

## THIRD DIVISION

**[ G.R. No. 111915, September 30, 1999 ]**

**HEIRS OF FERNANDO VINZONS, REPRESENTED BY LIWAYWAY VINZONS-CHATO, PETITIONERS, VS. COURT OF APPEALS AND MENA EDORIA, RESPONDENTS.**

### D E C I S I O N

**GONZAGA-REYES, J.:**

Before us is a Petition for Review on Certiorari seeking the reversal of the January 27, 1993<sup>[1]</sup> Decision and September 10, 1993<sup>[2]</sup> Resolution of the Court of Appeals<sup>[3]</sup> in CA-G.R. SP No. 23948. The Court of Appeals (CA) set aside the Decision<sup>[4]</sup> of the Regional Trial Court (RTC) of Daet, Camarines Norte in Civil Case No. 5832, affirming that of the Municipal Trial Court (MTC) in Civil Case No. 2137<sup>[5]</sup>, which ordered the ejectment of herein private respondent.

The factual antecedents of this case are:

Petitioners Heirs of Vinzons are co-owners of a parcel of land in Barangay 5, Daet, of which a portion measuring 148.5 square meters is being occupied by respondent Mena Edoria as lessee since 1951. Respondent built thereon a residential house worth P40,000.00. He started paying a monthly rent of P4.00 which by 1986 had reached P13.00.

Sometime in 1986, an ejectment suit was filed by petitioners against respondent and several others also occupying the same lot owned by them, docketed as Civil Case No. 1923, on the ground, among others, of non-payment of rentals. After trial, however, the case was dismissed on the finding that respondent was not in arrears but was even advance in his rental payments. Both petitioner and respondent appealed from said decision to the Regional Trial Court.

Sometime in 1988, while the aforesaid Case No. 1923 was pending appeal before the RTC, petitioner filed another ejectment suit, docketed as Civil Case No. 2061, against respondent and thirty-nine (39) others alleging that said defendants refused to enter into an agreement with them as tenants-lessees and refused to pay the increased rent of P1.00 per square meter per month. Respondent resisted the claim alleging, among others, lack of cause of action and pendency of the earlier ejectment case. The trial court rendered its decision dismissing the case against respondent in view of the pendency of Civil Case No. 1923 on appeal. This decision was again elevated to the RTC.

While Civil Case No. 2061 was pending appeal in the RTC, petitioners again filed the instant suit for ejectment docketed as Civil Case No. 2137 on the following grounds: (a) expiration of lease contract as of 1984; (b) refusal to sign written renewal of contract of lease; and (c) non-payment of rent for one (1) year and ten (10)

months. In his answer, respondent sought dismissal of the complaint on the following grounds; (a) it did not pass through barangay conciliation; (b) no prior demand was made or if there was such a demand, it was made more than one year prior to the filing of the case; (c) there was no cause of action as it was in violation of PD 20 and BP Blg. 25; (d) the case is barred by prior judgment; and (e) there is still pending appeal a similar case between the parties, Civil Case No. 2061.

After trial, the MTC of Daet rendered its decision ordering respondent to vacate the premises and pay the accrued rentals. On appeal to the RTC, the said decision was affirmed in toto. The CA, however, reversed the two (2) earlier decisions by dismissing the complaint on the ground of *litis pendentia*, failure to comply with the Katarungang Pambarangay Law (PD 1508); and lack of evidence of prior demand to vacate before instituting the complaint.

Hence, this petition on the following grounds:

"THAT THE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE REGIONAL TRIAL COURT OF CAMARINES NORTE IN A WAY NOT IN ACCORD WITH LAW AND JURISPRUDENCE.

THAT THE COURT OF APPEALS ERRED IN DENYING THE MOTION FOR RECONSIDERATION UPON THE GROUND THAT THE GROUNDS THEREIN AVERRED HAD ALREADY BEEN PASSED UPON IN ITS DECISION."<sup>[6]</sup>

Petitioners argue that the CA was duty-bound, under the rules and jurisprudence, to give weight to the findings of fact of the MTC since the same had already been affirmed in toto by the RTC. Further, it is argued that the action is not barred by prior judgment and the principle of *litis pendentia* does not apply; that the petitioners complied with the requirements of PD 1508; and that demand to vacate is not necessary for judicial action in case of expiration of the lease contract.

The petition is devoid of merit, we find that the MTC had improperly assumed jurisdiction over the ejectment suit.

First, this case being one of unlawful detainer, it must have been filed within one year from the date of last demand with the Municipal Trial Court, otherwise it is an accion publiciana cognizable by the Regional Trial Court.<sup>[7]</sup> The rule is that the one-year period provided for in Section 1, Rule 70 of the Rules of Court<sup>[8]</sup> within which a complaint for unlawful detainer can be filed should be counted from the last letter of demand to vacate.<sup>[9]</sup> Accion publiciana is the plenary action to recover the right of possession when dispossession has lasted for more than one year.<sup>[10]</sup>

There is no question that the petitioners' dispossession has lasted for more than one year. In their Complaint and Position paper, petitioners alleged that the lease contract expired in 1984<sup>[11]</sup>; that thereafter, private respondent became a lessee on a month-to-month basis<sup>[12]</sup>; and that before the filing of Civil Cases Nos. 1908, 1923 and 2061, demand to vacate had already been made to defendant.<sup>[13]</sup> Since Civil Case No. 1908 was instituted in 1986; Civil Case No. 1923 in 1986; and Civil Case No. 2061 in April 1988, the alleged demands to vacate to abort an implied renewal of the lease on a month-to-month basis were made between 1986 and 1988, the last one, before April 1988. Verily, the instant Complaint for ejectment