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SECOND DIVISION

[G.R. No. 176020. September 29, 2014]

HEIRS OF TELESFORO JULAO, namely, ANITA *VDA. DE* ENRIQUEZ, SONIA J. TOLENTINO and RODERICK JULAO, *petitioners, vs.* **SPOUSES ALEJANDRO and MORENITA DE JESUS,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; COURTS; JURISDICTION; BATAS PAMBANSA BLG. 129 AS AMENDED; IN AN ACTION FOR RECOVERY OF POSSESSION, THE ASSESSED VALUE OF THE PROPERTY MUST BE ALLEGED IN THE COMPLAINT TO DETERMINE WHICH COURT HAS ORIGINAL AND EXCLUSIVE JURISDICTION OVER THE CASE.— Jurisdiction as we have said is conferred by law and is determined by the allegations in the complaint, which contains the concise statement of the ultimate facts of a plaintiff's cause of action. x x x. Based on Section 19 (2) and Section 33 (3) of Batas Pambansa Blg. 129, as amended by Republic Act No. 7691, it is clear that in an action for recovery of possession, the assessed value of the property sought to be recovered determines the court's jurisdiction. In this case, for the RTC to exercise jurisdiction, the assessed value of the subject property must exceed ₱20,000.00. Since petitioners failed to allege in their Complaint the assessed value of the subject property, the CA correctly dismissed the Complaint as petitioners failed to establish that the RTC had jurisdiction over it. In fact, since the assessed value of the property was not alleged, it cannot be determined which trial court had original and exclusive jurisdiction over the case.

2. ID.; ID.; ID.; THE DEFENSE OF LACK OF JURISDICTION OVER THE SUBJECT MATTER MAY BE RAISED AT ANY STAGE OF THE PROCEEDINGS, EVEN FOR THE FIRST TIME ON APPEAL AND THE COURT MAY *MOTU PROPRIO* DISMISS A COMPLAINT AT ANY TIME WHEN IT APPEARS FROM THE PLEADINGS FOR THE EVIDENCE ON RECORD THAT LACK OF JURISDICTION EXISTS.— [C]ontrary to the claim of

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petitioners, the issue of lack of jurisdiction was raised by respondents in their Appellant's Brief. And the fact that it was raised for the first time on appeal is of no moment. Under Section 1, Rule 9 of the Revised Rules of Court, defenses not pleaded either in a motion to dismiss or in the answer are deemed waived, except for lack of jurisdiction, *litis pendentia*, *res judicata*, and prescription, which must be apparent from the pleadings or the evidence on record. In other words, the defense of lack of jurisdiction over the subject matter may be raised at any stage of the proceedings, even for the first time on appeal. In fact, the court may *motu proprio* dismiss a complaint at any time when it appears from the pleadings or the evidence on record that lack of jurisdiction exists.

3. CIVIL LAW; OWNERSHIP; IN AN ACTION TO RECOVER, THE PLAINTIFF IS DUTY-BOUND TO CLEARLY IDENTIFY THE LAND SOUGHT TO BE RECOVERED, IN ACCORDANCE WITH THE TITLE ON WHICH HE ANCHORS HIS RIGHT OF OWNERSHIP AND HIS FAILURE TO ESTABLISH THE IDENTITY OF THE PROPERTY CLAIMED IS FATAL TO HIS CASE.— [A]rticle 434 of the Civil Code states that "[i]n an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim." The plaintiff, therefore, is duty-bound to clearly identify the land sought to be recovered, in accordance with the title on which he anchors his right of ownership. It bears stressing that the failure of the plaintiff to establish the identity of the property claimed is fatal to his case. In this case, petitioners failed to identify the property they seek to recover as they failed to describe the location, the area, as well as the boundaries thereof. In fact, as aptly pointed out by the CA, no survey plan was presented by petitioners to prove that respondent spouses actually encroached upon the 70-square meter portion of petitioners' property. Failing to prove their allegation, petitioners are not entitled to the relief prayed for in their Complaint.

APPEARANCES OF COUNSEL

Ramon M. Bayan for petitioners.
Judith Erna G. Lumaban Querijero for respondents.

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D E C I S I O N

DEL CASTILLO, *J.*:

Jurisdiction over the subject matter is conferred by law and is determined by the material allegations of the complaint.[1] Thus, it cannot be acquired through, or waived by, any act or omission of the parties;[2] nor can it be cured by their silence, acquiescence, or even express consent.[3]

This Petition for Review on *Certiorari*[4] under Rule 45 of the Rules of Court assails the Decision[5] dated December 4, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 72845.

Factual Antecedents

Sometime in the 1960's, Telesforo Julao (Telesforo)[6] filed before the Department of Environment and Natural Resources (DENR), Baguio City, two Townsite Sales Applications (TSA), TSA No. V-2132 and TSA No. V-6667.[7] Upon his death on June 1, 1971, his applications were transferred to his heirs.[8]

On April 30, 1979,[9] Solito Julao (Solito) executed a Deed of Transfer of Rights,[10] transferring his hereditary share in the

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[1] *Padlan v. Dinglasan*, G.R. No. 180321, March 20, 2013, 694 SCRA 91, 98.

[2] *Heirs of Julian Dela Cruz v. Heirs of Alberto Cruz*, 512 Phil. 389, 400 (2005).

[3] *Peralta-Labrador v. Bugarin*, 505 Phil. 409, 415 (2005).

[4] *Rollo*, pp. 8-24.

[5] CA *rollo*, pp. 61-71; penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Portia Aliño-Hormachuelos and Amelita G. Tolentino.

[6] Married to Maria Serrano Julao, (also referred to as Maria Consolacion Serrano Julao in some parts of the records), who died on July 15, 1960; *rollo*, p. 71.

[7] *Id.* at 12.

[8] *Id.*

[9] Erroneously dated as April 3, 1979 in petitioners' Complaint; *id.* at 40.

[10] *Id.* at 48-49.

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property covered by TSA No. V-6667 to respondent spouses Alejandro and Morenita De Jesus. In 1983, respondent spouses constructed a house on the property they acquired from Solito.[11] In 1986, Solito went missing.[12]

On March 15, 1996, the DENR issued an Order: Rejection and Transfer of Sales Rights,[13] to wit:

> WHEREFORE, premises considered and it appearing that herein applicant is a holder of two (2) applications in violation with established policy in the disposition [of] public lands in the City of Baguio, TSA V-6667 is hereby ordered dropped from the records. Accordingly, it is henceforth ordered that TSA 2132 in the name of TELESFORO JULAO be, as [it is] hereby transferred to the heirs of TELESFORO JULAO, represented by ANITA *VDA. DE* ENRIQUEZ, and as thus transferred, the same shall continue to be given due course. For convenience of easy reference, it is directed that the [pertinent] records be consolidated in the name of the latter.
>
> SO ORDERED.[14]

Consequently, on December 21, 1998, Original Certificate of Title (OCT) No. P-2446,[15] covering a 641-square meter property, was issued in favor of the heirs of Telesforo.[16]

On March 2, 1999, petitioners Anita Julao *vda. de* Enriquez, Sonia J. Tolentino and Roderick Julao,[17] representing themselves to be the heirs of Telesforo, filed before the Regional Trial Court (RTC), Baguio City, a Complaint for Recovery of Possession of Real Property,[18] docketed as Civil

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[11] *Id*. at 71.

[12] *Id.*

[13] *Id*. at 45.

[14] *Id.*

[15] *Id*. at 44.

[16] *Id*. at 71.

[17] Petitioner Roderick Julao is the son of Rogelio Julao, one of the children of Telesforo Julao and Maria Consolacion Serrano Julao.

[18] *Rollo*, pp. 37-43.

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Case No. 4308-R,[19] against respondent spouses. Petitioners alleged that they are the true and lawful owners of a 641-square meter parcel of land located at Naguilian Road, Baguio City, covered by OCT No. P-2446;[20] that the subject property originated from TSA No. V-2132;[21] that respondent spouses' house encroached on 70 square meters of the subject property;[22] that on August 4, 1998, petitioners sent a demand letter to respondent spouses asking them to return the subject property;[23] that respondent spouses refused to accede to the demand, insisting that they acquired the subject property from petitioners' brother, Solito, by virtue of a Deed of Transfer of Rights;[24] that in the Deed of Transfer of Rights, Solito expressly transferred in favor of respondent spouses his hereditary share in the parcel of land covered by TSA No. V-6667;[25] that TSA No. V-6667 was rejected by the DENR;[26] and that respondent spouses have no valid claim over the subject property because it is covered by a separate application, TSA No. V-2132.[27]

Respondent spouses filed a Motion to Dismiss[28] on the ground of prescription, which the RTC denied for lack of merit.[29] Thus, they filed an Answer[30] contending that they are the true and lawful owners and possessors of the subject property;[31] that

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[19] Raffled to Branch 60 of the RTC of Baguio City.

[20] *Rollo*, pp. 37-38.

[21] *Id*. at 38.

[22] *Id*. at 39.

[23] *Id.*

[24] *Id*. at 39-40.

[25] *Id*. at 40.

[26] *Id.*

[27] *Id.*

[28] *Id*. at 51-52.

[29] *Id*. at 69.

[30] *Id*. at 53-55.

[31] *Id*. at 53-54.

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they acquired the said property from petitioners' brother, Solito;[32] and that contrary to the claim of petitioners, TSA No. V-6667 and TSA No. V-2132 pertain to the same property.[33]

During the trial, petitioners disputed the validity of the Deed of Transfer of Rights executed by Solito. They presented evidence to show that Telesforo submitted two applications, TSA No. V-2132 and TSA No. V-6667.[34] The first one, TSA No. V-2132, resulted in the issuance of OCT No. P-2446 in favor of the heirs of Telesforo, while the second one, TSA No. V-6667, was dropped from the records.[35] They also presented evidence to prove that Solito had no hereditary share in the estate of Telesforo because Solito was not Telesforo's biological son, but his stepson, and that Solito's real name was Francisco Bognot.[36]

After petitioners rested their case, respondent spouses filed a Motion for Leave of Court to File a Demurrer to Evidence.[37] The RTC, however, denied the Motion.[38]

The heirs of Solito then moved to intervene and filed an Answer-In-Intervention,[39] arguing that their father, Solito, is a legitimate son of Telesforo and that Solito sold his hereditary share in the estate of his father to respondent spouses by virtue of a Deed of Transfer of Rights.[40]

To refute the evidence presented by petitioners, respondent spouses presented two letters from the DENR: (1) a letter dated April 27, 1999 issued by Amando I. Francisco, the Officer-In-

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[32] *Id.*

[33] *Id*. at 54.

[34] *Id*. at 71.

[35] *Id.*

[36] *Id*. at 72.

[37] *Id*. at 70.

[38] *Id.*

[39] *Id*. at 65-67.

[40] *Id*. at 66.

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Charge of CENRO-Baguio City, stating that "it can be concluded that TSA No. V-2132 and TSA No. V-6667 referred to one and the same application covering one and the same lot;"[41] and (2) a letter[42] dated September 30, 1998 from the DENR stating that "the land applied for with assigned number TSA No. V-2132 was renumbered as TSA No. V-6667 as per 2nd Indorsement dated November 20, 1957 x x x."[43] They also presented two affidavits,[44] both dated August 31, 1994, executed by petitioners Sonia Tolentino and Roderick Julao,[45] acknowledging that Solito was their co-heir and that he was the eldest son of Telesforo.[46]

Ruling of the Regional Trial Court

On August 10, 2001, the RTC rendered a Decision[47] in favor of petitioners. The RTC found that although petitioners failed to prove their allegation that Solito was not an heir of Telesforo,[48] they were nevertheless able to convincingly show that Telesforo filed with the DENR two applications, covering two separate parcels of land, and that it was his first application, TSA No. V-2132, which resulted in the issuance of OCT No. P-2446.[49] And since what Solito transferred to respondent spouses was his hereditary share in the parcel of land covered by TSA No. V-6667, respondent spouses acquired no right over the subject property, which was derived from a separate application, TSA No. V-2132.[50] Thus, the RTC disposed of the case in this wise:

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[41] *Id*. at 72.

[42] *Id.* at 60.

[43] CA *rollo*, pp. 69.

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

[45] Petitioner Roderick Julao and his mother, Josefina Julao, executed a Joint Affidavit.

[46] *Rollo*, pp. 72-74.

[47] *Id*. at 68-75; penned by Judge Edilberto T. Claravall.

[48] *Id*. at 73-74.

[49] *Id*. at 74.

[50] *Id*. at 74-75.

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WHEREFORE, premises considered, judgment is hereby rendered in favor of the [petitioners] and against the [respondents] who are hereby ordered to restore the possession of the land in question consisting of an area of 70 square meters, more or less, which is a portion of the land covered by [OCT] No. P-2446. The [respondents] are ordered to remove the house and/or other improvements that they constructed over the said parcel of land and to vacate the same upon the finality of this decision.

SO ORDERED.[51]

Ruling of the Court of Appeals

Aggrieved, respondent spouses elevated the case to the CA.

On December 4, 2006, the CA reversed the ruling of the RTC. The CA found the Complaint dismissible on two grounds: (1) failure on the part of petitioners to identify the property sought to be recovered; and (2) lack of jurisdiction. The CA noted that petitioners failed to pinpoint the property sought to be recovered.[52] In fact, they did not present any survey plan to show that respondent spouses actually encroached on petitioners' property.[53] Moreover, the CA was not fully convinced that the two applications pertain to two separate parcels of land since respondent spouses were able to present evidence to refute such allegation.[54] The CA likewise pointed out that the Complaint failed to establish that the RTC had jurisdiction over the case as petitioners failed to allege the assessed value of the subject property.[55] Thus:

WHEREFORE, premises considered, the appeal is GRANTED. The decision appealed from is REVERSED and SET ASIDE. The complaint is DISMISSED.

SO ORDERED.[56]

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[51] *Id*. at 75.

[52] CA *rollo*, pp. 65-66.

[53] *Id*. at 65.

[54] *Id*. at 68-69.

[55] *Id*. at 69-70.

[56] *Id*. at 71.

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Issues

Hence, petitioners filed the instant Petition for Review on *Certiorari*, raising the following errors:

I

THE [CA] COMMITTED REVERSIBLE ERROR IN RULING THAT PETITIONERS FAILED TO PROVE THE IDENTITY OF THE PROPERTY IN QUESTION.

II

THE [CA] COMMITTED REVERSIBLE ERROR IN RULING THAT THE TRIAL COURT DID NOT ACQUIRE JURISDICTION OVER THE COMPLAINT.[57]

At this juncture, it must be mentioned that in the Resolution[58] dated March 19, 2007, we required respondent spouses to file their Comment to the Petition which they failed to comply with. Thus, in the Resolution[59] dated March 11, 2013, we dispensed with the filing of respondent spouses' Comment. At the same time, we required petitioners to manifest whether they are willing to submit the case for resolution based on the pleadings filed. To date, petitioners have not done so.

Our Ruling

The Petition lacks merit.

The assessed value must be alleged in the complaint to determine which court has jurisdiction over the action.

Jurisdiction as we have said is conferred by law and is determined by the allegations in the complaint, which contains the concise statement of the ultimate facts of a plaintiff's cause of action.[60]

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[57] *Rollo*, p. 14.

[58] *Id*. at 77.

[59] *Id*. at 174.

[60] *Padlan v. Dinglasan*, *supra* note 1.

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Section 19(2) and Section 33(3) of *Batas Pambansa Blg*. 129, as amended by Republic Act No. 7691, provide:

SEC. 19. Jurisdiction in Civil Cases. — Regional Trial Courts shall exercise exclusive original jurisdiction:

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(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;

x x x x x x x x x

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.

Based on the foregoing, it is clear that in an action for recovery of possession, the assessed value of the property sought to be recovered determines the court's jurisdiction.[61]

In this case, for the RTC to exercise jurisdiction, the assessed value of the subject property must exceed ₱20,000.00. Since

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[61] *Bernardo v. Heirs of Eusebio Villegas,* G.R. No. 183357, March 15, 2010, 615 SCRA 466, 472.

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petitioners failed to allege in their Complaint the assessed value of the subject property, the CA correctly dismissed the Complaint as petitioners failed to establish that the RTC had jurisdiction over it. In fact, since the assessed value of the property was not alleged, it cannot be determined which trial court had original and exclusive jurisdiction over the case.

Furthermore, contrary to the claim of petitioners, the issue of lack of jurisdiction was raised by respondents in their Appellant's Brief.[62] And the fact that it was raised for the first time on appeal is of no moment. Under Section 1,[63] Rule 9 of the Revised Rules of Court, defenses not pleaded either in a motion to dismiss or in the answer are deemed waived, except for lack of jurisdiction, *litis pendentia*, *res judicata*, and prescription, which must be apparent from the pleadings or the evidence on record. In other words, the defense of lack of jurisdiction over the subject matter may be raised at any stage of the proceedings, even for the first time on appeal.[64] In fact, the court may *motu proprio* dismiss a complaint at any time when it appears from the pleadings or the evidence on record that lack of jurisdiction exists.[65]

In an action to recover, the property must be identified.

Moreover, Article 434 of the Civil Code states that "[i]n an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim." The plaintiff, therefore,

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[62] CA *rollo*, p. 26.

[63] Section 1. *Defenses and objections not pleaded*. — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

[64] *Heirs of Jose Fernando v. De Belen*, G.R. No. 186366, July 3, 2013, 700 SCRA 556, 562.

[65] *Id.*

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is duty-bound to clearly identify the land sought to be recovered, in accordance with the title on which he anchors his right of ownership.[66] It bears stressing that the failure of the plaintiff to establish the identity of the property claimed is fatal to his case.[67]

In this case, petitioners failed to identify the property they seek to recover as they failed to describe the location, the area, as well as the boundaries thereof. In fact, as aptly pointed out by the CA, no survey plan was presented by petitioners to prove that respondent spouses actually encroached upon the 70-square meter portion of petitioners' property.[68] Failing to prove their allegation, petitioners are not entitled to the relief prayed for in their Complaint.

All told, we find no error on the part of the CA in dismissing the Complaint for lack of jurisdiction and for failing to identify the property sought to be recovered.

WHEREFORE, the Petition is hereby **DENIED**. The Decision dated December 4, 2006 of the Court of Appeals in CA-G.R. CV No. 72845 is hereby **AFFIRMED**.

SO ORDERED.

Carpio, Acting C.J. (Chairperson),[*] *Brion, Mendoza,* and *Leonen, JJ.,* concur.

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[66] *Dr. Seriña v. Caballero*, 480 Phil. 277, 287(2004).

[67] *Id*. at 287-288; and *Spouses Divinagracia v. Cometa*, 518 Phil. 79, 89 (2006).

[68] CA *rollo*, p. 65.

[*] Per Special Order No. 1803 dated September 24, 2014.