

**LAURO ADAMOS, ORO ADAMOS, DOMINGO ALMEDA, BENITA ALTO,
ADELAIDA BERNARDO, SIMPLICIO BELISARIO, BERNARDINO
CUSTODIO, AMADO DOMINGUEZ, GREGORIO SAN DIEGO,
FELICISIMO G. FAUSTO, AN...**

G.R. No. L-21957. October 14, 1968

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on regular appeal from the order of the Court of First Instance of Manila dismissing the complaint in its civil case No. 53067.

The plaintiffs, numbering thirty-three (33) in all, instituted this action for "Specific Performance and Damages," alleging four (4) causes of action against J.M. Tuason & Co. Inc., and Gregorio Araneta Inc., the latter in its capacity as managing partner and attorney-in-fact of the former. In the first cause of action the complaint states that the plaintiffs are in possession of certain residential lots situated in Matalahib and Tatalon, Quezon City, having purchased the same sometime in 1949 from several persons collectively designated as the Deudors; that said lots are all embraced and included in a bigger parcel of land covered by a Torrens title in the name of J.M. Tuason & Co. Inc.; that after 1949 the same lots claimed by herein plaintiffs became the subject-matter of several civil cases in the Court of First Instance of Rizal (Quezon City) between the Deudors and J. M. Tuason Co., Inc.; that on March 16, 1953 the parties in those cases entered into a compromise agreement, subsequently embodied in the decision of the Court, under which the legitimate purchasers of lots from the Deudors, named in a list attached to the said agreement, among them the plaintiffs, "who are to continue and/or who are entitled to elect and have elected to buy their respective lots from the legal owners who are now the defendants (J.M. Tuason & Co. Inc.) shall be credited (the) sums already paid by them under their former purchase contracts from their respective predecessors-in-interest;" that it is likewise provided in the compromise agreement that the so-called owners (J. M. Tuason & Co. Inc.), now the defendants, shall make new purchase contracts in favor of the plaintiffs with respect to their respective lots acquired by them from the Deudors at the current rate then existing at the time of the execution of the compromise agreement; that the plaintiffs "are...willing to buy their respective lots and/or elect to continue to purchase the same from the defendants and also to sign new purchase contracts, but the defendants without any legal justification whatsoever, deliberately refused and failed and still refuse and fail to make new purchase contracts in favor of the herein plaintiffs up to the present time, notwithstanding verbal and written demands made by the plaintiffs to the defendants, and in spite of their written and verbal commitments to plaintiffs."

The third and fourth causes of action, after incorporating by reference the allegations in the first one, merely deal with the prices at which, according to the plaintiffs, the defendants should sell the lots to them pursuant to the compromise agreement. The fourth cause of action contains a claim for damages and attorney's fees.

The relief sought in the complaint, aside from the claim for damages and attorney's fees, is for the defendants to

be ordered "to make new purchase contracts in favor of the plaintiffs on their respective lots at the current price ranging from P17.00 to P20.00 (per square meter) at the time of the execution of the compromise agreement."

J. M. Tuason & Co. Inc., and Gregorio Araneta, Inc. filed separate motions to dismiss, both pleading improper venue and failure to state a cause of action, and the first alleging, besides, extinctive prescription and misjoinder of parties. Over the plaintiffs' opposition, the lower court granted the motion and dismissed the complaint on one ground alone, namely, failure to state a cause of action. The material portions of the order of dismissal read as follows:

"x x x The compromise agreement upon which the plaintiffs based their complaint had already been rescinded and set aside. After the rendition of the decision which was based upon the compromise agreement, x x x several incidents arose in connection with the implementation thereof which led to the issuance of two orders by the Court of First Instance of Rizal, Quezon City Branch, in Civil Cases Nos. Q-135, Q-139, Q-174 and Q-177.

"In the first order which was dated February 28, 1957, said court directed those referred collectively as the 'Deudors' in the compromise agreement, to clear and deliver the peaceful possession of the 30 'quiñones' to J. M. Tuason & Co., Inc., and Gregorio Araneta, Inc. within a period of four (4) months from that date.

"The 'Deudors' moved for the reconsideration of said order while Gregorio Araneta, Inc. filed a motion alleging that the former had not delivered the 30 'quiñones' despite the expiration of four months fixed in the order of February 28, 1957 and praying that the Sheriff of Quezon City be directed to place movant in possession of said parcel of land except those portions which were in the possession of parties named individual-ly in said motion.

"The Court of First Instance of Rizal, Quezon City Branch, denied the motion for reconsideration of the 'Deudors' and granted the motion of Gregorio Araneta, Inc. dated August 16, 1957 in an order dated January 10, 1958, wherein it made the following pro-nouncement:

'x x x There is no excuse, therefore, for the failure of the Deudors to deliver the remaining 30 quiñones, 4 years and 8 months after the execution and approval of the compromise agreement. The equitable, if not the legal, solution of the problem is the setting aside of the compromise agreement of March 16, 1953, so far as it still remains unimplemented or executory. The failure to deliver and the continued mushrooming of houses in the area, despite the compromise, justify the release of J. M. Tuason & Co., Inc. and Gregorio Araneta, Inc. from further obligations under the agreement of March 16, 1953.'

"From the orders of February 28, 1957 and January 10, 1958, the 'Deudors' appealed to the Supreme Court, but on May 30, 1961 it affirmed them and held among others the following:

'x x x In any event, said paragraph is but a faithful statement of the law pertinent to the subject, inasmuch as the period of four (4) months, given to the Deudors, in said decision, for the delivery of the land of 30 quiñones to which their right to collect P614,925.74 was subject as a suspensive condition - constituted a resolutive period. When the same expired with said suspensive condition still unfulfilled, appellants' right to comply with it was extinguished, and the conditional obligation of the appellees to pay said sum was terminated (Article 1193, Civil Code of the Philippines). (Florencio Deudor, et al. vs. J. M. Tuason & Co., Inc., G. R. L-13768, May 30, 1961)'

"Whatever doubt there could still be as to the effect of the ruling in the above-quoted case on the compromise agreement of March 16, 1953, was dispelled by a subsequent decision of the Supreme Court in 'J. M. Tuason & Co., Inc., et al. vs. Bien-venido Sanvictores', G. R. L-16886, promulgated on January 30, 1962 when it stated that –

'It is also worthy of note that the compromise between Deudor and Tuason upon which Sanvictores predicates his

right to buy the lot he occupies, has been validly rescinded and set aside, as recognized by this Court in its decision in G.R. No. L-13768, *Deudor vs. Tuason*, promulgated on May 30, 1961.'

"WHEREFORE, the Court is of the opinion and so holds that the complaint states no cause of action and by virtue thereof is hereby dismissed without pronouncement as to costs."

The plaintiffs moved to reconsider, were turned down, and came up directly to this Court on appeal.

It is a well-settled rule that in a motion to dismiss based on the ground that the complaint fails to state a cause of action, the question submitted to the court for determination is the sufficiency of the allegations in the complaint itself. Whether those allegations are true or not is beside the point, for their truth is hypothetically admitted by the motion. The issue rather is: admitting them to be true, may the court render a valid judgment in accordance with the prayer in the complaint? Stated other-wise, the insufficiency of the cause of action must appear on the face of the complaint in order to sustain a dismissal on this ground. No extraneous matter may be considered, nor facts not alleged, which, would require evidence and therefore must be raised as defenses and await the trial (*Garcon vs. Redemptorist Fathers*, L-23510, May 30, 1966). So rigid is the norm prescribed that if the court should doubt the truth of the facts averred it must not dismiss the complaint but require an answer and proceed to hear the case on the merits (*Republic Bank vs. Cuaderno*, L-22399, March 30, 1967).

In departing from this rule and taking cognizance of facts not alleged or referred to in the complaint, specifically the so-called rescission of the compromise agreement on which the plaintiffs' complaint is predicated, the lower court committed an error. The alleged rescission the extent of its effects on the different aspects of that agreement and specifically on the present claims of the plaintiffs, are matters of defense which should be properly raised in the answer. It is unsafe to lift the idea of "rescission" from the context in which it was used in the two cases relied upon by the lower court and apply it here without a previous inquiry into the facts to determine whether or not it is indeed applicable.

In their brief the defendants as appellees insist on the other ground alleged by them below in support of their motion to dismiss but not passed upon by the lower court, namely, that venue was improperly laid. We do not agree with the defendants. All the allegations as well as the prayer in the complaint show that this is not a real but a personal action - to compel the defendants to execute the corresponding purchase contracts in favor of the plaintiffs and to pay damages. The plaintiffs do not claim ownership of the lots in question: they recognize the title of the defendant *J. Tuason, Inc.* They do not ask that possession be delivered to them, for they allege to be in possession. The case cited by the defendants (*Abao et al. vs. J. M. Tuason & Co., Inc.*, G. R. L-16796, Jan. 30, 1962) is therefore not in point. In that case, as stated by this Court in its decision, the "plaintiffs' action is predicated on the theory that they are occupants, landholders", and 'most' of them 'owners by purchase' of the residential lots in question; that, in consequence of the compromise agreement adverted to above, between the Deudors and defendant corporations, the latter had acknowledged the right and title of the Deudors in and to said lots; and hence, the right and title of the plaintiffs, as successors-in-interest of the Deudors; that, by entering into said agreement, defendant corporations had, also, waived their right to invoke the indefeasibility of the Torrens title in favor of *J. M. Tuason & Co., Inc.*; and that defendants have no right, therefore, to oust plaintiffs from the lots respectively occupied by them and which they claim to be entitled to hold. Obviously, this action affects, therefore, not only the possession of real property, but, also, the title thereto. Accordingly, it should have been instituted in the Court of First Instance of the Province of Rizal in which said property is situated (Section 3, Rule 5 of the Rules of Court)".

Wherefore, the order appealed from is set aside, and the case is remanded for further proceedings, with costs against the defendants-appellees in this instance.

Concepcion, C.J., Reyes, J.B.L., Dizon, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., on official leave.

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