

BELEN UY TAYAG AND JESUS B. TAYAG, PETITIONERS, VS. ROSARIO YUSECO, JOAQUIN C. YUSECO AND THE COURT OF APPEALS, RESPONDENTS.*G.R. No. L-8139. October 24, 1955*

Ponente: MONTEMAYOR, J.

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This is an appeal by certiorari by petitioners Belen Uy Tayag and her husband Jesus B. Tayag from the decision of the Court of Appeals of April 23, 1954, affirming the decision of the Court of First Instance of Manila. The facts in this case as may be gathered from the records and as found by the Court of Appeals may be briefly stated as follows. In and prior to the year 1930 Atty. Joaquin C. Yuseco had been rendering professional services to Maria Lim, owner of lots 11-A and 11-B, block 2251 of the Government Subdivision known as Hacienda de San Lazaro covered by transfer certificates of title Nos. 36400 and 86401 of the Register of Deeds of Manila. To show her appreciation of the service rendered to her Maria offered the two lots to Atty. Yuseco and his wife Rosario Yuseco for them to build on, and accepting the offer, the Yusecos built a house and an annex for servants quarters on the two lots which improvements at present may be reasonably valued at P50,000. Although Atty. Yuseco claims that the two lots were donated to him, he could exhibit no evidence of said donation and the certificates of title already mentioned remained in the name of Maria. There is reason to believe that at least during her lifetime and while she remained owner of the two lots, it was her desire to have the Yusecos occupy the land free. But to go through the formalities and to legalize the possession of the two lots, after the house and the annex were built, there was executed a lease contract to the effect that the lease was to run for a period of five years, with a rental of P120 a year; that the owner of the lots was to pay all land taxes, and that failure to pay the rent when due would be sufficient cause for the rescission of the contract. This agreement was noted on the certificates of title.

On November 29, 1945, a few days before her death, Maria sold the two lots to her daughter Belen Uy married to Jesus B. Tayag for and in consideration of the sum of F4,000. The new owners in 1946 asked the Yusecos to remove their houses from the land because Belen and her husband planned to build their own house on the two lots, or else pay a monthly rent of P120. Because of the failure of the Yusecos to comply with the demand, Belen assisted by her husband filed an action of ejectment in the Municipal Court of Manila which later rendered judgment for the plaintiffs and against the defendants "for the restitution of the premises described in the complaint and for the recovery of a monthly rental of P100 from November 30, 1945, up to the date of restitution, and for cost." On appeal by the defendants to the Court of First Instance of Manila, the latter rendered judgment, the dispositive part of which reads as follows:

"Wherefore, judgment Is hereby rendered declaring the plaintiff, Belen Uy Tayag, to be entitled to the possession of the two parcels of land described in the complaint upon payment by her to the defendants of the sum of P50,000, which is the value of the two houses they had built thereon; but in the event said plaintiff shall not be in a position to pay said amount within 90 days from the date this decision shall become final, the defendants are hereby declared to be entitled to purchase the two parcels of land in question for the sum of

P10,000, within 90 days from the date the defendants shall have the right to remain in the possession of the plaintiff shall have failed to buy the house. In the meantime, the two parcels of land without any obligation thereof. No pronouncement is hereby made as to costs."

On appeal by the plaintiffs to the Court of Appeals said court found that the Yusecos were builders in good faith under article 448 of the new Civil Code; and that as such builders in good faith, they cannot be required to remove their house and the annex unless they were paid the value thereof. The Court of Appeals further approved P50,000 and P10,000 as the reasonable values of the house and the two lots, respectively, as found by the Court of First Instance and that the Yusecos as builders in good faith will begin to pay rent only when the plaintiffs as owners of the land are unable or unwilling to buy the houses or the builders are unable or choose not to exercise their right to purchase the land, but in the present case, neither party has expressed his willingness or inability to exercise the right corresponding to him under article 448 of the new Civil Code, hence the payment of rent is not in order. The Court of Appeals affirmed the decision of the Court of First Instance.

Appellants Belen and her husband Jesus Tayag filed the present petition for review of the decision of the Court of Appeals, and in their brief assign the following errors;

I

The Court of Appeals committed a grave error of law when it decided an issue foreign to that raised in an ejectment case, for in so doing it acted without jurisdiction over the subject matter.

II

Granting, arguendo, that there was jurisdiction to determine an issue other than that raised in an ejectment case, the Court of Appeals committed a grave error of law in holding that the rights of Belen Uy Tayag and Jesus B. Tayag, owners of the land, and those of Rosario Yuseco and Joaquin C. Yuseco, owner of the building, should be resolved in accordance with the provisions of Article 448 (formerly Article 361) of the Civil Code of the Philippines.

III

Granting, further, for the sake of argument only, that Article 448 of the Civil Code of the Philippines should govern the rights of the parties herein, the Court of Appeals gravely abused its discretion and committed a serious error of law when it affirmed the judgment of the trial court which, in effect, compels the owner of the land to sell it to the owner of the building.

IV

The Court of Appeals gravely erred in holding that the petitioners Belen Uy Tayag and Jesus B. Tayag shall be entitled to the possession of the land described in the complaint upon payment of the sum of P50,000 but in the event that they are not in a position to pay said amount within 90 days from the date the decision shall have become final, the respondents Rosario Yuseco and Joaquin C. Yuseco shall be entitled to purchase the land in question for the sum of P10,000.

Petitioners claim that the Court of First Instance and the Court of Appeals lacked jurisdiction to decide the case as they did for the reason that the only issue involved in an ejectment case is actual possession and that under Rule 72, section 6, the only judgment that may be rendered in such a case is for the defendant to recover costs in the event that the court find that the complaint is not true, or if it finds the complaint to be true to render judgment for the plaintiff for the restitution of the premises, for the sum justly due as arrears of rent or as reasonable compensation for the use and occupation of the premises, and for costs. But according to petitioners, in spite of this legal provision both courts went further and applied the provision of article 448 of the new Civil Code.

In theory, and speaking of ordinary ejectment cases, petitioners may be right; that is to say, if the lessee or occupant has not built anything on the premises, payment of rent would be a valid and satisfactory solution of the problem; but where the occupant has built on the land, especially where said building is substantial and valuable, the courts even in ejectment cases are bound to take cognizance of said fact and when they find that the construction or planting had been effected in good faith, instead of dismissing the complaint and suggesting to the parties to observe and follow the provisions of article 361 or article 443 of the old and the new Civil Code of the Philippines, respectively, and if they cannot agree, to file a new action, not only to enforce or defend the respective rights of the parties but to assess the value of the land and of the improvement as well, the courts in order to avoid multiplicity of actions and to administer practical and speedy justice may, as was done in this case, apply the provisions of the Civil Code relative to builders specially since there is no question as to the ownership of the land as shown by the certificates of title, and the ownership of the buildings.

Petitioners insist that the relation between them and the respondents is that of lessor and lessee and in support of their contention they point to the contract of lease between Maria Lim and the Yusecos executed in 1930. As already stated, the Court of Appeals found respondents to be builders in good faith and that finding is conclusive. In connection with said finding, we are of the opinion that the Yusecos in the mistaken belief that the two lots were being given to them free constructed the improvements in question, and that as already stated, the execution and registration of the contract of lease was a mere formality to legalize the occupation of the lots. Despite the belief of the Yusecos about the lots being donated to them, there is every reason to believe that what Maria Lim intended was to keep the title to the land but allow the Yusecos to occupy the same free, at least as long as she kept said title. This arrangement would appear to have been known to Belen, Maria's daughter, when the two lots were transferred to her a few days before Maria died, because as observed by the Court of Appeals although the Yusecos had paid no rent since the year 1930 when they constructed the two buildings, Belen in 1946, one year after the land was transferred to her, demanded rents not for the period of 15 or 16 years but only from 1946. This action of hers neither supports nor strengthens her theory that the Yusecos since 1930 were mere lessees and continued to be such after Belen acquired the lots in question.

It will be remembered that the construction in good faith was effected in 1930 and that good faith of the builders may be considered as ended in 1946 when the demand for rent was made. It is, therefore, clear that Art. 361 of the old Civil Code Instead of article 448 of the new Civil Code is applicable for the reason that the new Civil Code did not go into effect until 1950. Article 361 of the old Civil Code reads as follows:

"Art. 361. 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 Article 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."

The above-quoted legal provision is clear and it is now up to the parties, particularly the petitioners to act and make their choice. Since the Court of Appeals has found that neither party has expressed its desire or willingness to do the thing or things which by law they are authorized or compelled to perform, the courts cannot disturb their present status And naturally, payment of rent by respondent for the present, is not in order.

Petitioners question the correctness of the amount of P50,000 fixed by the Trial court and approved by the Court of Appeals, as the value of the improvements, claiming that under article 546 of the new Civil Code (taken from article 453. of the old Civil Code) they (petitioners) as owners of the land have the option of either refunding the amount spent for the construction of the two buildings, said to be only P18,000 or "paying him the increase in value which the thing has acquired by reason thereof." The contention of petitioners is well taken.

Affirming the decision of the Court of Appeals in so far as it finds and declares respondents to be possessors in

good faith, let this case be remanded to the trial court for further proceedings, particularly to give an opportunity to plaintiffs-petitioners to exercise their choice and option; and for purposes of said choice and option the trial court will admit evidence and make a finding as to the amount of the useful expenditures or "the increase in value which the thing has acquired by reason thereof", under article 453 of the old Civil Code, to be refunded or paid by the petitioners should they choose to appropriate the buildings; "the value of the land" under article 361 of the same Code, to be paid by the defendants-respondents in case plaintiffs-petitioners elect to compel them to buy the land. No costs.

Paras, C. J., Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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