



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ESPERANZA TUMPAG, substituted by
her son, **PABLITO TUMPAG BELNAS,**
JR.,

Petitioner,

G.R. No. 199133

Present:

CARPIO, J., *Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, JJ.

-versus-

Promulgated:

SEP 29 2014 *WAPababogfmgcto*

SAMUEL TUMPAG,

Respondent.

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DECISION

BRION, J.:

We resolve the petition for review on *certiorari*¹ assailing the November 30, 2010 decision² and the September 28, 2011 resolution³ of the Court of Appeals (CA), Cebu City in CA-G.R. CV No. 78155. The CA dismissed, without prejudice, the complaint for recovery of possession and damages that the petitioner filed before the Regional Trial Court (RTC) because the complaint failed to allege the assessed value of the disputed property in the case.

¹ Under Rule 45 of the Rules of Court; *rollo*, pp.11-21.

² Penned by CA Associate Justice Myra V. Garcia-Fernandez, with Associate Justices Pampio A. Abarintos and Ramon A. Cruz, concurring; *rollo*, pp. 76-85.

³ *Rollo*, p. 93-94.

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Brief Statement of Facts

On March 13, 1995, Esperanza Tumpag (*petitioner*) filed a complaint for recovery of possession with damages (docketed as Civil Case No. 666) against Samuel Tumpag (*respondent*) before the RTC, Branch 61, Kabankalan City, Negros Occidental. The complaint alleged that:

1) Plaintiff (*referring to the petitioner*) is of legal age, widow, Filipino citizen and a resident of Barangay Tuyom, Cauayan, Negros Occidental, while Defendant (*referring to the respondent*) is also of legal age, married, Filipino and a resident of Barangay Tuyom, Cauayan, Negros Occidental, where he maybe served with summons and other processes of this Honorable Court;

2) Plaintiff is the absolute owner of a parcel of land, identified as Lot No. 1880-A, Cauayan Cadastre, containing an area of TWELVE THOUSAND NINE HUNDRED NINETY TWO (12,992) SQUARE METERS, more or less, situated in Barangay Tuyom, Cauayan, Negros Occidental, more particularly bounded and described in Transfer Certificate of Title No. T-70184, dated April 27, 1983, issued by the Register of Deeds of Negros Occidental in favor of Plaintiff, xerox copy of which is hereto attached as ANNEX "A" and made an integral part hereof;

3) Defendant has been occupying a portion of not less than ONE THOUSAND (1,000) SQUARE METERS of the above-described parcel of land of the Plaintiff for more than TEN (10) years, at the tolerance of Plaintiff;

4) Sometime in 1987, Plaintiff wanted to recover the portion occupied by Defendant but Defendant refused to return to Plaintiff or vacate said portion he has occupied inspite of repeated demands from Plaintiff. And, to prevent Plaintiff from recovering the portion he has occupied, Defendant instigated his other relatives to file a case against the herein Plaintiff, and, in 1988, herein Defendant Samuel Tumpag, together with Luz Tagle Vda. De Tumpag and other relatives, filed a civil case, number 400, before this court against herein Plaintiff, Esperanza Tumpag, for cancellation of her title with damages;

5) Said Civil Case No. 400 was dismissed by this Honorable Court through its Resolution, dated October 11, 1989, penned by the Presiding Judge, the late Artemio L. Balinas, prompting the Plaintiffs in said case to elevate the said resolution of this Honorable Court to the Court of Appeals, and their appeal is identified as C.A. G.R. No. CV-25699;

6) On June 28, 1991, the Court of Appeals rendered a decision in the said appealed case, the dispositive portion of which read:

“PREMISES CONSIDERED, the appealed Resolution dated October 11, 1989 is hereby AFFIRMED.”

and, that the same has become final on March 11, 1994 and was entered, on August 26, 1994, in the Book of Entries of Judgment, xerox copy of

said Entry of Judgment of the Court of Appeals is hereto attached as ANNEX “B” and made part hereof;

7) Herein Plaintiff needs the portion occupied by Defendant and she has orally demanded from Defendant of the return of the same, but Defendant refused and still refuses to do so. Hence, Plaintiff brought the matter before the Office of the Barangay Captain of Barangay Tuyom, Cauayan, Negros Occidental, for conciliation, on March 3, 1995. But, unfortunately, Defendant refused to vacate or return the portion he occupies to Plaintiff. Attached hereto as ANNEX “C,” and made part hereof, is the Certification of the Barangay Captain of Barangay Tuyom, Cauayan, Negros Occidental, certifying that this matter was brought to his attention for conciliation;

8) Defendant’s refusal to return the portion he occupies to Plaintiff has caused Plaintiff to suffer actual damages in the amount of not less than TEN THOUSAND PESOS (₱10,000.00), per annum;

9) Defendant’s unjustifiable refusal to return the portion he occupies to Plaintiff has caused Plaintiff to suffer mental anguish, embarrassment, untold worries, sleepless nights, fright and similar injuries, entitling her to moral damages moderately assessed at not less than FIFTY THOUSAND PESOS (₱50,000.00);

10) To serve as deterrent (sic) to other persons similarly inclined and by way of example for the public good, Defendant should be made to pay exemplary damages in the amount of not less than TWENTY FIVE THOUSAND PESOS (₱25,000.00);

11) The unjustifiable refusal of Defendant to return the property to the Plaintiff leaves Plaintiff no other alternative but to file this present action, forcing her to incur litigation expenses amounting to not less than ONE THOUSAND PESOS (₱1,000.00), attorney’s fees in the amount of TWENTY THOUSAND PESOS (₱20,000.00) plus ONE THOUSAND PESOS (₱1,000.00) for every court appearance.⁴

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Together with his answer (which was later amended), the respondent moved to dismiss the complaint on the following grounds: failure to state a cause of action; that the action was barred by prior judgment; and lack of jurisdiction.⁵

The RTC, in an order dated January 16, 1996, denied the respondent’s motion to dismiss and proceeded with pre-trial and trial.⁶

During the pendency of the case, the petitioner died and was substituted by her son Pablito Tumpag Belnas, Jr.⁷

⁴ Id. at 24-28.

⁵ Id. at 109-110.

⁶ Id. at 78.

⁷ Id. at 12.

In a decision⁸ dated June 3, 2002, the RTC ordered the respondent to return possession of the subject portion of the property to the petitioner and to pay the petitioner ₱10,000.00 as actual damages, ₱20,000.00 as moral damages, and ₱10,000.00 as attorney's fees.

In his appeal to the CA, among the grounds the respondent raised was the issue of the RTC's lack of jurisdiction over the case.⁹

In its assailed decision,¹⁰ the CA agreed with the respondent and nullified the RTC's June 3, 2002 decision and all proceedings before the trial court. It held that the petitioner's failure to allege in her complaint the assessed value of the disputed property warranted the complaint's dismissal, although without prejudice, because the court's jurisdiction over the case should be "determined by the material allegations of the complaint"¹¹ and "cannot be made to depend upon the defenses set up in court or upon a motion to dismiss for, otherwise, the question of jurisdiction would depend almost entirely on the defendant."¹² The petitioner moved to reconsider but the CA denied her motion in its resolution¹³ dated September 28, 2011. The CA's ruling and denial of the motion for reconsideration gave rise to the present petition for review on *certiorari* filed with this Court.

The petitioner now argues that the respondent, after having actively participated in all stages of the proceedings in Civil Case No. 666, is now estopped from assailing the RTC's jurisdiction; that the subject case had been litigated before the RTC for more than seven (7) years and was pending before the CA for almost eight (8) years. Further, she argues that the dismissal of her complaint was not warranted considering that she had a meritorious case as **attached to her complaint was a copy of a Declaration of Real Property indicating that the assessed value of the disputed property is ₱20,790.00.**

Our Ruling

We find MERIT in the present petition. The CA's dismissal of the petitioner's complaint for recovery of possession is erroneous and unwarranted.

⁸ Id. at 55-59.

⁹ Id. at 81.

¹⁰ *Supra* note 2.

¹¹ *Rollo*, p. 83

¹² Id. at 84.

¹³ *Supra* note 3.

It is well-settled that jurisdiction over a subject matter is conferred by law, not by the parties' action or conduct,¹⁴ and is, likewise, determined from the allegations in the complaint.¹⁵

Under *Batas Pambansa Blg. 129*,¹⁶ as amended by Republic Act No. 7691,¹⁷ the jurisdiction of Regional Trial Courts over civil actions involving title to, or possession of, real property, or any interest therein, is limited to cases where the assessed value of the property involved exceeds Twenty thousand pesos (₱20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (₱50,000.00), except actions for forcible entry into and unlawful detainer of lands or buildings.¹⁸

Here, the petitioner filed a complaint for recovery of possession of real property before the RTC but failed to allege in her complaint the property's assessed value. Attached, however, to the petitioner's complaint was a copy of a Declaration of Real Property showing that the subject property has a market value of ₱51,965.00 and assessed value of ₱20,790.00. **The CA was fully aware of this attachment but still proceeded to dismiss the petitioner's complaint:**

Record shows that the complaint was filed with the Regional Trial Court on December 13, 1995. There is no allegation whatsoever in the complaint for *accion publiciana* concerning the assessed value of the property involved. **Attached however to the complaint is a copy of the Declaration of Real Property of subject land which was signed by the owner stating that its market value is ₱51,965 and its assessed value is ₱20,790.00.** (Emphasis ours)¹⁹

Generally, the court should only look into the facts alleged in the complaint to determine whether a suit is within its jurisdiction.²⁰ There may be instances, however, when a rigid application of this rule may result in defeating substantial justice or in prejudice to a party's substantial right.²¹ In *Marcopper Mining Corp. v. Garcia*,²² we allowed the RTC to consider, in addition to the complaint, other pleadings submitted by the parties in deciding whether or not the complaint should be dismissed for lack of cause of action. In *Guaranteed Homes, Inc. v. Heirs of Valdez, et al.*,²³ we held that the factual allegations in a complaint should be considered in tandem with

¹⁴ *Spouses Vargas v. Spouses Caminas*, G.R. Nos. 137839-40, June 12, 2008, 554 SCRA 305, 317; *Metromedia Times Corporation v. Pastorin*, G.R. No. 154295, July 29, 2005, 465 SCRA 320, 335; *Dy v. National Labor Relations Commission*, 229 Phil. 234, 242 (1986).

¹⁵ *Mendoza v. Germino*, G.R. No. 165676, November 22, 2010, 635 SCRA 537, 544; *Morta, Sr. v. Occidental*, G.R. No. 123417, June 10, 1999, 308 SCRA 167.

¹⁶ The Judiciary Reorganization Act of 1980, approved on August 14, 1981.

¹⁷ An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending For The Purpose *Batas Pambansa Blg. 129*, Otherwise Known as the "Judiciary Reorganization Act of 1980," approved on March 25, 1994.

¹⁸ See Section 19, *Batas Pambansa Blg. 129*, as amended.

¹⁹ *Rollo*, p. 81.

²⁰ *Barbosa v. Hernandez*, G.R. No. 133564, July 10, 2007, 527 SCRA 99.

²¹ See *Tan v. Director of Forestry*, G.R. No. L-24548, October 27, 1983, 125 SCRA 302.

²² 227 Phil.166, 174 (1986).

²³ G.R. No. 171531, January 30, 2009, 577 SCRA 441, 449.

the statements and inscriptions on the documents attached to it as annexes or integral parts.

In the present case, we find reason not to strictly apply the above-mentioned general rule, and to consider the facts contained in the Declaration of Real Property attached to the complaint in determining whether the RTC had jurisdiction over the petitioner's case. A mere reference to the attached document could *facially* resolve the question on jurisdiction and would have rendered lengthy litigation on this point unnecessary.

In his comment²⁴ to the present petition, the respondent contends that the assessed value of the property subject of the case is actually much below than the value stated in the attached Declaration of Real Property. However, the test of the sufficiency of the facts alleged in the complaint is whether, admitting the facts alleged, the court can render a valid judgment upon the complaint in accordance with the plaintiff's prayer.²⁵ The defendant, in filing a motion to dismiss, *hypothetically* admits the truth of the factual and material allegations in the complaint,²⁶ as well as the documents attached to a complaint whose due execution and genuineness are not denied under oath by the defendant; these attachments must be considered as part of the complaint without need of introducing evidence thereon.²⁷

Lastly, we note that the present petitioner's situation comes close with those of the respondents in *Honorio Bernardo v. Heirs of Eusebio Villegas*,²⁸ where the Villegas heirs, in filing their complaint for *accion publiciana* before the RTC, failed to allege the assessed value of the subject property. On the complaint's omission, the defendant questioned the RTC's jurisdiction in his answer to the complaint and, again, in his appeal before the CA.

In *Bernardo v. Heirs of Villegas*,²⁹ we affirmed the CA ruling that upheld the RTC's jurisdiction over the case despite the complaint's failure to allege the assessed value of the property because the defendant-petitioner was found to have actively participated in the proceedings before the trial court and was already estopped from assailing the jurisdiction of the RTC. **While we mention this case and its result, we cannot, however, apply the principle of *estoppel* (on the question of jurisdiction) to the present respondent.**

We rule that the respondent is not estopped from assailing the RTC's jurisdiction over the subject civil case. **Records show that the respondent**

²⁴ Dated March 29, 2012; *rollo*, pp. 107-117.

²⁵ *Feliciano v. Court of Appeals*, 350 Phil. 499 (1998).

²⁶ See *Paredes v. Intermediate Appellate Court*, G.R. No. 70717, May 8, 1990, 185 SCRA 134; *D.C. Crystals, Inc. v. Laya*, G.R. No. 53597, February 28, 1989, 170 SCRA 734.

²⁷ *Asia Banking Corporation vs. Walter E. Olsen and Co.*, 48 Phil 529, 532 (1925).

²⁸ G.R. No. 183357, March 15, 2010, 615 SCRA 466.

²⁹ *Ibid.*

has consistently brought the issue of the court's lack of jurisdiction in his motions, pleadings and submissions throughout the proceedings, until the CA dismissed the petitioner's complaint, not on the basis of a finding of lack of jurisdiction, but due to the insufficiency of the petitioner's complaint, *i.e.* failure to allege the assessed value of the subject property. Even in his comment filed before this Court, the respondent maintains that the RTC has no jurisdiction over the subject matter of the case.

Lack of jurisdiction over the subject matter of the case can always be raised anytime, even for the first time on appeal,³⁰ since jurisdictional issues, as a rule, cannot be acquired through a waiver or enlarged by the omission of the parties or conferred by the acquiescence of the court.³¹ Thus, the respondent is not prevented from raising the question on the court's jurisdiction in his appeal, if any, to the June 3, 2002 decision of the RTC in Civil Case No. 666.

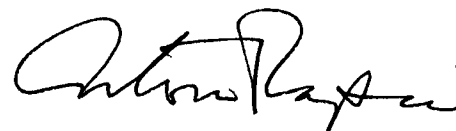
WHEREFORE, premised considered, we **GRANT** the present petition for review on *certiorari* and **SET ASIDE** the decision dated November 30, 2010 and resolution dated September 28, 2011 of the Court of Appeals, Cebu City in CA-G.R. CV No. 78155.

Accordingly, we **REINSTATE** the decision dated June 3, 2002 of the Regional Trial Court, Branch 61, Kabankalan City, Negros Occidental in Civil Case No. 666.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

³⁰ *Javelosa v. Court of Appeals*, 333 Phil. 331, 337 (1996); *Pasagui v. Villanueva*, No. L-21998, November 10, 1975, 68 SCRA 18, 20.

³¹ *Gomez-Castillo v. COMELEC*, G.R. No. 187231, June 22, 2010, 621 SCRA 499.



MARIANO C. DEL CASTILLO
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Acting Chief Justice