

FIRST DIVISION

[G.R. NO. 169793, September 15, 2006]

VICTORIANO M. ENCARNACION, PETITIONER, VS. NIEVES AMIGO, RESPONDENT.

D E C I S I O N

YNARES-SANTIAGO, J.:

This petition for review assails the June 30, 2005 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 73857, ordering the remand of Civil Case No. Br. 20-1194 to the Regional Trial Court of Cauayan, Isabela, Branch 20, for further proceedings.

The antecedent facts are as follows:

Petitioner Victoriano M. Encarnacion is the registered owner of Lot No. 2121-B-1, consisting of 100 square meters and covered by TCT No. T-256650; and Lot No. 2121-B-2 consisting of 607 square meters with TCT No. T-256651, located at District 1, National Hi-way, Cauayan, Isabela. Said two lots originally form part of Lot No. 2121, a single 707 square meter track of land owned by Rogelio Valiente who sold the same to Nicasio Mallapitan on January 18, 1982. On March 21, 1985, Mallapitan sold the land to Victoriano Magpantay. After the death of the latter in 1992, his widow, Anita N. Magpantay executed an Affidavit of Waiver^[2] on April 11, 1995 waving her right over the property in favor of her son-in-law, herein petitioner, Victoriano Encarnacion. Thereafter, the latter caused the subdivision of the land into two lots^[3] and the issuance of titles in his name on July 18, 1996. ^[4]

Respondent Nieves Amigo allegedly entered the premises and took possession of a portion of the property sometime in 1985 without the permission of the then owner, Victoriano Magpantay. Said occupation by respondent continued even after TCT Nos. T-256650 and T-256651 were issue to petitioner.

Consequently, petitioner, through his lawyer sent a letter ^[5] dated Febuary 1, 2001 demanding that the respondent vacate the subject property. As evidenced by the registry return receipt, the demand letter was delivered by registered mail to the respondent on February 12, 2001. Notwithstanding receipt of the demand letter, respondent still refused to vacate the subject property. Thereafter, on March 2, 2001, petitioner filed a complaint^[6] for ejectment, damages with injunction and prayer for restraining order with the Municipal Trial Court in Cities of Isabela which was docketed as CV-01-030. In his Answer, respondent alleged that he has been in actual possession and occupation of a portion of the subject land since 1968 and that the issuance of Free Patent and titles in the name of petitioner was tainted with irregularities.^[7]

On October 24, 2001, the Municipal Trial Court in Cities rendered judgment, which reads:

WHERE[FO]RE, there being a preponderance of evidence, a JUDGMENT is hereby rendered in favor of the plaintiff VICTORIANO M. ENCARNACION and against the defendant NIEVES AMIGOE (sic) as follows:

a) ORDERING the defendant to vacate the portion of the parcels of land described in Transfer Certificates of Title Nos. T-256650 and T-256651 he is now occupying and surrender it to the plaintiff;

b) ORDERING the defendant to pay the plaintiff the sum of FIVE THOUSAND PESOS (P5,000) as attorney's fees, and

c) ORDERING the defendant to pay rentals equivalent [to] P500.00 per month from February, 2001 until the portion of the land occupied by him is surrendered to the plaintiff.

COSTS against the defendant.

SO ORDERED.^[8]

On appeal, the Regional Trial Court of Cauayan, Isabela, Branch 20, ruled as follows:

WHEREFORE, judgment is hereby rendered dismissing the case on the ground that as the Municipal Court had no jurisdiction over the case, this Court acquired no appellate jurisdiction thereof. Costs against plaintiff-appellee.

SO ORDERED.^[9]

Aggrieved, petitioner filed a petition for review^[10] under Rule 42 of the Rules of Court before the Court of Appeals which promulgated the assailed Decision remanding the case to the Regional Trial Court. The dispositive portion thereof reads:

WHEREFORE, premises considered, this case is hereby REMANDED to Branch 20, Regional Trial Court of Cauayan, Isabela for further proceedings.

No costs.

SO ORDERED.^[11]

Hence the present petition raising the sole issue:

[WHETHER] THE COURT OF APPEALS ERRED IN HOLDING THAT THE PROPER ACTION IN THIS CASE IS ACCION PUBLICIANA AND NOT UNLAWFUL DETAINER AS DETERMINED BY THE ALLEGATIONS IN THE COMPLAINT FILED BY PETITIONER.^[12]

The petition lacks merit.

In this jurisdiction, the three kinds of actions for the recovery of possession of real property are:

1. *Accion interdical*, or an ejectment proceeding which may be either that for forcible entry (*detentacion*) or unlawful detainer (*desahucio*), which is a summary action for recovery of physical possession where the dispossession has not lasted for more than one year, and should be brought in the proper inferior court;
2. *Accion publiciana* or the plenary action for the recovery of the real right of possession, which should be brought in the proper Regional Trial Court when the dispossession has lasted for more than one year; and
3. *Accion reivindicatoria* or *accion de reivindicacion*, which is an action for the recovery of ownership which must be brought in the proper Regional Trial Court.^[13]

Based on the foregoing distinctions, the material element that determines the proper action to be filed for the recovery of the possession of the property in this case is the length of time of dispossession. Under the Rules of Court, the remedies of forcible entry and unlawful detainer are granted to a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or 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, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person. These remedies afford the person deprived of the possession to file at any time within one year after such unlawful deprivation or withholding of possession, an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.^[14] Thus, if the dispossession has not lasted for more than one year, an ejectment proceeding is proper and the inferior court acquires jurisdiction. On the other hand, if the dispossession lasted for more than one year, the proper action to be filed is an *accion publiciana* which should be brought to the proper Regional Trial Court.

After a careful evaluation of the evidence on record of this case, we find that the Court of Appeals committed no reversible error in holding that the proper action in this case is *accion publiciana*; and in ordering the remand of the case to the Regional Trial Court of Cauayan, Isabela, Branch 20, for further proceedings.

Well settled is the rule that jurisdiction of the court over the subject matter of the action is determined by the allegations of the complaint at the time of its filing, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.^[15] On its face, the complaint must show enough ground for the court to assume jurisdiction without resort to parol testimony.^[16]

From the allegations in the complaint, it appears that the petitioner became the