

SECOND DIVISION

[G.R. No. 125848, September 06, 1999]

**EDMUNDO BENAVIDEZ, PETITIONER, VS. COURT OF APPEALS
AND ARISTON MELENDRES REPRESENTED BY NARCISO M.
MELENDRES, JR., RESPONDENTS.**

D E C I S I O N

BELLOSILLO, J.:

The Decision of the Court of Appeals^[1] in CA-G.R. SP No. 35412 dated 30 April 1996 which reversed that of the Regional Trial Court, Br. 80, Tanay, Rizal, in its Civil Case No. 388-T, as well as the Resolution of the appellate court dated 6 August 1996 denying herein petitioner's motion for reconsideration, is assailed in this petition for review.

On 18 July 1990 private respondent Ariston Melendres, through his nephew and administrator Narciso M. Melendres Jr., filed a complaint before the Municipal Trial Court of Tanay, Rizal, against petitioner Edmundo Benavidez for forcible entry and recovery of damages with prayer for preliminary mandatory injunction and restraining order.^[2] On 19 July 1990 the Municipal Trial Court issued a restraining order.

Private respondent alleged in his complaint that for more than fifty (50) years he was the owner and actual possessor, by himself and through his predecessors in interest, of a parcel of land with an area of 1,622 square meters located in Brgy. Plaza Aldea, Tanay, Rizal. He claimed that the subject land was devoted to the planting of palay and worked on and cultivated by agricultural tenants the last of whom was Felino Mendez. Private respondent further alleged that on 29 November 1989 petitioner Benavidez, using force, intimidation, strategy and stealth, entered the property and destroyed the barbed-wire fence, filled the property with soil and other filling materials, and constructed permanent, concrete structures thereon thereby converting its use from agricultural to commercial without the necessary clearance or permit from the Department of Agrarian Reform (DAR).

In his answer, petitioner alleged (a) that private respondent had no cause of action against him because he was the rightful owner of the land by virtue of a deed of sale dated 5 February 1990 executed by Alicia Catambay in his favor; (b) that Tax Declaration No. 597 covering the subject land had been cancelled and a new one already issued to him; and, (c) that the property claimed by private respondent was different from that occupied by him.

It was established in an ocular inspection on 11 October 1990 that the lot where the Petron gasoline station and some new structures were currently situated was the same lot being claimed by private respondent. Felino Mendez and the tenants/farmers^[3] of adjoining and adjacent ricelands confirmed this. The inferior

court thereafter issued a writ of preliminary injunction.

On 14 January 1994 the Municipal Trial Court declared private respondent Ariston Melendres as the rightful possessor of the land in controversy and ordering petitioner Edmundo Benavidez to remove the improvements introduced on the property and to vacate and restore private respondent to its physical possession. For the use of the land, petitioner was ordered to pay private respondent P3,000.00 per month plus lawful interests from 29 November 1989 until finally vacated. He was further ordered to pay P5,000.00 as attorney's fees and the costs of the suit.^[4]

The Municipal Trial Court considered the admission of petitioner that he proceeded in filling the subject lot with soil and other filling materials and constructed a gasoline station thereon without asking permission from tenant Felino Mendez. The court a quo disregarded the claim of petitioner that he was the owner of the land as ownership of the property was not material in actions for recovery of possession. Moreover, such claim of ownership, even if valid, was belied by the Deed of Sale^[5] petitioner presented in court as it was only executed on 5 February 1990 or more than two (2) months after the date of his unlawful entry on 29 November 1989. Certainly, even if petitioner was the lawful owner of the property, he could not resort to force to gain possession thereof as "regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be turned out by strong hand, violence or terror."^[6] The judgment^[7] of the Department of Agrarian Reform Adjudicatory Board (DARAB) declaring Felino Mendez as the agricultural tenant of the subject lot and ordering petitioner Benavidez to reinstate Mendez to the possession of the property or in lieu thereof to pay him P61,875.00 as disturbance compensation was considered by the Municipal Trial Court as persuasive proof of possession by private respondent through his agricultural tenant Felino Mendez.

On appeal, the Regional Trial Court reversed the decision of the Municipal Trial Court. It held that the issue involved in the case was not merely physical or *de facto* possession but one of title to or ownership of the subject property; consequently, the Municipal Trial Court did not acquire jurisdiction over it.

Private respondent appealed the case to the Court of Appeals where the main issue raised was whether the complaint for forcible entry could be decided without resolving the question of ownership of the property. Private respondent maintained that regardless of the property's ownership, prior possession was already established in his favor. Petitioner, on the other hand, claimed the contrary. The appellate court sustained private respondent. It reversed the decision of the Regional Trial Court and reinstated that of the Municipal Trial Court.

On 25 May 1996 petitioner filed a motion for reconsideration which was denied by the Court of Appeals for lack of merit. Hence, this petition for review on certiorari. Petitioner argues that the allegation in the complaint that the land in question was tilled by an agricultural tenant clearly deprived the Municipal Trial Court of its jurisdiction because under Rule 70, Sec. 1 of the Rules of Court "x x x x the provisions of Rule 70 shall not apply to cases covered by the Agricultural Tenancy Act."

We do not agree. The allegation that an agricultural tenant tilled the land in question