

SPECIAL TWENTIETH DIVISION

[CA-G.R. SP NO. 07601, July 17, 2014]

MARIBETH C. RESSURECCION, PETITIONER, VS. JAIME MADRONA, REPRESENTED BY JANE MADRONA-CELESTE, RESPONDENT.

D E C I S I O N

QUIJANO-PADILLA, J.:

This is a Petition for Review under Rule 42 of the Rules of Court assailing the Consolidated Decision^[1] dated January 15, 2013 and Resolution^[2] dated April 15, 2013, both rendered by the Regional Trial Court (RTC), Branch 39, Sogod, Southern Leyte in Civil Case No. R-463-C.

The Antecedents

In a Complaint^[3] for unlawful detainer filed on April 27, 2011, herein respondent Jaime Madrona (Jaime), through his representative and daughter Jane Madrona-Celeste (Jane), alleged that he owns Lot No. 1678 situated in Tabugon, Liloan, Southern Leyte with an area of 4,399 square meters and covered by Tax Declaration No. 06024-00228.^[4] He designated Jane to oversee the said property for the past 15 years. Sometime in the month of June 2010, herein petitioner Maribeth Ressureccion (Maribeth) approached Jane and requested that she be allowed to temporarily occupy a portion of Jaime's land for her videoke bar until she finds a permanent place for her business. As consideration, Maribeth promised to give every month to Jaime, through Jane, 20% of the gross sales or P5,000.00, whichever is higher.

Maribeth immediately put up the videoke bar and started her operations in June 2010. However, she did not make good her promise and gave no single centavo to Jaime. Instead, Maribeth made improvements on the videoke bar like she had no more intention of looking for another permanent place. When Jaime learned of this, he instructed Jane to demand Maribeth to demolish her videoke bar and vacate the property. Jane obliged and sent Maribeth a demand letter^[5] dated September 1, 2010 which the latter received on September 8, 2010.^[6] Maribeth, however, ignored the demand letter, hence, Jane caused the matter to be referred to the *lupon*. The parties failed to settle and a certification to file action^[7] was issued. Thereafter, the instant suit was filed.

In her Answer,^[8] Maribeth countered that Jaime does not own the land occupied by her videoke bar as the same is part of the reserved road-right-of-way of the Department of Public Works and Highways (DPWH). The property was beyond the commerce of man and if there was somebody who could rightfully eject her, it would not be Jaime but the government. Maribeth attached to her Answer the letter^[9] of

the DPWH declaring that the subject structure was within the road-right-of-way of the national roads.

According to Maribeth, it was Jane who approached and persuaded her for a joint venture in putting up a restaurant and videoke bar. They agreed to share in the expenses and divide the profits of the business equally, but they did not agree on anything about the rental of the lot. Maribeth admitted having received the demand letter but claimed that she did not ignore it as she immediately confronted Jane about it and even demanded from Jane and her husband their promised contribution to the joint venture. Maribeth also admitted the conduct of a *barangay* conciliation on the matter but claimed that they had no settlement since Jane disrespected the *barangay* authorities and walked out from the proceedings.

A preliminary conference was conducted. Thereafter, the parties were directed to submit their respective position papers, upon which the Municipal Trial Court (MTC) rendered a Decision^[10] finding that the property in litigation was titled in Jaime's name under Katibayan ng Original Na Titulo Blg. 31885. The MTC also considered the Commissioner's Report that portion of the subject structure, specifically its kitchen and comfort room encroached on Jaime's property while the rest thereof occupied the road-right-of-way of the national highway. The MTC's Decision contained the following dispositive portion, thus:

WHEREFORE, by preponderance of evidence in favor of plaintiff and against defendant, judgment is hereby rendered:

1. DECLARING plaintiff to have better right of possession over Lot No. 1678 of the Liloan Cadastre covered by Katibayan ng Original na Titulo Blg. 31885 issued in the name of Jaime Madrona;
2. ORDERING defendant and all other persons claiming right under her to vacate and remove her kitchen and comfort room as delineated [sic] in the Commissioner's Report;
3. DIRECTING defendant to pay plaintiff the following:
 - (a) Php 1,000.00 per month rental reckoned from the expiration of the last demand to vacate as reasonable compensation for the use and occupation of the portion of plaintiff's titled lot;
 - (b) Php 10,000 as attorney's fees.
4. TAXING defendant the cost of this suit.

SO ORDERED.^[11]

Both parties appealed to the RTC which court overturned the MTC's finding regarding the location of the structure. According to the RTC, Maribeth's structure stood on Jaime's land since the certificate of title and the tax declaration indicated that the east boundary of Jaime's land was the national highway. There was no other land in between Jaime's property and the highway, hence, Maribeth's structure was within Jaime's land because it did not sit on the highway. The RTC rejected Maribeth's claim that the portion she occupied was part of the highway, reasoning

out that there had yet been no taking of Jaime's property by the government and no payment of just compensation to him.

Anent the other questions raised by Maribeth on the admission in evidence of the demand letter which was written in Cebuano and not translated in English, the RTC declared that this could not be raised for the first time on appeal. As for the attack on the irregularity of the Certificate to File Action issued by the lupon, the RTC ruled that the said document enjoyed presumption of regularity and Maribeth should have questioned it in the lower court and not on appeal. The RTC increased the amount awarded for rentals and attorney's fees and further awarded litigation expenses. The dispositive portion of its decision reads, *viz.*:

WHEREFORE, in the light of the foregoing, this court AFFIRMS the decision of the lower court with modification, by rendering judgment, as follows:

1. DECLARING the plaintiff-appellant to have a better right of possession over Lot No. 1678 of the Liloan Cadastre embraced by OCT NO. 31885 issued in the name of Jaime Madrona, where the subject premises, videoke bar and restaurant, stands;
2. ORDERING defendant-appellee and other persons claiming rights under her to immediately vacate the subject premises and surrender peaceful possession thereof to plaintiff appellant or his duly authorized representative, removing therefrom all her personal belongings;
3. DIRECTING the defendant-appellee to pay plaintiff the following:
 - a. Monthly rental of Php 5,000 since June 2010 up to August 2012 or 26 months, now in the total amount of Php 130,000.00 and additional rental of Php 5,000.00 per succeeding month beginning September 2012, until defendant-appellee shall have surrendered peaceful possession of the subject premises to herein plaintiff-appellant or his duly authorized representative.
 - b. Php 50,000.00 as attorney's fees and another Php 50,000.00 or as litigation expenses.
4. TAXING defendant-appellee the cost of suit.

SO ORDERED.^[12]

Maribeth moved for reconsideration^[13] but the RTC denied her motion for lack of merit in its Resolution^[14] dated April 15, 2013. Aggrieved, Maribeth sought review of the RTC's decision on the following grounds, thus:

Demand Letter is jurisdictional in unlawful detainer in that it is erroneous for the RTC to fail to recognize this fact.

Condition precedent of Barangay Conciliation is unsatisfactorily complied

in relation to Sec. 412 and Sect. 415 *vis-a-vis* Rule 70 Sec. 12.

The RTC [erred] in tilting its finding that the videoke bar belongs to the respondent's property dismissing the finding of the commissioner and the certification of the DPWH as to its exact location thereby abandoning the time-honored principle that all lands belong to the crown/state save when proved otherwise for private persons.

The RTC [erred] in increasing the award of back rentals from June 2010 up to August 2012 when in fact the defective Demand was only received by petitioner September 8, 2010.

The RTC [erred] in awarding attorney's fees of P50,000.00 and litigation expense of P50,000.00 when the former should not exceed by P20,000.00 and the latter unproved by receipts.^[15]

A synthesis of Maribeth's grounds requires Us to confront three issues, *viz.*: (1) whether or not the MTC had jurisdiction considering that there was no proper demand and no valid compliance with the requirements for prior referral to *barangay* conciliation; (2) whether or not the subject structure stood on Jaime's property; and (3) whether or not the increase in the awards for back rentals and attorney's fees, and the order to pay litigation expenses by the RTC was proper.

This Court's Ruling

The petition is meritorious only with respect to the impropriety of increasing the awards for back rentals and attorney's fees and awarding litigation expenses.

We discuss the issues *ad seriatim*.

On the first issue, Maribeth contended that the trial court did not have jurisdiction on the case since there was no demand. The demand letter on record was in Cebuano and not in the English language. As such, it was inadmissible in evidence pursuant to Section 33,^[16] Rule 132 of the Rules of Court which declares that documents written in an unofficial language shall not be admitted as evidence, unless accompanied with a translation into English or Filipino.

Further, the contents of the said letter merely said:

"Og palihog lang sa pag PULL OUT sa maong building, og hatagan ko kamo kutob sa katapusan ning bulana, September 30, 2010"^[17]

Maribeth translated the above contents to mean:

"And please pull out the said building, and I will give you this last day of the month, September 30, 2010"

Maribeth posited that the letter was not the demand required by law due to the presence of the word "please," which is only a request and contrary to a "demand," which is an imperative; a command that is not subject to the will of the one demanded. Even the word "pull-out" in the letter was not unequivocal as the word "please" before it made the directive to pull out subject to the will of the obligor.