

CITY OF ZAMBOANGA, PLAINTIFF AND APPELLANT, VS. JUAN S. ALVAREZ, DEFENDANT AND APPELLEE.*G.R. No. L-20400. November 28, 1975*

Ponente: FERNANDO, J.

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The disposition of this appeal on a question of law by the City of Zamboanga, plaintiff in the lower court, is not attended with difficulty. From the facts as found in the well-written decision of the lower court to which deference must be paid, it does follow that appellee Juan S. Alvarez is entitled to a favorable judgment, the dismissal of a complaint against him for the alleged failure to live up to a contract being warranted. There is no justification then for holding him liable in damages. A judgment of affirmance is therefore called for.

According to the appealed decision: "The plaintiff alleges that on June 7, 1950, it entered into a contract ... with the defendant, wherein the defendant agreed: (1) To construct at his own exclusive expense a building of strong materials on a parcel of land belonging to the plaintiff known as Block 'D' in the City of Zamboanga; (2) That the construction of the building in accordance with the plans and specifications duly prepared by the City Engineer shall terminate within 180 days from the date of execution of said contract; (3) That upon completion of said building the defendant shall outright donate the same to the plaintiff and in consideration of which donation the defendant is to be given a priority to lease the said building for a period of ten years paying a monthly rental of P80.00 and with option to renew for a like period under such terms and conditions as the plaintiff and defendant may in the future determine; and (4) That from the date of the execution of the contract * * * up to and including the date of the complaint on May 27, 1959 and the date of the hearing of this case, the defendant failed to construct the building. In view of the failure of the defendant to comply with the terms and conditions of Exhibit 'A' the City Council of Zamboanga passed a resolution on January 23, 1953 (Exhibit '4') revoking the contract, Exhibit 'A'." [1] The lower court then set forth the stand of now appellee Alvarez: "On the other hand, defendant alleges that while it is true that he entered into a contract * * * with the plaintiff on June 7, 1950, however, he has not been able to construct the building on the lot in question due to the following facts: (1) The premises in question have been occupied from the time said contract was executed, continuously up to the present, by shanties and buildings or compartments belonging to several persons who for the last ten (10) years have been paying rent to the plaintiff by reason of the * * * occupancy of said premises; (2) The water and human waste drained from the public comfort station into the said premises remain stagnant and have prevented the construction of said building under the contract; and (3) The City Engineer's Office has neglected and failed to prepare and approve and to furnish the defendant with the plan and specifications of said building as required by the contract." [2] After which came this portion: "From the facts of the case, it is clear that the plaintiff and defendant entered into a contract * * * on June 7, 1950 with the stipulation that the construction of the building on the lot in question by the plaintiff shall terminate within 180 days from the date of the execution of said contract; however, the plaintiff only sought the revocation of the said contract for failure of the defendant to construct said building on January 23, 1957 or a period of more than six (6) years. What held the plaintiff from revoking the contract after 180 days from June 7, 1950 was not well explained by the plaintiff during the hearing of the case. On the other hand the

defendant had only proven by Exhibit '9' and '10' and by the testimonies of eyewitnesses the presence of shanties and huts belonging to several persons on the lot in question, which obstructed him from constructing the building; and that on top of this, the plaintiff had acquiesced in allowing these shanties to remain on the lot in question by collecting market fees from the occupants thereof." [3] Further: "The matter of not bringing up a court action against the squatters or owners of those shanties on the land in question has been well explained by the defendant during the hearing of this case by stating that during the terms of two mayors of Zamboanga City, namely Honorables Manuel Jaldon and Hector Suarez, the former having been the Mayor at the time of the execution of the contract and the latter up to a few years thereafter and before Mayor Cesar C. Climaco became Mayor of Zamboanga City, under whose administration the present action was brought against the defendant, these two (2) city officials for political reasons [had] requested the defendant not to drive out those squatters or owners of shanties on the lot in question; and, further, that resorting to court action involves a long and litigious battle in court. This allegation of the defendant seems to be true because Mayors Jaldon and Suarez or the City Council then at the time of their administration [on] its own initiative should have sought the revocation of the contract * * * On the other hand, the plaintiff never attempted to explain the presence of those squatters or owners of shanties on the lot in question; instead it only flatly denied this established fact, which even up to the hearing of this case was still existing. Another provision of the contract, * * * in one of its paragraph states: * * * to construct a building on said site with its plans and specifications to be prepared and approved by the City Engineer. . . .' It is clear from the above quoted provision of Exhibit 'A' that the plaintiff thru its City Engineer, should be the one to prepare and approve the plans and specifications of the building on the lot in question. But the present City Engineer Benjamin Limbaga in his testimony stated that it was not incumbent upon the City Engineer to prepare the plans and specifications, but it is the defendant who should do it and the City Engineer will only approve it. This allegation of the City Engineer runs counter to the expressed provision of the contract, * * * in this regard, as the contract specifically states that it should be prepared by the City Engineer. The plaintiff, thru its City Engineer, is more in a position to prepare the plans and specifications of the proposed building on the lot in question than the defendant. Besides, this is what the contract * * * expressly provides." [4] Lastly: "The other allegation of the defendant that it is impossible to construct the proposed building on the lot in question on account of the stagnant water in the premises in question coming from the public comfort station into the lot in question thru the sewer pipes had been duly established by Exhibit '8', letter of the Acting City Engineer, Marciano A. Solis, dated March 24, 1953 to the defendant herein wherein the former admitted this fact with a promise that 'if funds are available in the future, the City will undertake the installation of the drainage system in the lot in question.'" [5]

In the light of the above facts, the lower court, in the appealed decision, stated that it "is of the opinion that the defendant, even if he wanted to construct the building on the lot in question within the time specified in the contract from the date of its execution or even years thereafter, * * * could not do so due to the existence of shanties therein, the non-fulfillment by the plaintiff, thru its City Engineer, to prepare and approve the plans and specifications of the proposed building, and the impossibility of constructing a building with a solid foundation due to the dormant and stagnant water existing on the lot in question." [6] Hence, the adverse judgment against appellant City of Zamboanga. The appeal was taken direct to this Court. As noted at the outset, there is no ground for reversal.

1. While the first error assigned is worded in a manner that would imply that a legal question is raised, there being an objection to the finding of the lower court that appellee Alvarez could not be adjudged as having failed to comply with the contract in question, still its rather terse and inadequate discussion in four pages did basically concern itself with factual matters. For what was assailed was the credence that the lower court gave to the testimony of the witnesses for appellee. There ought to have been a realization on the part of the City Attorney

Pascual S. Atilano for appellant City of Zamboanga that in a direct appeal to this Court as was formerly allowable, only questions of law may be raised. That was made clear in *Perez vs. Araneta*.^[7] It cited thirty decisions to that effect. Then came *Flores vs. Flores*^[8] which referred to twelve additional cases. A reaffirmance of such a doctrine last appeared in *Encinares vs. Catighod*.^[9] Appellant, therefore, ought to have realized the futility of its appeal. There was a valid contract, and if there were any violation thereof, the fault cannot be imputed to appellee. Nor can the power of municipal corporations to bind itself with the stipulations fully entered into be disputed. It was conceded as far back as 1903 in *Acuna vs. Municipality of Iloilo*.^[10] It was recognized in *Municipality of San Joaquin vs. The Roman Catholic Bishop of Jaro*.^[11] In the leading case of *Viuda de Tan Toco vs. Municipal Council of Iloilo*,^[12] express reference was made to the Administrative Code provision vesting municipal corporations as political bodies corporate to contract and be contracted with.^[13] What is more, in *Manantan vs. Municipality of Luna*,^[14] it was expressly held that "a valid and binding contract" of a municipal corporation "is protected by the Constitution."^[15] As reiterated in the recent case of *Smith Bell and Co. (Phils.) vs. Gimenez*,^[16] "the terms of the contract are the law between the parties."^[17] Necessarily then, from the finding of facts to which deference must be paid and in the light of the above well-settled principle of law, there can be no disputing the conclusion that the decision arrived at by the lower court absolving appellee Alvarez calls for affirmance. A municipal corporation undeniably may rightfully insist on the other contracting party abiding strictly by the terms of the agreement. Reciprocally, it is equally bound. Should it fail to live up to what was covenanted, its conduct is blameworthy. Here that was what happened. There cannot be the least justification then for imposing liability on appellee.

2. Such being the case, the second assigned error to the effect that damages should be awarded appellant City of Zamboanga is equally devoid of any legal foundation.

WHEREFORE, the decision of the lower court dated June 3, 1961 is affirmed. No costs.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Decision, Record on Appeal, 60-61.

[2] Ibid, 61-62.

[3] Ibid, 62-63.

[4] Ibid, 63-65.

[5] Ibid, 65.

[6] Record on Appeal, 65-66.

[7] L-18414, July 15, 1968, 24 SCRA 43.

[8] L-28930, August 17, 1973, 52 SCRA 293.

[9] L-29764, November 29, 1973, 54 SCRA 140.

[10] 2 Phil. 217, Cf. *United States vs. Fernandez*, 9 Phil. 199 (1907).

[11] 36 Phil. 577 (1917).

[12] 49 Phil. 52 (1926).

[13] Section 2165 of the Revised Administrative Code (1970).

[14] 82 Phil. 844 (1949).

[15] Ibid, 849, Cf. Municipality of Paoay vs. Manaois, 86 Phil. 629 (1950); Municipality of Batangas vs. Cantos, 91 Phil. 514 (1952); Municipality of Camiling vs. Lopez, 99 Phil. 187 (1956); San Diego vs. Municipality of Naujan, 107 Phil. 118 (1960).

[16] L-17617, June 29, 1963, 8 SCRA 407.

[17] Ibid, 412, Cf. Sanchez vs. Municipality of Asingan, L-17635, March 30, 1963, 7 SCRA 559.

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