

## FIRST DIVISION

[ G.R. NO. 171277, February 15, 2007 ]

**ALMARIO BEJAR (DECEASED), AS SUBSTITUTED BY HIS HEIRS - CARMELITA BEJAR, ALFREDO BEJAR, GREGORIA B. DANCEL, BRENDA B. MIANO, LOURDES B. BENDIJO, AND SUSANA B. CAMILO, PETITIONERS, VS. MARICEL CALUAG, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision<sup>[1]</sup> of the Court of Appeals dated May 23, 2005 in CA-G.R. SP No. 85430.

The factual backdrop of the case is as follows:

On August 2, 2002, the late Almario Bejar, substituted by his heirs, herein petitioners, filed with the Metropolitan Trial Court (MeTC), Branch 12, Manila, a complaint for illegal detainer and damages against Maricel Caluag, herein respondent, docketed as Civil Case No. 173262-CV. The allegations therein are partly reproduced hereunder:

x x x

4. Plaintiff is the owner of a residential house made of light materials consisting of wood and galvanized iron roof built on government-owned land located at 777 Coral Street, Tondo, Manila.
5. On December 21, 1981, plaintiff sold one-half (1/2) portion of the said residential house with an area of twenty-two feet in length and fifteen feet in width to Fernando Mijares in the amount of Eleven Thousand (P11,000.00) Pesos x x x
6. Subsequently, plaintiff became the owner in fee simple of the government land where his residential house was built including the one-half portion he sold to Fernando Mijares, located at 777 Coral Street, Tondo, Manila, evidenced by Transfer Certificate of Title No. 156220 registered and entered in the Register of Deeds of Manila on August 30, 1983 x x x
7. On September 2, 1991, Fernando Mijares, sold his residential house to Maricel Caluag with residence address at 1391 R.A. Reyes St., Tondo, Manila to be used as a warehouse for her business x x x
8. Plaintiff badly needs **the portion of his land** occupied by the defendant to build a residential house for use of his family;

9. On April 9, 2002, plaintiff through counsel sent a formal demand letter to defendant for the latter to vacate the portion of the property situated at 777 Coral Street, Tondo, Manila within ten (10) days from receipt of the demand letter x x x

10. Despite formal demand from the plaintiff on April 19, 2002, defendant failed and refused and still fails and refuses to vacate said portion of the property owned by the plaintiff located at 777 Coral Street, Tondo, Manila to the damage and prejudice of plaintiff.

x x x

On October 15, 2002, respondent filed a motion to dismiss on the ground that the MeTC has no jurisdiction over the case as it involves the issue of ownership.

On February 10, 2003, respondent filed a supplement to her motion to dismiss alleging that pursuant to the "*Kasulatan ng Bilihan ng Bahay*," Almario Bejar sold to Fernando Mijares both his house and the entire lot on which it was constructed, citing paragraph 4 of the "*Kasulatan*" which reads:

Na alang alang sa halagang LABING ISANG LIBO PISO (P11,000.00) kuartang Filipino na kasasalukuyang gastahin na aking tinanggap ng buong kasiyahang loob kay FERNANDO MIJARES x x x ay aking ipinagbili, ibinigay, isinulit at inilipat ng buo kong pagaari na **kalahating harapan ng bahay ko** naipaliwanag sa itaas at ang pagbibili kong ito ay kasama ang lahat kong karapatan sa lupa kung may karapatan ako na **kinatitirikan ng bahay.**<sup>[2]</sup>

On June 16, 2003, the MeTC issued an Order dismissing Civil Case No. 173262-CV for want of jurisdiction, holding that the actual issue between the parties is the enforceability of the subsequent sale by Fernando Mijares to respondent of the subject property; and that, therefore, jurisdiction properly lies with the Regional Trial Court (RTC).

On appeal, the RTC, Branch 47, Manila, on January 5, 2004, rendered its Decision reversing the Order of dismissal of the MeTC. The RTC held that the issue in Civil Case No. 173262-CV is who has better possession of the disputed property. The RTC then directed the MeTC to hear the case on the merits.

Respondent seasonably filed a motion for reconsideration but it was denied.

Respondent then filed with the Court of Appeals a petition for review, docketed as CA-G.R. SP No. 85430.

In its Decision dated May 23, 2005, the Court of Appeals reversed the RTC judgment, thus:

WHEREFORE, the instant petition is GRANTED. The assailed decision of the Regional Trial Court, National Capital Judicial Region, Branch 47, Manila, in Civil Case No. 03-107631 is REVERSED and SET ASIDE. The order, dated 16 June 2003, of the Metropolitan Trial Court, National Capital Judicial Region,