

SPOUSES MIGUEL SANTOS AND ALBINA SANTOS AND SPOUSES GENARO DEL ROSARIO, PETITIONERS, VS. HON. COURT OF APPEALS, HON. COURT OF FIRST INSTANCE OF MANILA (BRANCH XXXV), HON. CITY C...*G.R. No. L-45071. May 30, 1983*

Ponente: VASQUEZ, J.

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Since 1964, private respondents, the spouses Lazaro Paragua and Teodora Paragua, have been renting a one-door apartment located at No. 1222-D Oroquieta Street, Sta. Cruz, Manila, for their residence and that of their four then unmarried children. Sometime in 1972, they bought a three-door apartment house located at the corner of E. Remigio and Felix Huertas Streets, Sta. Cruz, Manila. At the time they purchased the said property, one of the units in said apartment building was occupied by petitioners-spouses Miguel Santos and Albina Santos. A second unit was tenanted by petitioners-spouses Genaro del Rosario and Elisa del Rosario. They occupy the said premises on verbal contracts of lease for a monthly rental of P190.00 each.

Private respondents assert that they purchased the three-door apartment building in order to have a residence of their own sufficient for the needs of their big family. In 1974, after saving enough money, they advised the petitioners to vacate the premises in order that they may be able to demolish the apartment building and to build their residence in its place.

Petitioners refused to heed the demand of the private respondents. They invoked their right to stay in the premises under the provisions of Presidential Decree No. 20. They question the motive of the private respondents in asking them to vacate, alleging that the private respondents wanted to eject them in view of their refusal to accede to the demand to increase the monthly rental from P190.00 to P250.00. They further claim that the private respondents' alleged plan to demolish the building supposedly because of its dilapidated condition is merely a ruse to circumvent the provisions of Presidential Decree No. 20.

Faced with no other alternative, the private respondents commenced their two separate actions for ejectment in the City Court of Manila against the petitioners, docketed therein as Civil Cases Nos. 232078 and 232079. The City Court rendered a judgment in the said two cases ordering the petitioners to vacate the premises in question. A joint appeal taken by the petitioners to the Court of First Instance of Manila resulted in the affirmance of the decision of the City Court of Manila, subject to a modification consisting in the fixing of a specific date for the petitioners to vacate the apartment units that they are occupying. After a motion for reconsideration of the decision of the Court of First Instance of Manila was denied by the latter, the petitioners filed a petition for review in the Court of Appeals wherein it was docketed as CA-G.R. No. SP-05679-80. In a Resolution issued in said case by a Special Division of Five, the petition for review was dismissed outright. After a motion for the recon-sideration of the Resolution of the Court of Appeals was denied, the instant petition for review was instituted in this Court. A temporary restraining order was issued to enjoin the respondent City Court of Manila

from executing, enforcing, or implementing the writ of execution ousting the petitioners from the premises in question. The petition was given due course and the parties subsequently filed their briefs.

In their petition filed before the Court of Appeals, the petitioners contended that the private respondents have no valid cause to eject them from the premises which they occupy. They averred that the alleged need of the private respondents of the premises in question for the personal use of their family is not sanctioned as a ground for ejectment under Presidential Decree No. 20, especially taken in the light of Memorandum Circular No. 970 of the Office of the President which expressly declared that "except for the cause for judicial ejectment of lessees enumerated in Article 1673 of the New Civil Code in relation to Section 4 of Republic Act No. 6359, as amended by Presidential Decree No. 20, bona fide tenants of dwelling places covered by said decree are not subject to eviction, particularly if the only cause of action thereof is personal use of property by the owners or lessors or their families." Petitioners further questioned the sincerity of the private respondents in claiming that they intend to reconstruct the house for their own use. They insisted that their ejectment is being sought merely because they refused to pay the increased rental of P250.00 a month.

We find no reason to disturb the decisions rendered by the City Court of Manila, the Court of First Instance of Manila and the Court of Appeals which uniformly ordered the ejectment of the petitioners from the premises in question. It is true that, considering the rentals being paid by the petitioners and the nature of their occupancy of the premises in question, they are covered by the protective mantle of Presidential Decree No. 20. It is also a fact that the need of the private respondents for the apartments occupied by the petitioners for the use of the private respondents and their family is not expressly provided as a ground to eject a tenant of a residential house under Presidential Decree No. 20, and that such ground is expressly declared under Memorandum Circular No. 970 of the Office of the President as not a valid cause to eject a tenant. However, on April 20, 1979, or during the pendency of the present appeal in this Court, Batas Pambansa Blg. 25 was enacted and became effective. This law, which repealed Presidential Decree No. 20, provides for additional grounds for judicial ejectment, one of which is contained in Paragraph (c) of its Section 5, which reads as follows:

"c. Need of owner/lessor to repossess his property for his own use or for the use of any immediate member of his family as a residential unit, such owner or immediate member not being the owner of any other available residential unit: Provided, however, That the period of lease has expired: Provided, further, That the lessor has given the lessee notice three months in advance of the lessor's intention to repossess the property; and Provided, finally, That the owner/lessor or immediate member stays in the residential unit for at least one year, except for justifiable cause."

The above-quoted provision dispels any doubt that the need of the property for the lessor's own use as a residential unit is a valid ground to evict a lessee. Although the petitioners have alleged that the private respondents own other apartment house, there is absolutely no evidence presented to support such claim. The falsity of said allegation is readily deducible from the undisputed fact that the private respondents, since about twenty years ago, have been renting a one-door apartment located at 1222-D Oroquieta Street, Sta. Cruz, Manila.

The retroactive application of Batas Pambansa Blg. 25 to pending ejectment cases is already a settled matter and may no longer be questioned. (*Alejandro Melchor, Jr., etc. vs. Hon. Jose L. Moya, etc., et al.*, G.R. No. L-35256, March 17, 1983; *Gutierrez vs. Cantada*, 90 SCRA 1; *Onchengco vs. City Court of Zamboanga*, 95 SCRA 313; *Betts vs. Matias*, 97 SCRA 439).

We likewise find no merit in the claim of the petitioners that the proposed conversion of the three-door apartment into a residential house of the private respondents and their family is a mere pretext to eject them therefrom in view of their refusal to pay an increased rental. The evidence on record presented by the private respondents to show the sincerity of their intention to reconstruct the three-door apartment that they purchased had been set forth

in the decision of the Court of First Instance of Manila, as follows:

- "1. A demolition permit issued on April 25, 1974 by the Office of the City Engineer of Manila (Exh. 'A');
2. Plaintiff Lazaro Paragua's letter-application dated April 23, 1974 seeking authority from the City Engineer of Manila to construct/repair his apartment at E. Remigio corner Felix Huertas Streets, Manila (Exh. 'B');
3. Official Receipt No. 313697 E dated May 20, 1974 in the sum of P120.00 of the City Treasurer of Manila for the issuance of a building permit to the plaintiffs (Exh. 'C');
4. Approved plan for the renovation and repair of the plaintiff's apartment (Exhs. 'D' and 'D-1');
5. Verified certification of Isidro S. Avendano stating that his firm, the 'Frisco Lumber,' has agreed to supply the materials for the construction of the apartment of the plaintiffs (Exh. 'G');
6. Estimated breakdown of the cost of labor and materials for the putting up of the apartment (Exh. 'H');
7. Tentative schedule of the duration of the construction (Exh. 'I');
8. Bill of Materials (Exh. 'J');
9. Agreement dated June 17, 1975 showing that plaintiff Lazaro A. Paragua has contracted the services of Alfonso B. Chan to supervise and direct the construction of the apartment (Exh. 'E');
10. A page of plaintiff's bank account with the Monte de Piedad and Savings Bank depicting that as of August 23, 1975, they had an outstanding deposit therein of P69,706.89 (Exh. 'L');
11. A page of plaintiff's bank account with the Prudential Bank stating that as of June 27, 1975 they had an outstanding deposit therein of P63,632.65 (Exh. 'H');
12. Sworn certification of plaintiff Lazaro A. Paragua binding himself to start the construction of the apartment and the defendant vacate the same and that following the completion his family will occupy it (Exh. 'N');
13. Sworn certification of Isaac Montes attesting to the fact that as owner of the apartment that the plaintiffs are renting at 1222-D Oroquieta, Santa Cruz, Manila, he has asked them to vacate the same as one of his children will be moving therein (Exh. 'G');
14. Sworn certification of Andres Flores stating that as owner of the house at 1124-A Felix Huertas, Manila, being issued by plaintiffs' daughter, Mrs. Leodivinia P. Burdaos, he has asked her to vacate the same as he has an urgent use for it (Exh. 'P');" (pp. 67-70, Rollo.)

The ejectment of the petitioners from two of the three units in the apartment building may not be defeated by saying that there is another unit in the same building which the private respondents may occupy for themselves or, if that is not possible, either one of the two units occupied by the petitioners would sufficiently serve such purpose. The private respondents purchased the three-door apartment building for the purpose of converting the same into a more decent and convenient dwelling place for their family and their four children, aside from a married son and a married daughter who live separately with their own families in other places. The right of the private respondents over the property which they own in order to use the same as their residence, not being the owners of any other dwelling place, may not be denied. Such right is expressly recognized by Batas Pambansa Blg. 25. Elemental sense of justice and fairness dictates that it must be so.

WHEREFORE, the decision appealed from is hereby **AFFIRMED**, with costs against the petitioners.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana and Gutierrez, Jr., JJ., concur.
Relova, J., on leave.

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