



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**RUBEN MANALANG,
CARLOS MANALANG,
CONCEPCION GONZALES
AND LUIS MANALANG,**

Petitioners,

G.R. No. 156995

Present:

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

**BIENVENIDO AND MERCEDES
BACANI,**

Respondents.

Promulgated:

JAN 12 2015

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DECISION

BERSAMIN, J.:

In the exercise of its appellate jurisdiction, the Regional Trial Court (RTC) shall decide the appeal of the judgment of the Municipal Trial Court (MTC) in unlawful detainer or forcible entry cases on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be required by the RTC. There is no trial *de novo* of the case.

The Case

The petitioners assail the decision promulgated on October 18, 2002 in CA-G.R. SP No. 68419,¹ whereby the Court of Appeals (CA) reversed and set aside the decision of the RTC, Branch 49, in Guagua, Pampanga, and reinstated the judgment rendered on August 31, 2000 by the MTC of Guagua, Pampanga dismissing their complaint for unlawful detainer and the

¹ *Rollo*, pp. 39-52; penned by Associate Justice Salvador J. Valdez, Jr. (retired/deceased), with the concurrence of Associate Justice Mercedes Gozo-Dadole (retired) and Associate Justice Sergio L. Pestaño (retired/deceased).

9

respondents' counterclaim. They also hereby assail the resolution promulgated on January 24, 2003 denying their motion for reconsideration.²

Antecedents

Petitioners Ruben Manalang, Amado Manalang, Carlos Manalang, Concepcion M. Gonzales, Ladislao Manalang and Luis Manalang were the co-owners of Lot No 4236 with an area of 914 square meters of the Guagua Cadastre, and declared for taxation purposes in the name of Tomasa B. Garcia. The land was covered by approved survey plan Ap-03-004154. Adjacent to Lot 4236 was the respondents' Lot No. 4235 covered by Original Certificate of Title (OCT) No. N-216701. In 1997, the petitioners caused the relocation and verification survey of Lot 4236 and the adjoining lots, and the result showed that the respondents had encroached on Lot No. 4236 to the extent of 405 square meters. A preliminary relocation survey conducted by the Lands Management Section of the Department of Environment and Natural Resources (DENR) confirmed the result on the encroachment. When the respondents refused to vacate the encroached portion and to surrender peaceful possession thereof despite demands, the petitioners commenced this action for unlawful detainer on April 21, 1997 in the MTC of Guagua (Civil Case No. 3309), and the case was assigned to Branch 2 of that court.³

On September 17, 1998, the MTC (Branch 2) dismissed Civil Case No. 3309 for lack of jurisdiction based on its finding that the action involved an essentially boundary dispute that should be properly resolved in an *accion reivindicatoria*.⁴ It stated that the complaint did not aver any contract, whether express or implied, between the petitioners and the respondents that qualified the case as one for unlawful detainer; and that there was also no showing that the respondents were in possession of the disputed area by the mere tolerance of the petitioners due to the latter having become aware of the encroachment only after the relocation survey held in 1997.

On appeal, however, the RTC reversed the MTC (Branch 2), and remanded the case for further proceedings,⁵ holding that because there was an apparent withholding of possession of the property and the action was brought within one year from such withholding of possession the proper action was ejectment which was within the jurisdiction of the MTC; and that the case was not a boundary dispute that could be resolved in an *accion reivindicatoria*, considering that it involved a sizeable area of property and not a mere transferring of boundary.⁶

² Id. at 61-67.

³ Id. at 79-83.

⁴ Id. at 91.

⁵ Id. at 96-98.

⁶ Id. at 98.

Upon remand, the MTC, Branch 1,⁷ ultimately dismissed the complaint and counterclaim for lack of merit through the decision rendered on August 31, 2000,⁸ ruling that the petitioners failed to adduce clear and convincing evidence showing that the respondents had encroached on their property and had been occupying and possessing property outside the metes and bounds described in Bienvenido Bacani's OCT No. N-216701; that the preponderance of evidence was in favor of the respondents' right of possession; and that the respondent's counterclaim for damages should also be dismissed, there being no showing that the complaint had been filed in gross and evident bad faith.⁹

Once more, the petitioners appealed to the RTC.

At that point, the RTC ordered the petitioners to conduct a relocation survey to determine their allegation of encroachment, and also heard the testimony of the surveyor, Engr. Emmanuel Limpin, then Acting Chief of the Survey Section of the CENR- DENR.

On September 19, 2001,¹⁰ the RTC rendered its judgment whereby it reversed and set aside the MTC's decision of August 31, 2000, observing that the respondents had encroached on the petitioners' property based on the court-ordered relocation survey, the reports by Engr. Limpin, and his testimony;¹¹ that the respondents could not rely on their OCT No. N-216701, considering that although their title covered only 481 square meters, the relocation survey revealed that they had occupied also 560 square meters of the petitioners' Lot No. 4236;¹² that the petitioners did not substantiate their claims for reasonable compensation, attorney's fees and litigation expenses; and that, nevertheless, after it had been established that the respondents had encroached upon and used a portion of the petitioners' property, the latter were entitled to ₱1,000.00/month as reasonable compensation from the filing of the complaint up to time that the respondents actually vacated the encroached property, plus ₱20,000.00 attorney's fees.¹³

The respondents moved for reconsideration, but the RTC denied their motion for its lack of merit.¹⁴

The respondents appealed.

⁷ The Presiding Judge of Branch 2 later voluntary inhibited herself from the case, which was then re-assigned to Branch 1.

⁸ *Rollo* pp. 99-105.

⁹ *Id.* at 104.

¹⁰ *Id.* at 106-111.

¹¹ *Id.* at 109.

¹² *Id.* at 110.

¹³ *Id.* at 111.

¹⁴ *Id.* at 112.

On October 18, 2002, the CA promulgated its assailed decision,¹⁵ viz:

WHEREFORE, the appealed RTC decision is hereby REVERSED and SET ASIDE, and the decisions of the MTC of Guagua, Pampanga, Branches 1 and 2, are REINSTATED.

No pronouncement as to costs.

SO ORDERED.

The CA concluded that the RTC, by ordering the relocation and verification survey “in aid of its appellate jurisdiction” upon motion of the petitioners and over the objection of the respondents, and making a determination of whether there was an encroachment based on such survey and testimony of the surveyor, had acted as a trial court in complete disregard of the second paragraph of Section 18, Rule 70 of the *Rules of Court*. It declared such action by the RTC as unwarranted because it amounted to the reopening of the trial, which was not allowed under Section 13(3) Rule 70 of the *Rules of Court*. It observed that the relocation and verification survey was inconclusive inasmuch as the surveyor had himself admitted that he could not determine which of the three survey plans he had used was correct without a full-blown trial.

The CA held that considering that the petitioners’ complaint for unlawful detainer did not set forth when and how the respondents had entered the land in question and constructed their houses thereon, jurisdiction did not vest in the MTC to try and decide the case; that the complaint, if at all, made out a case for either *accion reivindicatoria* or *accion publiciana*, either of which fell within the original jurisdiction of the RTC; and that the RTC’s reliance on *Benitez v. Court of Appeals*¹⁶ and *Calubayan v. Ferrer*¹⁷ was misplaced, because the controlling ruling was that in *Sarmiento v. Court of Appeals*,¹⁸ in which the complaint was markedly similar to that filed in the case.

The petitioners sought reconsideration, but the CA denied their motion for its lack of merit in the resolution of January 24, 2003.¹⁹

Issues

Hence, this appeal.

¹⁵ Supra note 1.

¹⁶ G.R. No. 104828, January 16, 1997, 266 SCRA 242.

¹⁷ No. L-22645, September 18, 1967, 21 SCRA 146.

¹⁸ G.R. No. 116192, November 16, 1995, 250 SCRA 108.

¹⁹ *Rollo*, pp. 61-65.

The petitioners contend that the RTC had authority to receive additional evidence on appeal in an ejectment case because it was not absolutely confined to the records of the trial in resolving the appeal; that the respondents were estopped from assailing the relocation and verification survey ordered by the RTC because they had actively participated in the survey and had even cross-examined Engr. Limpin, the surveyor tasked to conduct the survey;²⁰ that Engr. Limpin's testimony must be given credence, honoring the well-entrenched principle of regularity in the performance of official functions;²¹ that the RTC did not conduct a trial *de novo* by ordering the relocation and verification survey and hearing the testimony of the surveyor; that the desirability of the relocation and verification survey had always been part of the proceedings even before the case was appealed to the RTC;²² that, in any case, the peculiar events that transpired justified the RTC's order to conduct a relocation and verification survey;²³ that the case, because it involved encroachment into another's property, qualified as an ejectment case that was within the jurisdiction of the MTC; and that the respondents were barred by laches for never questioning the RTC's February 11, 1999 ruling on the issue of jurisdiction.²⁴

In contrast, the respondents assail the relocation and verification survey ordered by the RTC as immaterial, because (a) it could not vest a right of possession or ownership; (b) the petitioners were mere claimants, not the owners of the property; (c) the petitioner had never been in possession of the area in question; and (d) cadastral surveys were not reliable. Hence, they maintain that whether or not the relocation and verification survey was considered would not alter the outcome of the case.²⁵

Ruling of the Court

The appeal has no merit.

To start with, the RTC, in an appeal of the judgment in an ejectment case, shall not conduct a rehearing or trial *de novo*.²⁶ In this connection, Section 18, Rule 70 of the *Rules of Court* clearly provides:

Sec. 18. *Judgment conclusive only on possession; not conclusive in actions involving title or ownership.* — x x x.

x x x x

²⁰ Id. at 23.

²¹ Id. at 24.

²² Id. at 25.

²³ Id. at 26.

²⁴ Id. at 33.

²⁵ Id. at 118-121.

²⁶ *Abellera v. Court of Appeals*, G.R. No. 127480, February 28, 2000, 326 SCRA 485, 491.

The judgment or final order shall be appealable to the appropriate Regional Trial Court which shall decide the same on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Court. (7a)

Hence, the RTC violated the foregoing rule by ordering the conduct of the relocation and verification survey “in aid of its appellate jurisdiction” and by hearing the testimony of the surveyor, for its doing so was tantamount to its holding of a trial *de novo*. The violation was accentuated by the fact that the RTC ultimately decided the appeal based on the survey and the surveyor’s testimony instead of the record of the proceedings had in the court of origin.

Secondly, on whether or not Civil Case No. 3309 was an ejectment case within the original and exclusive jurisdiction of the MTC, decisive are the allegations of the complaint. Accordingly, the pertinent allegations of the petitioners’ complaint follow:

2. Plaintiffs are co-owners of land known as Lot no. 4236 of the Guagua cadastre. Plaintiffs inherited the said parcel of residential land from Tomasa B. Garcia-Manalang who is the absolute owner of the said property and the same is declared for taxation purposes in her name under Tax Declaration No. 07014906, a copy of which is hereto attached as Annex “A”;

3. Lot No. 4236 is covered by an approved plan, Plan Ap-03-004154 (a copy made Annex ‘B’) and it consists of 914 square meters;

4. Adjacent to plaintiff’s [p]roperty is Lot No. 4235 of the Guagua Cadastre and covered by approved plan As-03-00533 (copy made Annex “C”) which is being claimed by defendants and is the subject matter of Cadastral Case No. N-229 of the Regional Trial Court of Guagua, Branch 53 where a decision (copy made Annex “D”) was rendered by said court on August 28, 1996 confirming the title over said lot in favor of defendant Bienvenido Bacani. The said decision is now final and executory ...

5. On February 23, 1997, plaintiffs caused the relocation and verification survey of cadastral Not No. 4236 of the Guagua Cadastre belonging to plaintiff and the adjoining lots, particularly Lot No. 4235 being claimed by defendants;

6. The relocation and verification survey conducted by Engr. Rufo R. Rivera, a duly licensed Geodetic Engineer per plan (copy made Annex “F”) revealed that defendants had encroached an area of 405 square meters of the parcel of land belonging to plaintiffs. In fact, the whole or part of the houses of the said defendants have been erected in said encroached portion;

7. Sometime in June of 1997, plaintiffs through plaintiff Concepcion Gonzales lodged a complaint before the Barangay Council of San Juan, Guagua, Pampanga against defendants regarding the encroached

portion. A preliminary relocation survey was conducted by the Lands Management Sector of the DENR and it was found that indeed, defendants encroached into the parcel of land belonging to plaintiffs. This finding was confirmed by the approved plan Ap-03-004154;

8. Since defendants refused to vacate the premises and surrender the peaceful possession thereof to plaintiff, the Barangay Captain of San Juan, Guagua, Pampanga issued a certification to file action (copy made Annex "G") dated March 4, 1997 to enable the plaintiff to file the appropriate action in court;

9. On March 10, 1997, plaintiffs sent a formal demand letter (copy made Annex "H") to defendants to vacate the premises and to pay reasonable compensation for the use of the said encroached portion;

10. Despite receipt of said demand letter per registry return cards attached to the letter, defendants failed and refused to vacate the encroached portion and surrender the peaceful possession thereof to plaintiffs;

11. Plaintiffs are entitled to a reasonable compensation in the amount of P 3,000.00 from defendants for the illegal use and occupation of their property by defendants;

12. By reason of the unjust refusal of defendants to vacate the premises and pay reasonable compensation to plaintiffs, the latter were constrained to engage the services of counsel for ₱30,00.00 plus ₱1,000.00 per appearance and incur litigation expenses in the amount of ₱10,000.00.²⁷

Given the foregoing allegations, the case should be dismissed without prejudice to the filing of a non-summary action like *accion reivindicatoria*. In our view, the CA correctly held that a boundary dispute must be resolved in the context of *accion reivindicatoria*, not an ejectment case. The boundary dispute is not about possession, but encroachment, that is, whether the property claimed by the defendant formed part of the plaintiff's property. A boundary dispute cannot be settled summarily under Rule 70 of the *Rules of Court*, the proceedings under which are limited to unlawful detainer and forcible entry. In unlawful detainer, the defendant unlawfully withholds the possession of the premises upon the expiration or termination of his right to hold such possession under any contract, express or implied. The defendant's possession was lawful at the beginning, becoming unlawful only because of the expiration or termination of his right of possession. In forcible entry, the possession of the defendant is illegal from the very beginning, and the issue centers on which between the plaintiff and the defendant had the prior possession *de facto*.

Thirdly, the MTC dismissed the action because it did not have jurisdiction over the case. The dismissal was correct. It is fundamental that

²⁷ CA rollo, pp. 31-33.

the allegations of the complaint and the character of the relief sought by the complaint determine the nature of the action and the court that has jurisdiction over the action.²⁸ To be clear, unlawful detainer is an action filed by a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession by virtue of any contract, express or implied.²⁹ To vest in the MTC the jurisdiction to effect the ejectment from the land of the respondents as the occupants in unlawful detainer, therefore, the complaint should embody such a statement of facts clearly showing the attributes of unlawful detainer.³⁰ However, the allegations of the petitioners' complaint did not show that they had permitted or tolerated the occupation of the portion of their property by the respondents; or how the respondents' entry had been effected, or how and when the dispossession by the respondents had started. All that the petitioners alleged was the respondents' "illegal use and occupation" of the property. As such, the action was not unlawful detainer.

Lastly, the conclusion by the MTC that the petitioners failed to show by clear and convincing evidence that the respondents had encroached on the petitioners' property was also warranted. In contrast, the only basis for the RTC's decision was the result of the relocation and verification survey as attested to by the surveyor, but that basis should be disallowed for the reasons earlier mentioned. Under the circumstances, the reinstatement of the ruling of the MTC by the CA was in accord with the evidence.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on October 18, 2002; and **ORDERS** the petitioners to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

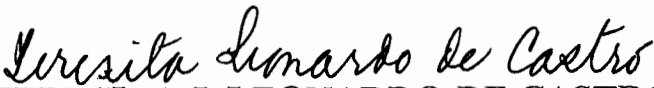



MARIA LOURDES P. A. SERENO
Chief Justice

²⁸ *Ten Forty Realty and Development Corp. v. Cruz*, G.R. No. 151212, September 10, 2003, 410 SCRA 484, 493.

²⁹ *Estate of Soledad Manantan v. Somera*, G.R. No. 145867, April 7, 2009, 584 SCRA 81, 88-89.

³⁰ *Sarmiento v. Court of Appeals*, G.R. No. 116192, November 16, 1995, 250 SCRA 108, 116.

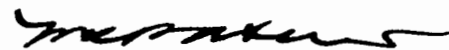

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
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.


MARIA LOURDES P. A. SERENO
Chief Justice