SPS. LEOPOLDO GARRIDO AND LUZ GARRIDO, PETITIONERS, VS. COURT OF APPEALS, LOLITA SANCHEZ, ERLINDA AQUINO AND EMILIA MARQUEDA, RESPONDENTS.

G.R. No. 118462. November 22, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is a petition for review of the Decision[1] in CA-G.R. CV No. 37961 of the Court of Appeals[2] dated December 21, 1994, modifying the Decision[3] dated March 5, 1992 in Civil Case No. 8773 of the Regional Trial Court of Makati City, Branch 60.

The established facts as found by the courts a quo are as follows:

The spouses Maria Abaquita and Juan Jimenez owned a parcel of land with an area of Two Hundred Forty-Seven (247) square meters located in Makati City and more particularly described in Transfer Certificate of Title No. 23594 as Lot No. 12, Block 7, PSD-18017. During the lifetime of Maria Abaquita, the tenants thereon (including the respondents in the case at bar) occupied a portion of the lot. They built their own houses and paid rentals to Abaquita. They were:

a)

Santiago Espeno Jr. who had been on the lot since 1969. He bought the house of Jose Ordinario for P1,800.00 His monthly rentals rose up gradually from P10.00 to P60.00. He repaired and remodeled the house over a period of five (5) years at a cost of P170,000.00.

b)

Respondent Lolita Sanchez who had been residing on the lot since 1971 in a house which she bought from Ben Reyes. Her monthly rentals also gradually rose from P35.00 to P55.00. She improved the house and the lot at a cost of P50,000.00.

c)

Respondent Emilia Marqueda who started residing on the lot in 1979. She lived with her mother there. In 1974, she bought the house of Regina Jimenez for P200.00. Her monthly rentals gradually rose from P20.00 to P30.00. She also repaired the house and filled up the lot. For such repair and filling, she spent P25,000.00.

d)

Tomasa Aquino who bought a house thereon. Since 1971, her daughter respondent Erlinda Aquino had been living in this house. Like the rest of the tenants, she paid monthly rentals which gradually rose from P20.00 to P30.00. She repaired the house at a cost of P55,000.00.

After the death of the spouses, Maria Abaquita and Juan Jimenez, their daughter, Regina Jimenez, disputed the

ownership of Lot No. 12 with her own daughter, Natividad Evangelista.

On July 8, 1981, Regina offered one half portion of Lot No. 12 to petitioner Luz Garrido for Forty Thousand Pesos (P40,000.00) in a written document wherein petitioner Luz Garrido was given an option to buy the said portion up to December 31, 1981 for a consideration of Ten Thousand Pesos (P10,000.00). On December 21, 1981, Regina Jimenez and petitioner Luz Garrido modified the terms of the option to buy by increasing the earnest money to Fifteen Thousand Pesos (P15,000.00) and by extending the period to June 30, 1982 within which petitioner Luz Garrido could buy the lot.

Meanwhile, in Civil Case No. 4863 filed before the Regional Trial Court of Makati City, Regina Jimenez and Natividad Evangelista arrived at a compromise agreement wherein they divided the said lot into two (2), namely, Lot No. 12-A and Lot No. 12-B. The trial court approved the compromise agreement in its Decision dated July 27, 1984. On August 20, 1984, Transfer Certificate of Title No. 133479 in the name of Regina Jimenez covering Lot No. 12-A and Transfer Certificate of Title No. 133480 in the name of Natividad Evangelista covering Lot No. 12-B were issued by the Register of Deeds of Makati.

The houses of the respondent lessees were erected on Lot No. 12-A which particular lot was adjudicated to Regina Jimenez. Lot No. 12-A is located at 2735 South Avenue, Barangay Sta. Cruz, Makati City just a few meters to the left in front of the entrance gate of the Manila South Cemetery along South Avenue. Then, on August 22, 1984, Regina Jimenez sold the said Lot No. 12-A to petitioner Garrido spouses. Pursuant thereto, Transfer Certificate of Title No. 133528 covering the subject lot was issued in favor of the petitioner Garrido spouses. Petitioner Luz Garrido thereafter sent letters all dated August 31, 1984 to the respondent lessees informing them of her ownership over the subject Lot 12-A and requesting that they vacate the same within one hundred twenty (120) days from notification. Petitioner Luz Garrido's lawyer likewise sent a letter dated January 10, 1985 demanding that the respondent lessees vacate the said lot within ten (10) days from receipt thereof. These letters were duly received by the respondent lessees. However, the respondent lessees did not vacate the lot and even stopped paying rentals.

On October 18, 1984, the respondent lessees filed a complaint (which was later on amended) for annulment of sale and cancellation of title issued in favor of petitioner Garrido spouses, with a prayer for the issuance of a writ of preliminary injunction. Petitioner Garrido spouses, on the other hand, filed a counterclaim for actual and moral damages. On March 5, 1992, the trial court rendered a Decision in favor of the petitioner Garrido spouses (defendants therein), the dispositive portion of which reads:

> ADJUDICATION
>
> 30.
>
> The preponderance of the evidence is in favor of the defendants.
>
> 31.
>
> WHEREFORE, the Court hereby renders judgment as follows:
>
> 31.1.
>
> The AMENDED COMPLAINT dated July 23, 1985 is DISMISSED;
>
> 31.2.

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> The writ of preliminary injunction issued per the Order dated November 12, 1984 is LIFTED and DISSOLVED.
>
> 31.3
>
> The Counterclaim for actual, moral and exemplary damages is DISMISSED.
>
> 31.4.
>
> The plaintiffs are ordered to pay, jointly and severally, to the defendants, TEN THOUSAND PESOS (P10,000.00) as attorney's fees.
>
> 31.5.
>
> The prayer in the "MOTION..." dated November 15, 1985 that the defendants be ordered to pay damages to the plaintiffs is DENIED.
>
> 31.6
>
> Cost is taxed against the plaintiffs.
>
> 32.
>
> In chambers, Makati, Metro Manila, March 5, 1992.[4]

The respondent lessees then appealed the decision of the trial court to the Court of Appeals. On December 21, 1994, the appellate court rendered a Decision in favor of the respondent lessees, the dispositive portion of which states:

> "WHEREFORE, the judgment appealed from is hereby modified. The dismissal of the complaint as far as Santiago Espeno and Edgardo Nicolas are concerned is hereby affirmed, but reversed with respect to the other plaintiffs. Thus, a new one is rendered as follows: The deed of sale dated August 2, 1984 together with TCT No. 133528 is partially annulled with respect to the area occupied by the other plaintiffs, namely, Lolita Sanchez, Erlinda Aquino and Emilia Marqueda, who should be allowed to purchase the area leased to them to be executed in the following manners to wit:
>
> - Conformably with the Urban Land Reform Law above-cited, the Urban Zone Expropriation and Land Management Committee is hereby directed to determine the reasonable price and the terms and conditions of the sale of subject property by defendant Regina Jimenez to the plaintiffs within thirty (30) days from the time this decision become final, furnishing the parties with copies thereof.
>
> - The plaintiffs are granted a period of thirty (30) days from receipt thereof within which to exercise the right of first refusal in accordance with the terms and conditions fixed by the Urban Zone Expropriation and Land Management Committee.
>
> - Should plaintiffs agree thereto, defendant Regina Jimenez is directed to execute within fifteen (15) days from receipt of plaintiffs' decision in accordance with the terms and conditions above-stated within which to issue the corresponding deeds of sale of subject property and to deliver all other papers necessary therefrom. The expenses for the sale shall be shared proportionately by the parties.
>
> - Should plaintiffs refuse to exercise the right of pre-emption, they are directed to pay rentals in arrears at the usual monthly rate agreed upon before the filing of the complaint and to vacate the subject property within fifteen (15) days subject to reimbursement for improvements in accordance with Article 1678 of the New Civil Code.
>
> The award of attorney's fees is hereby DELETED.

No pronouncement as to costs.

SO ORDERED."[5]

Hence, this petition with the following assignment of errors:

I

WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT THE QUESTIONED LOT (LOT 12-A LOCATED AT BARANGAY STA. CRUZ, MAKATI, METRO MANILA AND COVERED BY TCT NO. 133528) IS NOT WITHIN THE AREA FOR PRIORITY DEVELOPMENT (APD) PER PROCLAMATION NO. 1967 DATED MAY 14, 1980.

II

WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT RESPONDENTS ARE ENTITLED TO THE RIGHT OF FIRST REFUSAL TO PURCHASE UNDER SECTION 6 OF P.D. 1517.

III

WHETHER OR NOT THE COURT A QUO ERRED IN HOLDING THAT RESPONDENTS ARE ENTITLED TO THE PARTIAL ANNULMENT OF THE DEED OF SALE DATED AUGUST 2, 1984 TOGETHER WITH TCT NO. 133528.[6]

The principal dispute in the case at bar is whether or not the respondent lessees have a right to pre-emption or right of first refusal to purchase the lot on which their houses are erected, more particularly Lot No. 12-A located at 2735 South Avenue, Barangay Sta. Cruz, Makati City, covered and described in Transfer Certificate of Title No. 133528 registered in the name of petitioner Garrido spouses. As mentioned earlier, the said Lot No. 12-A at 2735 South Avenue, Makati City, is located only a few meters to the left in front of the entrance gate of the Manila South Cemetery along South Avenue. Section 6 of Presidential Decree No. 1517, otherwise known as "The Urban Land Reform Law", provides that:

Section 6. Land Tenancy in Urban Land Reform Areas. Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have legally occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree.

For the purpose of identifying the specific sites covered by the Urban Land Reform, Proclamation No. 1967 dated May 14, 1980 amending Proclamation No. 1893, enumerated the areas for priority development that are covered by Presidential Decree No. 1517. If a particular property is within a declared area for priority development, the qualified lessee of the said property in that area can avail of the right of first refusal to purchase the same in accordance with Section 6 of the said Decree. Hence, the factual question in the case at bar is: whether the area embracing or covering the said Lot No. 12-A on which the respondent lessees' houses are erected is within a particular area for priority development or "APD" under Proclamation No. 1967 in relation to Presidential Decree (P.D.) No. 1517.

Section 1 of Rule 45 of the 1997 Rules of Civil Procedure provides that "(T)he petition (for review) shall raise only questions of law which must be distinctly set forth." In consonance with this provision, we have ruled that factual findings of the Court of Appeals are conclusive on the parties and not reviewable by this Court - and they carry even more weight when the Court of Appeals affirms the factual findings of the trial court. As such, this Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings

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below.[7] However, in order to resolve this case at bar, we are constrained to rule on a factual question inasmuch as the findings of facts of the trial court differ from that of the Court of Appeals. While the trial court holds that the subject Lot No. 12-A is not within any area for priority development, the appellate court believes otherwise and declares that the said lot is covered by APD No. 8. We then have to verify from the records which factual finding on that point of the courts a quo is duly supported by evidence.

A closer scrutiny and analysis of the record and the evidence adduced show that the appellate court erred in ruling that the subject Lot No. 12-A is located within Barangay Olimpia and covered by APD No. 8. According to the appellate court, while the said lot is not under APD No. 2 as held by the trial court, the same is within APD No. 8 which covers:

> Bgy. Olimpia - An area along Pasig Line in front of Manila South Cemetery starting from South Avenue on the northeast up to Pililia Street on the east, bounded by San Fernando Street, Sacramento Street, Jacinto Street, J.B. Roxas Street, San Bernardino Street, Legaspi Street, D. Oliman Street and Baler Street;

The appellate court erroneously concluded that just because Lot No. 12-A is along South Avenue, Makati City, the same is located within Barangay Olimpia and therefore covered by APD No. 8. However, the record shows that not all the lots located along South Avenue are within Barangay Olimpia. On the other hand, the subject Lot No. 12-A is located at 2735 South Avenue, Makati City, which is within Barangay Sta. Cruz; and as admitted by the parties, the said lot is just in front of and a few meters to the left from the only entrance gate of the Manila South Cemetery along South Avenue. If one stands in front of the said entrance gate, it is evident that the said entrance gate and side of Manila South Cemetery are on the west, and hence in front of Barangay Sta. Cruz where the said Lot No. 12-A is located.

Thus, the appellate court erred when it declared and ruled that the subject Lot No. 12-A is within Barangay Olimpia and covered by APD No. 8. Hence, we agree with the finding of the trial court that the respondent lessees have no right of first refusal or pre-emption, under Section 6 of P.D. 1517, to purchase Lot No. 12-A on which their houses are erected, the said lot being in Barangay Sta. Cruz which is not within any Area for Priority Development (APD) under Proclamation No. 1967 dated May 14, 1980 in relation to PD. No. 1517. Consequently, the appellate court also erred when it ruled that the herein respondent lessees are entitled to the partial annulment of the Deed of Sale dated August 2, 1984 together with TCT No. 133528 with respect to Lot No. 12-A being occupied by respondent lessees.

WHEREFORE, the appealed Decision of the Court of Appeals in CA-G.R. CV No. 37961 is hereby REVERSED. The Decision dated March 5, 1992 in Civil Case No. 8773 of the Regional Trial Court of Makati City is REINSTATED. No costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

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[1] Penned by Associate Justice Oscar M. Herrera and concurred in by Associate Justices Angelina S. Gutierrez (now Associate Justice of the Supreme Court) and Ruben T. Reyes; Rollo, pp. 36-48.

[2] Ninth Division.

[3] Penned by Judge Pedro N. Laggui; Rollo, pp. 49-59.

[4] Rollo, pp. 58-59.

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[5] Rollo, pp. 46-47.

[6] Rollo, p. 24.

[7] Romago Electric Co., Inc. v. Court of Appeals, 333 SCRA 291, 301 (2000); Borromeo v. Sun, 317 SCRA 176. 182(1999).

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