

THIRD DIVISION

[G.R. No. 200612, April 05, 2017]

RAFAEL C. UY (CABANGBANG STORE), PETITIONER, VS. ESTATE OF VIPA FERNANDEZ, RESPONDENT.

DECISION

REYES, J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[2] dated November 26, 2010 and Resolution^[3] dated January 24, 2012 issued by the Court of Appeals (CA) in CA-G.R. SP No. 04481.

Facts

Vipa Fernandez Lahaylahay (Vipa) is the registered owner of a parcel of land situated in Lopez Jaena Street, Jaro, Iloilo City covered by Transfer Certificate of Title No. T-26576 (subject property).^[4] Vipa and her husband, Levi Lahaylahay (Levi), have two children – Grace Joy Somosierra (Grace Joy) and Jill Frances Lahaylahay (Jill Frances).^[5]

Sometime in 1990, a contract of lease was executed between Vipa and Rafael Uy (Rafael) over the subject property and the improvements thereon, pursuant to which, Rafael bound himself to pay Vipa, as consideration for the lease of the property, the amount of P3,000.00 *per* month, with a provision for a 10% increase every year thereafter.^[6]

On March 5, 1994, Vipa died leaving no will or testament whatsoever. Grace Joy became the *de facto* administrator of the estate of Vipa. After Vipa's death, Levi lived in Aklan.^[7]

In June 1998, Rafael stopped paying the monthly rents.^[8] Consequently, on June 12, 2003, the Estate of Vipa, through Grace Joy, filed a complaint^[9] for unlawful detainer with the Municipal Trial Court in Cities (MTCC) of Iloilo City against Rafael. It was alleged therein that, as of June 1998, Rafael was already bound to pay rent at the amount of P3,300.00 per month and that his last payment was made in May 1998. Accordingly, at the time of the filing of the Complaint, Rafael's unpaid rents amounted to P271,150.00.^[10] The Estate of Vipa claimed that despite repeated demands, Rafael refused to pay the rents due.^[11]

In his Answer,^[12] Rafael denied that he refused to pay the rent for the lease of the subject property. He claimed that sometime in June 1998 Patria Fernandez-Cuenca (Patria), Vipa's sister, demanded for the payment of the rents, claiming that she is the rightful heir of Vipa.^[13] Since he had no idea on who is entitled to receive the

rent for the subject property, he deposited the amount of P10,000.00 with the Office of the Clerk of Court of the Regional Trial Court (RTC) of Iloilo City on November 20, 1998 and that Grace Joy was informed of such consignation.^[14] He claimed that a case for the settlement of the Estate of Vipa was instituted by Patria with the RTC, which was docketed as Special Proceeding No. 6910. He averred that he is willing to pay the rent on the leased property to the rightful heirs of Vipa and that he made another consignation with the RTC in the amount of P6,000.00.^[15]

On June 12, 2008, the MTCC rendered a Decision,^[16] the decretal portion of which reads:

WHEREFORE, in the light of the foregoing ratiocination, judgment is hereby rendered in favor of the [Estate of Vipa] and against [Rafael], ordering the latter, to wit:

1. to vacate the premises subject of this case and covered by TCT No. T-26576 and to peacefully turn over the possession of the same to the [Estate of Vipa];
2. to pay the [Estate of Vipa] the amount of Php271,150.00 as payment for the unpaid rentals with 12% interest per annum from the last demand on May 3, 2003 until the whole amount is paid;
3. to pay the [Estate of Vipa] the amount of Php3,000.00 per month with 12% interest per annum for the use and occupancy of the premises computed from the date of the filing of this case on June 12, 2003 until fully paid;
4. to pay the [Estate of Vipa] attorney's fees in the amount of Php20,000.00; [and]
5. to pay the costs of suit.

SO ORDERED.^[17]

The MTCC found that after Vipa's death in 1994 until 1998, Rafael was paying the rent for the lease of the subject property to Grace Joy.^[18] That the real reason why Patria claimed to be the heir of Vipa is because she owed Rafael money which she could not pay. Patria then charged the debt she owes to Rafael from the monthly rent of the subject property, an arrangement that Rafael took advantage to avoid paying Grace Joy the monthly rents. The MTCC further opined that the consignations made by Rafael in the total amount of P16,000.00 are not valid since there was no prior tender of payment.^[19]

On appeal, the RTC, in its Decision^[20] dated April 15, 2009, reversed the MTCC's Decision dated June 12, 2008 and, thus, dismissed the complaint for unlawful detainer filed by the Estate of Vipa. Thus:

WHEREFORE, premises considered, the Decision appealed from is REVERSED and SET ASIDE; and the herein complaint is hereby DISMISSED for lack of merit; and further DISMISSING [Rafael's] counterclaim for failure to substantiate the same.

SO ORDERED.^[21]

The RTC opined that Grace Joy was actually the plaintiff in the case and not the Estate of Vipa. It then pointed out that Grace Joy failed to bring the dispute to the

barangay for conciliation prior to filing the complaint for unlawful detainer.^[22]

The RTC further held that the MTCC erred in including the entire subject property as part of the Estate of Vipa. The RTC explained that the subject property was acquired by Vipa during the subsistence of her marriage with Levi and, as such, is part of their conjugal properties. That after Vipa's death, the conjugal partnership was terminated, entitling Levi to one-half of the property.^[23] The RTC then pointed out that Levi sold his share in the subject property to Rafael, as evidenced by a Deed of Sale^[24] dated December 29, 2005.^[25] Accordingly, the RTC ruled that Rafael, as co-owner of the subject property, having bought Levi's one-half share thereof, had the right to possess the same.^[26]

The Estate of Vipa sought a reconsideration^[27] of the Decision dated April 15, 2009, but it was denied by the RTC in its Order dated July 28, 2009.^[28]

The Estate of Vipa then filed a Petition for Review^[29] with the CA. On November 26, 2010, the CA rendered a Decision,^[30] which declared:

WHEREFORE, in view of all the foregoing, the instant petition for review is GRANTED and the April 15, 2009 Decision of the court a quo in Civil Case No. 08-29842 is hereby REVERSED and SET ASIDE. Accordingly, the June 12, 2008 Decision of the Municipal Trial Court, Branch 4, Iloilo City, in Civil Case No. 03-208 is hereby REINSTATED.

SO ORDERED.^[31]

The CA held that there was no necessity to bring the dispute before the barangay for conciliation since the Estate of Vipa, being a juridical person, cannot be impleaded to a barangay conciliation proceeding. The CA likewise pointed out that any allegations against Grace Joy's authority to represent the Estate of Vipa had been laid to rest when she was appointed as administrator of the Estate of Vipa in Special Proceedings No. 6910 pending before the RTC.^[32]

Further, the CA held that Rafael raised the issue of ownership of the subject property, *i.e.*, Levi's sale of his one-half share in the subject property to Rafael, only for the first time in his appeal with the RTC. Accordingly, it was error on the part of the RTC to have resolved the issue of ownership of the subject property.^[33] Furthermore, the CA agreed with the MTCC that Rafael's consignment of the rent to the RTC is ineffective. It ruled that Rafael made the consignment only twice and the amount consigned was patently insignificant compared to the amount of rent due.^[34]

Rafael's motion for reconsideration^[35] was denied by the CA in its Resolution^[36] dated January 24, 2012.

Hence, the instant petition.

Rafael maintains that Grace Joy has no authority to represent the Estate of Vipa and, when she filed the complaint for unlawful detainer with the MTCC, she did so in her personal capacity. Thus, Rafael claims that the dispute should have been brought to the barangay for conciliation before the complaint was filed in the MTCC.^[37] He further claims that the CA erred in . reversing the RTC's ruling on the issue

of ownership of the subject property. He insists that he already purchased Levi's one-half share in the subject property.^[38]

On the other hand, the Estate of Vipra, in its Comment,^[39] avers that the supposed lack of authority of Grace Joy to file the complaint for unlawful detainer and the ownership of the subject property were never raised in the proceedings before the MTCC and, hence, could not be passed upon by the RTC in the appellate proceedings. In any case, it pointed out that the RTC's Decision^[40] dated October 28, 2005 in Special Proceedings No. 6910, which appointed Grace Joy as the administrator of the intestate estate of Vipra, recognized that the latter and Jill Frances are legitimate children of Vipra and Levi.

Issue

Essentially, the issue set forth for the Court's resolution is whether the CA erred in reversing the RTC's Decision dated April 15, 2009.

Ruling of the Court

The petition is partly meritorious.

Rafael's claim that the complaint below should have been dismissed since Grace Joy has no authority to represent the Estate of Vipra and that there was lack of prior barangay conciliation is untenable. Unlawful detainer cases are covered by the Rules on Summary Procedure.^[41] Section 5 of the 1991 Revised Rules on Summary Procedure provides that affirmative and negative defenses not pleaded in the answer shall be deemed waived, except lack of jurisdiction over the subject matter.

Rafael failed to plead in the answer he filed with the MTCC that Grace Joy has no authority to represent the Estate of Vipra. Neither did he raise therein the lack of barangay conciliation between the parties herein prior to the filing of the complaint for unlawful detainer. Accordingly, the foregoing defenses are already deemed waived.

In any case, the issue of the supposed lack of authority of Grace Joy to represent the Estate of Vipra had already been rendered moot with the RTC's appointment of Grace Joy as the administrator of the Estate of Vipra in Special Proceedings No. 6910.

Also, there was no need to refer the dispute between the parties herein to the barangay for conciliation pursuant to the *Katarungang Pambarangay Law*.^[42] It bears stressing that only individuals may be parties to barangay conciliation proceedings either as complainants or respondents. Complaints by or against corporations, partnerships or other juridical entities may not be filed with, received or acted upon by the barangay for conciliation.^[43] The Estate of Vipra, which is the complainant below, is a juridical entity that has a personality, which is separate and distinct from that of Grace Joy.^[44] Thus, there is no necessity to bring the dispute to the barangay for conciliation prior to filing of the complaint for unlawful detainer with the MTCC.

The CA, nevertheless, erred in hastily dismissing Rafael's allegation as regards the ownership of the subject property. In disregarding Rafael's claim that he owns Levi's one-half undivided share in the subject property, the CA ruled that the said issue

was raised for the first time on appeal and should thus not have been considered by the RTC, viz.:

On the second issue, the records show that [Rafael] raised the issue of ownership only for the first time on appeal; hence, the [RTC] erred in deciding the appeal before it on the findings that part of the subject premises is owned by petitioners, allegedly having bought the same from [Levi], the husband of [Vipa].

The Court is not unmindful that in forcible entry and unlawful detainer cases, the MTC may rule on the issue [of] ownership in order to determine the issue of possession. However, the issue of ownership must be raised by the defendant on the earliest opportunity; otherwise, it is already deemed waived. Moreover, the instant case was covered by the Rules on Summary Procedure, which expressly provide that affirmative and negative defenses not pleaded therein shall be deemed waived, except for lack of jurisdiction over the subject matter. Thus, the [RTC] erred in resolving the issue of ownership for the first time on appeal.^[45] (Citations omitted)

It is true that fair play, justice, and due process dictate that parties should not raise for the first time on appeal issues that they could have raised but never did during trial. However, before a party may be barred from raising an issue for the first time on appeal, it is imperative that the issue could have been raised during the trial.^[46] What escaped the appellate court's attention is that the sale of the one-half undivided share in the subject property to Rafael was consummated only on December 29, 2005, more than two years after Rafael filed with the MTCC his answer to the complaint for unlawful detainer on July 18, 2003.^[47] Obviously, Rafael could not have raised his acquisition of Levi's share in the subject property as an affirmative defense in the answer he filed with the MTCC.

Moreover, Rafael's ownership of the one-half undivided share in the subject property would necessarily affect the property relations between the parties herein. Thus, the CA should have exerted efforts to resolve the said issue instead of dismissing the same on the flimsy ground that it was not raised during the proceedings before the MTCC.

Levi and Vipa were married on March 24, 1961^[48] and, in the absence of a marriage settlement, the system of conjugal partnership of gains governs their property relations.^[49] It is presumed that the subject property is part of the conjugal properties of Vipa and Levi considering that the same was acquired during the subsistence of their marriage and there being no proof to the contrary.^[50]

When Vipa died on March 5, 1994, the conjugal partnership was automatically terminated.^[51] Under Article 130 of the Family Code, the conjugal partnership property, upon its dissolution due to the death of either spouse, should be liquidated either in the same proceeding for the settlement of the estate of the deceased or, in the absence thereof, by the surviving spouse within one year from the death of the deceased spouse. That absent any liquidation, any disposition or encumbrance of the conjugal partnership property is void. Thus: