

LAO CHIT, PLAINTIFF AND APPELLEE, VS. SECURITY BANK & TRUST CO. AND CONSOLIDATED INVESTMENT, INC., DEFENDANTS AND APPELLANTS.*G.R. No. L-11028. April 17, 1959*

Ponente: CONCEPCION, J.

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In May, 1949, the Consolidated Investments, Inc., hereafter referred to as the lessor, leased to Domingo T. Dikit part of the lobby, on the ground floor of the Consolidated Building, at Plaza Goiti, Manila, to be used as offices of a proposed Bank of Manila, then being organized by said Dikit and one Jose Silva. Pursuant to the lease contract between the parties (Exhibits 2, 2-A and 2-B), the lessee undertook to construct, at the expense thereof, such walls, partitions and other improvements as may be necessary to make the leased premises suitable for banking purposes, and such partitions and improvements "shall become the property" of the lessor "upon the termination and/or rescission" of said contract. It appears that, pursuant to another contract, entered into in June, 1949, between Dikit and Silva on the one hand, and plaintiff Lao Chit, on the other (Exhibits A-1, A-2 and A-3), the latter furnished the materials and the work for said walls, partitions and improvements, at a total cost of P59,365, payable "as soon as the Bank of Manila opens for business, and is given a permit by the Central Bank." This permit, however, was never issued. The proposed Bank of Manila did not open for business, and the rentals due under said lease contract, at the rate of P5,000 a month, beginning from October, 1949, were not paid. On December 3, 1949, the lessor instituted Civil Case No. 9708 of the Municipal Court of Manila, against Dikit, for unlawful detainer. After appropriate proceedings, said court rendered judgment on March 27, 1950, sentencing Dikit.

"* * * to vacate the premises described in the complaint, and to pay the plaintiff the sum of P10,000.00, under the first cause of action, corresponding rentals due from October to November, 1949, plus the sum of P227.80, under the second cause of action, for electric consumption up to November 30, 1949; plus the rents that will become due from December 1, 1949, at the rate of P5,000.00 per month until the date said defendant finally vacates and surrenders possession to the plaintiff and costs of this suit." (Exhibit 3.)

Dikit appealed from this decision to the Court of First Instance of Manila, where the case was docketed as Civil Case No. 11214 of said court. He, likewise, applied, in the Supreme Court—in Case G. R. No. L-3621, entitled "Domingo Dikit vs. Hon. Ramon Icasiano"—for a writ of certiorari against the municipal judge who had rendered the aforementioned decision in the ejectment case. Said cases No. 11214 and L-3621 were soon dismissed, however, upon agreement of the parties, dated May 22, 1951, whereby Dikit, among other things, relinquished whatever rights he might have to the possession of the leased premises and disclaimed all rights to and over any and all improvements introduced therein while he was in possession thereof.

Prior to said decision, but after the commencement of said Case No. 9708, Lao Chit had filed Civil Case No. 10178 of the Court of First Instance of Manila, against Dikit and Silva, for the recovery of what was due from them by reason of the aforementioned improvements introduced by Lao Chit. On June 30, 1953, judgment was

rendered in said Case No. 10178 the dispositive part of which reads as follows:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants, sentencing the latter to pay the former, jointly and severally, the sum of P59,365.00, which is the total of the claim under the second, third and fourth causes of action, the same to be paid within 15 days from notice, with legal interest from the date of the filing of the complaint until its full payment; and in the event the defendants fail to pay within the period of grace herein fixed, the fixtures herein referred to (which by express agreement of the parties shall remain the plaintiff's property until they are fully paid for) shall be returned to the plaintiff. The defendants shall also pay jointly and severally the plaintiff by way of damages an amount equivalent to 12% of the aforementioned sum of P59,365.00. The defendants shall likewise pay the plaintiff, jointly and severally, another sum equivalent to 25 % of the amounts claimed in the first and sixth causes of action, besides an amount equivalent to six (6%) of the sums due and payable under the second and third causes of action as attorney's fees, with costs against them." (Exhibit A.)

In due course, the corresponding writ of execution (Exhibits D-1 and D-3) of this judgment was subsequently issued. Later on it was returned by the sheriff unsatisfied, with the statement that neither Dikit nor Silva had any property registered in their respective names, and that the whereabouts of Silva was unknown (Exhibits D-2 and D-4). Meanwhile, or on September 10, 1953, Lao Chit brought the present action against the Security Bank and Trust Company (Hereafter referred to as the Bank), to which the lessor had, since July 1, 1951, leased the premises in question (after it had been vacated by Silva), together with the fixtures and improvements introduced therein by Lao Chit. In its complaint, Lao Chit demanded payment of P1,000 a month, by way of rental for the use of said fixtures and improvements by the Bank, in addition to expenses of litigation, attorney's fees and costs. In its answer, the Bank alleged that it held and used said improvements pursuant to its contract of lease with the lessor and that it had paid the rentals due and complied with its other obligations under said contract, and set up a counterclaim for damages. Soon thereafter, or on November 5, 1953, Lao Chit demanded payment of the aforementioned sum of P59,365, plus P1,000 a month from June, 1951, from the lessor, which did not heed the demand, whereupon the complaint herein was, on December 18, 1953, amended to include said lessor as one of the defendants. The latter alleged, in its answer, that the improvements in question were introduced at the initiative and expense of Dikit and Silva, as lessees of the premises above referred to, and that, as permanent fixtures, said improvements form an integral part of the Consolidated Investments Building, and belong to the lessor and owner thereof, not to plaintiff herein, who has no contractual or juridical relation with the lessor. The lessor, likewise, sought to recover, by way of counterclaim, the sum of P50,000, as damages for its inclusion as defendant herein, aside from attorney's fees and costs. In due course, the Court of First Instance of Manila rendered judgment on December 28, 1955, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered, sentencing the defendant, Consolidated Investments, Inc., to pay to the plaintiff the value of the permanent improvements in the sum of P59,365.00, and, together with the defendant, Security Bank and Trust Company, to pay jointly and severally, for the use of the permanent improvements, at the rate of P1 ,000.00 monthly from June, 1951 to July 31, 1954, and thereafter, until January, 1955, by the defendant, Consolidated Investments, Inc., alone, at the same rate, and in both instances, plus legal interest until full payment thereof; in addition, the defendant, Consolidated Investments, Inc., is further ordered to pay to the plaintiff the amount equivalent to 80% of whatever amount is due from it, as reimbursement for plaintiff's litigation expenses, including attorney's contingent fees, aside from moral, nominal, moderate and exemplary damages in the amount of P2,000.00, and the costs of suit.

"Defendants' counterclaims are hereby both dismissed for lack of merits and in view of the above conclusion of the Court."

Their respective motions for reconsideration and new trial having been denied, the defendants have appealed from this decision.

It is apparent to us that the lower court erred in rendering judgment against the Bank. This defendant had occupied and used the premises in question, including the partitions, fixtures and other improvements made therein by Lao Chit, pursuant to a contract of lease entered into with the lessor, the right of which to enter into said contract is not disputed. Moreover, the Bank had paid the rentals and fulfilled its other obligations under said contract. Again, it cannot be denied that the improvements introduced by Lao Chit became property of the lessor, not only because such improvements are permanent in nature and cannot be removed without impairing the building to which they were attached, but, also, because the contract of lease between Dikit and Silva on the one hand, and the lessor, on the other hand, provided explicitly that the latter shall own those improvements "upon the expiration and/or rescission" of said contract, and the same has already been resolved. Although Lao Chit was not a party to said contract, this stipulation is binding upon him, he having introduced said improvements pursuant to his contract with Dikit, from whom he derived, therefore, his right to enter the building and make the improvements. In short, insofar as the construction thereof, Lao Chit was, vis-a-vis the lessor, a mere agent or representative of Dikit and, as such, was privy to the undertakings of Dikit under his contract of lease with the lessor.

The lower court held the latter liable to Lao Chit upon the ground that Lao Chit was a builder in good faith, under the provisions of the Old Civil Code, and under the theory of undue enrichment.

As regards the first ground, Article 361 of the Civil Code of Spain, on which the lower court relied, provides:

"The owner of land on which anything has been built, sown, or planted, in good faith, shall be entitled to appropriate the thing so built, sown, or planted, upon paying the compensation mentioned in Articles 453 and 454, or to compel the person who has built or planted to pay him the value of the land, and the person who sowed thereon to pay the proper rent therefor."

It is well settled, however, that this provision refers to one who builds upon a land which he believes to be his property (Alburo vs. Villanueva, 7 Phil., 277; Cortes vs. Ramos, 46 Phil., 184; Rivera vs. Trinidad, 48 Phil., 396; Fojas vs. Velasco, 51 Phil., 520; Montinola vs. Bantug, 71 Phil., 449-450; Lopez Inc. vs. Philippines & Eastern Trading Co., Inc., 98 Phil., 348; 52 Off. Gaz., 1452). Neither Lao Chit, nor Dikit, claimed the Consolidated Investments Building as his own. Dikit was a mere lessee and Lao Chit was his agent, as such, in the construction of the improvements under consideration. In any event, the Spanish text of said Article 361, which is the original, reads:

"El dueño del terreno en que se edificare, sembrare o plantare de buena fe, tendra derecho a hacer suya la obra, siembra o plantacion, previa la indemnizacion establecida en los articulos 453 y 454, o a obligar al que edifico o planto a pagar el precio del terreno, y al que sembro, la renta correspondiente." (Italics supplied.)

Clearly this provision is limited in its application to "buddings" constructed on another's land or "terreno", not to partitions, railings, counters, shelves and other fixtures made in a building belonging to the owner of the land. Although the verb "edificar" in Spanish is roughly synonymous with "build" in English, the latter is broader in its connotation than the former. Literally, "edificar" is to undertake the construction of an edifice, such as a fort, castle, house, church, market, tower, stadium, barrack, stable or other similar structure. Upon the other hand, one may build a house, as well as a fence, partition, window, door, or even a desk or a chair, but, it would be improper to use the verb "edificar" to describe the making of such fence, partition, window, door, desk or chair. It is apparent, therefore, that Lao Chit is not entitled to the benefits of said Article 361.

The lower court, moreover, said:

"* * * convincing evidence abounds, to wit: that the improvements were made in the presence of, and with the knowledge and consent, and even under the personal supervision, on the part of the duly authorized representative of the defendant, Consolidated Investments, Inc., which owns the building. Thus, it may even be

said that it was the defendant, Consolidated Investments Inc., which had acted in bad faith." (Record on Appeal of Consolidated Investments, Inc., p. 56.)

and quoted, in support thereof, the second paragraph of Article 364 of the Spanish Civil Code, reading:

"Bad faith on the part of the owner is deemed to exist whenever the act has been done in his presence, with his knowledge and tolerance, and without opposition on his part."

The foregoing view is, likewise, untenable. To begin with, this Article 364, like Article 361, involves a person who builds, plants or sows upon a land not knowing that it belongs to another. Inasmuch as, there is no contractual relation between them, their rights are governed by law, not by contract.

Secondly, under his contract of lease with the lessor, Dikit had a legal right to make the improvements in question and the lessor was legally bound to permit Dikit and his agent Lao Chit to enter the leased premises and construct said improvements. Surely, compliance with this valid contractual obligation does not, and cannot, constitute bad faith on the part of the lessor. Upon the other hand, the lessor could not legally object to, or obstruct, the work done by Lao Chit, without being chargeable with bad faith in the performance of said contractual obligation with Dikit.

In order to justify the application of the principle that no one should be permitted to unjustly enrich himself at the expense of another, His Honor the Trial Judge cited Article 356 of the Civil Code of Spain, which provides:

"He who receives fruits is obliged to pay any expenses which may have been incurred by another in the production, gathering, and preservation thereof."

We agree with the lessor that this Article is not in point, for:

(a) Said provision is part of Section I, Chapter II, Title II, Book II, of the Spanish Civil Code, which section regulates the "right of accession with respect to the products of property," and the work done and the improvements introduced by Lao Chit are not "products" of the lessor's property.

(b) Said Article 356 refers to "expenses" of production, gathering and preservation" of fruits received by the owner of a property, not to improvements, whereas the claim of Lao Chit is based upon "improvements" introduced, not "expenses" incurred by him for the "production, gathering and preservation" of fruits. In the language of Manresa:

"* * * el Código exige que el propietario pague al tercer poseedor que fue de la cosa los gastos de producción, y en su caso los de recolección y conservación. El propietario no puede excusarse alegando la mala fe del tercero, porque sea de buena o de mala fe, lo cierto es que este ha hecho un gasto, no solo útil para el propietario, sino necesario, y sin el cual el propietario no hubiera obtenido frutos de su fundo, resultando además que, de no mediar indemnización, se consagraria el injusto principio de que uno puede enriquecerse a costa y con dano de otro. Para afirmarse por completo en esta opinión debe concordarse el artículo que comentamos con los 452 a 456, relativos a los efectos de la posesión de buena y mala fe, y que no examinamos ahora porque el asunto se trata luego con mas detalles.

"Los gastos de producción y demás, para que puedan conceptuarse reembolsables por el propietario en el caso que suponemos, deben tener dos caracteres: primero, que estén dedicados a la producción anual; es decir, que no se trata en este supuesto de las bonificaciones generadas del fundo. Semejantes bonificaciones en— Iran en la categoría de las mejoras, que se regulan en otro lugar del Código (al tratar de la posesión), y segundo, que no sean superfluos, excesivos o de puro lujo, sino que deben ser hechos en aquella medida natural que la condición del cultivo o trabajo de que se trata exige." (3 Manresa [6th ed.], 196; Italics supplied.)

(c) The right to recover under the principle of undue enrichment is justifiable under Article 1887 of the Spanish

Civil Code, reading:

"Quasi contracts are licit and purely voluntary acts which create an obligation on the part of the actor in favor of a third person, and, at times, a reciprocal obligation between the parties concerned."

Its counterpart in the Civil Code of the Philippines is Article 2142, which we quote:

"Certain lawful, voluntary and unilateral acts give rise to the juridical relation of quasi-contract to the end that no one shall be unjustly enriched or benefited at the expense of another."

The former is part of Title XVI, Book IV of the Spanish Civil Code, entitled "obligations incurred without contract", whereas the latter is included in Title XVII, Book IV of the Civil Code of the Philippines, regulating "extra-contractual obligations" or obligations beyond, outside of, or outside the scope of, a contract. The construction of the improvements in question was not a "purely voluntary act" or "unilateral act" of Lao Chit. He introduced them in compliance with a bilateral "obligation" he undertook under his contract with Dikit. The right of Dikit to enter into such contract, in turn, sprang from his lease contract with the lessor. As a privy to Dikit's rights under this contract, insofar as said improvements are concerned, Lao Chit's title thereto, as against the lessor, is governed, therefore, by such contract of lease, not by any quasi-contract, or by the principles of equity, as distinguished from law, contracts or quasi-contracts.

(d) For the principle of undue enrichment to apply, there must be "enrichment" and the same must be "undue" or "unjust".

In the case at bar, Dikit failed to pay the agreed monthly rental of P5,000 from October, 1949. Up to July 1, 1951, when the premises in question were leased to the Bank, the rentals due from Dikit aggregated, therefore, P105,000. Thus, despite the fact that the lessor had become the owner of the improvements in question, worth P59,365.00, it still suffered a loss of over P45,000.00. Such "loss" negates the idea of "enrichment". Neither may the latter be deemed to have taken place in the sense that said improvements had increased the productive capacity of the leased premises, for, despite said improvements, the Bank agreed to pay, beginning from July 1, 1951, only P4,000 a month, or P1,000 a month less than the rental stipulated with Dikit.

Regardless of the foregoing, Lao Chit had no reason to believe—and he does not claim to have acted under the belief—that Dikit owned the leased premises. In fact, the circumstances surrounding the case are such as to leave no room for doubt that Lao Chit knew that Dikit was not the owner of said property and that the same belonged to the lessor. Besides, Lao Chit should have known that, as Dikit's agent, in the construction of the improvements, he (Lao Chit) was subject to the limitations imposed upon Dikit by his contract with the lessor and that the improvements in question became property of the owner of the building, not only by operation of law, as accessions to said building, but, also, by specific stipulation in the contract of lease between Dikit and the lessor. Inasmuch as the acquisition of said improvements by the owner of the building and lessor is ordained by law and provided for by said contract, which is admittedly valid, the resulting enrichment—if any—by said owner and lessor, is neither "undue" nor "unjustly".

Upon the other hand, had he been reasonably vigilant, Lao Chit could have demanded from Dikit a mortgage, or a bond, or some other security, for the protection of his rights, yet he (Lao Chit) did not do so. Should the lessor be required to pay Lao Chit what he is entitled to recover from Dikit, but which he (Lao Chit) cannot—due to his oversight, carelessness or negligence—collect from Dikit, the effect would be to relieve Lao Chit of the consequences of his own inadvertence or negligence, and hold the lessor responsible therefor. This would be neither fair, nor just, nor equitable.

Lastly, the lower court declared that the improvements in question belong to Lao Chit, because it had been so held in Case No. 10718 instituted by him against Dikit and Silva. Obviously, however, the proceedings in that case and

the decision therein rendered are not binding upon the lessor, the same being neither a party in said case, nor a successor to the interest of the defendants therein. Besides, the aforementioned finding is not borne out by Lao Chit's contract with Dikit and Silva (Exhibits A-1, A-2, A-2-a and A-3). Indeed, even if Dikit and Silva had agreed with Lao Chit—and they had no such agreement—that he would own the improvements until payment of the price thereof, the stipulation would be, neither valid, nor binding upon the lessor, for Dikit and Silva had no authority whatsoever to waive the statutory right of accession of the lessor to and over said improvements (Arts. 353 and 358, Civil Code of Spain; Arts. 440 and 445, Civil Code of the Philippines).

Wherefore, the decision appealed from is hereby reversed and another one shall be entered dismissing the complaint, with costs against plaintiff-appellee Lao Chit. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador and Endencia, JJ., concur.

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