owners of subject building having purchased the parcel of land, where it was erected, from its former owner.

On the other hand, respondent also asserts ownership of the subject building erected on the lot owned by petitioners. She contends that: she constructed the said building using her own funds pursuant to her agreement with petitioners; that she has the right to possess, use, occupy or utilize the same until she is paid for the expenses incurred for the construction of the said building; and that since petitioners failed to reimburse her for the said expenses, she has the right to stay in the premises.

In an action for ejectment, the only question involved is possession de facto.<sup>[4]</sup> When the defendant raised the defense of ownership and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved for the purposes only of determining the issue of possession, and such judgment shall not bar an action between the same parties respecting title to the real property.<sup>[5]</sup> Courts in ejectment cases decide questions of ownership only as it is necessary to decide the question of possession. The reason for this rule is to prevent the defendant from trifling with the summary nature of an ejectment suit by the simple expedient of asserting ownership over the disputed property.<sup>[6]</sup>

In this case, We are of the considered view that the resolution of the issue of ownership of the subject building is inextricably linked to the issue of possession. Thus, that the RTC is correct when it resolved the issue of ownership in the disposition of the appealed case from the MTC, although the same was for unlawful detainer.

We also agree with the findings of the RTC that respondent is the owner of the subject building, thus, We quote:

**"The allegations raised by the defendant<sup>[7]</sup> after being determined thoroughly by the Court must be given merit. The receipt presented by the party defendant clearly show that it was the defendant who was responsible for the construction of the subject two-story building. The receipts dated November 2000 proved that the construction materials were used in constructing the building.**

**Furthermore, the building permit issued is under the name of the**