

## PHILIPPINE NATIONAL BANK, PLAINTIFF-APPELLEE, VS. FERNANDO PINEDA, DEFENDANT-APPELLANT.

*G.R. No. L-29748. August 29, 1969*

Ponente: BARREDO, J.

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### BARREDO, J.:

This is an appeal from the decision of the Court of First Instance of Manila in its Civil Case No. 69929,[1] ordering Fernando Pineda (lessee of a certain residential lot in Paco, Manila) to vacate the premises in question and to pay to the lessor, appellee Philippine National Bank (as trustee of the property referred to) back rentals, attorney's fees and costs and the lone question of law posed for resolution concerns the right of a lessee to reimbursement by the lessor of one half (1/2) of the value of useful improvements made, after the termination of a lease under Article 1678 of the Civil Code.

As found by the trial court, the facts are as follows:

"Elisa Quiogue Palma owns parcels of land in Paco, Manila, a portion of which known as 1163-D Meding Street, has been leased by the defendant since 1945 at a monthly rentals of P18.00. The contract of lease is verbal, on a month-to-month basis and of indefinite duration. The defendant has introduced useful improvements in the premises in good faith and with the knowledge and consent of the owner's pre-decessor in interest, Remedios Quiogue Silverio. The improvements consists of a concrete residential house and the filling of the lot with gravel, sand and flastillas', all with an actual value of P18, 000.00.

"The plaintiff is the trustee of Elisa Quiogue Palma's properties. Because the owner wants to use the property for the construction of her own building, the plaintiff, on July 1, 1966, sent to the defendant a notice terminating the lease as of August 31, 1966, asking the defendant to vacate the premises and to remove all the improvements therein on or before August 31, 1966. Despite repeated demands, however, the defendant refused to vacate the premises. Hence, the action for ejectment.

"The parties agree that these are the only issues: (1) Whether or not the defendant is entitled to a reimbursement by the plaintiff of one-half (1/2) of the useful improvements introduced by him; and (2) Whether or not the Court has the power to fix a longer period for the stay of the defendant in the premises, considering that the defendant has occupied the premises since 1945".

Appellant's sole assignment of error is to the effect that "the trial court erred in holding that defendant-appellant is not entitled to reimbursement of one-half of the value of the improvements" made by him in the premises in question. And the gist of his argument is stated thus:

"x x x We take the position that since all the above-named improvements were made in good faith, what with the written consent of the lessor, the reasonable interpretation of Art. 1678 would be that the improvements being permanent in nature the lessee should be reimbursed as a builder in good faith. But if the improvements were made without the knowledge of the lessor, then the lessee takes the risk of losing them if they are permanent improvements. It is in the latter case where the option of appropriating the improvements and paying one-half of their value, or requiring the lessee to remove them is given to the lessor. This is more in

consonance with justice and equity as intended by the Congress. As this Honorable Court so held: that in construing a doubt or ambiguity in a contract of lease, the doubt is always resolved in favor of the lessee and against the landlord (*Cosmopolitan Ballet & Dancing School vs. Teodoro*, G.R. Nos. L-7838-39, Nov. 10, 1942, 2 O. G. (1943) 56.)

"Defendant-appellant's residential house valued at P18, 000.00 is an improvement within the legal contemplation of Art. 1678. It was held so by this Honorable Court in *Aringo v. Asenas*, 14 Phil. 263, because it adds value to the property. In *Robles et al. vs. Lizarraga Hermanos*, 42 Phil. 584, even a garage had been held to add value to a property to bring it within the legal meaning of 'improvement' as contemplated by Art. 1678 of the New Civil Code". (Pp. 8-9, Appellant's brief)

Appellant's contention is plainly untenable. The legal provision involved provides:

"Art. 1678. If the lessee makes, in good faith, useful improvements which are suitable to the use for which the lease is intended, without altering the form or substance of the property leased, the lessor upon the termination of the lease shall pay to the lessee one-half of the value of the improvements at that time. Should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby. He shall not, however, cause any more impairment upon the property leased than is necessary.

"x x x" (Underscoring supplied)

The language of this provision is so clear, it needs no further elucidation. Indeed, the flaw in appellant's posture is two-fold. He attempts to read into the law what is not there while he ignores precisely the portions thereof applicable to his case. For instance, on page 5 of his brief, he quotes Article 1678 as follows:

"Art. 1678 - If the lessee makes in good faith useful improvements which are suitable to the use for which the lease is intended, the lessor upon the termination of the lease shall pay the lessee one-half of the value of the improvements at that time x x x".

At once it can be seen that he has omitted two very pertinent parts of the provision. First, the provision, as can be seen earlier above, refers to improvements made by the lessee "without altering the form or substance of the property leased". Second, the latter part of the said article provides very explicitly that "should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby". And further, that the lessee "shall not, however, cause any more impairment upon the property leased than is necessary". As these parts are precisely the ones that concern the case at bar, in a manner adverse to appellant's position, their omission cannot be considered less than malicious and does not speak well of appellant's faith in his cause. Indeed, it must be emphasized that this Court does not look with favor at this kind of argumentation.

This Court has already held in *Lapeña and Pineda v. Morfe et al.*, 101 Phil. 997, that "article 1678 of the new Civil Code gives the lessor and not the lessee the option provided therein". Besides, the qualification which appellant wants to introduce regarding the permanent character of the improvements has no basis in the provision. Nor is the supposed good faith of appellant of any moment. It is well settled that the concept of possessor in good faith for purposes of entitling a possessor to reimbursement for improvements made by him on the property possessed does not apply to a lessee's right regarding such improvements upon the termination of the contract of lease. In *Lopez Inc. vs. Phil. & Eastern Trading Co., Inc.*,<sup>[2]</sup> this Court held:

"Before we conclude, we believe it not only advisable but necessary to clear and resolve the misconception about the scope and extent of the rule or law on a possessor in good faith, under which the defendant and in a way even the trial court had labored. As we have already said, they both thought that a lessee may be considered a possessor in good faith and that improvements introduced by him on the leased premises are to

be regarded as made in good faith. This rule or principle contained in the civil law refers only to party who occupies or possess property in the belief that he is the owner thereof and said good faith ends only when he discovers a flaw in his title so as to reasonably advise or inform him that after all he may not be the legal owner of said property. This principle of possessor in good faith naturally cannot apply to a lessee see he knows that he is not the owner of the leased property. Neither can he deny the ownership or title of his lessor. Knowing that his occupation of the premises continues, only during the life of the lease contract and that he must vacate the property upon termination of the lease or upon the violation by him of any of its terms, he introduces improvements on said property at his own risk in the sense that he cannot recover their value from the lessor, much such reimbursement. His right to improvements introduced by him is expressly governed by Articles 1573 and 487 of the old Civil Code which reads as follows:

"Article 1573. A lessee shall have, with respect to useful and voluntary improvements, the same rights which are granted to usufructuaries".

"Article 487. The usufructuary may make on the property held in usufruct any improvements, useful, or recreative, which he may deem proper, provided he does not change its form or substance; but he shall have no right to be indemnified therefor. He may, however, remove such improvements should it be possible to do so without injury to the property'.

"In the case of *Fojas vs. Velasco*, 51 Phil., 520, this Court said:

"The case is governed not by articles 361 and 453 of the Civil Code as contended by appellants but by articles 1573 and 487 of the same Code, as indicated by appellees. In this connection it need only be recalled that the lessees have been holding the land under a rental contract. Accordingly, upon termination of the lease, the right of the lessees with respect to improvements placed by them on the leased property is determined by article 487, which entitles them to remove the improvements, provided they leave the property in substantially the same condition as when they entered upon it. (*Alburo vs. Villanueva*, 7 Phil., 277; *Cortes vs. Ramos*, 46 Phil., 184 *Rivera vs. Trinidad*, 48 Phil., 396.)'

"Then in the case of *Rivera vs. Trinidad*, 48 Phil., 396 this Court ruled:

"While a tenant was in possession of property under a verbal agreement for occupation for an indefinite time upon payment of a fixed compensation per month the property was sold and the purchaser filed an action for unlawful detainer. Held: That the defendant must be considered as tenant from month-to-month and upon a lease terminable without the necessity of special notice upon the expiration of any month and that the plaintiff was entitled to recover possession.

"The rights of the defendant with respect to the improvements made on the property by him must be governed by Article 487 in relation with Article 1573 of the Civil Code. Under Article 487 the defendant is entitled to remove improvements made by himself so far as it is possible to do so without injury to the property; and this means that he may remove the improvements provided he leaves the property in substantially the same condition as when he entered upon it. Articles 361 and 453 of the Civil Code, which define the rights between the owner of land and builders of improvements thereon in good faith, are not applicable as between landlord and tenant, since the Code supplies specific provisions designed to cover their rights. Besides the tenant cannot be said to be a builder in good faith as he has no pretension to be owner. (*Manresa Com. ed.*, Vol. 4, p. 445)'.  
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"In view of the foregoing, the decision appealed from is hereby modified to the effect that defendant-appellant is not entitled to reimbursement for the value of the improvements introduced by it; that it is ordered to pay to plaintiff-appellant the amount of P2, 200, with interest at the legal rate from the date of the filing of the complaint; and to pay the amount of P300 per month until it actually vacates the premises. Defendant-appellant is however given the right to remove the improvements introduced by it without injury to

the property, under the provisions of Article 487 of the old Civil Code. x x x". (Underscoring Ours)

It is not here overlooked that the above cases were decided under the old Civil Code provisions, and that Article 1678 here invoked is a new provision of the present Civil Code; but it will be noted that the only difference in respect of the right of removal of the improvements by the lessee is that while under the old law, he was under obligation to remove his improvements without doing damage or injury to the property leased, under the provisions of the new Civil Code, the lessee may so remove the improvements he has introduced even though the principal thing may suffer damage thereby. It is worthy of note, however, that both under the old and the new provisions of the Civil Code the lessee has no right to be indemnified of the value of his improvements, except that, under Article 1678, the lessor should pay one-half of their value, if he opts to appropriate them.

It is the judgment of this Court that appellant's appeal is absolutely without merit and purely dilatory. The judgment of the trial court is affirmed, with triple costs against appellant.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano and Teehankee, JJ., concur. Reyes, J., is on official leave of absence.

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[1] Civil Case No. 69929 of the CFI of Manila is an appeal by herein appellee from the judgment of the City Court of Manila ordering his ejectment from the premises in question, etc.

[2] 98 Phil. 348, 353-355. See also *Racasa vs. Susana Realty, Inc.*, G.R. No. L-20330, December 22, 1966, 18 SCRA 1172, 1177-1178.

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