

ASSET PRIVATIZATION TRUST, PETITIONER, VS. HON. COURT OF APPEALS AND JOHANNESBURG PACKAGING CORPORATION, RESPONDENTS.

G.R. No. 103277. February 03, 1994

Ponente: PUNO, J.

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PUNO, J.:

Once more, a simple case of unlawful detainer subject of our rules on summary procedure has to take the precious time of this court thru the parties' legal legerdemain. Worse, the protracted litigation has locked in valuable assets of the government worth more than P100 Million which otherwise could have been used to meet many of our economic problems. It is the function of law to be an effective medium of our economic growth. Any effort to use the technicalities of our laws and procedure to frustrate this function will be struck down.

This is a petition for review on certiorari of the decision[1] of the First Division of the Court of Appeals in CA-G.R. SP No. 25013 entitled "Johannesburg Packaging Corporation vs. Hon. Judge Pedro B. Villafuerte, Jr., Presiding Judge, of the Regional Trial Court, Branch 1, Balanga, Bataan, et al., the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, the May 20, 1991 decision of the respondent Regional Trial Court, subject matter of the instant petition for review should be, as it is hereby, REVERSED and SET ASIDE, and as a corollary thereto, the complaint for unlawful detainer is hereby DISMISSED. Accordingly, the Order dated May 20, 1991 of the public respondent and the corresponding writ of preliminary mandatory injunction are ANNULLED and SET ASIDE, and immediate possession of the disputed premises is hereby restored to the herein petitioner."

We start by unfurling only the salient facts of the case. The Paragon Paper Industries Inc., mortgaged the Paragon Paper Mill in favor of the Development Bank of the Philippines (DBP). The Paragon Paper Mill consists of 165,612 square meters of land covered by TCT Nos. T-55298 and T-55299 of the Registry of Bataan with the buildings, machinery and equipment for the manufacture of various paperboard products installed therein. Upon failure of the Paragon Paper Industries Inc., to pay its obligation, the property was foreclosed and sold at public auction with DBP as the highest bidder.

On August 1, 1986, the DBP conducted a public bidding for the sale of the Paragon Paper Mill for cash. Private respondent Johannesburg Packaging Corporation with its cash bid of P120,579,000.00 won the bidding subject to the terms and conditions set forth in DBP Resolution No. 1319 of August 20, 1986, particularly, the approval of the award by the President of the Philippines and the payment in cash within thirty (30) days from receipt of notice of the said Presidential approval.[2]

On September 4, 1986, DBP submitted the proposed sale to the Office of the President of the Philippines for approval. In a letter agreement dated October 13, 1986, DBP granted the request of private respondent to enter the premises of the Paragon Paper Mill to clean, repair and test run the mill and equipment with or without load and

not to operate the same pending approval of the President.[3]

On January 9, 1987, private respondent received the Notice sent by DBP informing the former of the President's approval.

On May 22, 1987, DBP rescinded the award due to the failure of private respondent to pay the full amount of its cash bid despite the several extensions it requested.

Then came legal maneuvers to retain possession of the valuable paper mill. On June 8, 1987, private respondent filed Civil Case No. 16960 with the Regional Trial Court of Makati contesting DBP's act of rescission. Private respondent also worked on petitioner APT as the plant has been transferred to the latter for control, administration and disposition as mandated by (Proclamation) No. 50. It proposed to purchase the Paragon Paper Mill from petitioner APT at P110,597,000.00, the amount it failed to pay DBP when the latter rescinded the award of sale. Private respondent promised to pay on or about August 17, 1987. Again, it failed to make good its promise. Thus, petitioner sent a letter dated December 14, 1990 which demanded that private respondent vacate the premises within fifteen (15) days from the date of receipt.

Private respondent refused to vacate the premises. On January 14, 1991, petitioner was compelled to file a complaint for unlawful detainer before the Municipal Circuit Trial Court in Orani-Samal, Bataan in Civil Case No. 585.

Finding that the case falls under the Rules on Summary Procedure, the trial court ordered the service of summons in accordance with the said rule. Private respondent filed its answer alleging, among others, that it had purchased the property in question from DBP in a public bidding; that the filing of the Complaint is a violation of the status quo order of the Regional Trial Court of Makati in Civil Case No. 16960; and, that the Court has no jurisdiction over the case.

During the pre-trial conference, the issues were defined and the parties were directed to submit their respective position papers together with the affidavits of their witnesses and other evidences along with their position papers within ten (10) days from receipt of the order therein, after which, the case was to be considered submitted for decision. Petitioner complied with the order while private respondent did not. Instead, it filed a motion for reconsideration and followed by a motion to dismiss both of which after hearing were denied.[4] On March 21, 1991, the court rendered a decision ordering private respondent to vacate the premises. On appeal, the Regional Trial Court of Branch 1, Balanga, Bataan affirmed the decision of Municipal Circuit Trial Court of Bataan.

On petition for review, respondent Court of Appeals, as stated earlier, reversed and set aside the decision of the Regional Trial Court and dismissed the Complaint for unlawful detainer. It ruled that: (a) the application of the Rule on Summary Procedure is improper as the issue of ownership had been raised in the answer; (b) the complaint failed to state with sufficient clarity the jurisdictional facts whether the action is for unlawful detainer or forcible entry, and (c) the 17th Division of the Court of Appeals in CA-G.R. SP No. 24632 has, on that date, sustained the issuance of a Temporary Restraining Order in Civil Case No. 16960 by the RTC of Makati, Br. 145 which prohibited petitioner from, among others, repossessing from private respondent the Paragon Paper Mills, its facilities and plantsite at Orani, Bataan through a physical takeover and/or enforcement of the Summary decision in Civil Case No. 585 for unlawful detainer.

On January 13, 1992, this petition was filed to which we gave due course. On January 23, 1992, upon urgent application for restraining order and/or preliminary injunction by counsel for petitioner, we issued a Temporary Restraining Order "effective immediately and continuing until further Orders from this Court, ordering the respondent Court of Appeals to CEASE and DESIST from enforcing and implementing its decision and resolution

issued in CA-G.R. SP No. 25013 entitled 'Johannesburg Packaging Corporation vs. Hon. Judge Pedro D. Villafuerte, Jr., et al.', respectively dated September 30, 1991 and December 18, 1991," thus, restraining the restoration of possession of the disputed premises to respondent Johannesburg Packaging Corporation.

The crucial issues for determination are: (1) whether or not the Rule on Summary Procedure is applicable in this case, and (2) whether or not the complaint is for unlawful detainer.

We find that the appellate court erred when it ruled that the Rules on Summary Procedure should not have been applied by the trial court considering that the issue of ownership of the disputed property was raised by the private respondent in another case, Civil Case No. 16960 in the RTC of Makati. This ruling has been repudiated in *Sy vs. Court of Appeals*, G.R. No. 95818, August 2, 1991, where we held:

"Private respondents insist that the Rule on Summary Procedure does not apply since there is a question of ownership involved albeit in another case pending in another court, that is, the aforesaid Civil Case No. 88-47264 in the Regional Trial Court of Manila. We apprehend that if this theory is adopted, the applicability of the Rule on Summary Procedure in ejectment cases could easily be thwarted by the defendant through the simple expedient of filing an action in a regional trial court contesting plaintiff's ownership over the property from which defendant is sought to be evicted. Hence, the obvious intimation of private respondents that the regular procedure, and not the summary procedure, should be followed in the hearing of Civil Case No. 127019-CA, because of the existence of Civil Case No. 88-47264, does not impress us as being endowed with legal or logical support.

The rule is that the pendency of an action for annulment of sale and reconveyance may not be successfully pleaded in abatement of an action for unlawful detainer or forcible entry. It is provided that, in ejectment cases, when the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession (Sec. 33 (2), B.P 129; Par. 10, Interim Rules of Guidelines). But this rule is not even involved in the present case since the determination of the question of ownership is the subject of another case and is reposed in another court.

Thus the fact that the tenant had previously filed a separate action in the former Court of First Instance involving the ownership of the land is not a valid reason to frustrate the summary remedy of ejectment. Such action filed by the tenant only lends credence to the fact that the ejectment case filed by plaintiffs against the former does not involve the question of title (*Lozada vs. Abragan, et al.*, 66 SCRA 600 [1975]). This is so because the judgment rendered in an ejectment suit shall not bar an action between the same parties respecting title to the land or building nor shall it be held conclusive of the facts therein found in case between the same parties upon a different cause of action involving possession (*Ang Ping, et al., vs. RTC of Manila, et al.* 154 SCRA 77, [1987]). Furthermore, in ejectment cases the jurisdiction of the court is determined by the allegations of the complaint not by the defense raised by defendant (*Ramirez vs. Chit*, 21 SCRA 1364 [1967])."

Moreover, the issue is now moot considering that the 1983 Rules on Summary Procedure had been revised and the revisions became effective on November 15, 1991. As revised, all cases of forcible entry and unlawful detainer are to be tried pursuant to the Rules on Summary Procedure regardless of whether the issue of ownership of the subject property is pleaded by a party. The fact that the complaint had been filed prior to the date of the effectivity on November 15, 1991 is of no moment. Settled is the rule that procedural laws may be given retroactive effect. There are no vested rights on rules of procedure. A remedial statute may be made applicable to cases pending at the time of its enactment.[5] Moreover, the application of the rule will work to the advantage of both parties because the re-filing of the case to determine the issue of possession is avoided while the issue of ownership, subject of a different case in another court is being litigated.

We also hold that the appellate court erred in characterizing the subject complaint as one for forcible entry and not for unlawful detainer. For accuracy, the Complaint contains the following allegations:

- "1. Plaintiff is a government entity created under Proclamation No. 50 dated December 8, 1986, as amended, with capacity to sue and to be sued, and with principal office at the 10th Floor, BA-Lepanto Building, Paseo de Roxas, Makati, Metro Manila;
2. Defendant is a domestic corporation with principal office at No. 57 Howmart Road, Baesa, Quezon City, where it may be served with summons;
3. Plaintiff is a public trust mandated under said Proclamation No. 50 of the President to take title to and possession of, conserve, provisionally manage and dispose of assets transferred to it including, without limitation, to oversee the management and operation of corporations or other businesses constituting such assets, and to file suits and institute proceedings on behalf of and in the name of the National Government for the recovery and protection of such assets (Sec. 9 and 2(3), *supra*);
4. Conformably therewith, the plaintiff was entrusted by the National Government certain assets acquired from the Development Bank of the Philippines (DBP), among which was the Paragon Paper Industries, Inc., its assets and properties, of which is a paper plant, particularly known as the Paragon Paper Mill, consisting of two (2) parcels of land with a total area of 165,612 square meters, situated at Barangay Tapulao, Orani, Bataan and the machinery, equipment and other improvements erected thereon for the manufacture of various paperboard products;
5. Sometime in August, 1987 defendant offered to purchase the Paragon Paper mill from plaintiff, following its failure to purchase the same from the Development Bank of the Philippines (DBP) which then had rights and interests thereon as the mortgagee and the buyer thereof in the foreclosure sale thereon;
6. On the strength of defendant's promise to pay the Paragon Paper mill to plaintiff, defendant was able to continue to be in possession of the property which it unlawfully wrest from DBP. Until now, however, despite demand, defendant has not complied with terms of his offer of purchase, not even on the modifications it had subsequently proposed thereon;
7. Defendant has illegally occupied the Paragon Paper mill at the sufferance of plaintiff. However, final demand to vacate the premises thereof has been made in a letter dated 14 December 1990, copy of which is hereto attached and made part hereof as Annex "A";
8. The demands to pay and to vacate have not been complied with by the defendant, constraining plaintiff to file this action, for which it should be entitled to attorney's fees in the sum of P15,000.00.
9. Plaintiff reserves its right to claim for whatever damages it may have sustained by reason of defendant's failure to comply with its proposal to purchase the Paragon Paper Mill."

Petitioner urges and we agree, that a reasonable reading of the Complaint sets forth the following allegations, viz:

"The Property in question was originally owned by the Development Bank of the Philippines which transferred and conveyed it to the National Government. The latter entrusted the said property to the Petitioner APT, which was created by Proclamation No. 50 dated December 8, 1986. The private respondent JPC "unlawfully wrested" from the DBP the said property before the said property was entrusted to the Petitioner APT. Sometime in August 1987, private respondent JPC offered to purchase from the Petitioner APT the said property, and on the strength of JPC's promise to pay for the property in question to the APT, the latter allowed JPC to continue to be in possession of the property. Several demands to pay and to vacate were made by APT upon the JPC, and the final demand to vacate the premises was made thru the letter dated December 14, 1990. The complaint for unlawful detainer was filed on January 14, 1991."

It is thus clear from the Complaint that petitioner APT allowed the private respondent to continue in possession of the plant in view of its promise to purchase. In fine, private respondent was given and obtained lawful possession of the plant for sometime due to its undertaking to buy the same. Nonetheless, private respondent again failed to perform its promise of payment despite demands by the petitioner. After the demand and its repudiation, the continuing possession of the private respondent became illegal and the complaint for unlawful detainer filed by the petitioner was its proper remedy.

Finally, we note that the appellate court likewise cited and relied on the Decision of its 17th Division in CA-G.R. SP No. 24632 dated July 11, 1991. Said Decision sustained the issuance of a temporary restraining order in Civil Case No. 16960 by the RTC of Makati, Br. 145. The Temporary Restraining Order prohibited petitioner APT from repossessing from the private respondent the subject paper mill through a physical takeover and/or enforcement of the summary decision in Civil Case No. 585 for unlawful detainer.

Even this Decision in CA-G.R. SP No. 24632 is now of no avail to the private respondent. On October 1, 1992, this Court in G.R. No. 101344 entitled APT, etc. vs. Court of Appeals, et al., modified the aforementioned Decision. We quote the dispositive portion of our ruling:

"PREMISES CONSIDERED, the judgment under review is MODIFIED by sustaining the respondent Court of Appeals to the extent that it dismissed the petition in CA G.R. No. 24632 on the ground that anyway the temporary restraining order, in question had already expired, and in refraining from resolving the contempt charge against the lawyers of petitioner; however, its ruling allowing the trial court to proceed with the hearing on the preliminary injunction is REVERSED and SET ASIDE, consistent with the mandate of Proclamation No. 50-A. No costs."

With this ruling, there is no restraining order or any injunction in Civil Case No. 16960 which could serve as a legal impedient for petitioner to continue its possession of the subject paper mill.

IN VIEW WHEREOF, the Decision of the respondent court in CA-G.R. SP No. 25013 is reversed and set aside. The Decision of the RTC, Br. I, Balanga, Bataan dated May 20, 1991 in Civil Case No. 5921 is reinstated and the temporary restraining order issued on January 23, 1992 by this Court is made permanent. Costs against the private respondent.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quason, and Vitug, JJ., concur.

Nocon, J., on leave.

Kapunan, J., no part.

[1] Rollo, pp. 55-65.

[2] P. 2, petitioner's memorandum.

[3] P. 2, Court of Appeal's decision, p. 56, rollo.

[4] P. 2, RTC decision, p. 55, rollo.

[5] Aris (Phil) Inc., vs. NLRC, 200 SCRA 257 [1991].

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