

**PEOPLE'S HOMESITE & HOUSING CORPORATION,
PLAINTIFF AND APPELLEE, VS. MELCHOR TIONGCO AND MELCHOR
ESCASA, DEFENDANTS AND APPELLANTS.**

G.R. No. L-29070. June 29, 1972

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal from the decision, dated April 27, 1967, of the Court of First Instance of Rizal in its Civil Case No. Q-5227, "ordering the defendants and all persons claiming right under them to vacate the premises in question (Lot 23, Block E-156, East Avenue Subdivision); to remove their houses and other improvements thereon and to pay the plaintiff the sum of P26.70 a month from the date of occupation until the premises in question is (sic) restored to the plaintiff; to pay plaintiff the sum of P200.00, as attorney's fees and to pay the costs."

The People's Homesite and Housing Corporation (PHHC for short) was formerly the registered owner of Lot 23, Block E-156, East Avenue Subdivision, Quezon City, which is a portion of a bigger tract of land covered by TCT No. 1356 of the Registry of Deeds of said city. Sometime in 1949 Melchor Escasa and Melchor Tiongco without the knowledge and consent of PHHC, entered upon said lot and constructed their respective houses thereon, which they later remodelled sometime in 1954. In a survey conducted in 1957 by PHHC, Escasa and Tiongco were found to be "bona fide occupants" of the lot in question and so were registered as such in the PHHC Census Map of 1957. Both allegedly filed their respective applications for the purchase of the lot, but no action was taken thereon.

On December 23, 1957 one Asuncion Enverga applied for the purchase of Lot 23 and on February 7, 1958 her application was tentatively approved by PHHC. Escasa and Tiongco were not notified of the provisional award. When they learned about it later they filed their respective complaints with PHHC in February, 1960, protesting said award. After a preliminary investigation of the complaints, the Chief of the Investigation and Research Section of PHHC found that a prima facie case existed against the respondent awardee and, accordingly, he indorsed said complaints to the Administrative Investigating Committee for appropriate action. In a report to the Investigating Committee dated July 13, 1960, PHHC Investigator Panfilo T. Bajade made the following findings: that there were two "bona fide squatters" on Lot 23 who introduced improvements thereon; that their names had been included in the list of "bona fide squatters" when a census was conducted by PHHC; that the complainants had the priority right to purchase the lot, being the pioneers in the place; that they had agreed to divide the lot between them; and that they were willing and able to pay the purchase price of the lot.

Despite the initial finding that a prima facie case existed against the respondent awardee and even before the protests lodged by Escasa and Tiongco could be decided by the Investigating Committee, PHHC, on June 3, 1960, confirmed the tentative approval of Enverga's application by executing in her favor a "Conditional Contract to Sell" over the property in question.

On June 29, 1960, a day before formal notices to vacate the premises were served on Escasa and Tiongco,

respectively, PHHC filed a complaint against them in the court a quo for recovery of possession of Lot 23, Block E-156, East Avenue Subdivision. The defendants filed their answer, and the case was set for trial. The defendants failed to appear and upon ex parte evidence for the plaintiff judgment was rendered in its favor. On May 19, 1961 the defendants, thru a new counsel, filed a petition for relief from judgment, which was denied by the lower court in an order dated June 17, 1961. The said order, however, was appealed to this Court, which decided for the petitioners on November 28, 1964, and remanded the case for further proceedings.[1] Those proceedings culminated in the decision of April 27, 1967, now subject of this appeal.

Meanwhile, on June 13, 1961 the Administrative Investigating Committee submitted to PHHC its report on the investigation it had conducted, recommending that the award previously made in favor of Asuncion Enverga be sustained and the complaints of Escasa and Tiongco dismissed for lack of merit. The Committee found, inter alia, as follows:

"In the course of the proceeding both claimants have substantially established the fact of their prior occupancy and their having constructed their houses on the lot in question but they did occupy and constructed (sic) their houses on Lot 23, Block E-156 without the consent of the PHHC. Aside from the fact of prior occupancy, however, no evidence of fraud or misrepresentation was introduced or established by claimants. This Committee has already ruled, on several occasions, that prior occupancy alone cannot serve as legal basis to cancel an award made by the Corporation especially when a contract had already been executed by the latter in favor of a particular awardee as was done in this case. The claimants are not parties or privies to the "Conditional Contract to Sell" executed by the PHHC in favor of the purchaser herein on June 3, 1960 and as such they have no legal personality to assail much less to request for the revocation or cancellation of said contract based solely on the ground of prior occupancy for it is fundamental in law that only parties or privies to a contract can assail the same.

It may be stated in this connection that pursuant to the obligations of the PHHC under the provisions of the "Conditional Contract To Sell" quoted above, the Corporation filed an action, for recovery of possession, in the Court of First Instance of Rizal, Quezon City Branch, on June 29, 1960 against the claimants herein. This case was docketed as Civil Case No. Q-5227, and on February 24, 1961, the Court of First Instance of Quezon City, Br. IV, rendered a decision in favor of the PHHC and adverse to herein claimants, the dispositive portion of which reads as follows:

* * * * *

"On April 28, 1961, the corresponding Writ of Execution was issued for the enforcement of the rights of the PHHC under the aforesaid judgment.

"The claim of counsel for claimants to the effect that Congressman Manuel Enverga exercised "undue influence" in the execution of the "Conditional Contract to Sell" is a mere gratuitous assertion because the same is not supported by any evidence. It may not be amiss to state herein that the papers regarding this lot in controversy were taken by the NBI on October 11, 1960, and were returned on December 19, 1960 without any comment. As a matter of fact, in the last hearing of this case on February 1, 1961, a representative of the NBI appeared before this Committee and when requested to give his comment on this controversy, the said NBI representative did not give any answer.

"Pure and simple, therefore, the herein claimants are mere squatters or intruders on the lot in question and as builders in bad faith their rights and liability are governed by the provisions of the Civil Code, particularly Title II, Book II, Chapter 2, Section 2."

On January 5, 1962 the PHHC Board of Directors, by Resolution No. 395, confirmed "the findings of the Administrative Investigating Committee to sustain the award of Lot 23, Block E-156 in favor of Asuncion

Enverga." On July 8, 1964 PHHC executed a Deed of Sale covering the lot in question in favor of Asuncion Enverga and on July 31, 1964 Transfer Certificate of Title No. 82035 was issued to the vendee by the Register of Deeds of Quezon City.

We go back to the instant case. On January 16, 1965 the defendants filed an amended answer in the trial court, with a motion for its admission, making reference to the fact that the case had been ordered remanded for further proceedings according to the decision of the Supreme Court of November 28, 1964. In the same answer the defendants interposed, as special defense, their priority of right to purchase the lot in question in accordance with the charter and policy of PHHC; and by way of counterclaim asked for moral and exemplary damages as well as attorney's fees. On June 21, 1965 the plaintiff filed its answer to the defendants' counterclaim.

On February 14, 1966 Asuncion Enverga asked leave to intervene in the case and to be substituted as party-plaintiff, alleging that she was already the registered owner of the property in question. The defendants opposed the motion and at the same time asked the court to cite the plaintiff's counsel for contempt for having recommended the award to Enverga, knowing that the case was sub judice.

The court denied both the motion for intervention and the motion for contempt.

On December 23, 1966 the case was finally heard on the merits and by agreement of the parties the Deputy Clerk of Court was delegated to receive the evidence. On April 27, 1967 the trial court rendered its decision, upholding the plaintiff's rights to the possession of the lot in question. Said the court:

"The evidence on record shows that plaintiff is the registered owner of the lot in question which was admitted by the defendant; that the lot involved therein has already been awarded to one Asuncion Enverga and title thereto has been issued to her; and, that the defendants being the actual occupants of the premises in question claimed preferential and priority right to purchase the same.

"Under the facts of this case, the Court believes and is of the opinion that the plaintiff's right should be upheld and maintained. The defendant's claim of preferential right to have the lot in question is untenable. Having admitted that they are mere squatters on the lot in question defendants loses (sic) their action in view of the ruling laid down by the Supreme Court (should be Court of Appeals) in *Bagano vs. PHHC, et al.*, CA-G.R. No. 32086-R, October 9, 1964 --

'* * * There is no law that assured to an occupant of land belonging to another a preferential right to buy the land. Occupation is not one of the modes of acquisition of real property recognized by law. Assuming that the plaintiff did file an application to purchase, this fact did not vest in him the right to purchase. The plaintiff did not acquire or obtain the consent of the PHHC to occupy the land. * * * The plaintiff is in the category of a mere squatters, and as such has acquired no rights over the land.'

"Another compelling reason why the Court could not now undo what the plaintiff has done is due to the fact that the property in question is now titled in the name of the awardee, Asuncion Enverga, since July 31, 1964 and was not included as one of the party in this action."

The decisive issue here is whether under the facts of this case PHHC is entitled to recover possession of the disputed lot from the defendants on the ground that they entered the same as squatters, that is, without the plaintiff's consent. It bears repeating in this connection that according to the plaintiff's own investigators the defendants were "bona fide squatters since 1949 and introduced improvements therein * * * and that their names were included in the list of bona fide squatters during the census by the PHHC (in 1957)."

In the case of *Guardiano vs. Encarnacion*, 29 SCRA 326 (Aug. 29, 1969), this Court, through Mr. Justice Teehankee, sustained the action of PHHC "in upholding the preferential right of a bona fide occupant as against an outsider or non-occupant to purchase its subdivision lot." This Court said in its decision:

"2. This holding and reversal of the appellate court's conclusion is in line with the decisions of this Court * * * upholding the underlying policy of the government that in the application for home lots, preference should be given to occupants over other individuals.

"3. Soon after the tentative award of the lot to respondent, Mr. Vicente Orosa, then PHHC Chairman-General Manager, citing the PHHC policy of giving priority to the actual occupants of the lots, sent respondent on September 12, 1957, the following letter:

'Our records show that you have paid in good faith with honest motive the required 10% deposit on a lot situated in our East Avenue Subdivision, better known as Lot 18, Block E-148. However, on inspection and survey of the lot we found that a squatter is actually occupying it.

'There are over 300 squatters whose families have been residing for years in the East Avenue Subdivision and who has (sic) been occupying the premises since June 16, 1945 and had done all necessary improvements thereon, insists (sic) that the Corporation sell it to him knowing fully well that he has had the priority to buy it. In our effort to give him justice, we are constrained to cancel the sale of the lot in your favor. However, in place of said lot we shall substitute another which is free and just as good, but located in another block.

'* * * * *

"4. * * * On the other hand, we find the PHHC to have acted properly and in accordance with its functions under its charter and the Presidential policy since 1957 to sell its subdivided lots to actual bona fide occupants, such as petitioner, and re-affirmed in the directive of then President Macapagal, through then Executive Secretary Calixto O. Zaldivar, on February 20, 1964 that the lots in the East Avenue Subdivision should be sold to the members of the Piñahan Home-owners Association who were still occupants thereon, and whose names are listed in the East Avenue Subdivision Plan as occupants, in which petitioner was admittedly listed as a member and actual occupant under No. 272.

"5. We find untenable the appellate court's curt dismissal of petitioners's claim of priority to the subject lot on the ground that "the law has never and can never make it a policy to give prior choice unto the first squatter," supra. Untenable in fact, because petitioner's initial status as a squatter had been legalized with her having been duly accepted by the PHHC as a "registered squatter" or bona fide occupant occupying the lot since 1945, and untenable in law, because as stated in PHHC answer, "the lot in question was really intended for squatters as per PHHC policy and by virtue of a memorandum of the President of the Philippines, dated April 15, 1957, whereby lots in said area were earmarked for allocations to prior and deserving squatters."

We find it quite strange that in the instant case, where the lot involved is also in the East Avenue Subdivision, the appellee takes a position diametrically opposed to that which it took in the aforecited case, even to the extent of omitting any reference to the Memorandum of the President dated April 15, 1957, laying down the policy that priority in the sale of subdivided lots should be given to actual bona fide occupants.

The other ground relied upon by the trial court in rendering judgment for the PHHC is that "the property in question is now titled in the name of the awardee, Asuncion Enverga, since July 31, 1964 and (she) was not included as one of the party (sic) in this action."

It should be noted, however, that the title of Asuncion Enverga is not in litigation in this case. The only issue is one of possession — as between PHHC and the defendants — and we hold that PHHC is not entitled to recover such possession. Whatever Enverga's rights by virtue of the sale of the lot in her favor and the title she obtained thereto as a consequence are not involved here. She did try to intervene in this case below, but her intervention was objected to by the defendants and denied by the trial court. Obviously her claim to the property, vis-a-vis the said defendants, cannot be prejudiced by any judgment in this case, but must be ventilated and resolved in a separate

suit.

Meanwhile, as far as PHHC is concerned, it is not entitled to recover possession from the defendants, nor to rely, in order to attain that objective, upon the fact that it has sold the property to a third person.

With respect to the appellant's claim for attorney's fees, we find it to be justified and hereby fix it in the amount of P2,000.00.

WHEREFORE, the judgment appealed from is reversed and the complaint dismissed; and the plaintiff-appellee is ordered to pay the defendants-appellants attorney's fees in the amount aforesaid, with costs.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Ruiz Castro, Fernando, Teehankee, Makasiar, and Antonio, JJ., concur.

Barredo, J., took no part.

[1] People's Homesite and Housing Corporation vs. Melchor Tiongco and Melchor Escasa, G.R. No. L-18891 November 28, 1964.

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