Supreme Court E-Library

DARAB. The DARAB's interest in the case is not purely legal but also a matter of governance; thus, it cannot be strictly considered as a nominal party which must refrain from taking an active part in the proceedings.

WHEREFORE, the instant petition is *DENIED*. No costs.

SO ORDERED.

Puno (Chairman), Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.*, concur.

SECOND DIVISION

[G.R. No. 160384. April 29, 2005]

CESAR T. HILARIO, for himself and as Attorney-in-Fact of IBARRA, NESTOR, LINA and PRESCILLA, all surnamed HILARIO, *petitioners, vs.* **ALLAN T. SALVADOR,** *respondent.*

HEIRS OF SALUSTIANO SALVADOR, namely, REGIDOR M. SALVADOR and VIRGINIA SALVADOR-LIM, *respondents-intervenors.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JURISDICTION AND NATURE OF ACTION, HOW DETERMINED.— [N]ature of the action and which court has original and exclusive jurisdiction over the same is determined by the material allegations of the complaint, the type of relief prayed for by the plaintiff and the law in effect when the action is filed, irrespective of whether the plaintiffs are entitled to some or all of the claims asserted therein. The caption of the complaint is not determinative of the nature of the action. Nor does the

Supreme Court E-Library

jurisdiction of the court depend upon the answer of the defendant or agreement of the parties or to the waiver or acquiescence of the parties.

2. CIVIL LAW; PROPERTY; *ACCION REINVINDICATORIA* AND *ACCION PUBLICIANA*; DISTINGUISHED.— We find and so rule that the action of the petitioners was an *accion publiciana*, or one for the recovery of possession of the real property subject matter thereof. An *accion reinvindicatoria* is a suit which has for its object the recovery of possession over the real property as owner. It involves recovery of ownership and possession based on the said ownership. On the other hand, an *accion publiciana* is one for the recovery of possession of the right to possess. It is also referred to as an ejectment suit filed after the expiration of one year after the occurrence of the cause of action or from the unlawful withholding of possession of the realty.

3. REMEDIAL LAW; CIVIL PROCEDURE; JURISDICTION; THE JURISDICTION OF THE COURT OVER AN ACTION INVOLVING TITLE TO OR POSSESSION OF LAND IS DETERMINED BY THE ASSESSED VALUE OF THE SAID PROPERTY.— The jurisdiction of the court over an action involving title to or possession of land is now determined *by the assessed value of the said property and not the market value thereof*. The assessed value of real property is the fair market value of the real property multiplied by the assessment level. It is synonymous to taxable value. The fair market value is the price at which a property may be sold by a seller, who is not compelled to sell, and bought by a buyer, who is not compelled to buy.

APPEARANCES OF COUNSEL

Pano, Gonzalez, Relova & Associates for petitioners.
Napoleon M. Victoriano for respondents.

Supreme Court E-Library

D E C I S I O N

CALLEJO, SR., *J.*:

This is a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 63737 as well as its Resolution[2] denying the motion for the reconsideration of the said decision.

The Antecedents

On September 3, 1996, petitioners Cesar, Ibarra, Nestor, Lina and Prescilla, all surnamed Hilario, filed a complaint with the Regional Trial Court (RTC) of Romblon, Romblon, Branch 71, against private respondent Allan T. Salvador. They alleged therein, *inter alia*, as follows:

> 2. That, the plaintiffs are co-owners by inheritance from Concepcion Mazo Salvador of a parcel of land designated as Cad. Lot No. 3113-part, located at Sawang, Romblon, Romblon, which property was [adjudged] as the hereditary share of their father, Brigido M. Hilario, Jr. when their father was still single, and which adjudication was known by the plaintiffs[‘] father’s co-heirs;
>
> 3. That, sometime in 1989, defendant constructed his dwelling unit of mixed materials on the property of the plaintiffs’ father without the knowledge of the herein plaintiffs or their predecessors-in-interest;
>
> 4. That, demands have been made of the defendant to vacate the premises but the latter manifested that he have (*sic*) asked the prior consent of their grandmother, Concepcion Mazo Salvador;
>
> 5. That, to reach a possible amicable settlement, the plaintiffs brought the matter to the Lupon of Barangay Sawang, to no avail, evidenced by the CERTIFICATE TO FILE ACTION hereto attached as ANNEX B;

---

[1] Penned by Associate Justice Mario L. Guariña III, with Associate Justices Eubulo G. Verzola (deceased) and Martin S. Villarama, Jr., concurring.

[2] *Rollo*, p. 57.

Supreme Court E-Library

6. That, the unjustified refusal of the defendant to vacate the property has caused the plaintiffs to suffer shame, humiliation, wounded feelings, anxiety and sleepless nights;

7. That, to protect their rights and interest, plaintiffs were constrained to engage the services of a lawyer.[3]

The petitioners prayed that, after due proceedings, judgment be rendered in their favor, thus:

WHEREFORE, it is prayed of this Honorable Court that after due process (*sic*), an order be issued for the defendant to vacate and peacefully turn over to the plaintiffs the occupied property and that defendant be made to pay plaintiffs:

a. actual damages, as follows:

   a.1. transportation expenses in connection with the projected settlement of the case amounting to ₱1,500.00 and for the subsequent attendance to the hearing of this case at ₱1,500.00 each schedule;

   a.2. attorney's fees in the amount of ₱20,000.00 and ₱500.00 for every court appearance;

b. moral and exemplary damages in such amount incumbent upon the Honorable Court to determine; and

c. such other relief and remedies just and equitable under the premises.[4]

The private respondent filed a motion to dismiss the complaint on the ground of lack of jurisdiction over the nature of the action, citing Section 33 of Batas Pambansa (B.P.) Blg. 129, as amended by Section 3(3) of Republic Act (R.A.) No. 7691.[5] He averred that —

---

[3] *Rollo,* p. 58.

[4] *Rollo,* pp. 58-59.

[5] SECTION 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases*. — Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:

x x x x x x x x x

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed

Supreme Court E-Library

(1) the complaint failed to state the assessed value of the land in dispute;

(2) the complaint does not sufficiently identify and/or describe the parcel of land referred to as the subject-matter of this action;

both of which are essential requisites for determining the jurisdiction of the Court where the case is filed. In this case, however, the assessed value of the land in question is totally absent in the allegations of the complaint and there is nothing in the relief prayed for which can be picked-up for determining the Court's jurisdiction as provided by law.

In the face of this predicament, it can nevertheless be surmised by reading between the lines, that the assessed value of the land in question cannot exceed ₱20,000.00 and, as such, it falls within the jurisdiction of the Municipal Trial Court of Romblon and should have been filed before said Court rather than before the RTC. . . .[6]

The petitioners opposed the motion.[7] They contended that the RTC had jurisdiction over the action since the court can take judicial notice of the market value of the property in question, which was ₱200.00 per square meter and considering that the property was 14,797 square meters, more or less, the total value thereof is ₱3,500,000.00. Besides, according to the petitioners, the motion to dismiss was premature and "the proper time to interpose it is when the [petitioners] introduced evidence that the land is of such value."

On November 7, 1996, the RTC issued an Order[8] denying the motion to dismiss, holding that the action was incapable of

---

value of the property or interest therein does not exceed Twenty Thousand Pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty Thousand Pesos (₱50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.

[6] *Rollo*, pp. 61-62.

[7] *Rollo*, p. 65.

[8] *Id*. at 73.

Supreme Court E-Library

pecuniary estimation, and therefore, cognizable by the RTC as provided in Section 19(1) of B.P. Blg. 129, as amended.

After the denial of the motion to dismiss, the private respondent filed his answer with counterclaim.[9] Traversing the material allegations of the complaint, he contended that the petitioners had no cause of action against him since the property in dispute was the conjugal property of his grandparents, the spouses Salustiano Salvador and Concepcion Mazo-Salvador.

On April 8, 1997, Regidor and Virginia Salvador filed their Answer-in-Intervention[10] making common cause with the private respondent. On her own motion, however, Virginia Salvador was dropped as intervenor.[11]

During trial, the petitioners adduced in evidence Tax Declaration No. 8590-A showing that in 1991 the property had an assessed value of ₱5,950.00.[12]

On June 3, 1999, the trial court rendered judgment finding in favor of the petitioners. The dispositive portion of the decision reads:

> WHEREFORE, as prayed for, judgment is rendered:
>
> Ordering the defendant to vacate and peacefully turn over to the plaintiffs the occupied property; and
>
> Dismissing defendant's counterclaim.
>
> SO ORDERED.[13]

Aggrieved, the private respondent and respondent-intervenor Regidor Salvador appealed the decision to the CA, which rendered judgment on May 23, 2003 reversing the ruling of the RTC and dismissing the complaint for want of jurisdiction. The *fallo* of the decision is as follows:

---

[9] *Id*. at 75.

[10] *Id*. at 79.

[11] *Id*. at 88.

[12] *Rollo*, p. 49.

[13] *Id*. at 94.

Supreme Court E-Library

IN VIEW OF THE FOREGOING, the appealed decision is REVERSED, and the case DISMISSED, without prejudice to its refiling in the proper court.

SO ORDERED.[14]

The CA declared that the action of the petitioners was one for the recovery of ownership and possession of real property. Absent any allegation in the complaint of the assessed value of the property, the Municipal Trial Court (MTC) had exclusive jurisdiction over the action, conformably to Section 33[15] of R.A. No. 7691.

The petitioners filed a motion for reconsideration of the said decision, which the appellate court denied.[16] Hence, they filed the instant petition, with the following assignment of errors:

I

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN HOLDING THAT THE INSTANT CASE, *ACCION REINVINDICATORIA*, FALLS WITHIN THE EXCLUSIVE ORIGINAL JURISDICTION OF THE MUNICIPAL TRIAL COURT OF ROMBLON, AND NOT WITH THE REGIONAL TRIAL COURT OF ROMBLON.

II

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN ORDERING THE REFILING OF THE CASE IN THE [PROPER] COURT, INSTEAD OF DECIDING THE CASE ON THE MERITS BASED ON THE COMPLETE RECORDS ELEVATED BEFORE SAID APPELLATE

---

[14] *Id*. at 54.

[15] (3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty Thousand Pesos (₱20,000.00) . . . exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs; Provided, that in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.

[16] *Rollo*, p. 57.

Supreme Court E-Library

COURT AND IN NOT AFFIRMING *IN TOTO* THE DECISION OF THE TRIAL COURT.[17]

The Ruling of the Court

The lone issue for our resolution is whether the RTC had jurisdiction over the action of the petitioners, the plaintiffs in the RTC, against the private respondent, who was the defendant therein.

The petitioners maintain that the RTC has jurisdiction since their action is an *accion reinvindicatoria*, an action incapable of pecuniary estimation; thus, regardless of the assessed value of the subject property, exclusive jurisdiction falls within the said court. Besides, according to the petitioners, in their opposition to respondent's motion to dismiss, they made mention of the increase in the assessed value of the land in question in the amount of ₱3.5 million. Moreover, the petitioners maintain that their action is also one for damages exceeding ₱20,000.00, over which the RTC has exclusive jurisdiction under R.A. No. 7691.

The petition has no merit.

It bears stressing that the nature of the action and which court has original and exclusive jurisdiction over the same is determined by the material allegations of the complaint, the type of relief prayed for by the plaintiff and the law in effect when the action is filed, irrespective of whether the plaintiffs are entitled to some or all of the claims asserted therein.[18] The caption of the complaint is not determinative of the nature of the action. Nor does the jurisdiction of the court depend upon the answer of the defendant or agreement of the parties or to the waiver or acquiescence of the parties.

We do not agree with the contention of the petitioners and the ruling of the CA that the action of the petitioners in the RTC was an *accion reinvindicatoria*. We find and so rule that

---

[17] *Id*. at 21.

[18] *Radio Communications of the Philippines, Inc. v. Court of Appeals*, G.R. No. 136109, 1 August 2002, 386 SCRA 67; *Korea Exchange Bank v. Filkor Business Integrated, Inc*., G.R. No. 138292, 10 April 2002, 380 SCRA 381.

Supreme Court E-Library

the action of the petitioners was an *accion publiciana*, or one for the recovery of possession of the real property subject matter thereof. An *accion reinvindicatoria* is a suit which has for its object the recovery of possession over the real property as owner. It involves recovery of ownership and possession based on the said ownership. On the other hand, an *accion publiciana* is one for the recovery of possession of the right to possess. It is also referred to as an ejectment suit filed after the expiration of one year after the occurrence of the cause of action or from the unlawful withholding of possession of the realty.[19]

The action of the petitioners filed on September 3, 1996 does not involve a claim of ownership over the property. They allege that they are co-owners thereof, and as such, entitled to its possession, and that the private respondent, who was the defendant, constructed his house thereon in 1989 without their knowledge and refused to vacate the property despite demands for him to do so. They prayed that the private respondent vacate the property and restore possession thereof to them.

When the petitioners filed their complaint on September 3, 1996, R.A. No. 7691 was already in effect. Section 33(3) of the law provides:

Sec. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.* — Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:

x x x x x x x x x

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty Thousand Pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty Thousand Pesos (₱50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.

---

[19] *Cruz v. Tor*res, G.R. No. 121939, 4 October 1999, 316 SCRA 193.

Supreme Court E-Library

Section 19(2) of the law, likewise, provides that:

Sec. 19. *Jurisdiction in civil cases.* — The Regional Trial Court shall exercise exclusive original jurisdiction:

x x x x x x x x x

(2) In all civil actions, which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty Thousand Pesos (₱20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty Thousand Pesos (₱50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts.

The jurisdiction of the court over an action involving title to or possession of land is now determined *by the assessed value of the said property and not the market value thereof.* The assessed value of real property is the fair market value of the real property multiplied by the assessment level. It is synonymous to taxable value.[20] The fair market value is the price at which a property may be sold by a seller, who is not compelled to sell, and bought by a buyer, who is not compelled to buy.

Even a cursory reading of the complaint will show that it does not contain an allegation stating the assessed value of the property subject of the complaint.[21] The court cannot take judicial notice of the assessed or market value of lands.[22] Absent any allegation in the complaint of the assessed value of the property, it cannot thus be determined whether the RTC or the MTC had original and exclusive jurisdiction over the petitioners' action.

We note that during the trial, the petitioners adduced in evidence Tax Declaration No. 8590-A, showing that the assessed value of the property in 1991 was ₱5,950.00. The petitioners, however, did not bother to adduce in evidence the tax declaration containing

---

[20] Section 199 of Republic Act No. 7160.

[21] *Ouano v. PGTT International Investment Corporation*, G.R. No. 134230, 17 July 2002, 384 SCRA 589.

[22] *Ibid*.

Supreme Court E-Library

the assessed value of the property when they filed their complaint in 1996. Even assuming that the assessed value of the property in 1991 was the same in 1995 or 1996, the MTC, and not the RTC had jurisdiction over the action of the petitioners since the case involved title to or possession of real property with an assessed value of less than ₱20,000.00.[23]

We quote with approval, in this connection, the CA's disquisition:

> The determining jurisdictional element for the *accion reinvindicatoria* is, as RA 7691 discloses, the assessed value of the property in question. For properties in the provinces, the RTC has jurisdiction if the assessed value exceeds ₱20,000, and the MTC, if the value is ₱20,000 or below. An assessed value can have reference only to the tax rolls in the municipality where the property is located, and is contained in the tax declaration. In the case at bench, the most recent tax declaration secured and presented by the plaintiffs-appellees is Exhibit B. The loose remark made by them that the property was worth 3.5 million pesos, not to mention that there is absolutely no evidence for this, is irrelevant in the light of the fact that there is an assessed value. It is the amount in the tax declaration that should be consulted and no other kind of value, and as appearing in Exhibit B, this is ₱5,950. The case, therefore, falls within the exclusive original jurisdiction of the Municipal Trial Court of Romblon which has jurisdiction over the territory where the property is located, and not the court *a quo*.[24]

It is elementary that the tax declaration indicating the assessed value of the property enjoys the presumption of regularity as it has been issued by the proper government agency.[25]

Unavailing also is the petitioners' argumentation that since the complaint, likewise, seeks the recovery of damages exceeding ₱20,000.00, then the RTC had original jurisdiction over their actions. Section 33(3) of B.P. Blg. 129, as amended, quoted

---

[23] See *Aliabo v. Carampatan*, G.R. No. 128922, 16 March 2001, 354 SCRA 548.

[24] *Rollo*, p. 54.

[25] *Ouano v. PGTT International Investment Corporation, supra*.

Supreme Court E-Library

earlier, explicitly excludes from the determination of the jurisdictional amount the demand for "interest, damages of whatever kind, attorney's fees, litigation expenses, and costs." This Court issued Administrative Circular No. 09-94 setting the guidelines in the implementation of R.A. No. 7691, and paragraph 2 thereof states that —

> 2. The exclusion of the term "damages of whatever kind" in determining the jurisdictional amount under Section 19(8) and Section 33(1) of B.P. Blg. 129, as amended by R.A. 7691, applies to cases where the damages are merely incidental to or a consequence of the main cause of action. However, in cases where the claim for damages is the main cause of action, or one of the causes of action, the amount of such claim shall be considered in determining the jurisdiction of the court.

Neither may the petitioners find comfort and solace in Section 19(8) of B.P. Blg. 129, as amended, which states:

> SEC. 19. *Jurisdiction in civil cases*. — Regional Trial Courts shall exercise exclusive original jurisdiction:
>
> x x x x x x x x x
>
> (8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One Hundred Thousand Pesos (₱100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the above-mentioned items exceeds Two Hundred Thousand Pesos (₱200,000.00).

The said provision is applicable only to "all other cases" other than an action involving title to, or possession of real property in which the assessed value is the controlling factor in determining the court's jurisdiction. The said damages are merely incidental to, or a consequence of, the main cause of action for recovery of possession of real property.[26]

Since the RTC had no jurisdiction over the action of the petitioners, all the proceedings therein, including the decision

---

[26] *Ouano v. PGTT International Investment Corporation, supra*.

Supreme Court E-Library

of the RTC, are null and void. The complaint should perforce be dismissed.[27]

WHEREFORE, the petition is *DENIED*. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 63737 are *AFFIRMED*. Costs against the petitioners.

SO ORDERED.

Puno (Chairman), Austria-Martinez, Tinga, and *Chico-Nazario, JJ.,* concur.

THIRD DIVISION

[A.C. No. 5808. May 4, 2005]
(Formerly A.C. CBD No. 99-622)

OSCAR M. ESPIRITU, *complainant, vs.* **ATTY. JAIME C. ULEP,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; EVERY LAWYER SHOULD HOLD IN TRUST ALL MONEY AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.— The relation between attorney and client is highly fiduciary in nature. Being such, it requires utmost good faith, loyalty, fidelity and disinterestedness on the part of the attorney. Its fiduciary nature is intended for the protection of the client. The Code of Professional Responsibility mandates every lawyer to hold in trust all money and properties of his client that may come into his possession. Accordingly, he shall account for all money or property collected or received for or from the client.

2. ID.; ID.; LAWYERS WHO MISAPPROPRIATE THE FUNDS ENTRUSTED TO THEM ARE IN GROSS VIOLATION OF PROFESSIONAL ETHICS AND ARE GUILTY OF BETRAYAL OF PUBLIC CONFIDENCE IN THE LEGAL