

THIRD DIVISION

[G.R. NO. 138380, September 02, 2005]

**DEMETRIA GARCIA, PETITIONER, VS. TEOFILO D. ZOSA, JR.,
RESPONDENT.**

DECISION

SANDOVAL-GUTIERREZ, J.

For our resolution is the petition for review on *certiorari* filed by Demetria Garcia against Teofilo Zosa, Jr. assailing the Decision dated February 24, 1999 and Resolution dated April 22, 1999 rendered by the Court of Appeals in CA-G.R. SP No. 48107.

The facts are:

On July 27, 1995, Teofilo Zosa, Jr., respondent, filed with the Metropolitan Trial (MTC) of Antipolo City a complaint for forcible entry against Demetria Garcia, petitioner.

In his complaint, respondent alleged that on August 21, 1972, he purchased from petitioner Lot. No. 2, Psu-215665 located in Tanag, Antipolo consisting of 3,977 square meters, as shown by a Deed of Sale. Sometime in March 1995, petitioner, by means of force, stealth and strategy, entered the lot and constructed a house thereon, thus depriving him of his right of possession.

In her answer, petitioner specifically denied the allegations in the complaint. She claimed that she is the owner and has been in possession of the lot even before the Second World War. What she actually sold to respondent was Lot No. 2, Psu-185191 where she had her house constructed, not Lot No. 2, Psu-215665. The Deed of Sale relied upon by respondent does not express the true intent of the parties.

After due proceedings, the MTC rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant and all persons claiming rights under her ordering the latter the following:

1. To vacate the subject property and restore possession thereof to plaintiff;
2. To pay plaintiff the monthly rental of Two Thousand Pesos (P2,000.00) as reasonable compensation for the use and occupation of the portion of the subject property from the filing of the complaint until possession is restored to herein plaintiff.

3. To pay plaintiff the sum of Ten Thousand Pesos (P10,000.00) for and as attorney's fees.
4. To pay plaintiff the costs of suit.

SO ORDERED.^[1]

In holding that respondent has proved his cause of action, the MTC found that the lot subject of controversy is the same lot where petitioner constructed her house.

On appeal, the Regional Trial Court (RTC) of Antipolo City rendered its Decision **reversing** the MTC Judgment and dismissing respondent's complaint for forcible entry. The RTC held that the MTC has no jurisdiction over the case considering that the issue being raised is ownership; and that where the question of possession cannot be settled without first deciding the issue of ownership, a separate action to determine ownership of the property is necessary. Such action is beyond the jurisdiction of the MTC.

Respondent then filed with the Court of Appeals a petition for review maintaining that the MTC has jurisdiction over the forcible entry case "even though the issue of ownership was raised."

On February 24, 1999, the Court of Appeals promulgated the assailed Decision reversing that of the RTC and reinstating the MTC Decision.

Petitioner filed a motion for reconsideration, but it was denied by the Appellate Court in its Resolution dated April 27, 1999.

Hence, the instant petition for review on *certiorari*.

The fundamental issue is whether the Court of Appeals erred in ruling that the MTC has jurisdiction over the forcible entry case.

Section 33 of B.P. Blg. 129, as amended, provides:

"SEC. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in Civil Cases.* – Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

x x x

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: *Provided*, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the question of ownership, the issue of ownership shall be resolved only to determine the issue of possession;"

This provision should be read in light of Section 18, Rule 70 of the 1997 Rules of Civil Procedure, as amended, thus: