

FELIPE N. CRISOSTOMO, PETITIONER, VS. HONORABLE COURT OF APPEALS, EXEQUIEL CRUZ, CELERINO GINES, JESUS BELLO, JOSEFINA DE BORJA, PRIMO VICTORINO, PACITA VILORIA, EUGENIO ARRIOLA...

G.R. No. L-43427. August 30, 1982

Ponente: VASQUEZ, J.

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VASQUEZ, J.:

This is a petition for certiorari, treated as a special civil action,[1] to review the decision of the Court of Appeals in CA-G.R. NO. 52293-R, promulgated on March 9, 1976, entitled "Felipe Crisostomo, plain-tiff-appellee, versus Exequiel Cruz, Celerino Gines, Jesus Bello, Josefina de Borja, Primo Victorino, Pacita Viloria, Eugenio Arriola, and Jose Aquino, de-fendants-appellants," the dispositive part of which reads:

"WHEREFORE, the decision appealed from is hereby modified upholding the right of the defendants-appellants to occupy the parcel of land in question, but each of the defendants-appellants should deposit the delinquent accrued rentals of P10.00 a month for each defendant-appellant commencing from August 1966 admittedly the date of transfer of ownership in favor of plaintiff Felipe Crisostomo of the land in question (p. 145, Rec. on Appeal), with the Clerk, Court of First Instance of Rizal, who shall hold the same in trust for the true owner, who will be determined in Civil Case No. 9616-CFI, Rizal.

"There shall be no costs.

"SO ORDERED."[2]

In a complaint for ejectment docketed as Civil Case No. 14334, filed on November 28, 1967 with the Municipal Court of Pasig, Rizal by Felipe Crisostomo against Exequiel Cruz, Celerino Gines, Jesus Bello, Primo Victorino, Pacita Viloria, Eugenio Arriola, and Jose Aquino, the plaintiff alleged among others:

"2. That Plaintiff is the absolute registered owner of those parcels of land situated in Kasikatan Street, Sitio Gunao, Barrio Kapasigan, Municipality of Pasig, Province of Rizal as evidenced by Transfer Certificate of Title No. 169446 issued in his favor by the Register of Deeds of Rizal Province, and which parcels of land are more particularly described as follows:

"a) A parcel of land situated in Sitio Gunao, Barrio Capasigan, Municipality of Pasig, Province of Rizal. Bounded on the N. by property of Emilio Caruncho; on the E. by property of Carlos Francisco; on the SE. by property of the 'Manila Railroad Company'; on the W. by properties of Carlos Francisco and Emiliano Caruncho; and on the NW. by Calle Cementerio. x x x containing an area of THREE THOUSAND SIX HUNDRED AND THIRTY EIGHT (3,638) SQUARE METERS, more or less.

"b) A parcel of land situated in the Sitio of Gunao, Capasigan, Pasig, Rizal, Bounded on the N. by property of Emilio Caruncho; on the NE. and SE. by property of the 'Manila Railroad Company'; and on the W. by property of Carlos Francisco x x x containing an area of FIVE HUNDRED AND NINETY SIX (596) SQUARE METERS, more or less.

"3. That the said parcels of land are presently occupied by all the defendants without any agreement verbal or written, with the plaintiff, nor are the defendants occupying the premises of the plaintiff under any color of right or title thereto;

x x x x x x x

"WHEREFORE, it is most respectfully prayed of this Honorable Court, that after hearing, judgment be rendered in his favor, ordering the defendants, as follows:

"1. To vacate the premises of the plaintiff or to peacefully surrender the possession of the pre-mises described in this complaint unto plaintiff;

"2. To pay individually unto plaintiff the sum of P50.00 per month, from August 5, 1966 until such time the premises of the plaintiff is actually vacated by them;

"3. To pay unto plaintiff the sum of P5,000.00 as and for Attorney's fees;

"4. To pay unto plaintiff actual damages in an amount to be proven during the hearing of this case, plus the cost of suit;[3]

The Municipal Court of Pasig, Rizal rendered a decision dated August 11, 1970, ordering the defendants:

"1. To vacate the premises of the plain-tiff and to peacefully surrender the possession thereof to the plaintiff;

"2. To pay individually unto the plaintiff the sum of P10.00 per month from August 5, 1966 until such time as the premises of the plaintiff shall have been extremely vacated by the defendants;

"3. To pay to the plaintiff the sum of P500.00 and by way of attorney's fees; and

"4. To pay the costs of suit."[4]

The defendants appealed to the Court of First Instance of Pasig which affirmed the decision of the Municipal Court.[5]

From this decision, the defendants appealed to the Court of Appeals which upheld the right of the defendants-appellants to occupy the parcels of land in question.

The plaintiff-appellee, Felipe Crisostomo, file this petition for certiorari to review the decision of the Court of Appeals alleging:

"19. That respondent Court of Appeals erred in upholding the view of the private respondents that their stay in the land of the petitioner is justified by the provisions of Article 1676 of the New Civil Code.

"20. That respondent Court of Appeals acted with grave abuse of discretion in holding that the private respondents have the right to occupy the subject premises, said findings x x x, being contrary to the evidence adduced below and the provision of the substantive law on the matter."[6]

The pertinent facts, as found by the Court of Appeals, are:

"From the stipulation of facts submitted to the Court of First Instance of Pasig, Rizal it appears that defendants are occupants of the land in question, having allegedly leased separate portions thereof from Dorotea Gonzales whose title and ownership was registered and evidenced by Certificate of Title No. 69623.

"On December 4, 1964, on the basis of a deed of sale supposedly executed by Dorotea Gonzales and her children, Certificate of Title No. 69623 was placed in the name of a certain Apolinario Castillo who, in turn, executed a deed of transfer in favor of Felipe N. Crisostomo, herein plaintiff-appellee. As a result, Certificate of Title No. 169446 was issued in the name of the plaintiff, replacing Castillo as the registered owner. After the

execution of the sale, herein plaintiff-appellee, sent notice to all the defendants to vacate the premises. When the defendants refused to heed plaintiff's letter, he filed the instant action for ejectment on November 28, 1967, praying that said defendants vacate the premises and surrender the same to the plaintiff.

"On November 11, 1966, Dorotea Gonzales and her children Manuel Cruz and Orlando Cruz filed Civil Case No. 9616 in the Court of First Instance of Rizal seeking the annul-ment of the deed of sale executed by Dorotea Gonzales and her children in favor of Apolinario Castillo as well as the deed of trans-fer executed by said Apolinario Castillo in favor of the herein plaintiff-appellee, Felipe Crisostomo. The Court of First Instance of Rizal dismissed the complaint but Dorotea Gonzales and her children appealed to the Court of Appeals (CA-G.R. NO. 40958-R). In a decision promulgated on October 3, 1973 by this Tribunal (Fourth Division) in CA-G.R. NO. 40958-R (Dorotea Gonzales, et al. vs. Apolinario R. Castillo, et al.), the records of Civil Case No. 9616 were ordered remanded to the lower court for trial and decision on the merits."⁷

Civil Case No. 9616, entitled "Dorotea Gonzales, Manuel G. Cruz, and Orlando G. Cruz, versus Apolinario Castillo, Tan Kian, and Felipe Crisostomo" was dismissed on August 19, 1975 by order of the Court of First Instance of Rizal, Seventh Judicial District, Branch XI. The said order of dismissal, having become final and executory, the lis pendens annotated at the back of Transfer Certificate of Title No. 169946 issued in the name of the petitioner, Felipe Crisostomo, by virtue of the institution of Civil Case No. 9116 was cancelled.⁸ Hence there is no question now that the petitioner, Felipe Crisostomo, is the lawful owner of the parcels of land in question.

The issue to be resolved in this petition is whether the Court of Appeals erred in upholding the right of the private respondents to occupy the parcels of land in question.

We sustain the conclusion arrived at by the Court of Appeals.

Although no direct evidence appears in the record to show the nature of the occupancy of the private respondents of the land in question, the allegation in their answer to complaint filed in the Municipal Court of Pasig, to wit,

"That Defendants (herein private respondents), from the time they entered into physical possession of the land in question, have been religiously paying their monthly rentals to the owner (Dorotea Gonzales) up to the present time" (Paragraph VII, Record on Appeal, p. 86)

remained undisputed. In the entire proceedings in all the Courts through which this action was litigated, no insinuation was ever made that the private respondents are not lessees on the land that they occupy. The parties have stipulated in the Court of First Instance of Rizal

"5. That plaintiff (petitioner) admits that defendants were already in possession of the subject premises at he time he bought the same from Apolinario Castillo". (Record on Appeal, page 116).

Petitioner has also impliedly admitted the fact of the private respondents being lessees on the subject property by framing his first "Assignment of Error" in the instant petition thus:

"I

"The Lower Court erred in not finding that the Plaintiff-Appellee has no Right to Terminate the Lease Contracts of the Appellants" (Rollo, page 4).

On the uncontroverted assumption, therefore, that the private respondents are lessees of the particular portions of the subject land occupied by each of them, even as of the time that the property was owned by its former owner Dorotea Gonzales, the petitioner is bound to respect such lease in view of the provision of the first paragraph of Article 1676 of the New Civil Code which reads:

"The purchaser of a piece of land which is under a lease that is not recorded in the Registry of property may

terminate the lease, save when there is a stipulation to the contrary in the contract of sale, or when the purchaser knows of the existence of the lease". (underscoring supplied)

As observed above, the petitioner has admitted that he knew of the occupancy of the land by the private respondents when he purchased the same. He should therefore be charged with notice that the land he bought was in the possession of third parties who could in all probability be leasing the same from the former owner. If he made no inquiry as to such fact, he is deemed to have taken it for granted that he bought the property subject to existing leases of the occupants thereof.

At the time the petitioner bought the land and filed the ejectment suit in the Municipal Court of Pasig, (November 28, 1967), petitioner could have validly ejected the private respondents from the land in accordance with the provisions of Article 1687 of the Civil Code, it appearing that there is no fixed period of the lease, and the same accordingly terminated at the end of every month, the agreed rental having been paid monthly. However, subsequent enactments, prompted by the desire of a New Society to alleviate the plight of the lower income group of our people, have effectively infringed the petitioner's right to eject the private respondents from the land they are occupying as lessees of the former owner thereof.

Section 4 of Presidential Decree No. 20, issued on October 12, 1972, provides:

"SEC. 4. Except when the lease is for a definite period, the provisions of paragraph (1) of Article 1673 of the Civil Code of the Philippines insofar as they refer to dwelling unit or land on which another's dwelling is located shall be suspended until otherwise provided; but other provisions of the Civil Code and the Rules of Court of the Philippines on lease contracts, insofar as they are not in conflict with the provisions of this Act, shall apply."

This prescription is reiterated in Section 6 of Batas Pambansa Blg. 25 (approved on April 10, 1979) in these words:

"SEC. 6. Application of the Civil Code and Rules of Court of the Philippines. - Except when the lease is for a definite period the provisions of paragraph (1) of Article 1673 of the Civil Code of the Philippines insofar as they refer to residential units covered by this Act shall be suspended during the effectivity of this Act, but other provisions of the Civil Code and the Rules of Court on lease contracts insofar as they are not in conflict with the provisions of this Act shall apply."

Under existing legislation, therefore, a lessor may not eject a lessee of a "residential unit" covered by Batas Pambansa Blg. 25 if the ground for ejectment is the expiration of the period "fixed for the duration of the lease under articles 1682 and 1687" of the New Civil Code (Article 1673 (1), NCC).

The private respondents come under the protective mantle of this provision. They are lessees of a "residential unit" covered by Batas Pambansa Blg. 25. A "residential unit" referred to in said law is defined therein in this wise:

"b. A residential unit - refers to an apartment, house and/or land on which another's dwelling is located used for residential purposes and shall include not only buildings, parts of unit thereof used solely as dwelling houses, except motels, motel rooms, boarding houses, dormitories, rooms and bedspaces for rent, but also those used for home industries, retail stores or other business purposes if the owner thereof and his family actually live therein and use it principally for dwelling purposes: Provided, That in the case of a retail store, home industry or business, the capitalization thereof shall not exceed five thousand pesos (P5,000.00); and Provided further, That in the operation of the store, industry, or business, the owner thereof shall not require the services of any person other than the immediate members of the family."

Their rental does not exceed three hundred pesos a month (Sec. 1, Ibid). This is shown by the fact that the

complaint filed by the petitioner in the Municipal Court demanded only a monthly rental of P50.00 (Record on Appeal, p. 13; Rollo, p. 27) which the Court of Appeals even reduced to P10.00 a month (Rollo, pp. 44-45). There is no fixed period for the duration of the lease. Hence, the expiration thereof is governed by Article 1687 of the New Civil Code which reads:

"Art. 1687. If the period for the lease has not been fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is monthly; from week to week, if the rent is weekly; and from day to day, if the rent is to be paid daily. However, even though a monthly rent is paid, and no period for the lease has been set, the courts may fix a longer term for the lease after the lessee has occupied the premises for over one year. If the rent is weekly, the courts may likewise determine a longer period after the lessee has been in possession for over six months. In case of daily rent, the courts may also fix a longer period after the lessee has stayed in the place for over one month."

The right of the lessor to eject a lessee upon the termination of the lease in accordance with the above-quoted provision has been suspended by the express mandate of Section 4 of Batas Pambansa Blg. 25, such suspension to last for five (5) years from and after the effectivity of said Act. (Secs. 1 and 11, Ibid). Until and unless the said suspension shall have been lifted, the ejectment of the private respondents may not be judicially decreed on the ground alone that the petitioner had given them notices or demands to vacate to render the lessees liable for eviction under Article 1673 (1) of the New Civil Code. The petitioner has not shown, nor even alleged, that the private respondents may be evicted for any of the other causes prescribed in Articles 1673 of the New Civil Code or Section 5 of Batas Pambansa Blg. 25. In his complaint, petitioner relied merely on his being the purchaser of the land in question and on the notice to vacate which he served on the private respondents and posted in conspicuous places in the premises. Section 5 of Batas Pambansa Blg. 25 expressly provides in its last paragraph that:

"In no case shall the lessor be entitled to eject the lessee upon the ground that the leased premises has been sold or mortgaged to a third person."

The view herein expressed does not in any manner constitute a reversal or modification of the ruling laid down in *Rantael vs. Court of Appeals, et al.*, G. R. No. L-47519, April 30, 1980 (97 SCRA 453). In *Rantael*, although the lease was on a month-to-month basis, the eviction of the lessee was sustained because the duration of the same was fixed in a written agreement of the parties; moreover, it was shown that the lessor needed the property for his own use or for the use of an immediate member of the family as a residential unit, which is a statutory ground to eject a lessee in accordance with Section 5, paragraph 6 of Batas Pambansa Blg. 25. None of said circumstances appears in the case at hand.

WHEREFORE, the petition is hereby dismissed, and the decision of the Court of Appeals in CA-G.R. NO. 52293-R is affirmed, with costs against the petitioner.

SO ORDERED.

Makasiar, Melencio-Herrera, Relova, and Gutierrez, Jr., JJ. concur. Teehankee, J., (Chairman), no part. Plana, J., see dissent.

[1] Resolution dated August 23, 1976, Rollo, p. 76.

[2] Rollo, pp. 10-26. Justice Jose G. Bautista wrote the decision, concurred in by Justice Crisolito Pascual and Justice Vicente M. Santiago, Jr.

[3] Record on Appeal, pp. 10-13, Rollo, p. 27.

[4] Decision, Municipal Court of Pasig, Rizal, Record on Appeal, pp. 116-120, Rollo, p. 27.

[5] Decision, Court of First Instance, Pasig, Rizal, Record on Appeal, pp. 147-159, Rollo, p. 27.

[6] Petition, p. 5, Rollo, p. 6.

DISSENTING OPINION

PLANA, J.:

I beg to dissent.

Before 1964, Dorotea Gonzales was the owner of the land occupied by private respondents, her lessees. There was no stipulated lease period, but the rent was paid monthly.

In 1964, the land was sold by Gonzales to a certain Apolinario Castillo who, on August 5, 1966, resold it to petitioner Felipe Crisostomo.

On November 6, 1967, Crisostomo demanded in writing that private respondents vacate the land within fifteen days. The latter refused.

On November 28, 1967, Crisostomo instituted an ejectment suit in the Municipal Court of Pasig, Rizal. The Municipal Court decided the case in favor of the plaintiff and ordered private respondents to vacate. That was on August 11, 1970, when plaintiff had the undoubted right to eject private respondents. The defendants appealed. The Court of First Instance affirmed the decision of the Municipal Court on September 26, 1972. (Thereafter, that is, on October 12, 1972, Presidential Decree 20 qualifiedly prohibiting the ejectment of lessees was adopted. The ban was continued by Batas Pambansa 25, enacted on April 10, 1979.)

On March 9, 1976, the Court of Appeals modified the CFI decision by upholding the right of private respondents to remain on the land pursuant to Art. 1676 of the Civil Code (right of vendee of land to eject lessees thereof; exceptions) and on the basis of the finding that, at the time he bought the land, petitioner Crisostomo knew that private respondents were lessees thereof.

In my view, Art. 1676 of the Civil Code has been wrongly applied. This provision reads:

"Art. 1676. The purchaser of a piece of land which is under a lease that is not recorded in the Registry of Property may terminate the lease, save when there is a stipulation to the contrary in the contract of sale, or when the purchaser knows of the existence of the lease.

"If the buyer makes use of this right, the lessee may demand that he be allowed to gather the fruits of the harvest which corresponds to the current agricultural year and that the vendor indemnify him for damages suffered.

"If the sale is fictitious, for the purpose of extinguishing the lease, the supposed vendee cannot make use of the right granted in the first paragraph of this article. The sale is presumed to be fictitious if at the time the supposed vendee demands the termination of the lease, the sale is not recorded in the Registry of Property."

Article 1676 gives a right to the vendee and quali-fies the grant of that right. There is no indication in the law that said legal provision was meant to reduce the rights of the vendee or new landowner. Accordingly, if the vendor or old landowner had the right to eject the lessee because the lease was not for a stipulated period, so would the vendee, even if the latter was aware of the lease when he bought the property.

Affirmatively stated, Article 1676 purports to give the new owner a fresh right to eject the lessee (a right not

possessed by the vendor because the lease concluded by him stipulated a fixed term which had not expired), unless the vendee had actual or constructive knowledge of the lease with a fixed term when he acquired the property. It must have been for this reason that the said article provides that if the new owner makes use of his right to terminate the lease, "the lessee may demand that the vendor indemnify him for damages suffered." There would be no such right to damages if the lessee were not ejected prematurely or before the expiration of the lease period. It must have been for the same reason and upon the same understanding that when the Code Commission added the last paragraph of Art. 1676 (to Art. 1571 of the old Civil Code), it explained: "The last paragraph is calculated to discourage the practice which has developed in recent years of fictitiously selling the premises in order to oust the lessee before the termination of the lease." (Report of the Code Commission, p. 143.)

"From what has been said, it is obvious that the defendant, Maximo Trinidad, must be treated as a tenant from month to month upon a lease terminable without necessity of a special notice upon the expiration of any month. (Art. 1581, Civil Code.) This is all that can be made of it. And it is a mistake to suppose that the plaintiff's right of action is based on Article 1571 of the Civil Code, which authorizes a purchaser of leased land to terminate any unregistered lease. The plaintiff is not seeking to avoid an unregistered lease for a fixed term, which is the matter proceeding in the character of owner or vendee, under Section 80 of the Code of Civil Procedure, to recover possession from a tenant holding over after the termination of the right to hold possession. When attention is given to this point it is quite apparent that the plaintiff is entitled to judgment, and the lower court erred in dismissing the case." (Rivera vs. Trinidad, 48 Phil. 396, at 400. Emphases supplied. See also V Tolentino, Civil Code of the Philippines [1959 ed.] 219, citing Alicante vs. Tordesillas, [CA 46 O.G. 142] and Rivera vs. Trinidad, 48 Phil. 396.)

Barring the application of Art. 1676 of the Civil Code, I think it is fairly obvious that under the circumstances of the instant case, petitioner Crisostomo is entitled to the possession of the disputed land both from the standpoint of law and equity.

1. Petitioner had the undoubted right to eject private respondents. That right accrued and became vested way back in 1967. Petitioner invoked the said right by demanding that private respondents vacate his land and subsequently filing an ejectment suit, obtaining a favorable judgment thereon. That the case, thru judicial delay and successive appeals, has remained pending since 1967, is not the fault of the petitioner and should not be held against him.

2. Since 1967, after private respondents had unjustifiably refused to vacate petitioner's land, they have become usurpers or illegal occupants thereof, i.e., long before the adoption of Presidential Decree 20 on October 12, 1972, or Batas Pambansa 25 on April 10, 1979.

Moreover, Presidential Decree 20 and Batas Pambansa 25 could not have been intended to cover persons in the situation of private respondents. It is true that under Sec. 5 of Batas Pambansa 25: "In no case shall the lessor or his successor-in-interest be entitled to eject the lessee upon the ground that the leased premises has (sic) been sold to a third person." Since the injunction is only against ejectment on the specific ground that "the leased premises have been sold," I take it that the restriction contemplates a case where the vendee seeks to eject the lessee solely on the basis of his status as vendee with a fresh right (to recover possession) not emanating from his vendor; this would be equivalent to the "ground that the leased premises has been sold." In other words, the quoted provision was intended to counteract the thrust of Art. 1676 of the Civil Code.

As has been pointed out, however, petitioner Crisostomo has been seeking the ejectment of private respondents by virtue of his being the owner of the land in question, to recover possession from tenants holding over after the termination of their right to hold possession. He is not invoking the fresh right of a vendee, as such, to eject the lessee under Art. 1676 of the Civil Code.

3. Petitioner bought the land on August 5, 1966. Since then, or for a period of about 16 years, private respondents have managed to remain in and enjoy petitioner's property, while the latter has been deprived of

possession and has not received to date any compensation for the use of his land.

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