

MANOTOK REALTY, INC., PETITIONER, VS. THE HONORABLE JOSE H. TECSON, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA AND NILO MADLANGAWA, RESPONDENTS.

G.R. No. L-47475. August 19, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

In a complaint filed by the petitioner for recovery of possession and damages against the private respondent, the then Court of First Instance of Manila rendered judgment, the dispositive portion of which provides inter alia:

"WHEREFORE, judgment is hereby rendered:

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xxx xxx xxx

"(c) In Civil Case No. 72872, declaring the defendant Nilo Madlangawa as a builder or possessor in good faith; ordering the plaintiff to recognize the right of said defendant to remain in Lot No. 345, Block 1, of the Clara Tambunting Subdivision until after he shall have been reimbursed by the plaintiff the sum of P7,500.00, without pronouncement as to costs." (p. 24, Rollo)

Not satisfied with the trial court's decision, the petitioner appealed to the Court of Appeals and upon affirmance by the latter of the decision below, the petitioner elevated its case to this Court.

On July 13, 1977, we issued a resolution dated July 11, 1977 denying the petitioner's petition for lack of merit. Hence, on August 5, 1977, the petitioner filed with the trial court, presided over by respondent Judge Jose H. Tecson, a motion for the approval of petitioner's exercise of option and for satisfaction of judgment, praying that the court issue an order: a) approving the exercise of petitioner's option to appropriate the improvements introduced by the private respondent on the property; b) thereafter, private respondent be ordered to deliver possession of the property in question to the petitioner.

On October 7, 1977, the respondent judge issued the disputed order, to wit:

"Acting on the motion for approval of plaintiff's exercise of option and for satisfaction of judgment filed by the plaintiff, and the opposition thereto interposed by the defendant, both through counsels, and after a judicious

review of all the facts and circumstances obtaining in this case, in the light of statutory provisions (Art. 6, New Civil Code) and jurisprudential doctrines (Vide, Benares v. Capitol Subdivision, Inc., L-7330 (Nov. 29, 1960), and considering further the definitive ruling of our Supreme Tribunal in the case of Jose C. Cristobal v. Alejandro Melchor, G. R. No. L-43203 promulgated on July 29, 1977, wherein the Court says:

“This Court, applying the principle of equity, need not be bound to a rigid application of the law, but rather its action should conform to the conditions or exigencies of a given problem or situation in order to grant relief that will serve the ends of justice.”

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the Court is of the considered view that under the peculiar circumstances which supervened after the institution of this case, like, for instance, the introduction of certain major repairs of and other substantial improvements on the controverted property, the instant motion of the plaintiff is not well-taken and therefore not legally proper and tenable.

"WHEREFORE, and for lack of merit, the instant motion for approval of the plaintiff's exercise of option and for satisfaction of judgment should be, as hereby it is, denied." (pp. 45-46, Rollo)

After a denial of its motion for reconsideration, the petitioner filed the present petition for mandamus alleging that the respondent judge committed grave abuse of discretion in denying his motion to exercise option and for execution of judgment on the grounds that under Articles 448 and 546 of the Civil Code, the exercise of option belongs to the owner of the property, who is the petitioner herein, and that upon finality of judgment, the prevailing party is entitled, as a matter of right, to its execution which is only a ministerial act on the part of the respondent judge.

On April 15, 1978, the private respondent filed his comment on the petition alleging that the same has already become moot and academic for two reasons: first, fire gutted not only the house of the private respondent but the majority of the houses in Tambunting Estate; and second, as a result of the said fire, the then First Lady and Metro Manila governor Imelda R. Marcos has placed the disputed area under her Zonal Improvement Project, thereby allowing the victims of the fire to put up new structures on the premises, so that the willingness and readiness of the petitioner to exercise the alleged option can no longer be exercised since the subject-matter thereof has been extinguished by the fire. Furthermore, the President of the Philippines has already issued a Presidential Decree for the expropriation of certain estates in Metro Manila including the Tambunting Estate. Therefore, the beneficial and humanitarian purpose of the Zonal Improvement Project and the expropriation proceeding would be defeated if petitioner is allowed to exercise an option which would result in the ejectment of the private respondent.

On December 28, 1980, Presidential Decree (P.D.) No. 1669 was issued providing for the expropriation of the Tambunting Estate. However, this decree was challenged before this Court in G. R. No. 55166 entitled "Elisa R. Manotok, et al. v. National Housing Authority, et al." Hence, we decided to hold the decision on this petition pending the resolution of the above-entitled case.

On May 21, 1987, the Court rendered a decision in the Elisa Manotok case (Manotok v. National Housing

Authority, 150 SCRA 89) ruling that P.D. 1669 is unconstitutional for being violative of the due process clause. Thus, since the present petition has not been rendered moot and academic by the decision in said case, we will now decide on its merits.

As stated earlier, the petitioner argues that since the judgment of the trial court has already become final, it is entitled to the execution of the same and that moreover, since the house of the private respondent was gutted by fire, the execution of the decision would now involve the delivery of possession of the disputed area by the private respondent to the petitioner.

We find merit in these arguments.

When the decision of the trial court became final and executory, it became incumbent upon the respondent judge to issue the necessary writ for the execution of the same. There is, therefore, no basis for the respondent judge to deny the petitioner's motion to avail of its option to appropriate the improvements made on its property.

In the case of *Duenas v. Mandi* (151 SCRA 530, 545), we said:

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"x x x Likewise settled is the rule that after a judgment has become final, no additions can be made thereto, and nothing can be done therewith except its execution, otherwise there would be no end to legal processes. (*Fabular v. Court of Appeals*, 119 SCRA 329)"

Neither can the respondent judge deny the issuance of a writ of execution because the private respondent was adjudged a builder in good faith or on the ground of "peculiar circumstances which supervened after the institution of this case, like, for instance, the introduction of certain major repairs of and other substantial improvements x x x" because the option given by law either to retain the promises and pay for the improvements thereon or to sell the said premises to the builder in good faith belongs to the owner of the property. As we have ruled in *Quemel v. Olaes* (1 SCRA 1159, 1163):

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"x x x The plaintiff's claim that their second cause of action is based on Article 445 in connection with Art. 546, of the new Civil Code. A cursory reading of these provisions, however, will show that they are not applicable to plaintiff's case. Under Article 448, the right to appropriate the works or improvements or 'to oblige the one who built or planted to pay the price of the land' belongs to the owner of the land. The only right given to the builder in good faith is the right to reimbursement for the improvements; the builder, cannot compel the owner of the land to sell such land to the former. x x x."

Again, in the recent case of *Paz Mercado, et al. v. Hon. Court of Appeals, et al.*, (G.R. No. L-44001, June 10, 1988), we said:

"xxx To be deemed a builder in good faith, it is essential that a person assert title to the land on which he builds; i.e., that he be a passenger in concept of owner, (Art. 525, Civil Code; *Lopez, Inc. v. Phil. Eastern Trading Co., Inc.*, 98 Phil. 348) and that he be unaware 'that there exists in his title or mode of acquisition any

flaw which invalidates it.’ (Art. 526, Civil Code; *Granados v. Monton*, 86 Phil. 42; *Arriola v. Gomez de la Serna*, 14 Phil. 627; See also *Manotok Realty, Inc. v. C.A.*, 134 SCRA 329, citing *Caram v. Laureta*, 103 SCRA 7) It is such a builder in good faith who is given the right to retain the thing, even as against the real owner, until he has been reimbursed in full not only for the necessary expenses but also for useful expenses. (Art. 546, Civil Code; *Policarpio v. CA.*, 129 SCRA 51; *Sarmiento v. Agana*, 129 SCRA 122; cf, *Queto v. C.A.*, 122 SCRA 206) xxx”

Furthermore, the private respondent’s good faith ceased after the filing of the complaint below by the petitioner. In the case of *Mindanao Academy, Inc. v. Yap* (13 SCRA 190, 196), we ruled:

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“x x x Although the bad faith of one party neutralizes that of the other and hence as between themselves their rights would be as if both of them had acted in good faith at the time of the transaction, this legal fiction of Yap’s good faith ceased when the complaint against him was filed, and consequently the court’s declaration of liability for the rents thereafter is correct and proper. A possessor in good faith is entitled to the fruits only so long as his possession is not legally interrupted, and such interruption takes place upon service of judicial summons (Arts. 544 and 1123, Civil Code).”

Thus, the repairs and improvements introduced by the said respondents after the complaint was filed cannot be considered to have been built in good faith, much less, justify the denial of the petitioner’s exercise of option.

Since the improvements have been gutted by fire, and therefore, the basis for private respondent’s right to retain the premises has already been extinguished without the fault of the petitioner, there is no other recourse for the private respondent but to vacate the premises and deliver the same to herein petitioner.

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is GRANTED and the respondent judge is hereby ordered to immediately issue a writ of execution ordering the private respondent to vacate the disputed premises and deliver possession of the same to the petitioner.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin and Cortes, JJ., concur.

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