

## SECOND DIVISION

[ G.R. NO. 170916, April 27, 2007 ]

**CGR CORPORATION HEREIN REPRESENTED BY ITS PRESIDENT ALBERTO RAMOS, III, HERMAN M. BENEDICTO AND ALBERTO R. BENEDICTO, PETITIONERS, VS. ERNESTO L. TREYES, JR., RESPONDENT.**

### DECISION

**CARPIO MORALES, J.:**

Assailed via petition for review are issuances of the Regional Trial Court (RTC), Branch 43, Bacolod City, in Civil Case No. 04-12284, to wit: Order<sup>[1]</sup> dated August 26, 2005 which dismissed petitioners' complaint for damages on the ground of prematurity, and Order<sup>[2]</sup> dated January 2, 2006 which denied petitioners' motion for reconsideration.

In issue is one of law — whether a complainant in a forcible entry case can file an independent action for damages arising after the act of dispossession had occurred.

CGR Corporation, Herman M. Benedicto and Alberto R. Benedicto (petitioners) claimed to have occupied 37.3033 hectares of public land in Barangay Bulanon, Sagay City, Negros Occidental even before the notarized separate Fishpond Lease Agreement Nos. 5674,<sup>[3]</sup> 5694<sup>[4]</sup> and 5695<sup>[5]</sup> in their respective favor were approved in October 2000 by the Secretary of Agriculture for a period of twenty-five (25) years or until December 31, 2024.

On November 18, 2000, Ernesto L. Treyes, Jr. (respondent) allegedly forcibly and unlawfully entered the leased properties and once inside barricaded the entrance to the fishponds, set up a barbed wire fence along the road going to petitioners' fishponds, and harvested several tons of milkfish, fry and fingerlings owned by petitioners.

On November 22, 2000, petitioners promptly filed with the Municipal Trial Court (MTC) in Sagay City separate complaints for Forcible Entry With Temporary Restraining Order And/Or Preliminary Injunction And Damages, docketed as Civil Case Nos. 1331,<sup>[6]</sup> 1332<sup>[7]</sup> and 1333,<sup>[8]</sup> against Ernesto M. Treyes, Sr. and respondent.

In a separate move, petitioners filed in March 2004 with the Bacolod RTC a complaint for damages against respondent, docketed as Civil Case No, 04-12284, alleging, *inter alia*,

x x x x

That prior to the issuance of the fishpond lease agreement in favor of the plaintiffs, they had already been in open and continuous possession of the same parcel of land;

#### VI

As lessee and in possession of the above[-]described fishpond, plaintiffs have continuously occupied, cultivated and developed the said fishpond and since then, had been regularly harvesting milkfish, shrimps, mud crabs and other produce of the fishponds;

#### VII

That the yearly income of the fishpond of the plaintiff corporation is at least P300,000.00 more or less, while the yearly income of the fishpond of plaintiff Herman Benedicto, Sr. is at least P100,000.00 more or less, and the yearly income of the fishpond of plaintiff Alberto Benedicto is at least P100,000.00 more or less;

#### VIII

That sometime last November 18, 2000 or thereabout, defendant Ernesto L. Treyes, Jr. and his armed men and with the help of the blue guards from the Negros Veterans Security Agency forcibly and unlawfully entered the fishponds of the plaintiffs and once inside barricaded the entrance of the fishpond and set up barb wire fence along the road going to plaintiffs fishpond and harvested the milkfish and carted away several tons of milkfish owned by the plaintiffs;

#### IX

That on succeeding days, defendant's men continued their forage on the fishponds of the plaintiffs by carting and taking away the remaining full grown milkfish, fry and fingerlings and other marine products in the fishponds. NOT ONLY THAT, even the chapel built by plaintiff CGR Corporation was ransacked and destroyed and the materials taken away by defendant's men. Religious icons were also stolen and as an extreme act of sacrilege, even decapitated the heads of some of these icons;

x x x x

#### XIII

That the unlawful, forcible and illegal intrusion/destruction of defendant Ernesto Treyes, Jr. and his men on the fishpond leased and possessed by the plaintiffs is without any authority of law and in violation of Article 539 of the New Civil Code which states:

"Art. 539. Every possessor has a right to be respected in his possession; and should he be disturbed therein he shall be protected in or restored to said possession by the means

established by the laws and rules of the Court."<sup>[9]</sup>  
(Underscoring supplied)

and praying for the following reliefs:

- 1) Ordering the defendant to pay plaintiff CGR Corporation the sum of at least P900,000.00 and to plaintiffs Herman and Alberto Benedicto, the sum of at least P300,000.00 each by way of actual damages and such other amounts as proved during the trial;
- 2) Ordering the defendant to pay the plaintiffs the sum of P100,000.00 each as moral damages;
- 3) Ordering the defendant to pay the plaintiffs the sum of P100,000.00 each as exemplary damages;
- 4) Ordering the defendant to pay the plaintiffs the sum of P200,000.00 as attorney's fees, and to reimburse plaintiffs with all such sums paid to their counsel by way of appearance fees.<sup>[10]</sup> (Underscoring supplied)

Respondent filed a Motion to Dismiss<sup>[11]</sup> petitioners' complaint for damages on three grounds — litis pendentia, res judicata and forum shopping.

By the assailed Order<sup>[12]</sup> of August 26, 2005, Branch 43 of the Bacolod RTC dismissed petitioners' complaint on the ground of prematurity, it holding that a complaint for damages may only be maintained "after a final determination on the forcible entry cases has been made."

Hence, the present petition for review.

The only issue is whether, during the pendency of their separate complaints for forcible entry, petitioners can independently institute and maintain an action for damages which they claim arose from incidents occurring *after* the dispossession by respondent of the premises.

Petitioners meet the issue in the affirmative. Respondents assert otherwise.

The petition is impressed with merit.

Section 17, Rule 70 of the Rules of Court provides:

SEC. 17. *Judgment*. — If after trial the court finds that the allegations of the complaint are true, it shall render judgment in favor of the plaintiff for the restitution of the premises, **the sum justly due as arrears of rent or as reasonable compensation for the use and occupation of the premises, attorney's fees and costs**. If it finds that said allegations are not true, it shall render judgment for the defendant to recover his costs. If a counterclaim is established, the court shall render judgment for the sum found in arrears from either party and award costs as justice requires. (Emphasis supplied)

The recoverable damages in forcible entry and detainer cases thus refer to "rents" or "the reasonable compensation for the use and occupation of the premises" or "fair rental value of the property" and attorney's fees and costs.<sup>[13]</sup>

The 2006 case of *Dumo v. Espinas*<sup>[14]</sup> reiterates the long-established rule that the only form of damages that may be recovered in an action for forcible entry is the fair rental value or the reasonable compensation for the use and occupation of the property:

Lastly, we agree with the CA and the RTC that there is no basis for the MTC to award actual, moral, and exemplary damages in view of the settled rule that **in ejectment cases, the only damage that can be recovered is the fair rental value or the reasonable compensation for the use and occupation of the property.** Considering that the only issue raised in ejectment is that of rightful possession, **damages which could be recovered are those which the plaintiff could have sustained as a mere possessor, or those caused by the loss of the use and occupation of the property, and not the damages which he may have suffered but which have no direct relation to his loss of material possession.** x x x<sup>[15]</sup> (Emphasis, underscoring and italics supplied; citations omitted)

Other damages must thus be claimed in an ordinary action.<sup>[16]</sup>

In asserting the negative of the issue, respondent cites the 1999 case of *Progressive Development Corporation, Inc. v. Court of Appeals*.<sup>[17]</sup> In this case, Progressive Development Corporation, Inc. (Progressive), as lessor, repossessed the leased premises from the lessee allegedly pursuant to their contract of lease whereby it was authorized to do so if the lessee failed to pay monthly rentals. The lessee filed a case for forcible entry with damages against Progressive before the Metropolitan Trial Court (MeTC) of Quezon City. During the pendency of the case, the lessee filed an action for damages before the RTC, drawing Progressive to file a motion to dismiss based on *litis pendentia*. The RTC denied the motion.

On appeal by Progressive, the Court of Appeals sustained the RTC order denying the motion to dismiss.

Progressive brought the case to this Court. Citing Section 1, Rule 70 of the Rules of Court, this Court reversed the lower courts' ruling, it holding that "all cases for forcible entry or unlawful detainer shall be filed before the Municipal Trial Court which shall include not only the plea for restoration of possession but also all claims for damages and costs therefrom." In other words, this Court held that "no claim for damages arising out of forcible entry or unlawful detainer may be filed separately and independently of the claim for restoration of possession."<sup>[18]</sup> (Underscoring supplied).

In thus ruling, this Court in Progressive made a comparative study of the therein two complaints, thus:

A comparative study of the two (2) complaints filed by private respondent against petitioner before the two (2) trial courts shows that