

## FIRST DIVISION

[ G.R. NO. 133564, July 10, 2007 ]

**SERGIO BARBOSA AND JOVITA BARBOSA, PETITIONERS, VS.  
PILAR HERNANDEZ, LETICIA HUGHES, FELIX VILLANUEVA AND  
NATIVIDAD SANGALANG, RESPONDENTS.**

### D E C I S I O N

#### **CORONA, J.:**

On August 11, 1983, Pilar Hernandez bought a 100 sq. m. lot in Capitol Hills, Barangay Kumintang Ibaba, Batangas City from subdivision owner Felix Villanueva through his wife and attorney-in-fact, Leticia Hughes. Hernandez, however, did not take physical possession of the property immediately as she was working overseas in Saudi Arabia at the time. When she visited her property in November 1987 with plans of building a house thereon, she discovered it in the possession of petitioners, the spouses Sergio and Jovita Barbosa, who were using it as the site of their motor repair shop.

Apparently, petitioners had been occupying an area of over 300 square meters of Villanueva's land since 1962 as his lessees under an oral contract of lease. The 100 sq. m. lot in question, however, came into their possession only in or after 1979, when they were requested by the subdivision developer, Natividad Sangalang, to transfer their motor repair shop there to give way to the paving of a subdivision road that would cut across the shop's original location. On November 16, 1983, Hughes sold petitioners a 200 sq. m. portion of the land they were occupying. This portion did not include the 100 sq. m. lot on which their shop stood, which Hernandez had bought some three months earlier.

Hernandez demanded that petitioners vacate her lot but they refused. Efforts to resolve the dispute at the barangay level failed. Thus, on February 14, 1988, Hernandez filed a complaint for recovery of possession and damages<sup>[1]</sup> against petitioners in the Regional Trial Court (RTC) of Batangas City. This was superseded by an amended complaint<sup>[2]</sup> in which Hernandez alleged, in substance, that she was the owner of the lot and petitioners were unlawfully depriving her of its possession.

In their answer,<sup>[3]</sup> petitioners questioned the trial court's jurisdiction over the subject matter of the action and alleged that they had been in possession of the land for more than 20 years with the knowledge and consent of its real owner; that Hernandez had "acted in bad faith in allegedly acquiring the land in question" and that they had "preferential and prior rights over the premises." Soon thereafter, petitioners filed a third party complaint<sup>[4]</sup> against respondents Leticia Hughes, Felix Villanueva and Natividad Sangalang. Alleging that the latter had given petitioners the subject lot in lieu of the original site of their motor repair shop with a promise that, should Villanueva ever be minded to sell the lot, they would have "the priority

and preferential right to purchase"<sup>[5]</sup> it; that, relying on good faith on this alleged promise, petitioners made permanent improvements on the lot; and that without their knowledge, the lot had been sold to Hernandez instead, petitioners prayed that Villanueva, Hughes and Sangalang be made to pay them damages for reneging on their obligations. Petitioners also prayed that they be declared as having the right to acquire the land in litigation, that the sale to Hernandez be declared null and void, and that she be ordered to "reconvey" the lot to them.

Villanueva, Hughes and Sangalang denied all the material averments in petitioners' third-party complaint and asserted that the alleged verbal promise to sell was unenforceable under the statute of frauds.

In a decision<sup>[6]</sup> dated February 24, 1993, the RTC ruled that petitioners failed to prove that there was a definite and complete agreement between them and Villanueva, Hughes or Sangalang with respect to the disputed lot. It dismissed the third-party complaint and ordered petitioners to: (1) vacate the lot and restore possession thereof to Hernandez; (2) remove at their own expense the improvements they erected on the lot; (3) pay Hernandez P200 a month until possession of the lot would have been returned to her and (4) pay the costs of suit and P10,000 in attorney's fees.

Petitioners elevated the case to the Court of Appeals (CA). In their appeal, docketed as CA-G.R. CV No. 41492, petitioners argued that the RTC had no jurisdiction to try the case inasmuch as it was really an unlawful detainer case within the exclusive original jurisdiction of the Municipal Trial Court (MTC) and that, since the lot had been promised to be sold to them, Hernandez should have been ordered to "reconvey" it or, in the alternative, to reimburse them for the improvements they made on the property.

In a decision<sup>[7]</sup> dated September 4, 1997, the CA affirmed the RTC judgment but deleted the award of attorney's fees. On the issue of jurisdiction, the CA ruled that the case was an *accion publiciana* and therefore within the exclusive original jurisdiction of the RTC. The appellate court found petitioners' other arguments to be equally without merit. It held that the alleged "promise to sell" was unenforceable under the statute of frauds and, in any event, had not been established by the evidence on record. As for petitioners' alternative prayer for reimbursement of the improvements they made on the lot, the CA found no legal basis for granting such relief.

After an unsuccessful motion for reconsideration, petitioners filed the present appeal by certiorari.<sup>[8]</sup>

## **NATURE OF THE ACTION AND JURISDICTION OVER IT**

Petitioners contend that the action for recovery of possession, which the evidence showed to have been initiated within less than a year from the demand to vacate, was actually an unlawful detainer case which should have been filed in the MTC.

Petitioners' argument runs counter to one of the most fundamental and oft-repeated doctrines of remedial law. The nature of the action — on which depends the question

of whether a suit is within the jurisdiction of the court — is determined solely by the allegations in the complaint.<sup>[9]</sup> Only facts alleged in the complaint can be the basis for determining the nature of the action and the court's competence to take cognizance of it.<sup>[10]</sup> One cannot advert to anything not set forth in the complaint, such as evidence adduced at the trial, to determine the nature of the action thereby initiated.

To make out a case of unlawful detainer under Section 1, Rule 70 of the Rules of Court,<sup>[11]</sup> the complaint must set forth allegations to the effect that the defendant is unlawfully withholding from the plaintiff the possession of certain real property after the expiration or termination of the former's right to hold possession by virtue of a contract, express or implied and that the action is being brought within one year from the time the defendant's possession became unlawful. A complaint for recovery of possession of real estate will not be considered an action for unlawful detainer under Section 1, Rule 70 if it omits any of these special jurisdictional facts.<sup>[12]</sup>

In this case, the only material allegations in the amended complaint were that the plaintiff (Hernandez) was the registered owner of the lot in dispute and that the defendants (petitioners) were unlawfully depriving her of its possession. It contained no averment that possession of the lot was unlawfully withheld under the circumstances contemplated in Section 1, Rule 70 and that the action to eject the defendants was being brought within a year from the time their possession became unlawful. Clearly, the allegations in the complaint were nowhere near enough to make out a case of unlawful detainer and we are certain that, had it been filed in the MTC, it would have been dismissed for having been filed in a court which, at the time, had no jurisdiction over cases involving possession of real property other than those for forcible entry and unlawful detainer.<sup>[13]</sup> Thus, we find no difficulty in ruling that it was but proper for the RTC to assume jurisdiction over the case and the CA committed no error in upholding it.

## **ALLEGED PROMISE TO SELL**

Petitioners insist that, since Villanueva and Sangalang promised to sell them the lot, Hernandez should either allow them to keep it in exchange for the price she paid when she bought it from Villanueva or reimburse them for the improvements they put up on the property. They take issue with the CA's ruling that the alleged promise to sell was unenforceable under the statute of frauds and was not, in any event, supported by the evidence on record.

What petitioners have been referring to as a "promise to sell" was actually a right of first refusal allegedly given them when they transferred their motor repair shop to the lot in dispute. This is evident from their third-party complaint which stated:

x x x the parcel of land under litigation was given by the third party defendants [Villanueva, Hughes, and Sangalang] to the third party plaintiffs [petitioners] in lieu of the portion of the land originally being occupied under lease by the latter in order to give way to the development of the said big portion of the tract of land being undertaken by the third party defendant Natividad Sangalang with the understanding that **in the event the third party defendant Villanueva should sell the subdivided lots being developed by the defendant**