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FIRST DIVISION

[G.R. No. 172217. September 18, 2009]

SPOUSES LYDIA FLORES-CRUZ and REYNALDO I. CRUZ, *petitioners, vs.* **SPOUSES LEONARDO and ILUMINADA GOLI-CRUZ, SPOUSES RICO and FELIZA DE LA CRUZ, SPOUSES BOY and LANI DE LA CRUZ, ZENAIDA A. JACINTO and ROGELIO DE LOS SANTOS,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JURISDICTION; NATURE OF THE ACTION IS DETERMINED BY THE ALLEGATIONS IN THE COMPLAINT AND THE LAW AT THE TIME ACTION WAS COMMENCED.— It is axiomatic that the nature of the action – on which depends the question of whether a suit is within the jurisdiction of the court – is determined solely by the allegations in the complaint and the law at the time the action was commenced. Only facts alleged in the complaint can be the basis for determining the nature of the action and the court's competence to take cognizance of it. One cannot advert to anything not set forth in the complaint, such as evidence adduced at the trial, to determine the nature of the action thereby initiated.

2. ID.; SPECIAL CIVIL ACTIONS; UNLAWFUL DETAINER; NECESSARY ALLEGATIONS OF THE COMPLAINT; CASE AT BAR.— The necessary allegations in a complaint for ejectment are set forth in Section 1, Rule 70 of the Rules of Court. Petitioners alleged that the former owner (Estanislao, their predecessor) allowed respondents to live on the land. They also stated that they purchased the property on December 15, 1999 and then found respondents occupying the property. Yet they demanded that respondents vacate only on March 2, 2001. It can be gleaned from their allegations that they had in fact permitted or tolerated respondents' occupancy. Based on the allegations in petitioners' complaint, it is apparent that such is a complaint for unlawful detainer based on possession by tolerance of the owner. It is a settled rule that in order to justify such an action, the owner's permission or tolerance must be

Supreme Court E-Library

present at the beginning of the possession. Such jurisdictional facts are present here.

3. ID.; CIVIL PROCEDURE; REPUBLIC ACT NO. 7691; JURISDICTION; EXPANDED JURISDICTION OF THE MUNICIPAL TRIAL COURT; INCLUDES *ACCION PUBLICIANA* AND *ACCION REIVINDICATORIA*, DEPENDING ON THE ASSESSED VALUE OF THE PROPERTY.— There is another reason why petitioners' complaint was not a proper action for recovery of possession cognizable by the RTC. It is no longer true that all cases of recovery of possession or *accion publiciana* lie with the RTC regardless of the value of the property. When the case was filed in 2001, Congress had already approved Republic Act No. 7691 which expanded the MTC's jurisdiction to include other actions involving title to or possession of real property (*accion publiciana* and *reivindicatoria*) where the assessed value of the property does not exceed ₱20,000 (or ₱50,000, for actions filed in Metro Manila). Because of this amendment, the test of whether an action involving possession of real property has been filed in the proper court no longer depends solely on the type of action filed but also on the assessed value of the property involved. More specifically, since MTCs now have jurisdiction over *accion publiciana* and *accion reivindicatoria* (depending, of course, on the assessed value of the property), jurisdiction over such actions has to be determined on the basis of the assessed value of the property.

4. ID.; ID.; ID.; ID.; ISSUE OF ASSESSED VALUE AS A JURISDICTIONAL ELEMENT IN *ACCION PUBLICIANA* MUST BE RAISED BY THE PARTIES; CASE AT BAR.— This issue of assessed value as a jurisdictional element in *accion publiciana* was not raised by the parties nor threshed out in their pleadings. Be that as it may, the Court can *motu proprio* consider and resolve this question because jurisdiction is conferred only by law. It cannot be acquired through, or waived by, any act or omission of the parties. To determine which court (RTC or MTC) has jurisdiction over the action, the complaint must allege the assessed value of the real property subject of the complaint or the interest thereon. The complaint did not contain any such allegation on the assessed value of the property. There is no showing on the face of the complaint that the RTC had jurisdiction over the action of petitioners.

Supreme Court E-Library

Indeed, absent any allegation in the complaint of the assessed value of the property, it cannot be determined whether it is the RTC or the MTC which has original and exclusive jurisdiction over the petitioners' action.

5. ID.; ID.; ID.; ID.; REGIONAL TRIAL COURT; NO JURISDICTION IN CASE AT BAR; EXPLAINED.— x x x [T]he complaint was filed (August 6, 2001) within one year from the demand to vacate was made (March 2, 2001). Petitioners' dispossession had thus not lasted for more than one year to justify resort to the remedy of *accion publiciana*. Since petitioners' complaint made out a case for unlawful detainer which should have been filed in the MTC and it contained no allegation on the assessed value of the subject property, the RTC seriously erred in proceeding with the case. The proceedings before a court without jurisdiction, including its decision, are null and void. It follows that the CA was correct in dismissing the case.

APPEARANCES OF COUNSEL

Cresenciano C. Santiago for petitioners.
Natividad Law Office for respondents.

R E S O L U T I O N

CORONA, *J.*:

This is a petition for review on *certiorari*[1] of the August 23, 2005 decision[2] and April 5, 2006 resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 81099.

On December 15, 1999,[4] petitioner spouses Lydia Flores-Cruz and Reynaldo I. Cruz purchased a 5,209-sq. m. lot situated

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[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Godardo A. Jacinto (retired) and Rosalinda Asuncion-Vicente of the Second Division of the Court of Appeals. *Rollo*, pp. 18-24.

[3] *Id.*, pp. 24-25.

[4] *Id.*, p. 85.

Supreme Court E-Library

in Pulong Yantok, Angat, Bulacan[5] from Lydia's siblings, namely, Teresita, Ramon and Daniel (all surnamed Flores). Their father, Estanislao Flores, used to own the land as an inheritance from his parents Gregorio Flores and Ana Mangahas. Estanislao died in 1995. Estanislao and, later, petitioners paid the realty taxes on the land although neither of them occupied it. Petitioners sold portions thereof to third parties sometime in September 2000.[6]

After the death of Estanislao, petitioners found out that respondent spouses Leonardo and Iluminada Goli-Cruz *et al.* were occupying a section of the land. Initially, petitioner Lydia talked to respondents and offered to sell them the portions they were occupying but the talks failed as they could not agree on the price. On March 2, 2001, petitioners' lawyer sent respondents letters asking them to leave. These demands, however, were ignored. Efforts at *barangay* conciliation also failed.[7]

Respondents countered that their possession of the land ranged from 10 to 20 years. According to respondents, the property was alienable public land.[8] Prior to petitioners' demand, they had no knowledge of petitioners' and their predecessor's ownership of the land. They took steps to legitimize their claim and paid the realty tax on their respective areas for the taxable year 2002. Subsequently, however, the tax declarations issued to them were cancelled by the Provincial Assessors Office and re-issued to petitioners.[9]

On August 6, 2001, petitioners filed a complaint for recovery of possession of the land in the Regional Trial Court (RTC) of

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[5] Lot 30, Cad. 349. The property was declared under Property Index No. 99-1010-00931 of the Municipal Assessors Office of Angat, Bulacan. *Id.*, p. 7.

[6] *Id.*, pp. 19-20.

[7] *Id.*, pp. 19 and 22.

[8] Respondents made inquiries from the Municipal Assessors Office (in Pandi, Bulacan), Provincial Assessors Office and CENTRO Tabang, Guiguinto, Bulacan as to the status of the land. Information was given that it was alienable public land. *Id.*, p. 20.

[9] *Id.*, pp. 19-20.

Supreme Court E-Library

Malolos, Bulacan, Branch 82.[10] Respondents filed a motion to dismiss claiming, among others, that the RTC had no jurisdiction over the case as it should have been filed in the Municipal Trial Court (MTC) since it was a summary action for ejectment under Rule 70 of the Rules of Court. The RTC denied the motion in an order dated November 9, 2001.[11]

After trial, the RTC rendered a decision dated October 3, 2003 in favor of petitioners and ordered respondents to vacate the land, and pay attorney's fees and costs of suit.[12]

On appeal by respondents to the CA, the latter, in a decision dated August 23, 2005, ruled that the RTC had no jurisdiction over the action for recovery of possession because petitioners had been dispossessed of the property for less than a year. It held that the complaint was one for unlawful detainer which should have been filed in the MTC. Thus, it ruled that the RTC decision was null and void. Reconsideration was denied on April 5, 2006.

Hence, this petition.

The issue for our resolution is whether the RTC had jurisdiction over this case.

The petition has no merit.

It is axiomatic that the nature of the action – on which depends the question of whether a suit is within the jurisdiction of the court – is determined solely by the allegations in the complaint[13] and the law at the time the action was commenced.[14] Only facts alleged in the complaint can be the basis for determining the nature of the action and the court's competence to take

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[10] Docketed as Civil Case No. 516-M-2001. *Id.*, p. 51.

[11] *Id.*, pp. 53 and 82.

[12] *Id.*, pp. 18-19.

[13] *Barbosa v. Hernandez*, G.R. No. 133564, 10 July 2007, 527 SCRA 99, 103, citing *Dimo Realty & Development, Inc. v. Dimaculangan*, G.R. No. 130991, 11 March 2004, 425 SCRA 376 and *Ching v. Malaya*, G.R. No. 56449, 31 August 1987, 153 SCRA 413.

[14] *Laresma v. Abellana*, 484 Phil. 766, 777 (2004).

Supreme Court E-Library

cognizance of it.[15] One cannot advert to anything not set forth in the complaint, such as evidence adduced at the trial, to determine the nature of the action thereby initiated.[16]

Petitioners' complaint contained the following allegations:

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3. That, [petitioners] are owners of a piece of land known as Lot 30-part, Cad. 349 located at Pulong Yantok, Angat, Bulacan as shown by a copy of Tax Declaration No. 99-01010-01141 made [an] integral [part] hereof as Annex "A";

4. That, said Lot No. 30-part was acquired through [purchase] on December 15, 1999, as shown by [a] Deed of Absolute Sale of Unsubdivided Land made [an] integral [part] hereof as Annex "B, B-1 & B-2";

5. That, when [petitioners] inspected subject property, they found it to be occupied by at least five (5) households under the names of herein [respondents], who, when asked about their right to stay within the premises replied that they were allowed to live thereat by the deceased former owner;

6. That, [petitioners] informed the [respondents] that as far as they are concerned, the latter's occupancy was not communicated to them so it follows that they do not have any right to remain within subject piece of land;

7. That, [respondents] seem to be unimpressed and made no move to leave the premises or to come to terms with the [petitioners] so much so that [the latter] asked their lawyer to write demand letters to each and everyone of the [respondents] as shown by the demand letters dated March 2, 2001 made integral part hereof as Annex "C, C-1, C-2, C-3, & C-4";

8. That, there is no existing agreement or any document that illustrate whatever permission, if any were given, that the [respondents] presented to [petitioners] in order to legitimize the claim;

9. That, it is clear that [respondents] occupy portions of subject property either by stealth, stratagem, force or any unlawful manner which are just bases for ejectment;

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[15] *Barbosa v. Hernandez*, *supra* note 13.

[16] *Id.*

Supreme Court E-Library

x x x x x x x x x [17]

According to the CA, considering that petitioners claimed that respondents were possessors of the property by mere tolerance only and the complaint had been initiated less than a year from the demand to vacate, the proper remedy was an action for unlawful detainer which should have been filed in the MTC.

We agree.

The necessary allegations in a complaint for ejectment are set forth in Section 1, Rule 70 of the Rules of Court.[18] Petitioners alleged that the former owner (Estanislao, their predecessor) allowed respondents to live on the land. They also stated that they purchased the property on December 15, 1999 and then found respondents occupying the property. Yet they demanded that respondents vacate only on March 2, 2001. It can be gleaned from their allegations that they had in fact permitted or tolerated respondents' occupancy.

Based on the allegations in petitioners' complaint, it is apparent that such is a complaint for unlawful detainer based on possession by tolerance of the owner.[19] It is a settled rule that in order to justify such an action, the owner's permission or tolerance must

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[17] *Rollo*, pp. 84-85.

[18] Section 1. *Who may institute proceedings, and when.* – Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, **or a lessor, vendor or vendee or other person, against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied**, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, **may, at any time within one (1) year** after such unlawful deprivation or withholding of possession, bring an action in the proper [MTC] against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs. (Emphasis supplied)

[19] *Dela Cruz v. Court of Appeals*, G.R. No. 139442, 6 December 2006, 510 SCRA 103, 121.

Supreme Court E-Library

be present at the beginning of the possession.[20] Such jurisdictional facts are present here.

There is another reason why petitioners' complaint was not a proper action for recovery of possession cognizable by the RTC. It is no longer true that all cases of recovery of possession or *accion publiciana* lie with the RTC regardless of the value of the property.[21]

When the case was filed in 2001, Congress had already approved Republic Act No. 7691[22] which expanded the MTC's jurisdiction to include other actions involving title to or possession of real property (*accion publiciana* and *reivindicatoria*)[23] where the assessed value of the property does not exceed ₱20,000 (or ₱50,000, for actions filed in Metro Manila).[24] Because of

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[20] *Heirs of Melchor v. Melchor*, 461 Phil. 437, 445 (2003), citing *Go, Jr. v. Court of Appeals*, 415 Phil. 172 (2001).

[21] *Quinagoran v. Court of Appeals*, G.R. No. 155179, 24 August 2007, 531 SCRA 104, 111.

[22] An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, [MTCs], and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa Blg. 129. It amended [BP 129] (Judiciary Reorganization Act of 1980), was approved on March 25, 1994 and took effect on April 15, 1994.

[23] *Laresma v. Abellana*, *supra* note 14, p. 782.

[24] SEC. 19. *Jurisdiction in civil cases.* — [RTCs] 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 for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, [MTCs], and Municipal Circuit Trial Courts.

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

Supreme Court E-Library

this amendment, the test of whether an action involving possession of real property has been filed in the proper court no longer depends solely on the type of action filed but also on the assessed value of the property involved.[25] More specifically, since MTCs now have jurisdiction over *accion publiciana* and *accion reivindicatoria* (depending, of course, on the assessed value of the property), jurisdiction over such actions has to be determined on the basis of the assessed value of the property.[26]

This issue of assessed value as a jurisdictional element in *accion publiciana* was not raised by the parties nor threshed out in their pleadings.[27] Be that as it may, the Court can *motu proprio* consider and resolve this question because jurisdiction is conferred only by law.[28] It cannot be acquired through, or waived by, any act or omission of the parties.[29]

To determine which court (RTC or MTC) has jurisdiction over the action, the complaint must allege the assessed value of the real property subject of the complaint or the interest thereon.[30] The complaint did not contain any such allegation

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(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.

[25] *Barbosa v. Hernandez*, *supra* note 13, p. 105.

[26] *Id.*; *De Barrera v. Heirs of Vicente Legaspi*, G.R. No. 174346, 12 September 2008.

[27] *PAG-ASA Fishpond Corporation v. Jimenez*, G.R. No. 164912, 18 June 2008, 555 SCRA 111, 130, citations omitted.

[28] *Republic of the Phil. v. Estipular*, 391 Phil. 211, 218 (2000).

[29] *Suarez v. Saul*, G.R. No. 166664, 20 October 2005, 473 SCRA 628, 637.

[30] *Laresma v. Abellana*, *supra* note 14, pp. 782-783.

Supreme Court E-Library

on the assessed value of the property. There is no showing on the face of the complaint that the RTC had jurisdiction over the action of petitioners.[31] Indeed, absent any allegation in the complaint of the assessed value of the property, it cannot be determined whether it is the RTC or the MTC which has original and exclusive jurisdiction over the petitioners' action.[32]

Moreover, the complaint was filed (August 6, 2001) within one year from the demand to vacate was made (March 2, 2001). Petitioners' dispossession had thus not lasted for more than one year to justify resort to the remedy of *accion publiciana*.[33]

Since petitioners' complaint made out a case for unlawful detainer which should have been filed in the MTC and it contained no allegation on the assessed value of the subject property, the RTC seriously erred in proceeding with the case. The proceedings before a court without jurisdiction, including its decision, are null and void.[34] It follows that the CA was correct in dismissing the case.

WHEREFORE, the petition is *DENIED*.

Costs against petitioners.

SO ORDERED.

Puno, C.J. (Chairperson), Chico-Nazario,[*] *Leonardo-de Castro,* and *Bersamin, JJ.,* concur.

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[31] *Id.,* p. 782.

[32] *Quinagoran v. Court of Appeals*, *supra* note 21, p. 115.

[33] *De Barrera v. Heirs of Vicente Legaspi*, *supra* note 26; *Gonzaga v. Court of Appeals*, G.R. No. 130841, 26 February 2008, 546 SCRA 532, 542; *Dela Rosa v. Roldan*, G.R. No. 133882, 5 September 2006, 501 SCRA 34, 57; *Hilario v. Salvador*, G.R. No. 160384, 29 April 2005, 457 SCRA 815, 825, citation omitted.

[34] *Id.* There is no estoppel or laches in this case because respondents sought the dismissal of the complaint on the ground of lack of jurisdiction right after it was filed.

[*] Per Special Order No. 698 dated September 4, 2009.