



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SPOUSES SALVADOR P. G.R. No. 182886
NORBERTE, JR. and
ELIZABETH S. NORBERTE, Present:
Petitioners,

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

SPOUSES FELICISIMO G.
MEJIA and ELVIRA C. MEJIA
and/or their heirs, represented by Promulgated:
ALEXIS MEJIA-QUERUBIN,
Respondents. March 9, 2015

X-----*[Signature]*-----X

DECISION

PERALTA, J.:

Before the Court is a Petition for Review under Rule 45 of the Rules of Court which petitioners spouses Salvador P. Norberte, Jr. and Elizabeth S. Norberte filed, assailing the Decision¹ of the Court of Appeals (CA), dated September 21, 2007, and its Resolution² dated May 14, 2008 in CA-G.R. SP No. 91926. The CA remanded the case to the Regional Trial Court (RTC) of Caloocan City, Branch 129 for further proceedings.

The antecedents of the instant case are as follows:

The subject property in the case at bar is a 160-square-meter parcel of land located in the Calaan District, Caloocan City which was previously

¹ Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Magdangal M. De Leon and Ricardo R. Rosario; concurring; *rollo*, pp. 9-25.

² *Id.* at 27.

owned by Edgardo Ongsiaco. It appeared that Ongsiaco allowed Dativa Gonzales, mother of respondent Felicisimo G. Mejia, to occupy said lot and build a house thereon. However, Ongsiaco later sold the same land to the spouses Carlos and Josefina Legaspi (*the Spouses Legaspi*), who caused the registration of the property in their names. Thus, the Spouses Legaspi filed an action for ejectment against Gonzales.

On March 28, 1988, the Spouses Legaspi executed a Deed of Conditional Sale over the subject lot in favor of petitioners spouses Salvador and Elizabeth Norberte (*the Spouses Norberte*). As consideration for the sale, the parties agreed on ₱160,000.00 as the amount of the purchase price. After the Spouses Norberte paid the downpayment in the amount of ₱20,000.00, the deed of conditional sale was duly notarized and annotated at the back of the property's title.

However, on July 6, 1990, the Spouses Legaspi again sold the same property, this time to respondents spouses Felicisimo and Elvira Mejia (*the Spouses Mejia*). This transaction resulted in the execution of a compromise agreement between them, leading to the dismissal of the ejectment case earlier filed against Gonzales. This prompted the Spouses Norberte to file an action to annul said sale to the Spouses Mejia and successfully obtained a judgment in their favor.

On June 6, 2003, upon payment of the balance of the purchase price, the wife and the children of the then deceased Carlos Legaspi finally executed a Deed of Absolute Sale in favor of the Spouses Norberte. Thus, the Norbertes made a demand to vacate against the Mejias. Since the demand was left unheeded, the Spouses Norberte filed a complaint for ejectment on November 6, 2003 before the Caloocan Metropolitan Trial Court (*MeTC*), Branch 49. The case was docketed as Civil Case No. 03-27540.

On December 22, 2004, the Caloocan MeTC dismissed³ the complaint for lack of jurisdiction since, under the circumstances, the summary action for unlawful detainer was no longer available and the proper action should have been *accion publiciana*. The Spouses Norberte then brought the case to the RTC and likewise filed a motion to cite in contempt of court the counsel of the Mejias, Atty. Nancy Quimpo, for failure to furnish the court the names and addresses of the legal representatives of the Spouses Mejia, who both died during the course of the proceedings. Atty. Quimpo, on the other hand, contended that the action for ejectment had been effectively extinguished by the death of her clients.

³ *Id.* at 224-227.

The RTC, thereafter, affirmed *in toto* the decision of the MeTC in a very brief Order dated April 29, 2005, the full text of which reads:

Above captioned case is an appeal interposed by the herein Plaintiffs-Appellants from the Decision of the Court *a quo*, the dispositive portion of which states the following:

WHEREFORE, for lack of jurisdiction this case is hereby dismissed.

For lack of basis, the Counterclaim is likewise dismissed.

SO ORDERED.

This Court, in the exercise of its appellate jurisdiction, hereby AFFIRMS the Decision of the Court below *in toto* for being in accord with the facts and the law of the case.

SO ORDERED.⁴

It also denied the motion to cite Atty. Quimpo in contempt of court.

The Spouses Norberte thus elevated the case to the CA, seeking the reversal of the rulings of the courts below. On September 21, 2007, the appellate court ruled:

WHEREFORE, premises considered, the case is REMANDED to Branch 129 of the Regional Trial Court of Caloocan City for further proceedings.

Atty. Nancy Quimpo is, on the other hand, REPRIMANDED for her failure and/or refusal to completely perform her duties under Section 16, Rule 3 of the 1997 Rules of Civil Procedure. She is further warned that a repetition of similar act or omission will be dealt with more severely.

SO ORDERED.⁵

The Norbertes then filed a Motion for Reconsideration, but the same was also denied. Hence, the present petition.

The Spouses Norberte mainly argue that their action is one for unlawful detainer and, as such, the MeTC has jurisdiction over the same.

⁴ *Id.* at 244.

⁵ *Id.* at 24.

They likewise contend that the March 28, 1988 Deed of Conditional Sale is not absolute in nature but is, in fact, a mere contract to sell.

The Court finds the petition to be without merit.

In summary ejectment suits (unlawful detainer and forcible entry), the only issue to be determined is who between the contending parties has better possession of the contested property. The Municipal Trial Courts, Metropolitan Trial Courts in Cities, and the Municipal Circuit Trial Courts exercise exclusive original jurisdiction over these cases and the proceedings are governed by the Rules on Summary Procedure. On the other hand, an *accion publiciana*, also known as *accion plenaria de posesion*, is a plenary action for the recovery of possession in an ordinary civil proceeding to determine the better and legal right to possess, independently of title. The main distinctions between these two remedies lie in the period within which the action can be instituted and in the court which exercises jurisdiction over the matter. Actions for unlawful detainer and forcible entry must be filed within one (1) year from the date possession is lost, while an *accion publiciana* may be filed only after the expiration of that period but within the period prescribed in the statute of limitations. An *accion publiciana* may only be filed with the RTC, while a complaint for unlawful detainer or forcible entry may only be filed with the first level courts.⁶

The Court sustains the finding that the MeTC had no jurisdiction over the case. The ownership of the subject property passed to the Spouses Norberte by constructive delivery upon the execution of the March 28, 1988 contract of conditional sale between them and the Legaspis. Although denominated as conditional, a deed of sale is absolute in nature in the absence of any stipulation reserving title to the seller until full payment of the purchase price. In such case, ownership of the thing sold passes to the buyer upon actual or constructive delivery.⁷ In a contract of sale, the title to the property passes to the buyer upon the delivery of the thing sold. In a contract to sell, on the other hand, the ownership is, by agreement, retained by the vendor and is not to pass to the vendee until full payment of the purchase price.⁸ Here, there was already a perfected contract. The condition imposed was only on the performance of the obligations of the parties.⁹ As admitted by the Spouses Norberte themselves, there is nothing in the Deed of Conditional Sale which expressly provides for the retention of title or ownership of the property by the sellers until full payment of the purchase price.¹⁰ There is clearly no express reservation of title made by the Legaspis over the property, or any provision which would impose payment

⁶ *Bejar v. Caluag*, 544 Phil. 774, 780 (2007).

⁷ *Almira, et al. v. CA*, 447 Phil. 467, 480 (2003).

⁸ *Heirs of Atienza v. Espidol*, G.R. No. 180665, August 11, 2010, 628 SCRA 256, 262.

⁹ *Laforteza v. Machuca*, 389 Phil. 167, 179 (2000).

¹⁰ *Rollo*, p. 53.


of the price as a condition for the contract's entering into force.¹¹ The absence of such stipulation indicates that what the parties have actually contemplated was a contract of absolute sale.¹²

Therefore, the Spouses Norberte were deemed to have been unlawfully deprived of the lawful possession of the property by the Mejias upon the execution of the contract of conditional sale on March 28, 1998. Unfortunately, they filed their complaint for ejectment only on November 6, 2003, way beyond the prescribed period of one (1) year within which the action should be commenced. However, the RTC should not have dismissed the case. Rather, it should have tried it as one for *accion publiciana*, as if it had originally been filed with it, in accordance with paragraph 1 of Section 8,¹³ Rule 40 of the Rules of Court. It likewise failed to state any findings of facts and conclusions of law on which it based its affirmance of the MeTC Decision.

Finally, Atty. Quimpo should be reprimanded for her failure and refusal to furnish the courts of the names and addresses of the spouses' legal representatives despite the death of Felicisimo Mejia on June 23, 2004, and of Elvira Mejia on March 23, 2005. An ejectment case survives the death of a party and the death of the Spouses Mejia did not extinguish the action for ejectment instituted against them. That action, not being a purely personal one, survived their deaths and their heirs can take their place to protect and represent their interests therein.

WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals, dated September 21, 2007, and its Resolution dated May 14, 2008 in CA-G.R. SP No. 91926 are hereby **AFFIRMED**.

SO ORDERED.

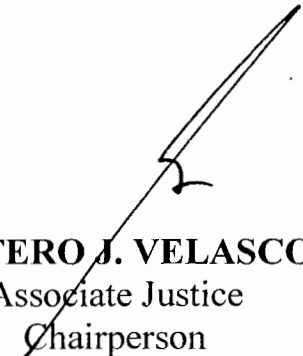

DIOSDADO M. PERALTA
Associate Justice

¹¹ *Laforteza v. Machuca*, *supra* note 9, at 180.

¹² *Almira, et al. v. CA*, *supra* note 7, at 481.

¹³ **Section 8. Appeal from orders dismissing case without trial; lack of jurisdiction.** — If an appeal is taken from an order of the lower court dismissing the case without a trial on the merits, the Regional Trial Court may affirm or reverse it, as the case may be. **In case of affirmance and the ground of dismissal is lack of jurisdiction over the subject matter, the Regional Trial Court, if it has jurisdiction thereover, shall try the case on the merits as if the case was originally filed with it.** In case of reversal, the case shall be remanded for further proceedings. x x x (Emphasis ours)

WE CONCUR:



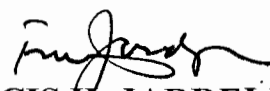
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice



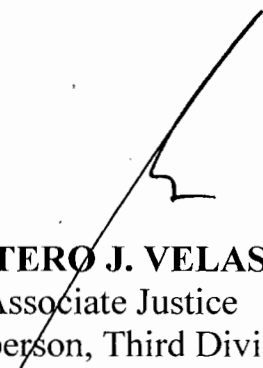
BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice