



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

JOHN CARY TUMAGAN,
 ALAM HALIL, and BOT
 PADILLA,

G.R. No. 198124

Petitioners,

Present:
 LEONARDO-DE CASTRO, *CJ.*,

Chairperson,

BERSAMIN,

DEL CASTILLO,

JARDELEZA, and

TIJAM,* *JJ.*

- versus -

MARIAM K. KAIRUZ,

Respondent.

Promulgated:

SEP 12 2018

[Signature]

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DECISION

JARDELEZA, *J.*:

This is a petition for review on *certiorari*¹ seeking to set aside the Decision² dated December 21, 2010 and Resolution³ dated July 22, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 112613. The CA granted respondent's petition and reversed the Decision⁴ dated December 11, 2009 of Branch 10 of the Regional Trial Court (RTC), La Trinidad, Benguet, which affirmed the dismissal of the complaint for ejectment on the ground of failure to implead an indispensable party rendered by the 5th Municipal Circuit Trial Court (MCTC), Tuba-Sablan, Benguet.⁵

I.

In her complaint for ejectment filed before the MCTC, respondent Mariam K. Kairuz (Mariam) alleged that she had been in actual and physical possession of a 5.2-hectare property located at Tadiangan, Tuba, Benguet (property) until May 28, 2007. She alleged

* On official business.

¹ *Rollo*, pp. 9-28.

² *Id.* at 29-41. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Mario V. Lopez and Michael P. Elbinias concurring.

³ *Id.* at 42-43.

⁴ *Id.* at 57-63. Rendered by Judge Edgardo B. Diaz De Rivera, Jr.

⁵ *Id.* at 44-56.

[Signature]

that in the afternoon of May 28, 2007, petitioners John Cary Tumagan (John), Alam Halil (Alam), and Bot Padilla (Bot) conspired with each other and took possession of the property by means of force, intimidation, strategy, threat, and stealth with the aid of armed men. After forcibly gaining entry into the property, petitioners then padlocked its three gates, posted armed men, and excluded Mariam from the property.⁶ Mariam likewise sought the issuance of a temporary restraining order (TRO) and/or a writ of preliminary injunction (WPI) against petitioners.⁷

In their answer, petitioners averred that Mariam could not bring the present action for forcible entry because she was never the sole owner or possessor of the property.⁸ They alleged that Mariam is the spouse of the late Laurence Ramzy Kairuz (Laurence), who co-owned the property with his sisters, Vivien Kairuz (Vivien) and Elizabeth D'Alessandri (Elizabeth). Petitioners claimed that the property is a good source of potable water and is publicly known as Kairuz Spring. During his lifetime, Laurence, in his own capacity and as attorney-in-fact for his sisters, entered into a Memorandum of Agreement⁹ (MOA) with Balibago Waterworks System Incorporated (BWSI) and its affiliate company, PASUDECO, to establish a new corporation, Bali Irisan Resources, Inc. (BIRI). As stipulated in the MOA, Laurence and his two sisters will sell the property containing Kairuz Spring and other improvements to BIRI for ₱115,000,000.00. Eventually, the Kairuz family sold the property, including the bottling building, Kairuz Spring, machineries, equipment, and other facilities following the terms of the MOA. BIRI took full possession over the property and caused new certificates of title¹⁰ to be issued. BIRI is 30% owned by the Kairuz family and 70% owned by BWSI and its allied company, PASUDECO. Its Board of Directors is composed of seven members, with a three-person Management Committee (ManCom) handling its day-to-day operations. The one seat accorded to the Kairuz family in the ManCom was initially occupied by Laurence, while the two other seats in the ManCom were occupied by John and one Victor Hontiveros. Petitioners alleged that Mariam was aware of the MOA, the ManCom, and of the operations of the BIRI properties precisely because she succeeded Laurence's seat in the Board of Directors and ManCom after his death.¹¹

Petitioners also asserted that under the MOA, the Kairuz family assigned their Baguio Spring Mineral Water Corporation (BSMWC) shares and water rights through the BSMWC water permit. The MOA

⁶ CA rollo, p. 45.

⁷ *Id.* at 46-48.

⁸ *Id.* at 58-59.

⁹ *Id.* at 64-77.

¹⁰ TCT No. T-59325 and TCT No. T-59331.

¹¹ CA rollo, pp. 56-57.

also stipulated the continued operation of the truck water business by the Kairuzes and this was honored by BIRI. However, this privilege enjoyed by the Kairuzes is contingent on their compliance with their own obligations and conditions as set forth in the MOA. Unfortunately, upon Mariam's assumption of the truck water business as well as Lexber Subdivision water service, she started to commit actions in conflict with the best interest of BIRI, such as: (a) she opposed the required transfer of the BSMWC water permit to BIRI before the National Water Resources Board; (b) she intervened in the case filed by Baguio Water District against BIRI, weakening BIRI's position; (c) she filed a complaint before the RTC of Angeles City questioning the Deed of Assignment of the BSMWC shares executed by the Kairuz family in favor of BIRI; and (d) she asked the barangay officials at Tadiangan, Tuba and *Sangguniang Bayan* Members of Tuba to deny BIRI's offer to service the water requirements of Tuba residents.¹² This prompted BIRI's shareholders to write Mariam regarding her default on the provisions of the MOA, warning her that unless appropriate remedies are fulfilled, the MOA will be terminated.¹³ Mariam refused to receive the registered mail sent by BIRI¹⁴ and ignored their official communications, choosing instead to file the present ejectment complaint against petitioners.¹⁵

Furthermore, petitioners claimed that contrary to Mariam's allegations, on May 28, 2007, BIRI, as a corporation and owner of the spring property, merely exercised its legal right to prevent unauthorized persons from entering its property. The deployment of licensed security guards was intended to secure its property and prevent forcible entry into the area, specifically by people who are "*persona non-grata*" to the company.¹⁶

Petitioners claim that the MCTC has no jurisdiction over the action filed by Mariam because the same is an intra-corporate dispute which falls under the jurisdiction of the appropriate RTC. They further assert that BIRI's actions in terminating the MOA, disallowing entry of unauthorized persons, and the continuance of Mariam's truck water business are all pursuant to the MOA, which is the law between the parties. Thus, petitioners prayed for the dismissal of the complaint.¹⁷

On March 9, 2009, the MCTC dismissed the case due to Mariam's failure to implead BIRI, an indispensable party.¹⁸ It ruled that the joinder of all indispensable parties must be made under any and all conditions, their presence being *sine qua non* to the exercise of judicial

¹² *Id.* at 58.

¹³ Letters dated March 23 and May 28, 2007, *id.* at 81-82 and 78-79, respectively.

¹⁴ *Id.* at 80.

¹⁵ *Id.* at 58-59.

¹⁶ *Id.* at 60.

¹⁷ *Id.* at 60-61.

¹⁸ *Rollo*, p. 57

power. Thus, although it made a finding on Mariam's prior physical possession of the property, ultimately, the MCTC ruled that if an indispensable party is not impleaded, as in this case, there can be no final determination of the action.¹⁹

On appeal, the RTC upheld the MCTC's dismissal of the case. It ruled that since petitioners were able to establish that they acted as mere employees or agents of BIRI, the issue of possession cannot be resolved without the court first acquiring jurisdiction over BIRI. The defendants in the complaint for ejectment are John, the branch manager of BIRI who carried out BIRI's order to secure the property with the assistance of security guards, Alam, and Bot, who are both licensed geodetic engineers hired by BIRI to conduct a location survey of the property. The facts clearly show that they all acted in behalf of BIRI which was, in turn, allegedly exercising its right of possession as the owner of the property that would be benefited or injured by the judgment.²⁰

Aggrieved, Mariam filed a petition for review before the CA.

On December 21, 2010, the CA granted the petition and reversed the RTC Decision. It ruled that the MCTC and the RTC should have limited the issue to who had prior physical possession of the disputed land. It ruled that the MCTC erred in dismissing Mariam's complaint because of a technical rule of failure to implead an indispensable party, BIRI. It pointed out that Rule 3, Section 11 of the Rules of Court provides that neither misjoinder nor non-joinder of parties is a ground for the dismissal of an action. The remedy is to implead the non-party claimed to be indispensable either by order of the court on motion of the party or on its own initiative at any stage of the action. If the party refuses to implead the indispensable party despite order of the court, then the latter may dismiss the complaint/petition for the plaintiff's failure to comply therewith. Here, the CA held that the records do not disclose that there was such an order for petitioners to implead the supposed indispensable party, thus, dismissal of the case for failure to implead BIRI is improper.²¹ Furthermore, since BIRI owns the property and pursuant to the MOA, the Kairuzes own 30% of BIRI, then Mariam, who was unlawfully ousted from the property by mere employees of BIRI, may file the case for ejectment. Furthermore, under Article 487 of the Civil Code, any one of the co-owners may bring an action for ejectment without necessarily joining all other co-owners. The CA, thus, upheld Mariam's right to possess the property concurrently with her co-owners.²² The dispositive portion of the CA Decision reads:

¹⁹ *Id.* at 53-55.

²⁰ *Id.* at 60-63.

²¹ *Id.* at 35-38.

²² *Id.* at 39-40.

WHEREFORE, the *Decision* of the Regional Trial Court dated December 11, 2009 is **REVERSED** and **SET ASIDE**. In lieu thereof, judgment is hereby rendered, ordering:

- a) Respondents, their agents, deputies and employees and all persons under them, to allow petitioner's entry to the subject premises; and
- b) Respondents to pay petitioner the amount of P25,000.00 as attorney's fees.

SO ORDERED.²³

Hence, this petition for review where petitioners argue that the CA gravely erred in: (1) reversing the Decisions of the MCTC and the RTC dismissing the complaint for failure to implead BIRI, an indispensable party; (2) agreeing with Mariam's baseless claim of possession; and (3) not finding that the issues are intra-corporate in nature which should be best resolved before the RTC in Angeles City.²⁴

The petition is meritorious.

An indispensable party is a party in interest without whom no final determination can be had of an action and who shall be joined either as plaintiffs or defendants. The presence of indispensable parties is necessary to vest the court with jurisdiction.²⁵

Here, as correctly held by the MCTC and the RTC, it is indisputable that BIRI is an indispensable party, being the registered owner of the property and at whose behest the petitioner-employees acted.²⁶ Thus, without the participation of BIRI, there could be no full determination of the issues in this case considering that it was sufficiently established that petitioners did not take possession of the property for their own use but for that of BIRI's. Contrary to the CA's opinion, the joinder of indispensable parties is not a mere technicality. We have ruled that the joinder of indispensable parties is **mandatory** and **the responsibility of impleading all the indispensable parties rests on the plaintiff.**²⁷ In *Domingo v. Scheer*,²⁸ we ruled that without the presence of indispensable parties to the suit, the judgment of the court cannot attain real finality. Otherwise stated, the absence of an indispensable party renders all subsequent actions of the court **null and**

²³ *Id.* at 41.

²⁴ *Id.* at 13-14.

²⁵ *Lotte Phil. Co., Inc. v. Dela Cruz*, G.R. No. 166302, July 28, 2005, 464 SCRA 591, 595-596.

²⁶ See *Quilatan v. Heirs of Lorenzo Quilatan*, G.R. No. 183059, August 28, 2009, 597 SCRA 519.

²⁷ *Domingo v. Scheer*, G.R. No. 154745, January 29, 2004, 421 SCRA 468, 483; *Quilatan v. Heirs of Lorenzo Quilatan*, *supra* at 524 (citation omitted).

²⁸ G.R. No. 154745, January 29, 2004, 421 SCRA 468, 483.

void for want of authority to act not only as to the absent party but even as to those present.²⁹

In this case, while the CA correctly pointed out that under Rule 3, Section 11 of the Rules of Court, failure to implead an indispensable party is not a ground for the dismissal of an action, it failed to take into account that it remains essential that any indispensable party be impleaded in the proceedings *before the court renders judgment*.³⁰ Here, the CA simply proceeded to discuss the merits of the case and rule in Mariam's favor, recognizing her prior physical possession of the subject property. This is not correct. The Decision and Resolution of the CA in this case is, therefore, null and void for want of jurisdiction, having been rendered in the absence of an indispensable party, BIRI.³¹

Nonetheless, while a remand of the case to the MCTC for the inclusion of BIRI, the non-party claimed to be indispensable, seems to be a possible solution, a review of the records reveals that the remand to the MCTC is not warranted considering that the MCTC itself did not acquire jurisdiction over Mariam's complaint for forcible entry.

From the beginning, petitioners were consistent in their position that the MCTC has no jurisdiction over the action filed by Mariam. They claim that Mariam is not only a shareholder of BIRI, she is also the successor of her late husband, Laurence, and the case involves management of corporate property, an intra-corporate dispute which falls under the jurisdiction of the appropriate commercial court. Thus, pursuant to Article XII of the MOA,³² Mariam should have brought the case before the RTC of Angeles, Pampanga.³³ Petitioners also argue that Mariam has already filed a case earlier against BIRI for annulment of the Deed of Assignment before the RTC of Angeles City, that this case is merely an attempt to split causes of action, and that Mariam purposely did not mention material facts in order to obtain a favorable judgment. Petitioners likewise point out that Mariam cannot feign ignorance that petitioners were merely acting on the orders of BIRI considering that both Mariam and John are members of the same ManCom which oversaw the day-to-day business operations of BIRI.³⁴

In *Matling Industrial and Commercial Corporation v. Coros*,³⁵ the Court summarized the guidelines for determining whether a dispute constitutes an intra-corporate controversy or not. There, we

²⁹ *Lotte Phil. Co., Inc. v. Dela Cruz*, *supra* note 25 at 596.

³⁰ *People v. Go*, G.R. No. 201644, September 24, 2014, 736 SCRA 501, 506.

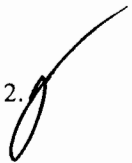
³¹ See *Lotte Phil. Co., Inc. v. Dela Cruz*, *supra* note 25 at 595-597.

³² CA rollo, p. 76.

³³ *Id.* at 120-121.

³⁴ *Id.* at 121-122.

³⁵ G.R. No. 157802, October 13, 2010, 633 SCRA 12.



held that in order that the SEC (now the RTC)³⁶ can take cognizance of a case, the controversy must pertain to any of the following relationships: (a) between the corporation, partnership, or association and the public; (b) between the corporation, partnership, or association and its stockholders, partners, members, or officers; (c) between the corporation, partnership, or association and the State as far as its franchise, permit, or license to operate is concerned; and (d) among the stockholders, partners, or associates themselves. However, not every conflict between a corporation and its stockholders involves corporate matters. Concurrent factors, such as the status or relationship of the parties, or the nature of the question that is the subject of their controversy, must be considered in determining whether the SEC (now the RTC) has jurisdiction over the controversy.³⁷

Here, the Court considers two elements in determining the existence of an intra-corporate controversy, namely: (a) the status or relationship of the parties; and (b) the nature of the question that is the subject of their controversy.³⁸

As discussed earlier, the parties involved in the controversy are respondent Mariam (a shareholder of BIRI and successor to her late husband's position on the ManCom), petitioner John (then the branch manager, shareholder, and part of the BIRI ManCom), and petitioners Bot and Alam (licensed geodetic engineers engaged by BIRI for a contract to survey the property subject of the dispute). The controversy also involves BIRI itself, the corporation of which Mariam is a shareholder, and which through Board Resolutions No. 2006-0001,³⁹ 2007-0004⁴⁰ and 2007-0005⁴¹ authorized John, its branch manager, to do all acts fit and necessary to enforce its corporate rights against the Kairuz family, including the posting of guards to secure the property. The controversy is thus one between corporation and one of its shareholders.

Moreover, the CA erred in characterizing the action as an ejectment case filed by a co-owner who was illegally deprived of her right to possess the property by the presence of armed men.

The CA ruled that since the Kairuzes own 30% of the shares of stocks of BIRI, Mariam, as a co-owner who was unlawfully ousted from

³⁶ See Interim Rules of Procedure for Intra-Corporate Controversies, A.M. No. 01-2-04-SC, March 13, 2001.

³⁷ *Matling Industrial and Commercial Corporation v. Coros*, *supra* note 35 at 30-31, citing *Mainland Construction Co., Inc. v. Movilla*, G.R. No. 118088, November 23, 1995, 250 SCRA 290, 294-295.

³⁸ *Id.*

³⁹ Records, p. 393.

⁴⁰ *Id.* at 395.

⁴¹ *Id.* at 394.

BIRI property by its employees, may bring an action for ejectment against the employees. This is not correct.

Here, it is undisputed that the property has already been transferred to BIRI and registered in its name.⁴² It is likewise undisputed that based on the MOA, the Kairuzes own 30% of the outstanding capital stock of BIRI. This, however, does not make Mariam a co-owner of the property of BIRI, including the property subject of this case. Shareholders are in no legal sense the owners of corporate property, which is owned by the corporation as a distinct legal person.⁴³ At most, Mariam's interest as a shareholder is purely inchoate, or in sheer expectancy of a right, in the management of the corporation and to share in its profits, and in its properties and assets on dissolution after payment of the corporate debts and obligations.⁴⁴

While Mariam insists that the case is one for forcible entry where the only issue is the physical possession and not ownership of the property, her prior physical possession has not been established in the courts below. In fact, the MCTC found that prior to the events of May 28, 2007, both petitioners and respondent were in actual possession of the property: petitioners, on behalf of BIRI as the owner of the property, and respondent Mariam, by virtue of the accommodation granted to her by BIRI under the MOA allowing her to continue her water reloading business on the property even after the transfer of its ownership to BIRI.⁴⁵

In sum, what appears on record as the true nature of the controversy is that of a shareholder seeking relief from the court to contest the management's decision to: (1) post guards to secure the premises of the corporate property; (2) padlock the premises; and (3) deny her access to the same on May 28, 2007 due to her alleged default on the provisions of the MOA.

Thus, we agree with petitioners that while the case purports to be one for forcible entry filed by Mariam against BIRI's employees and contractors in their individual capacities, the true nature of the controversy is an intra-corporate dispute between BIRI and its shareholder, Mariam, regarding the management of, and access to, the corporate property subject of the MOA. We therefore find that the MCTC never acquired jurisdiction over the ejectment case filed by Mariam.

⁴² TSN, May 31, 2007, *id.* at 25.

⁴³ *Asia's Emerging Dragon Corporation v. Department of Transportation and Communications*, G.R. Nos. 169914 & 174166, March 24, 2008, 549 SCRA 44, 50, citing *Magsaysay-Labrador v. Court of Appeals*, G.R. No. 58168, December 19, 1989, 180 SCRA 266, 271-272.

⁴⁴ *Id.*

⁴⁵ *Rollo*, pp. 50-51

WHEREFORE, the petition is **GRANTED**. The Decision dated December 21, 2010 and Resolution dated July 22, 2011 of the Court of Appeals in CA-G.R. SP No. 112613 are **REVERSED** and **SET ASIDE**. The complaint for ejectment in Civil Case No. 272 filed before the 5th Municipal Circuit Trial Court, Tuba-Sablan, Benguet, is **DISMISSED** for lack of jurisdiction.

SO ORDERED.


FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Chief Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

(On Official Business)
NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby 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.


TERESITA J. LEONARDO-DE CASTRO
Chief Justice