

BARTOLO SERAPION, AGUSTINA ESPIRITU, ROSA HERMOGENES, BASILISA TRAZONA, DANIEL SANGALANG, GERARDO PRINCIPE, PRIMITIVA MONTARAY, AND FELICIDAD TRAZONA, PETITIONERS, VS. COURT OF ...

G.R. No. 115039. September 22, 1998

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Petitioners assail the decision of the Court of Appeals dated 12 January 1994 as well as its resolution of 12 April 1994 in CA-G.R. No. SP-31997 contending that the appellate court erred in ruling that RA No. 7279[1] otherwise known as the Urban Development and Housing Act of 1992 is not applicable in the instant case for unlawful detainer.

On 10 December 1981, private respondent Magdalena Batimana Alberto, assisted by her husband, filed a complaint for unlawful detainer against petitioners Bartolo Serapion, Agustina Espiritu, Rosa Hermogenes, Basilisa Trazona, Daniel Sangalang, Gerardo Principe, Primitiva Montaray, and Felicidad Trazona with the Metropolitan Trial Court (MeTC) of Valenzuela, Metro Manila,[2] alleging that petitioners refused to vacate her land in Brgy. Marulas, Valenzuela, Metro Manila, despite termination of their individual lease contracts on 30 August 1981. In their defense petitioners invoked prior unexpired lease contracts with Felino Batimana, Magdalena's father and predecessor-in-interest, which were allegedly renewable for another five (5) years at their option. Petitioners impugned the validity of their individual lease contracts with Magdalena on the ground that they were executed by means of fraud, intimidation and duress.

The case was tried under the regular rules of procedure in its entirety by Judge Antonio M. Serapio.[3] However, after admission of the evidence for the defendants nothing happened to the case until it was re-assigned to Judge Jose R. Sebastian who thereafter rendered a decision in favor of plaintiff spouses thus -

1. The lease contracts between plaintiff Magdalena Alberto and the eight defendants are valid and binding between the parties, the same having been duly constituted, signed and acknowledged before the notary public. The allegations of fraud, intimidation and duress remained just that, allegations, as defendants failed to substantiate the same with competent proofs. It is indeed very hard to believe defendant's (sic) defense vis-a-vis their failure to repudiate the contract during the 18 months it was in effect before its expiry date on August 31, 1981 and that when sued thereafter they did not even deny under oath in their answer the due execution and authenticity of the document sued upon.

2. The defendant's (sic) earlier contracts of lease with the former owner of the property have no material bearing on the case at bar as plaintiffs were not even privies thereto. Moreover, the lease contracts superseded and in effect cancelled the agreements with the former owner, Felino Batimana, considering that all the defendants recognized the new owner of the land, Magdalena B. Alberto, not only in their very contract of lease itself, but also by paying increased rents of P40.00 monthly to said plaintiff.

3. There can be no quibbling on the fact that defendants violated their lease contract when they refused to vacate the lot on which their respective houses stood by not removing their dwelling when the lease expired.[4]

Petitioners were thus ordered to vacate and peacefully remove their respective houses from the subject premises; and, individually, to pay private respondents P5.00 a day from 1 September 1980 until they fully vacated the subject premises, P3,000.00 as attorney's fees, P300.00 as litigation expenses, and the costs of suit.[5]

The foregoing decision was served on the parties on 8 September 1992.[6] Two days later private respondents moved for the immediate execution of the decision without however serving notice to petitioners. The motion was granted in the Order of 14 September 1992.[7] The following day or on 15 September 1992 petitioners filed a "Motion for Reconsideration of Decision and Recall of Writ of Execution" calling the attention of the court to the guidelines for the eviction of urban and rural poor dwellers set forth in the Constitution and RA No. 7279. In the order of 28 September 1992,[8] which was received by the parties on the same day,[9] the motion was denied for lack of merit. Petitioners did not appeal therefrom. Instead, on 1 October 1992 they filed a petition for certiorari with the RTC of Valenzuela, Metro Manila, contending that Judge Sebastian committed grave abuse of discretion in prematurely issuing the writ of execution and in not applying RA No. 7279 to the case.[10]

On 6 October 1992 private respondents moved for the issuance of a writ of demolition after petitioners refused to peacefully vacate the subject premises which motion was granted in the order of 13 October 1992.[11]

On 19 October 1992 petitioners filed an "Urgent Motion for Reconsideration" of the order on the ground that the motion for a writ of demolition was set for hearing without due notice to them, as well as the pendency of the petition for certiorari with the RTC, Valenzuela, Metro Manila, docketed as Civil Case No. 3957-V-92.

When Judge Sebastian was later relieved by this Court the case was taken over by Judge Evelyn Corpus-Cabochan.[12]

On 19 January 1993 Judge Corpus-Cabochan recalled and set aside the writs of execution and of demolition issued by Judge Sebastian on the ground that petitioners were not properly notified of the motions therefor. But the main decision itself dated 7 September 1992 was allowed to stand after finding "no cogent and legal reason to reconsider the same." [13] However, Judge Corpus-Cabochan declared that petitioners still had eight (8) more days to appeal on the ground that they consumed only seven (7) days of the 15-day appeal period when they filed their "Motion for Reconsideration of Decision and Recall of Writ of Execution" on 15 September 1992.

On 2 February 1993 petitioners' filed their notice of appeal from the MeTC judgment "dated 19 January 1993," which they received on 26 January 1993.[14] On the same day, Judge Corpus-Cabochan ordered the elevation of the records to the RTC of Valenzuela, Metro Manila, in view of the appeal but clarified that the decision being appealed was that of 7 September 1992 and not her order of 19 January 1993.[15]

On 22 June 1993 the RTC-Br. 172, Valenzuela, Metro Manila, rendered judgment on the appeal thus -

Accordingly therefore, the Court sets aside the judgment or decision of the Metropolitan Trial Court, Branch 82, Valenzuela, Metro Manila dated September 7, 1992 and this case dismissed without prejudice x x x [16]

The RTC ruled that petitioners could not yet be legally evicted from the leased premises despite the expiration of their individual lease contracts in view of the effectivity of RA No. 7279 on 24 March 1992 which prescribed a moratorium [17] of three (3) years from the date of its effectivity [18] on the eviction of squatters or the urban poor dwellers. Petitioners were ordered to continue paying rent to private respondents in the meantime.

On 12 July 1993 private respondents moved to reconsider the RTC decision on the ground that it did not touch on the merits of the MeTC decision but dealt only with the issue of the applicability of RA No. 7279 which

purportedly could not be entertained for the first time on appeal. The motion was denied on 19 August 1993 on the ground that the applicability of RA No. 7279 was exhaustively argued before the MeTC during the hearing of petitioners' "Motion to Recall its Demolition Order." [19]

Aggrieved, private respondents filed a petition for review with the Court of Appeals questioning the RTC Decision of 22 June 1993 as well as its Order of 19 August 1993. [20]

On 12 January 1994 respondent appellate court ruled in favor of private respondents -

WHEREFORE, premises considered, the questioned decision of the Regional Trial Court of Valenzuela, Metro Manila, Branch 172, is hereby set aside and the decision of the Municipal Trial Court of Valenzuela, Metro Manila is hereby restored and affirmed in toto. [21]

The Court of Appeals ruled that RA No. 7279 was not applicable to petitioners because, first, they failed to present proof that they were beneficiaries or future beneficiaries registered under the Socialized Housing Program under the Act; and, second, the issue was raised for the first time on appeal in violation of Rule 70 of the Rules of Court. Petitioners' motion for reconsideration was denied on 12 April 1994, hence this petition.

It must be stated at the outset that what concerns the Court is only the applicability of RA No. 7279 on the enforceability of the final and executory decision dated 7 September 1992 of the MeTC. Apparently, the decision became final and executory because petitioners failed to appeal therefrom within the reglementary period to appeal. Instead of perfecting their appeal from the order of 28 September 1992 denying for lack of merit their motion for reconsideration of the decision dated 7 September 1992, petitioners filed on 1 October 1992 a petition for certiorari with the RTC, Valenzuela, Metro Manila, attributing grave abuse of discretion on the part of MeTC Judge Sebastian in failing to apply RA No. 7279 to their case. [22] However, that petition docketed as Civil Case No. 3957-V-92 was eventually dismissed with finality on 19 October 1992 for the reason that "the remedy of appeal should have been availed of instead of th[is] petition for certiorari." [23] Having attained finality, the MeTC decision of 7 September 1992 ordering the ejectment of petitioners from the land of private respondents could no longer be reviewed by the courts. [24]

Thus, as discussed by the parties themselves, only two issues are involved, namely, whether petitioners timely invoked the applicability of RA No. 7279 to the instant case; and, if so, whether petitioners are covered by the moratorium on eviction provided for in Sec. 44, Art. XII of the law.

Petitioners contend that respondent appellate court gravely erred in resolving both questions in the negative. They insist that they were not able to invoke RA No. 7279 during the trial as the law was passed only on 24 March 1992 or after the instant case was already submitted for decision in the MeTC. On the second question, petitioners contend that they are covered by the moratorium on eviction in Sec. 44, Art. XII, because they are living "in urban and urbanizable areas" as required in Sec. 4, and are "underprivileged and homeless citizens" as the term is defined in Sec. 3, par. (t), thereof.

We sustain petitioners on the first issue. They were not yet time-barred from raising the issue of the applicability of RA No. 7279 in their joint motion for reconsideration of the MeTC decision and the recall of its writs of execution and demolition. It must be emphasized that the trial of this case ended on 7 May 1986 and was assigned for decision to Judge Sebastian in March 1990, while RA No. 7279 on the other hand did not become law until more than two (2) years after, or on 24 March 1992.

While parties are not precluded from invoking facts or events to prevent or defer execution or enforcement of a final and executory judgment where such facts or events constitute a supervening cause rendering such enforcement or execution impossible or unjust, [25] RA No. 7279 is not the supervening cause that would prevent

the inevitable eviction of petitioners from the subject premises. As respondent appellate court correctly ruled, Sec. 44, Art. XII, of RA No. 7279 cannot be applied in petitioners' favor for their failure to identify and prove themselves to be program beneficiaries under the law. The fact that petitioners claim to be homeless and underprivileged citizens living in an urban or urbanizable area as the terms are defined under the law does not automatically entitle them to invoke the moratorium provision on eviction. As worded, Sec. 44, Art. XII, categorically applies the moratorium to program beneficiaries or those who possess the qualifications set forth in Sec. 16, Art. V, namely, (a) must be Filipino citizens; (b) must be underprivileged and homeless citizens, as defined in Sec. 3, Art. I, of the Act; (c) must not own any real property whether in the urban or rural areas; and, (d) must not be professional squatters or members of squatting syndicates.

Persons who meet the foregoing eligibility criteria may then be included in the list of eligible socialized housing program beneficiaries upon their registration in accordance with the procedure set forth in the Implementing Rules and Regulations Governing the Registration of Socialized Housing Beneficiaries issued by the Department of Interior and Local Government and the Housing and Urban Development Coordinating Council. However, the listing is without prejudice to certain validation procedures to determine full eligibility that may be adopted by the government shelter agency or the local government unit responsible for the socialized housing program/project in the locality concerned.[26] Clearly then, to be considered a program beneficiary under RA No. 7279 requires much more than one's own personal determination but compliance with the proper validation procedures. Petitioners do not claim to have complied with these validation procedures.

Even assuming RA No. 7279 to be applicable, its moratorium period has already lapsed as Sec. 44, Art. XII, of the law provides for a period of only three (3) years from the date of its effectivity -

Sec. 44. Moratorium on Eviction and Demolition. - There shall be a moratorium on the eviction of all program beneficiaries and on the demolition of their houses or dwelling units for a period of three (3) years from the effectivity of this Act x x x (underscoring supplied).

Since the law has been effective since 24 March 1992, there is no longer any impediment to the proper eviction of petitioners from the land of private respondents as decreed in the final and executory decision of 7 September 1992 of the MeTC of Valenzuela, Metro Manila.[27]

WHEREFORE, the questioned decision and resolution of the Court of Appeals in CA-G.R. No. SP-31997 are AFFIRMED. The decision of the MeTC-Br. 82, Valenzuela, Metro Manila, dated 7 September 1992 in its Civil Case No. 3206 is considered final and executory; its implementation may proceed in due course.

SO ORDERED

Davide Jr., (Chairman), Vitug, Panganiban and Quisumbing JJ., concur .

[1]"An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for its Implementation, and For Other Purposes."

[2] Docketed as Civil Case No. 3206.

[3] See Order dated 19 January 1993, p. 1; Records, p. 162.

[4] Penned by Judge Jose R. Sebastian, MeTC-Br. 82, Valenzuela, Metro Manila; Rollo, pp. 26-29.

[5] Id., p. 29.

[6] Records, p. 104.

[7] Id., p. 107.

[8] Id., p. 112.

[9] Id., pp. 116-117.

[10] Id., p. 189.

[11] Id., p. 122.

[12] Order dated 25 November 1992; Records, p. 130.

[13] Id., pp. 162-164.

[14] Id., p. 173.

[15] Id., p. 175.

[16] Penned by Judge Emilio L. Leachon, Jr.; Rollo, pp. 30-32.

[17] See Sec. 44, Art. XII.

[18] Sec. 49. Effectivity Clause. - This Act shall take effect upon its publication in at least two (2) national newspapers of general circulation (approved, March 24, 1992).

[19] Rollo, pp. 33-34.

[20] Docketed as CA-G. R. SP No. 31997.

[21] Penned by Mme. Justice Corona Ibay-Somera, concurred in by Justices Nathanael P. De Pano, Jr., and Asaali S. Isnani; id., pp. 35-39.

[22] See Note 10.

[23] Penned by Judge Teresita Dizon-Capulong, RTC-Br, 172, Valenzuela, Metro Manila; Records, p. 160.

[24] *Azores v. Securities and Exchange Commission*, G. R. No. 112337, 25 January 1996, 252 SCRA 387; *Clorox Company v. Director of Patents*, No. L-19531, 10 August 1967, 20 SCRA 965.

[25] *Soco v. Court of Appeals*, G. R. No. 116013, 21 October 1996, 263 SCRA 449, 456; *Flores v. Court of Appeal*, G.R. No. 97556, 29 July 1996, 259 SCRA 618, 648-649; *Rodriguez v. Project 6 Market Service Cooperative, Inc.*, G.R. No. 79968, 23 August 1995, 247 SCRA 528, 531; *Cruz v. Leabres*, G.R. No. 99846, 22 May 1995, 244 SCRA 194, 200-201.

[26] Sec. 1, Implementing Rules Governing the Registration of Socialized Housing Beneficiaries.

[27] House Bill No. 13001 entitled "An Act Extending the Moratorium on Eviction or Demolition Amending Art. XII, Sec. 44 of RA No. 7279 otherwise known as the Urban Development and Housing Act of 1992" was vetoed by President Fidel V. Ramos on 4 October 1995.

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