

PEPITO VELASCO, AMABLE LUMANLAN, RAMON GALANG, FELIPE LUMBANG AND APOLONIO DE LOS SANTOS, PETITIONERS, VS. COURT OF APPEALS AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. L-47544. January 22, 1980

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari, erroneously citing Section 1 of Rule 65, for the review of the decision of the Special Division of Five of the Court of Appeals dated December 6, 1977 in CA-G.R. No. 06152 declaring, by a vote of four to one, null and void the order of the Court of First Instance of Pampanga in Civil Case No. 4260 dated December 2, 1976, which had declared the judgment of said court in said case final and executory, directing in consequence, said trial court to approve the record on appeal of herein respondent Government Service Insurance System (GSIS for short) and to give due course to its appeal, setting aside correspondingly the restraining order it had previously issued in the same case, the Court of Appeals holding that, contrary to the ruling of the trial court, the motion for new trial of the GSIS admittedly filed on time is not pro-forma and, therefore, the period to appeal the trial court's decision in question had been suspended by said motion, hence, said decision was still appealable.

From the foregoing brief statement of the nature of the instant case, it would appear that Our sole function in this proceeding should be to resolve the single issue of whether or not the Court of Appeals erred in ruling that the motion for new trial of the GSIS in question should indeed be deemed pro-forma. But going over the extended pleadings of both parties, the Court is immediately impressed that substantial justice may not be timely achieved, if We should decide this case upon such a technical ground alone. We have carefully read all the allegations and arguments of the parties, very ably and comprehensively expounded by evidently knowledgeable and unusually competent counsel, and We feel We can better serve the interests of justice by broadening the scope of Our inquiry, for as the record before Us stands, We see that there is enough basis for Us to end the basic controversy between the parties here and now, dispensing, however, with procedural steps which would not anyway affect substantially the merits of their respective claims.

As a matter of fact, after our first study of this case, We already announced Our intention in this direction at the hearing held on February 21, 1979, where Attys. Celestino T. Ocampo, Vicente Sicat and Victoriano David appeared and argued for the petitioners and Justice Manuel Lazaro and Atty. Antonio F. Navarrete, for the GSIS. We reiterated said intention in Our resolution of said date by requiring the parties "to INFORM the Court . . . whether or not there are any issues of fact that the purported appeal of private respondent would involve and whether or not petitioners controvert the same, with the end in view of enabling this Court to take the necessary steps to convert this proceeding into an appeal . . . (under) Republic Act 5440". To be sure, in its compliance dated April 10, 1979 with said resolution, GSIS does enumerate certain allegedly "pivotal factual issues" its appeal "would involve." However, as will be explained anon, even the "pivotal factual issues" referred to may be justly resolved here without the need of returning this case to the trial court. The exact position of the parties in

respect to said issues and the allegations of fact in their pleadings here and in the court below as well as the undisputed evidence related thereto are so clearly stated and comprehensively discussed by the parties in their said pleadings that to conduct further proceedings or to await any other briefs from them would be superfluous and a waste of time and effort. Accordingly, We now deem this case as submitted for Our decision as a duly made appeal under Republic Act 5440.

According to GSIS:

"A Detailed Statement of Facts and of the Case

It is not without reason to state that the ambience of a particular case has much to contribute to the resolution thereof. So it is with the instant case. And for a better appreciation of the antecedents which led to the decision of the Court of First Instance of Pampanga and subsequently the questioned decision of the respondent Court of Appeals, the environmental facts which spawned them should thus be laid bare before this Honorable Court, the better to appreciate their factual significance and legal consequences.

"1. Sometime on November 10, 1965, Alta Farms secured from the GSIS a Three Million Two Hundred Fifty Five Thousand Pesos (P3,255,000.00) loan and an additional loan of Five Million Sixty-Two Thousand Pesos (P5,062, 000.00) on October 5, 1967, to finance a piggery project. These loans were secured by two mortgages (Exh. "B").

"2. Alta Farms defaulted in the payment of its amortizations. It is presumably because of this that Alta Farms executed a Deed of Sale With Assumption of Mortgage with Asian Engineering Corporation on July 10, 1969 (Exh. "C"), but without the previous consent or approval of the GSIS and in direct violation of the provisions of the mortgage contracts.

"3. Even without the approval of the Deed of Sale With Assumption of Mortgage by the GSIS, Asian Engineering Corporation executed an Exclusive Sales Agency, Management and Administration Contract in favor of Laigo Realty Corporation, with the intention of converting the piggery farm into a subdivision (Exh. "D"). And on October 20, 1969, Asian Engineering executed another contract with Laigo, whereby Laigo was to undertake the development of the property into a subdivision (Exh. "E"). Conformably with the two contracts (Exhs. "D" and "E"), Laigo started the development of the lot into a subdivision.

Contract of Petitioner

Lumanlan and his admissions

"4. After developing the area, on December 4, 1969, Laigo entered into a contract (Exh. "GG") with Amable Lumanlan, one of the petitioners, to construct for the home buyers, 20 houses on the subdivision. The contract provided that Laigo shall secure the agreement and signature of the home buyers (Paragraph 6 of Agreement, Exh. "GG") and that Laigo 'shall pay for the houses on a 'turn-key' bases' (Paragraph 5 of Agreement, Exh. "GG"). The parties to the agreement are, stated by the agreement itself, as follows:

'This Agreement, executed this 29th day of November, 1969, in the City of Manila, by and between

'LAIGO REALTY CORPORATION, x x x

xxxx xxxx xxxx

represented by its President,
RHODY E. LAIGO, xxxx xxxx,
hereinafter referred to as the FIRST PARTY

- a n d -

'x x x x, AMABLE G. LUMANLAN

XXXX XXXX XXXX,

hereinafter referred to as the SECOND PARTY.'

And the signatories are -

'IN WITNESS WHEREOF, the parties hereunto affixed their signatures this 4th day of Dec., 1969 at Manila, Philippines.

(Sgd) Illegible

'LAIGO REALTY CORPORATION (Sgd) Illegible

By: ALEJANDRO Y. DE JESUS

(Sgd) RHODY E. LAIGO By:

(t) RHODY E. LAIGO (Sgd) Illegible

- President - AMABLE G. LUMANLAN

(Sgd) Illegible

(See Exh. "GG") ANASTACIO F. DANAN'

"5. Petitioner Lumanlan allegedly constructed 20 houses for the home buyers and for which he claims a balance of P309,187.76 from the home buyers and Laigo. This is reflected in Exhibit "X" of petitioners. However, in the letter of Lumanlan to the GSIS on January 7, 1972, he was collecting only P216,500.00 (Exh. "W", evidence of Lumanlan). Thus, even the evidence of Lumanlan on what is due him is conflicting.

"6. Out of his claim, petitioner Lumanlan admits that Mrs. Rhody Laigo paid him in several checks totalling P124, 855.00 but which checks were all dishonored when presented for payment. This is Exhibit "X" of petitioners.

"7. Thus, on November 7, 1970, petitioner Lumanlan wrote a letter to Laigo Realty Corporation (Exh. "Y", evidence of Lumanlan) which reads -

'I wish to inform you that I have received from Mrs. Rhody E. Laigo several bank checks which were either dishonored by the bank or were cancelled at the request of Mrs. Rhody E. Laigo for reasons of insufficient funds.

'The following are the checks:

DATE

SER. NO.

AMOUNT

BANK

May 20, 1970

646371

P36,000.00

Prudential Bank

June 10, 1970

659907

9,000.00

“ “

June 30, 1970

646397

20,000.00

“ “

July 6, 1970

646398

19,800.00

“ “

July 3, 1970

464399

11,250.00

“ “

Aug. 7, 1970

659913

16,200.00

“ “

Aug. 14, 1970

659914

12,605.00

“ “

Total - - - - -

P124,855.00’

"8. In the same letter, Exh. 'Y', Lumanlan admits that the checks of Laigo that were dishonored were intended to pay 8 houses occupied by home buyers, who caused the construction in accordance with the Agreement of Laigo and Lumanlan (Exh. 'GG'). The letter of Lumanlan also admits -

'This amount was intended to pay for eight (8) houses occupied by the following home buyers:

1. Liborio Yalung

P 18,000.00

2. Caridad Pascua

13,500.00

3. Antonio Candelaria

15,300.0

4. Alberto Rarela

11,800.00

5. Felomena Gonzales

16,200.00

6. Estelita Manalang

16,200.00

7. Rogelio Zabala

16,200.00

8. Wilhelmina Paras

16,200.00

P 123,400.00

Refund for expenses

in the execution of

housing plans for the

above houses

____1,455.00

P124,855.00'

It is significant to note that Exhibits 'GG', 'W', 'X' and 'Y' are part of the evidence of petitioners.

"9. On December 17, 1970, Laigo acknowledged its dishonored checks and promised to make good the same. This is reflected in Exhibit 'Y-1' of petitioners. The dishonored checks were all presented by petitioners and marked Exhibits to "II-1' to 'II-6'.

"Contract of Petitioner
Velasco and his admissions

"10. On December 29, 1969, Laigo entered into a contract with petitioner Pepito Velasco to construct houses for the home buyers who agreed with Velasco on the prices and the downpayment. Exhibits 'HH and 'HH-1' for petitioners. The parties to the contract are --

'LAIGO REALTY CORPORATION, xxxx

x x x x x x x x x x x x x x x x

x x x x, as the FIRST PARTY;

- and -

'x x x x x x x x x x x x,

x x x x, PEPITO VELASCO, x x x x x x x,
jointly known as the SECOND PARTY;'

"11. Petitioner Velasco constructed houses for various home buyers, who individually agreed with Velasco, as to the prices and the downpayment to be paid by the individual home buyers.

"When neither Laigo nor the individual home buyers paid for the houses constructed, Velasco wrote the GSIS to intercede for the unpaid accounts of the home buyers (Exh. 'AA' for petitioners). Exhibit 'AA' admits that Pepito Velasco is one of the building contractors contracted by Laigo to construct houses for home buyers. It states the names of the home buyers, the cost of houses agreed upon, the downpayment made by the buyers and their respective balance to Velasco. Since the letter of Velasco, Exh. 'AA', is a written admission that is highly revealing and illuminating, we feel it important and material to quote therefrom as follows:

'May I inform your good Offices that the undersigned is one of the building contractors contracted by the Laigo Realty Corporation to construct residential houses of lot buyers therein. For your further information, the following are the names of the lot owners for whom the undersigned have constructed houses for; including the respective balances payable to me as of this date.

Name of Buyer

Cost of Houses

Down

Balances

1. Benjamin Cristobal

P 19,500.00

P 1,950.00

P 17,550.00

2. Nehemiah Quipot

23,000.00

2,300.00

20,700.00

3. Alberto Villalon

18,000.00

1,800.00

16,200.00

4. Luis Jacob

20,000.00

2,000.00

18,000.00

5. Jose Salonga

20,000.00

2,000.00

18,000.00

6. Antonio Jontillano

12,500.00

1,200.00

____11,300.00

P101,750.00

xxx

xxx

x x x.

'x x x x x x x x x x.

Very respectfully yours,

(Sgd) Pepito Velasco

(t) PEPITO VELASCO

Contractor'

This is the evidence of Velasco.

“12. Velasco admits that Laigo paid him in five (5) checks with the total amount of P35,000.00 but which all bounced or were dishonored (Exh. 'BB' of petitioners). It is interesting to note that in the same letter of Velasco to his lawyer, Velasco also names the buyers of the houses for whom he constructed the houses and the balance due from the home buyers (See Exh. 'BB' of petitioners).

Contract of Petitioner
de los Santos and his

admissions

“13. On March 4, 1970, Laigo entered into a contract with petitioner Apolonio de los Santos whereby the latter agreed to construct houses for the home buyers and Laigo agreed to pay the full purchase price of every house constructed x x x based on a 'turn-key arrangement'. (Vide Exh. 'A') The parties to the contract are shown as follows:

'If these conditions above are acceptable to your goodself, kindly signify your conformity below.

Truly yours,

(Sgd) Rhody E. Laigo
(t) RHODY E. LAIGO

CONFORME:

(Sgd) APOLONIO DE LOS SANTOS
March 4, 1970
(Date)

(Vide Exhibit 'A' of petitioners).

Contract of Petitioner

Galang and his admissions

“14. Petitioner Ramon Galang also constructed a house for Victor Coquilla for an agreed price of P14,000.00. Coquilla paid a downpayment of P1,400.00, thereby leaving a balance of P12,600.00, which he wanted the GSIS to pay. Thus, in his letter to the GSIS (Exh. 'CC' for petitioners) he admits -

'In connection with your Palos Verdes Estate Subdivision, located in Talipapa, Caloocan City and which was operated by the Laigo Realty Corporation, I wish to inform you that I have constructed in the subdivision, the following house, its owner and cost of construction:

Name of Owner

Cost of Houses

Amount Paid

Balance

1. Victor Coquilla

P14,000.00

1,400.00 P12,600.00

May I inform your good offices further that the amount of P12,600.00 referred to above as the 'balance' is payable to the undersigned, payment of which has been delayed for almost one and a half years now.

Trusting that you give this letter your usual prompt attention, I beg to remain

Very respectfully yours,

(Sgd) Ramon R. Galang
(t) RAMON R. GALANG

Contractor'

(Vide Exh. 'KK' for petitioners; underlining supplied)

Contract of Petitioner

Lumbang

"15. Petitioner Felipe Limbang also claims to have constructed for the home buyers upon the instance of Laigo, four (4) houses with the balance of P82,705.00. Lumbang admits that he constructed the four houses for the home buyers who paid him a downpayment but who still have outstanding balances (Vide Exh. 'LL' for the petitioners).

"16. The Deed of Sale With Assumption of Mortgage between Alta Farms and Asian Engineering, for one reason or another, was not approved by the GSIS. And when Alta Farms failed to liquidate its accounts, GSIS foreclosed the properties including all improvements (the house) in 1970. In November and December 1971, the Certificate of Sale in favor of the GSIS were issued.

"17. While the properties were under foreclosure and even pending the consolidation of titles, certain lots were sold on installment basis, for which Laigo received P985,000.00, and 63 houses in various stages were constructed, among which are the houses allegedly constructed by the petitioners."

x x x x x x x x x x x

"21. All along, from the time the contracts were entered into by Laigo Realty Corporation, the petitioners had always directed their claims against Laigo Realty Corporation as may be shown by Exhibits 'Z', 'X', 'Y' and 'II'; Laigo would pay by checks to the contractors; and when the checks were dishonored they would always file a protest with Laigo Realty Corporation. Originally, all claims were addressed to Laigo Realty Corporation, being the party who executed the contracts.

"22. When the petitioners could not collect from Laigo and the home buyers and after the GSIS foreclosed the subdivision including the improvements (the houses constructed), the petitioners sent a letter of demand on August 3, 1974 (Exhibit 'EE') for GSIS to pay for the indebtedness of Laigo Realty Corporation. It is enlightening and interesting to note that the annexes to the letter specifies who are the home buyers who caused the construction, the agreed price of the construction between the home buyers and the contractors, the downpayments made by the home buyers to the contractors, and the balance of the home buyers due the contractors by reason of the contracts (Exhibits 'EE-1' and 'EE-2'). It is crystal clear from the letter of the lawyer of the petitioners that the ones who caused the construction are home buyers through Laigo Realty Corporation, that the home buyers made downpayments to the contractors, and that the latter agreed to the price and the balance that were not paid by the home buyers. This is certainly indubitable proof that the GSIS had nothing to do whatsoever in the construction of the houses by the petitioners.

"23. On August 12, 1974, the Assistant General Manager on Legal Affairs of the GSIS categorically and specifically denied the claims on the firm and clear legal ground, among others, that the GSIS has no privity of contract with the petitioners (Exhibit 'FF'). This denial of the claim negates, rebukes and belies any and all distorted impressions, conclusions or assumptions on the other inter-office memoranda of the GSIS.

"24. On April 14, 1975, the petitioners filed a case against the GSIS for the collection of sums of money representing labor and materials used in the construction of houses caused by home buyers through the intercession of Laigo Realty Corporation in the principal sum of P607,328.27. The complaint, docketed as Civil Case No. 4260 of the Court of First Instance of Pampanga, prayed for -

'(1) The sum of SIX HUNDRED SEVEN THOUSAND THREE HUNDRED TWENTY EIGHT & 27/100

PESOS (P607,328.27) in its current value due to inflation with legal interest from the date of extrajudicial demand;

‘(2) the sum of FIFTY THOUSAND (P50,000.00) PESOS as attorney's fees;

‘(3) such sum for exemplary damages as may be assessed by this Honorable Court against the defendant; and

‘(4) the costs of this suit.’ (Vide pp. 91-95 of the instant Amended Petition)

"25. On July 30, 1975, and within the extensions of time granted, the GSIS filed its Answer traversing the claims and alleging, among others, that the petitioners have no privity of contract with the GSIS; that the petitioners have no cause of action; and that Laigo Realty Corporation which entered into the contracts with the petitioners is a necessary and indispensable party who should be included as a party to properly ventilate the issues and to avoid multiplicity of suits (pp. 96-101 of the instant Amended Petition).

"26. After pre-trial was terminated, the petitioners presented their evidence, and thereafter, under date of December 16, 1975, they filed their 'Plaintiffs' Formal Offer of Evidence' (pp. 103-113 of the instant Amended Petition).

"27. On February 20, 1976, the petitioners and the GSIS filed their 'Joint Manifestation' which in substance is a stipulation of facts (pp. 114-116 of the instant Amended Petition). The petitioners agreed that the witnesses of the GSIS to be presented would testify on the following:

‘a.

The execution of the Deed of Quit-Claim dated May 7, 1970, executed in favor of defendant GSIS by Laigo Realty Corporation, freeing said defendant from any and all claims arising out of the suppliers, contractors and house builders such as plaintiffs in the Palos Verdes Estate which now constitutes the GSIS Hills Subdivision;

‘b.

At the time of the Extra-Judicial Foreclosure of Real Estate Mortgage on November, 1971, conducted by defendant on the Laigo properties, plaintiffs' claims are not registered;

‘c.

Plaintiffs' services were contracted by Laigo Realty Corporation and not by the defendant GSIS;

‘d.

That defendant up to the present has not collected from the house owners of the 63 houses built by the plaintiffs notwithstanding the foreclosure proceedings and consolidation of ownership.'

"The petitioners thus did not choose to cross-examine or dispute what they had agreed upon as the testimonies of the witnesses of the GSIS if they were presented to testify; hence, they stand as uncontroverted evidence.[1]

(Pp. 379-391, Record.)

Significantly, the trial court's conclusions of fact are substantially as alleged by the GSIS above, except as to certain details which We deem immaterial in the light of the legal provisions and principles upon which We believe the resolution of this controversy should be based. It may be stated in this connection, however, that the trial court made the following findings and conclusions as regards the amount petitioners are entitled to recover:

"The next issue that would then necessarily follow is: - How much are the plaintiffs entitled to be paid?

"Again, an examination of the plaintiffs' uncontroverted evidence disclose that as of the time they were ordered to

'cease and desist' from introducing any further improvement on the property, they had already constructed several houses valued (in common to them) in the total of P609,328.27 and for which amount representing the actual cost of construction of the houses (materials and labor already considered) as of those years of construction (1969-1970), they had not yet been fully paid; that upon consolidation of ownership of the entire Palos Verdes Estate Subdivision where said plaintiffs had introduced the improvements aforesaid in the GSIS, they made written request for payment of what was already then due them on the defendant GSIS -- new owner of the premises; but that their said request had fallen on deaf ears. Consequently, for having been compelled to litigate and to incur unnecessary expenses instead of given the opportunity of making use of the proceeds of their investment and labor in further investments and work, said plaintiffs are here now further invoking justice and equity on their side and praying that they be paid their afore-stated entitlement in the amount of P607,328.27 in the equivalent or present value of our Pesos as devaluated. Thus, through testimonial evidence now also standing on record unrebutted, said plaintiffs proceeded to show to the Court the effect of such devaluation of the currency on the prices of materials, as well as on their rights and claims, as follows:

Material

1969-1970

1975

Cost

Cost

1. White Sand-Porac

P9.00 per cu. m.

P30.00 per cu. m.

2. Crashed Gravel-Baliwag

15.00 per cu. m.

30.00 per cu. m.

3. Cement

3.90 per bag

14.70 per bag

4. Lumber

.36 to 42 per board foot

1.70 to 1.80 per board ft.

5. Nails

.75 per kilo

4.20 per kilo

6. GI Sheets

1.00 per linear foot

4.20 to 4.50 per linear foot

7. Paint

10.50 to 11.00 per gallon

38.00 to 40.00 per gallon

8. Iron bars

2.75 to 3.00

15.00

9. Toilet materials

110.00 to 120.00

410.00 to 420.00

Water closet, Phil.

Standard with seat cover

And indeed, this Court can take judicial notice of the fact that a house costing, say P10,000.00 in 1969-1970, would now cost no less than P40,000.00. So that, considering that the generally accepted standard or ratio in the determination of the costs of materials and labor supplied and put in the construction by the builder-contractor is that the latter (labor) is 30% of that of the former (cost of materials), a computation of plaintiffs dues as is, or P607,328.27, would give this:

a. - Cost of materials

P 467,175.50

b. - Cost of labor

140,152.50

Total

P607, 328.00

In effect, by considering the aforesaid four-times increase in said materials costing P467,175.50, the same materials would now cost P1,868,702.00. By adding 30% of said amount of P1,868.702.00, or P560,610.60 for the cost of labor, to the said cost of materials, the total amount to which plaintiffs would therefore, be justly and equitably entitled is the sum of P2,429,312.60. And the facts and circumstances as proven, in the honest opinion of this Court as a court of law and equity, truly warrant that this said amount be awarded to the plaintiffs." (Pp. 193-195, Record.)

Parenthetically, the following reprobation by the Court of Appeals of the foregoing posture of the trial court reveals how much the same had evidently influenced said appellate court to rule in favor of allowing respondent's appeal:

"This Court finds no compelling reason to bar appellate review of the unprecedented judgment, mentioned at the outset, which revalued upwards fourfold-- to repeat, four times -- the amount of plaintiffs' claim (as alleged in their complaint) representing actual costs of houses built by them for the former owner-mortgagor of the subdivision that, eventually, was acquired by the GSIS as highest bidder at the foreclosure sale.

"It bears emphasis that 'unjust enrichment', which was invoked by plaintiffs in suing the GSIS instead of the former owner and/or the developer (which contracted with plaintiffs in regard to the houses in question), is manifest in the judgment sought to be elevated to this appellate court. For, under that judgment, plaintiffs stand to receive, from and at the expense of the GSIS, as new owner, and to keep for themselves as additional increment, more than P1.8 million OVER and ABOVE actual costs of materials and labor that went into the building of said houses, according to their own allegations and evidence. Whether or not the trial court can, by the simple expedient of taking "judicial notice" of inflation, quadruple the plaintiffs' claim, in the light of the Civil Code provision (Art. 1250) authorizing revaluation only upon proof of "extraordinary inflation or deflation of the currency" and of Republic Act No. 524 providing that obligation shall be discharged in the currency that is legal tender at the time of payment, is an important and far-reaching legal question that deserves further examination or review not only by this court but also, if need be, by the Supreme Court." (Pp. 31-32, Record.)

Truth to tell, however, contrary to the contention of GSIS, the trial court's four-fold award may not be said to be entirely baseless and arbitrary, much less based on no more than the judicial notice taken by His Honor that "a house costing, say P10,000 in 1969-1970, would now cost no less than P40,000." That the trial court did not award more than what petitioners had demanded in their complaint is clearly evidenced by their allegation in Paragraph 5 of their complaint regarding the effects of inflation as well as by their prayer that they be paid "the sum of Six Hundred Seven Thousand Three Hundred Twenty-Eight and 27/100 Pesos (P607,328.27) in its current value due to inflation", as well as by the testimonial evidence referred to in detail in the decision in question, as

can be seen in the portions thereof We have quoted above.

Thus, We find and hold that the material facts in this case are beyond dispute and the only issues We have to resolve are legal ones. It is clear to Us that petitioners did construct, furnishing the materials and labor needed for the purpose the 63 houses that now belong to or are owned by respondent GSIS. It is alleged in Paragraphs 5 and 8 of petitioners' complaint that:

"5. - That during the period of the joint venture agreement being negotiated by the Government Service Insurance System and the Laigo Realty Corporation, the plaintiffs herein constructed residential houses and other improvements at the said GSIS Hills Subdivision, furnishing materials, supplies, labor and miscellaneous services at their own expense, which costs of materials, labor and miscellaneous services total the amount of P607,328.27, and which is broken down or itemized as follows:

Amable C. Lumanlan - - - - -

P309,187.76

Pepito Velasco - - - - -

142,510.00

Apolonio de los Santos - - - - -

60,325.51

Felipe Lumbang - - - - -

82,705.00

Ramon Galang - - - - -

12,600.00

"That the foregoing expenditures and claims are computed on the basis of actual costs of materials and labor as of the time of the construction;

"That owing to the inflation which is a matter of judicial notice, such costs of materials and labor is now reasonably assessed at very much more than the above-mentioned amounts.

xxx xxx xxx

"8. - That the construction of houses and improvements has greatly increased the value of the aforesaid defendant's property." (Pp. 71-72, Record.)

The answer of GSIS to the foregoing allegations is as follows:

"5. It specifically denies the allegations in paragraph 5, the truth being defendant is not liable for any of the materials, supplies and labor allegedly furnished and supplied by plaintiffs to Palos Verdes Estate Subdivision

as the same pertain exclusively to Laigo Realty Corporation, since on 7 May 1970, Laigo Realty Corporation executed a Deed of Quitclaim and Undertaking, xerox copy of which is hereto attached as Annex '1' and made an integral part hereof, holding free and harmless defendant from claims of material men, contractor or any other person arising out of or having connection with the development of the said subdivision. Thus the 'NOW, THEREFORE' clause of said Deed of Quitclaim and Undertaking provides:

"NOW, THEREFORE, for and in consideration of the above premises; and in the event of disapproval by the GSIS of its proposal to develop the aforesaid property of ALTA FARMS, INC. into a subdivision, LAIGO REALTY CORPORATION hereby forever quitclaims, releases and waives in favor of the GSIS its rights and interests in the aforesaid property of ALTA FARMS, INC. arising out of the development of the aforesaid property into a subdivision, and further shall answer and pay for any claim of or liability to any contractor, material furnisher, lot buyer, or any other person, arising out of or having connection with said subdivision development. If the GSIS, for any reason, shall be held liable on any such claims or liabilities or otherwise its mortgage lien be diminished, LAIGO REALTY CORPORATION further binds itself to indemnify the GSIS such sums corresponding to such claims or diminution.

xxx xxx xxx

"8. It admits the allegations in paragraph 8." (Pp. 76-77, Record.)

In other words, apart from admitting expressly that "the construction of houses and improvements has greatly increased the value" of the subdivision it now owns, nowhere in its statement of the material facts in Paragraph 5 of its answer relative to the allegations of the petitioners regarding the construction by them of the houses in dispute and the cost thereof to each of them does respondent deny said facts as not true. What GSIS limitedly alleged in its answer is the legal proposition that it is not liable therefor because of lack of contractual privity between it and petitioners. It may be safely said then that it does not now lie in the lips of GSIS to maintain that petitioners did not build the houses in question and that the cost thereof is different from what petitioners have stated in their complaint.

What is more, the reliance of GSIS on the Deed of Quitclaim of May 7, 1970 is to Our mind misplaced. We have analyzed this document carefully, and We are of the considered view that it is actually evidence against GSIS. Even if what is unnatural in ordinary business or industrial experience were assumed, that is, that GSIS was unaware all along during the period of their construction of the work then being done by petitioners, - albeit it is possible there was no express consent given thereto - by and thru the aforementioned deed of quitclaim, GSIS agreed to receive and did actually receive the benefits of what petitioners had accomplished or would accomplish under their contracts with Laigo. So much so, that the dispositive portion of the quitclaim deed does not really relieve GSIS from liability to petitioners. Properly viewed, GSIS virtually assumed under said deed, liability in regard to claims like those of petitioners who might not be paid by Laigo albeit said liability has been made subject to the reservation that it could seek indemnity from Laigo.

GSIS received Alta Farms' proposal about the conversion of their piggery project into a subdivision (in which Laigo Realty's participation was mentioned) as early as February 5, 1970. It was only in November, 1970 that it issued its "cease and desist" order. From all indications, the jobs of petitioners were already practically finished then. Thus, in Paragraph 17 of its Comment on the petition herein, GSIS states:

"17. While the properties were under foreclosure and even pending the consolidation of titles, certain lots were sold on installment basis, for which Laigo received P985,000.00, and 63 houses in various stages were constructed, among which are the houses allegedly constructed by the petitioners." (P. 387, Record.)

And in the Joint Manifestation filed by the parties with the trial court as late as February 20, 1976, GSIS made it clear that "defendant (GSIS) up to the present has not collected from the house owners of the 63 houses built by

the plaintiffs notwithstanding the foreclosure proceedings and consolidation of ownership." Again, it is thus obvious that GSIS assumed ownership of the houses built by petitioners and was benefited by the same, and the fact that it has not collected any payment from the "house owners" for the construction of the houses respectively occupied by them is of no moment insofar as its liability to petitioners is concerned. Surely, it is not pretended that those "house owners" would be allowed to enrich themselves at the expense of petitioners. Indeed, the term "house owners" is inappropriate, if only because in Paragraph 16 of its Comment on the petition herein, GSIS unequivocally states that "GSIS foreclosed the properties including all improvements (the houses) in 1970" and, thereby, became the owner of said houses.

Upon the foregoing factual premises, the legal issue that arises is whether or not GSIS is liable to the petitioners for the cost of the materials and labor furnished by them in construction of the 63 houses now owned by the GSIS and for the construction of which no payment has been made on the balance due petitioners. Our considered view is and We so hold that even in equity alone, GSIS should pay the petitioners. After all, it admits it has not collected from the ones who appear to be the buyers thereof, albeit it must be collecting the installments on the lots. All it has to do then is to pass on to them what it has to pay petitioners. In law, GSIS is, under the peculiar circumstances of this case, the owner of said houses. Pursuant to Article 1729 of the Civil Code:

"Those who put their labor upon or furnish materials for a piece of work undertaken by the contractor have an action against the owner up to the amount owing from the latter to the contractor at the time the claim is made. (However, the following shall not prejudice the laborers, employees and furnishers of materials:

- 1) Payments made by the owner to the contractor before they are due;
- 2) Renunciation by the contractor of any amount due him from the owner.

This article is subject to the provisions of special laws. (1597a)"

Laigo admittedly has not paid petitioners. The "bouncing" checks issued by it in their favor is mentioned by GSIS itself in its statement of the facts. We hold that upon this premise, it is a fair construction of the Deed of Quitclaim aforementioned, that GSIS can be held liable to petitioners, without prejudice to its securing corresponding indemnity from Laigo. It is obvious from the terms of said deed that GSIS contemplated the possibility of its being liable for Laigo's account, otherwise, there was no need for the reservation. This is one such liability. In this connection, while, indeed, Article 1729 refers to the laborers and materialmen themselves, under the peculiar circumstances of this case, it is but fair and just that petitioners be deemed as suing for the reimbursement of what they have already paid the laborers and materialmen, as otherwise they (petitioners) would be unduly prejudiced while either Laigo, GSIS or the occupants of the houses would enrich themselves at their expense. It is a bad law that would allow such a result.

At this juncture, We need to add only that Article 1311 of the Civil Code which GSIS invokes is not applicable where the situation contemplated in Article 1729 obtains. The intention of the latter provision is to protect the laborers and the materialmen from being taken advantage of by unscrupulous contractors and from possible connivance between owners and contractors. Thus, a constructive vinculum or contractual privity is created by this provision, by way of exception to the principle underlying Article 1311 between the owner, on the one hand, and those who furnish labor and/or materials, on the other. As a matter of fact, insofar as the laborers are concerned, by a special law, Act No. 3959, they are given added protection by requiring contractors to file bonds guaranteeing payment to them. And under Article 2242 of the Civil Code, paragraphs (3) and (4), claims of laborers and materialmen, respectively, enjoy preference among the creditors of the owner in regard to specific immovable property.

As regards Article 525 of the Civil Code also invoked by GSIS, suffice it to say that this provision refers

particularly to instances where the bad faith or the good faith of the builder is the decisive factor in determining liability. In the case at bar, there is no necessity to pass on the question of whether petitioners acted in good faith or bad faith, for the simple reason that under the Deed of Quitclaim, GSIS freely accepted the benefits of what they have accomplished.

GSIS contends that Laigo should have been joined as defendant in this case. While petitioners could have done so, they were not under such obligation mandatorily. Under the circumstances of this case, Laigo is only a necessary party, not an indispensable one. And to allay GSIS, its right to secure reimbursement from Laigo is hereby reserved.

Coming now to the amount for which GSIS is liable, We reiterate that, to be sure, there is evidence in the record, uncontradicted at that, regarding the lower value of money at the time the demand upon GSIS was made compared to that when petitioners furnished the labor and materials in question. We are not, however, inclined to go along with the trial court that the amount demanded should be multiplied four times. We believe that it being a matter of judicial notice that the prices of labor and material have substantially risen since 1970, it would be fair enough to make respondent liable for interest on the amount of the demand, which is supported by evidence and not effectively disputed by GSIS in its answer, at the rate of 12% per annum from the time petitioners filed their complaint below on April 14, 1975.

In addition, We hold that our award to petitioners of attorney's fees in the amount of Fifty Thousand (P50,000) Pesos would only be just and proper. As We view the position taken by GSIS in this case, petitioners were compelled to litigate over a matter that could have been justly and equitably settled without having to go to court, particularly, when it is considered that under the Deed of Quitclaim, several times mentioned earlier, GSIS freely accepted from Laigo the benefits of the expenses for labor and material incurred by petitioners in the houses in question, hence, as We have said above, GSIS had no legal basis for insisting that Article 1729 of the Civil Code does not apply to this case, it being indisputably the owner of said houses already. Besides, it must be borne in mind that the claims of petitioners are in the nature of claims of the laborers and materialmen themselves. Accordingly, Article 2208, paragraphs 2, 7 and 11, are applicable hereto. Indeed, the so-called "house owners" or occupants who have not paid either petitioners or Laigo, or even the GSIS should not be allowed to enrich themselves at the expense of petitioners, and the most feasible way of avoiding such a result is for GSIS to pay petitioners and then pass on to said "house owners" what it would have to pay under this judgment.

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered affirming the decision appealed from, with the modification that respondent GSIS shall pay petitioners the total amount of SIX HUNDRED SEVEN THOUSAND THREE HUNDRED TWENTY-EIGHT AND 27/100 PESOS (P607,328.27), plus interest at 8% per annum from April 14, 1975 (which is less than that allowed by Circular No. 416 of the Central Bank dated July 29, 1974) until fully paid, the said sum to correspond separately to petitioners as follows:

Amable C. Lumanlan

P309,187.76

plus interest

Pepito Velasco

142,510.00

" "

Apolonio de los Santos

60,325.51

" "

Felipe Lumbang

82,705.00

" ", and

Ramon Galang

12,600.00

" "

plus Fifty Thousand (P50,000) Pesos as attorney's fees for all of them and the costs.

Antonio, Concepcion, Jr., Santos, and Abad Santos, JJ., concur.

Aquino, J., he concur in the affirmance of the decision of the Court of Appeals but he dissent as to the resolution of the merits of the case which has not been appealed to this Court.

[1] To better appreciate the effect and relevance of the Deed of Quitclaim of May 7, 1970, the Court required the Clerk of Court of the trial court to submit to Us a certified true copy thereof which reads as follows:

"THIS AGREEMENT, executed by LAIGO REALTY CORPORATION, a corporation organized and existing under Philippine Laws, with principal office at Suite 720 Roman Santos Building, Plaza Goiti, Sta. Cruz, Manila, Philippines, represented herein by its President, RHODY E. LAIGO, duly authorized for the purpose pursuant to a resolution of its Board of Directors attached hereto as Annex 'A', in favor of the GOVERNMENT SERVICE INSURANCE SYSTEM, a government corporation organized and existing under Commonwealth Act No. 186, as amended, and with principal office at the City of Manila, Philippines, hereinafter referred to as GSIS,

WITNESSETH:

WHEREAS, the thirty (30) hectare property of ALTA FARMS, INC., located at Caloocan City, is mortgaged to the GSIS to secure an indebtedness of FIVE MILLION SIXTY TWO THOUSAND (P5,062,000.00) PESOS, together with interest thereon.

WHEREAS, LAIGO REALTY CORPORATION in a letter dated February 4, 1970, and ALTA FARMS, INC., in a letter dated February 5, 1970 to the Government Service Insurance System, has jointly proposed to the GSIS the development of the thirty (30) hectare property of ALTA FARMS, INC., into a subdivision project, as a means of liquidating the aforesaid indebtedness of ALTA FARMS, INC., to the System:

WHEREAS, while the above proposal has been pending consideration by the GSIS, LAIGO REALTY CORPORATION, without the consent of authority of the GSIS, proceeded with the development of the aforesaid property into a subdivision project, the extent of the development thereon and expenses incurred therewith being

as follows:

- We have cleared the entire snake-infested area of its tall grasses. (cogon, talahib) and shrubs;
- We are half-way in the construction & development of the property as a subdivision-all roads have been bulldozed and subgraded, except the area on the other side of the Tullahan River;
- Provided a water system in the area, with 15 h. p. deep-well pump for the convenience of the families of GSIS & SSS members, and will install another should necessity arise;
- Installed Meralco electrical wiring network in the compound and have paid fully the electrical bills in arrears of the ALTA FARMS;
- Maintenance of Security Guards for the protection of the residents therein, 24-hr, round the clock;
- We are now ready for not less than one Million (P1,000,000.00) Pesos, cost of residential-developed lots for your GSIS policy holders whose papers are now at hand for transmittal to the System for salary deductions.
- We have already invested in this property not less than fifty (50) modern 2-BR., 3-BR. & 4-BR. beautiful modern bungalows, from our own resources amounting to not less than ONE MILION (P1,000,000.00) PESOS. We realize the risk and the odds we are up to but we have only our faith and confidence, that for a good cause like this, your good office will not turn us down;
- We have started clearing up the pig-sheds which became obnoxious of human wastes and construct therein modern residential houses;
- Foremost and above, we have already paid not less than P50,000.00 for the approval of the subdivision by the Caloocan City Council, and Land Registration Commission, and the topographic map, drainage and profile plan as required by the Caloocan City Engineer and Meralco.

WHEREAS, LAIGO REALTY CORPORATION proceeded with the development of the aforesaid property into a subdivision project, at its own risk and with full knowledge of the mortgage lien thereon of the GSIS;

WHEREAS, the proposal to develop the aforesaid property into a subdivision project is still pending study and consideration by the GSIS;

NOW, THEREFORE, for and in consideration of the above premises, and in the event of disapproval by the GSIS of its proposal to develop the aforesaid property of ALTA FARMS, INC., into a subdivision, LAIGO REALTY CORPORATION hereby forever quitclaims, releases and waives in favor of the GSIS its rights and interests in the aforesaid property of ALTA FARMS, INC., arising out of the development of the aforesaid property into a subdivision, and further shall answer and pay for any claim of or liability to any contractor, material furnisher, lot buyers, or any other person, arising out of or having connection with said subdivision development. If the GSIS, for any reason, shall be held liable on any such claims or liabilities or otherwise its mortgage lien be diminished, LAIGO REALTY CORPORATION further binds itself to indemnify the GSIS such sums corresponding to such claims or diminution.

IN WITNESS WHEREOF, LAIGO REALTY CORPORATION has signed these presents this 7th day of May, 1970, at the City of Manila, Philippines.

LAIGO REALTY CORPORATION

BY:

/s/ RHODY E. LAIGO

/t/ RHODY E. LAIGO

President

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