

## FIRST DIVISION

[ G.R. No. 123293, March 05, 1998 ]

**ELISA C. FELICIANO, PETITIONER, VS. COURT OF APPEALS AND  
ERNESTO BARON, RESPONDENTS.**

### D E C I S I O N

**BELLOSILLO , J.:**

This petition for review assails the Decision of the Court of Appeals promulgated on 9 October 1995 as well as its Resolution of 12 December 1995 in CA-G.R. SP No. 37450 [1] which reversed and set aside the decision of the Regional Trial Court of Quezon City, Branch 98, in Civil Case No. Q-94-22391.

On 6 February 1978 Eleuterio Cosme obtained a loan of ₱50,000.00 from the Insular Bank of Asia and America. To secure the loan, he mortgaged a parcel of land covered by TCT No. 198745 registered in his name “married to Asuncion Obando.” The loan however was not paid upon maturity, thus the mortgage was foreclosed extrajudicially and sold at public auction with the bank as the highest bidder. After the lapse of the redemption period, ownership over the land was consolidated in the bank and TCT No. 283860 was issued in its name.

Later, Eleuterio Cosme and his wife Asuncion Obando died. Their daughters, Elisa C. Feliciano and Arsenia C. Buendia, took possession of the property and exercised their rights of ownership thereof as compulsory heirs of their deceased parents. In 1985 Elisa instituted before the Regional Trial Court of Quezon City an action against the bank of the Annulment of Mortgage, Certificate of Sale, Deed of Absolute Sale and TCT No. 283860, Reconveyance with Petition for Issuance of a Writ of Preliminary Injunction and Damages. [2] During the pendency of the case, specifically on 15 February 1991, private respondent herein Ernesto Baron bought the subject property from the bank and the corresponding Deed of Absolute Sale was executed in his favor. On the basis of the sale, Baron demanded from Elisa and Arsenia to pay rents and vacate the premises. Elisa refused insisting that she was owner of the property and that it was currently the subject of a pending litigation in the Regional Trial Court of Quezon City. [3] Hence, Baron filed a complaint for ejectment before the Metropolitan Trial Court of Quezon City which, after due consideration, dismissed the case on the ground of *litis pendentia*.

On appeal by Baron, the RTC affirmed the decision of the MeTC holding that *litis pendentia* existed and that, in addition, the MeTC did not validly acquire jurisdiction over the case since there was no sufficient averment in the complaint which would bring the case within the purview of either forcible entry or unlawful detainer.

Undaunted by the adverse decisions of the lower courts, Baron elevated the case to the Court of Appeals, which subsequently reversed the Regional Trial Court and remanded the case to the court of origin for further proceedings. The Court of Appeals held that *litis pendentia* was not present in this case as there was no identity of rights

asserted and reliefs prayed for in the Regional Trial Court and in the Metropolitan Trial Court. That, further, the allegations in the complaint for ejectment adequately and sufficiently established a cause for unlawful detainer by virtue of which the jurisdiction of the Metropolitan Trial Court was properly laid.

Petitioner Elisa C. Feliciano now insists that the Court of Appeals misinterpreted and misapplied the laws and jurisprudence on *litis pendentia* [4] and on the acquisition or absence of jurisdiction. Specifically, she maintains that there is identity of rights asserted and reliefs prayed for in both the pending RTC case for annulment and reconveyance with damages, and the MeTC case for ejectment, i.e., ownership and possession of the subject property and that, additionally, a judgment in the pending RTC case, regardless of which party is successful, will amount to *res judicata* in the ejectment case. Consequently, there is *litis pendentia*, and the pending RTC case may be pleaded in abatement of the pending MeTC case for ejectment.

On the question of jurisdiction, petitioner asserts that the allegations in the complaint for ejectment do not show nor imply that there is unlawful withholding of material possession by herein petitioner from respondent. Hence, the complaint is insufficient to vest jurisdiction in the municipal trial court to entertain the ejectment suit.

*Litis pendentia* is a Latin term which literally means “a pending suit.” [5] It is variously referred to in some decisions as *lis pendens* and *auter action pendant*. [6] While it is normally connected with the control which the court has on a property involved in a suit during the continuance proceedings, [7] it is more interposed as a ground for the dismissal of a civil action pending in court. [8]

*Litis pendentia* as a ground for the dismissal of a civil action refers to that situation wherein another action is pending between the same parties for the same cause of actions [9] and that the second action becomes unnecessary and vexatious. Therefore, for *litis pendentia* to be invoked the concurrence of the following requisites is necessary: (a) identity of parties or at least such as represent the same interest in both actions; (b) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and, (c) the identity in the two (2) cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other. [10] Applying the foregoing criteria in the instant case, we agree with the Court of Appeals that *litis pendentia* does not obtain in this case because of the absence of the second and third requisites.

The fact that herein petitioner instituted a prior action for the annulment of the mortgage contract, certificate of sale, deed of absolute sale, reconveyance and damages, is not a valid reason for defeating the action for ejectment. While there may be identity of parties and subject matter in the two (2) actions, the issues involved and the reliefs prayed for are not the same. In the annulment and reconveyance suit, the issue is the validity of the mortgage and the subsequent foreclosure sale, whereas the issue in the ejectment case is whether, assuming the mortgage and foreclosure sale to be valid, private respondent has the right to take possession of the property. In the former case, the relief prayed for is recovery of ownership of the subject land, while the latter, it is the restoration of possession thereof to private respondent. Hence, the Metropolitan Trial Court can validly try the ejectment case even while the annulment suit is being litigated in the Regional Trial Court. [11]