

HEIRS OF THE LATE JAIME BINUYA, NAMELY: ASUNCION B. CALINAWAN, MAURINIA B. BONIFACIO, NOEL L. BINUYA, ALFREDO L. BINUYA, FLORANTE L. BINUYA AND JAIME L. BINUYA, JR., PETITIONERS...

G.R. No. 100493. July 23, 1992

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Petitioners seek to set aside the 6 June 1991 Resolution[1] of respondent Court in C.A.-G.R. SP No. 24779, entitled "Heirs of the Late Jaime Binuya, et al. versus Honorable Arturo A. Romero, et al." dismissing their petition for the review of the decision of Branch 120 (Kalookan City) of the Regional Trial Court (RTC), National Capital Judicial Region, in Civil Cases Nos. 14662 and 14663 entitled "Jaime Binuya versus Bernardo Carpio" and Jaime Binuya versus Rustico Dungao", respectively, which modified the decision of Branch 50 of the Metropolitan Trial Court (MTC) of Kalookan City in Civil Case No. 19587 and Civil Case No. 19588 for ejectment. The RTC modified the said decision by ordering that the eviction of the defendants therein be effected only after they shall have been reimbursed or paid by the original plaintiff, now substituted by petitioners, for the value of their houses.

As culled from the pleadings, the following facts are not disputed:

Petitioners' father, Jaime Binuya, was the registered owner of a parcel of land located along P. Garcia Street, Kalookan City. He leased out a portion thereof to private respondent Dungao who constructed thereon a residential house. The lease was to run for a period of ten (10) years, commencing on 1 April 1968; a monthly rental of P20.00 was agreed upon. In 1973, private respondent Carpio bought one of Jaime's two (2) houses on the lot; after the said purchase, Carpio leased that portion of the lot occupied by the house for a period of ten (10) years commencing on 22 June 1973 at a monthly rental of P20.00.

Both contracts of lease were in writing.

The contract with Dungao was renewed for a period of two (2) years after its expiration. Although no further renewal or extension was agreed upon, Dungao was allowed to stay in the premises on a month to month basis at a monthly rental of P40.00.

There was no extension or renewal of the contract of lease with Carpio after its expiration, but he, nevertheless, continued to stay on the premises, paying a monthly rental of P30.00, which was later increased to P40.00.

Upon their failure to pay rentals after March 1989, an amicable settlement thru the conciliation procedure prescribed under P.D. No. 1508 was attempted. This having failed, Jaime Binuya filed the aforesaid Civil Cases Nos. 19587 and 19588 for ejectment with Branch 50 of the MTC of Kalookan City against Bernardo Carpio and Rustico Dungao, respectively.

In their Joint-Affidavit submitted to the MTC, private respondent Carpio claimed that Jaime agreed to reimburse him (Carpio) for the value of the improvements he would introduce on the house and that the current value of such improvements is P80,000.00. On the other hand, private respondent Dungao claimed that Jaime also agreed to reimburse him for the value of the improvements he would introduce on the portion leased should Jaime decide to repossess the land. Both private respondents further asserted that their respective contracts of lease were renewed for a period of ten (10) years per renewal; Carpio was on his second renewal while Dungao was on his third renewal.

In its Joint Decision dated 13 October 1990,[2] the Metropolitan Trial Court ruled for Jaime Binuya and ordered the private respondents as follows:

"WHEREFORE, premises considered, judgment is hereby rendered, ordering:

1. Both defendants and all persons claiming rights under them to remove their respective structures from and to vacate the subject premises and surrender peacefully the possession of said premises to the plaintiff;

2. Both defendants to pay all their respective rentals as follows:

(a) Defendant Bernardo Carpio to pay the sum of P630.00 representing unpaid rentals at P40.00 per month from April, 1989 up to August, 1990, and furthermore, the sum of P40.00 per month beginning with the month of September, 1990 and every month thereafter until said defendant finally vacates the premises;

(b) Defendant Rustico Dungao to pay the sum of P680.00 representing unpaid rentals at P40.00 per month from April, 1989 up to August, 1990, and furthermore, the sum of P40.00 per month beginning with the month of September, 1990 and every month thereafter until said defendant finally vacates the premises;

3. Both defendants to pay P6,000.00 each as and for reasonable attorney's fees, plus costs of these suits."

The court dismissed the counterclaims of both Carpio and Dungao for lack of merit. In respect to their claims for reimbursements for the value of improvements introduced by them, the court ruled that:

"x x x A careful perusal of the lease contract originally entered into by the parties reveals no such agreement to that effect. Furthermore, defendants failed to present any document to show that there was such an agreement entered into between themselves and plaintiff." [3]

Herein private respondents appealed from said Decision to the Regional Trial Court of Kalookan, Branch 120, which docketed their appeals as Civil Cases Nos. 14662 and 14663.

On 9 February 1991, Jaime Binuya died, prompting the herein petitioners to substitute him as plaintiff in the appealed cases. On 4 April 1991, the RTC, per respondent Judge Arturo A. Romero, rendered its decision in the said cases,[4] the dispositive portion of which reads as follows:

"WHEREFORE, the appealed decision is hereby AFFIRMED subject to the modification that the eviction shall be effected after defendants shall have been reimbursed (sic) or paid by plaintiff for the value of their houses aforementioned."

This order requiring plaintiff to reimburse defendants for the value of the latter's houses is founded on its conclusion that private respondents are builders in good faith, which in turn is anchored on the following findings:

"Worth-noting (sic) is the fact that in Civil Case No. 19587, the plaintiff sold his house then existing on the lot in question to the defendant at the time lease (sic) agreement was entered into between plaintiff and defendant Carpio. And in Civil Case No. 19588, the defendant Rustico Dungao erected a residential house on the lot in question upon the lease of plaintiff's lot with the consent of plaintiff."

Accordingly, what easily looms as the most pervasive and decisive issue for consideration is whether or not the defendants are entitled to the reimbursement of (sic) their respective houses existing on the lots from whence (sic) they are now being evicted.

Under the circumstances on record, the defendants are owners/builders in good faith.

In the case of *Sarmiento vs. Agana*, 129 SCRA 122, it was held that: 'A landowner on which a building has been constructed in good faith by another has the option to buy the building or sell his land to the builder; he cannot refuse to exercise either option'.

Since it is evident that the plaintiff prefers to take possession of both lots in question, the plaintiff should therefore pay the defendants the value of their improvements."

Failing to understand and unable to accept the modification, petitioners filed with the respondent Court a petition for the review of the decision. The said petition was docketed as C.A.-G.R. SP No. 24779.

On 6 June 1991, respondent Court promulgated the assailed resolution[5] dismissing the petition, there being no *prima facie* showing that the trial court judge committed any error of law or of fact which may warrant a reversal or modification of the decision.[6] It agreed with the respondent Judge that private respondents "are builders in good faith" and "since the original plaintiff as well as his heirs, herein petitioners, prefer to take possession of the lot in question, reimbursement is only proper."

Petitioners then filed the instant petition, claiming that respondent Court and respondent Judge erred in holding that private respondents are builders in good faith and in applying the case of *Sarmiento vs. Agana*.[7]

After private respondents filed their Comment[8] in compliance with the Resolution of 7 August 1991, this Court resolved to give due course to the petition and require the parties to submit their respective Memoranda,[9] which both parties subsequently complied with.

We decide for the petitioners.

As far back as 1907, in *Alburo vs. Villanueva*,[10] this Court already ruled that a lessee is not entitled to indemnification for improvements as a builder in good faith, thus:

"The contention that the defendant is entitled to the benefits of the provisions of Article 361 of the Civil Code can not be maintained because the right to indemnification secured in that article is manifestly intended to apply only to a case where one builds or sows or plants on land in which he believes himself to have a claim of title and not to lands wherein one's only interest is that of tenant under a rental contract; otherwise, it would always be in the power of the tenant to improve his landlord out of his property."

The Civil Code mentioned therein is the old Civil Code; Article 361 provided as follows:

"The owner of land on which anything has been built, sown, or planted, in good faith, shall be entitled to appropriate the thing so built, sown, or planted, upon paying the compensation mentioned in Articles 453 and 454, or to compel the person who has built or planted to pay him the value of the land, and the person who sowed thereon to pay the proper rent therefor."

Article 453 referred to necessary and useful expenditures while Article 454 referred to expenditures purely for ostentation or mere pleasure.

Articles 361, 453 and 454 of the old Civil Code are now Articles 448 (with amendments), 546 (with amendments) and 548, respectively, of the new Civil Code.

This rule was reiterated many times over in subsequent cases.[11] The reason therefore is obvious. As stated by

this Court in *Lopez, Inc. vs. Philippine & Eastern Trading Co.*:^[12]

"x x x This principle of possessor in good faith naturally cannot apply to a lessee because as such lessee he knows that he is not the owner of the leased property. Neither can he deny the ownership or title of the lessor."

Or, as stated in *Guitarte vs. Sabaco*,^[13] lessees are "at the outset aware of the 'precarious nature' of their possession."

It must be remembered that one of the conclusive presumptions in Section 2, Rule 131 of the Rules of Court is that "[T]he tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation of landlord and tenant between them."

In contracts of lease, the matter of improvements introduced by the lessee is specifically governed by Article 1678 of the new Civil Code which reads:

"If the lessee makes, in good faith, useful improvements which are suitable to the use for which the lease is intended, without altering the form or substance of the property leased, the lessor upon the termination of the lease shall pay the lessee one-half of the value of the improvements at that time. Should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby. He shall not, however, cause any more impairment upon the property leased than is necessary.

With regard to ornamental expenses, the lessee shall not be entitled to any reimbursement, but he may remove the ornamental objects, provided no damage is caused to the principal thing, and the lessor does not choose to retain them by paying their value at the time the lease is extinguished."

In the old Civil Code, the matter was governed by Article 1573 in relation to Article 487.^[14] Article 1573 provided:

"A lessee shall have, with respect to useful and voluntary improvements, the same rights which are granted to usufructuaries."

while Article 487 provided as follows:

"The usufructuary may make on the property held in usufruct any improvements, useful or recreative, which he may deem proper, provided he does not change its form or substance; but he shall have no right to be indemnified therefor. He may, however, remove such improvements, should it be possible to do so without injury to the property."

It is to be noted at once that the old Civil Code allowed neither indemnity nor retention. The new Code, however, allows indemnity, to the extent of one-half ($\frac{1}{2}$) of the value of the useful improvements, if the lessor chooses to retain them. In short, it is the lessor who has the option to pay for one-half ($\frac{1}{2}$) the value of the improvements.^[15]

The lessee does not have the right to demand that he be paid therefor. For if the lessor refuses "to reimburse said amount", the only remedy available to the lessee is to "remove the improvements, even though the principal thing may suffer damage thereby," provided, however, that he should not "cause any more impairment upon the property leased than is necessary". Also, not being a possessor in good faith, and therefore, not entitled to the benefits of Article 546 of the new Civil Code, the lessee does not have the right of retention over his improvements until he is reimbursed one-half ($\frac{1}{2}$) of the value of the useful improvements.

The above provisions of law are clear and unambiguous. The jurisprudence built upon them is well-entrenched. Both the respondent Judge and the respondent Court should not have overlooked or disregarded them; vigilance on their part would have aborted in due time the probability of the cases being brought to this Court to contribute to the clogging of its docket.

We agree with the petitioner that Sarmiento vs. Agana[16] does not apply in this case.

In that case, it was established that as far as private respondents, the spouses Ernesto Valentino and Rebecca Lorenzo, knew, "the LAND was owned by ERNESTO'S mother-in-law who, having stated they could build on the property, could reasonably be expected to later on give them the LAND." Ernesto constructed the house in 1967. It turned out, however, that the land was registered in the name of Mr. and Mrs. Jose Santos, Jr., who sold the same in 1974 to petitioner Sarmiento who in turn filed an ejectment suit against private respondents. This Court, taking into account the peculiar circumstances under which they constructed the house, considered them builders in good faith and, therefore, affirmed the modifying decision of the Court of First Instance which applied Article 448 of the Civil Code.

Clearly, therefore, the modification made by respondent Judge directing that the ejectment of the private respondents shall be effected only after they shall have been reimbursed or paid by petitioners for the value of their houses finds no basis in law and disregards the overwhelming weight of authority on the matter. He thus committed a palpable abuse of discretion amounting to lack of jurisdiction.

In affirming the same by dismissing the petition in C.A.-G.R. SP No. 24779, the respondent Court perpetuated the error of the respondent Judge and must, therefore, share the responsibility for the blunder.

WHEREFORE, judgment is hereby rendered GRANTING the instant petition, SETTING ASIDE the resolution of respondent Court of 6 June 1991 in C.A.-G.R. SP No. 24779, SETTING ASIDE the modification in the Decision of respondent Judge of 4 April 1991 in Civil Cases Nos. 14662 and 14663; and REINSTATING in full the Decision of 12 October 1990 of Branch 50 of the Metropolitan Trial Court of Kalookan in Civil Cases Nos. 19587 and 19588.

Costs against private respondents.

SO ORDERED.

Gutierrez, Jr., (Chairman), Feliciano, Bidin, and Romero, JJ., concur.

[1] Per Associate Justice Jose A. Melo, concurred in by Associate Justices Emeterio C. Cui and Regina Ordoñez-Benitez.

[2] Annex "B" of Petition; Rollo, 32-37.

[3] Rollo, 36.

[4] Annex "C" of Petition; Rollo, 38-42.

[5] Annex "A" of Petition; Rollo, 28-30.

[6] Id., 30.

[7] 129 SCRA 122 [1987].

[8] Rollo, op. cit., 47-49.

[9] Rollo, 50.

[10] 7 Phil. 277 [1907].

[11] In Re Building and Loan Association and Peñalosa, 13 Phil. 575 [1909]; Rivera vs. Trinidad, 48 Phil. 396

[1925]; *Fojas vs. Velasco*, 51 Phil. 520 [1928]; *Montinola vs. Bantug*, 71 Phil. 449 [1941]; *Lopez, Inc. vs. Philippine & Eastern Trading Co.*, 98 Phil. 348 [1956]; *Guitarte vs. Sabaco*, 107 Phil. 437 [1960]; *Cortez vs. Manimbo*, 113 Phil. 363 [1961]; *De Laureano vs. Adil*, 72 SCRA 148 [1976]; *Eusebio vs. Intermediate Appellate Court*, 144 SCRA 154 [1986]; *Maceda vs. Court of Appeals*, 176 SCRA 440 [1989].

[12] *Supra*.

[13] *Supra*.

[14] *Alburo vs. Villanueva*, *supra*.

[15] *Lapeña vs. Morfe*, 101 Phil. 997 [1957]; *De Laureano vs. Adil*, *supra*.

[16] *Supra*.

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