

SECOND DIVISION

[G.R. NO. 166975, September 15, 2006]

**HEIRS OF BASILISA HERNANDEZ, HEREIN REPRESENTED BY
THEIR ATTORNEY-IN-FACT ROSA H. FENIQUITO, PETITIONERS,
VS. BERNARDO VERGARA, JR., RESPONDENT.**

D E C I S I O N

GARCIA, J.:

In an action for ejectment filed by the petitioners against the respondent, the Metropolitan Trial Court (MeTC) of Manila, Branch 8, and later, the Regional Trial Court (RTC), Branch 20, are one in ordering the respondent's ejectment from the premises involved in the suit and the latter's payment of attorney's fees and costs. The Court of Appeals (CA), in its Decision^[1] dated July 30, 2004 in *CA-G.R. SP No. 80461*, however, ruled otherwise and also denied the petitioners' motion for reconsideration in its Resolution of January 27, 2005. ^[2] Thus, the petitioners are now before this Court *via* this petition for review on *certiorari* seeking the reversal of the decision and resolution of the CA, and the reinstatement of the decisions of the two courts below it.

The undisputed facts:

Basilisa Hernandez (Basilisa, for brevity), now deceased, was the owner of a property covered by Transfer Certificate of Title No. 94128 and located at No. 1110 Sulu Street, Sta. Cruz, Manila. During her lifetime, she allowed the herein respondent Bernardo Vergara, Jr. (Bernardo, for brevity) and the latter's family to occupy the property, with no obligation to pay rent, whether in cash or in kind, except that he should maintain the property in good and tenable condition. According to the petitioners, the possession of the subject property by Bernardo and his family was by mere tolerance, conditioned upon the immediate return thereof on demand without asking for any compensation whatsoever.

On January 14, 2000, Basilisa died and, being single, was without children, leaving only her brothers and sisters (now the petitioners in this case) as her legal heirs. Sometime thereafter, the petitioners found the need to use the subject property and accordingly demanded of Bernardo or whomsoever possessed the same under him to vacate and surrender the possession thereof to them. The petitioners further alleged that despite repeated demands, both written and oral, Bernardo refused to comply, thus necessitating their engagement of the services of counsel to file this ejectment suit.

In his Answer, Bernardo denied that his possession of the property was by mere tolerance, claiming that he became the owner thereof by virtue of a "donation *inter vivos*" executed by Basilisa in his favor. He alleged that Basilisa voluntarily took him under her care when he was just a few months old, and has ever since treated him

as her very own son. He further alleged that Basilisa, during her lifetime, openly represented herself to be his mother. The deed of donation was allegedly executed when Bernardo was only five years old, and his father accepted it in his behalf. This was the basis of his claim to the continued possession of the subject property.

In a decision^[3] dated December 11, 2002, the MeTC ruled for the petitioners, saying *inter alia*, as follows:

Thus after the demise of the said Basilisa Hernandez, plaintiff's act of demanding from the defendant that he and his assigns vacate the property, was within her prerogative, as an heir of the former. From then on, defendant's possession of the property became unlawful. Possession of a possessor by mere tolerance becomes unlawful the moment the owner demand[s] that he vacate the land,

and accordingly rendered judgment, thus:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the latter and all other persons claiming right of possession under him to:

- a. Vacate the premises known as No. 1110 Sulu Street, Sta. Cruz, Manila, and surrender possession thereof peacefully to the plaintiff;
- b. Pay the plaintiff the amount of Ten Thousand Pesos (P10,000.00) as and for attorney's fees and P2,000.00 for every court appearance[;]
- c. Pay the cost of the suit.

The counterclaim of the defendant is hereby dismissed for lack of merit.

SO ORDERED.

On Bernardo's appeal to the RTC of Manila, Branch 20 thereof, in its decision^[4] of September 10, 2003, affirmed *en toto* that of the MeTC, reasoning out that the only issue in ejectment cases is the physical or material possession and who is entitled thereto, notwithstanding any claim of ownership set forth by any of the party-litigants.

Obviously dissatisfied, Bernardo elevated the case to the CA in *CA-G.R. SP No. 80461*. This time, Bernardo prevailed. For, in a Decision^[5] dated July 30, 2004, the CA reversed the appealed decisions because -

x x x the case at bench presents a more fundamental issue, that is, the question of *de facto* possession cannot be determined properly without settling the issue of ownership because the latter is inseparably linked with the former, a situation where the question of possession is so intertwined with the question of ownership to the effect that the question of possession cannot be resolved without resolving the question of ownership. This is because an action for unlawful detainer is summary in nature. It is a proceeding inadequate for the ventilation of issues involving title or ownership of controverted property. It is more in keeping with the summary nature of ejectment cases that when issues of

title and ownership are inextricably related to physical/material possession, said unlawful detainer case should be dismissed by the Metropolitan Trial Court for being an improper remedy. x x x.

x x x It should be noted that the Metropolitan Trial Court did not receive evidence as regards the issue of ownership, such that there was no determination, albeit provisional, of the issue of ownership for purposes of resolving the issue of possession. This is so because the true issue for resolution in this case is not simply who between the parties is entitled to physical possession of the property. Rather, this case involves the determination of the issue of possession *de jure*, considering that the claim of each party is hinged on their respective claims of ownership, [respondent] as donee, and [petitioners] as heirs of Basilia (sic) Hernandez. x x x the proper remedy is an *accion reivindicatoria*, which should be brought in the proper court, depending upon the value of the subject property, under the provisions of Batas Pambansa Blg. 129. x x x.

x x x x x x x x x

WHEREFORE, premises considered, the instant petition is GRANTED. The Decisions of the Metropolitan Trial Court dated 11 December 2002 and the Regional Trial Court dated 10 September 2003 are **ANNULLED** and **SET ASIDE**. The complaint for ejectment is hereby **DISMISSED**.

SO ORDERED.

With their motion for reconsideration having been denied by the CA in its affirmatory Resolution of January 27, 2005,^[6] the petitioners have come to this Court *via* the instant recourse on the following grounds:

ALLEGATION OF OWNERSHIP BY THE DEFENDANT IN AN EJECTMENT CASE DOES NOT DIVEST THE MTC OF JURISDICTION IN AN EJECTMENT CASE EVEN IF THE QUESTION OF OWNERSHIP IS CLOSELY INTERTWINED WITH THE QUESTION OF POSSESSION.

CONTRARY TO THE FINDINGS IN THE ASSAILED DECISION, THE METROPOLITAN TRIAL COURT RESOLVED THE QUESTION OF OWNERSHIP FOR THE PURPOSE OF DETERMINING WHO HAS THE RIGHT TO POSSESSION BETWEEN THE PARTIES.

THE RULING IN THE CASE OF *SERDONCILLO VS. BENOLIRAO* WAS MISAPPRECIATED IN THE ASSAILED DECISION.

We **GRANT** the petition.

While we are in accord with the CA in ruling that the only issue for resolution in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the party litigants,^[7] we disagree, however, with its conclusion that the MeTC is divested of jurisdiction in this case because the issue of ownership which is so intertwined with the issue of possession, was raised by the respondent in his Answer.