

**NINOY AQUINO INTERNATIONAL AIRPORT AUTHORITY AND
EDUARDO CARRASCOSO, PETITIONERS, VS. COURT OF APPEALS,
HON. LEONARDO M. RIVERA AND SALEM INVESTMENT
CORPORATION, RESPONDENTS.**

G.R. No. 120851. May 14, 1997

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

Before us is a petition for review under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision[1] of the Court of Appeals[2] which affirmed in toto the judgment rendered by the Regional Trial Court[3] in favor of private respondent Salem Investment Corporation (hereafter, “Salem”).

Salem had filed an action for specific performance with damages and mandatory injunction[4] against petitioners Ninoy Aquino International Airport Authority (hereafter, “NAIAA”) and Eduardo Carrascoso when the latter, with evident bad faith and manifest intent to avoid its obligations under a subsisting Contract of Lease, unilaterally increased the rentals fixed in said lease contract and refused to issue the corresponding building permit to construct the hotel subject of said lease contract unless Salem agreed to such unilateral rental increase.

The respondent Court of Appeals narrated the relevant antecedents of this case, as to which there is no dispute, in this manner:

“Sometime in 1967, the predecessor-in-interest of appellant Ninoy International Airport Authority (‘NAIAA’), the Civil Aeronautics Administration (‘CAA’), an agency of the Republic of the Philippines, leased to the appellee a parcel of land fronting the Manila Domestic Airport in Pasay City. This is a portion of the land described in TCT No. 6735 registered in the name of the Republic of the Philippines.

This piece of government property was leased because the area was ‘an eyesore to the airport premises due to the fact that a major portion of it consist[ed] of swampy and talahib infested silt and abandoned fishponds and occupied by squatters and some CAA employees with ungainly makeshift dwellings.’ Thus, in accordance with its general plan to improve and beautify the airport premises and in pursuance of its desire to provide facilities and conveniences as may be necessary for the comfort, convenience and relaxation of transients, tourists and the general public, the CAA leased the subject premises to appellee, a private corporation engaged in hostelry and allied businesses, who [was] ready, willing and able to cooperate with the CAA in the implementation of its general development plan for the airport premises.

The lease contract provided, among other things, that:

‘2. That within the leased premises, the LESSEE shall construct the hotel building and other necessary improvements x x x. The final plans and specifications for the hotel building and other necessary improvements including the ‘Golf Driving Range’ x x x shall be submitted to the LESSOR for approval within Ninety (90) days from receipt of a copy of this Contract as approved by the Secretary of Public Works and Communications. x x x The LESSEE shall begin construction within Ninety (90) days from receipt by the LESSEE of the written

notification by the LESSOR that the leased premises are free from squatters and other occupants, to be completed within Two (2) years thereafter.

x x x

3. That the term of the lease shall be for a period of Twenty-Five (25) years, commencing from the date of receipt of approval of this Contract by the Secretary of Public Works and Communications, and at the option of the LESSEE, renewable for another Twenty-Five (25) years. It is understood, that after the first 25 years lease, the ownership of, and full title to, all the buildings and permanent improvements introduced by the LESSEE on the leased premises including those introduced on the Golf Driving Range shall automatically vest in the LESSOR, without cost.

x x x

4. That the renewal of this lease contract shall be for another period of Twenty-Five (25) years, under the same terms and conditions herein stipulated; provided, however, that, since the ownership of the hotel building and permanent improvement have [sic] passed on to the LESSOR, the LESSEE shall pay as rental, in addition to the rentals herein agreed upon, an amount equivalent to One (1%) percent of the appraised value of the hotel building and permanent improvements at the time of expiration of Twenty-Five (25) years lease period, payable annually x x x.'

The lease was approved on 15 February 1967.

In compliance with its obligation under the lease contract, appellee paid the stipulated monthly rentals. It also ejected about 700 squatter families on the leased premises and filled up the area which was then swampy and overgrown with 'talahib' (i.e., cogon grass). The appellee also prepared the plans and specifications of the proposed [h]otel and submitted the same to [the CAA]. The plans were approved by the CAA through its Senior Civil Engineer, Chief of the Airport Division and the Director of Civil Aviations. The construction of the hotel, however, did not materialize as the previous officials of appellant corporation under the administration of the late President Ferdinand Marcos withheld approval allegedly to avoid displeasing former First Lady Imelda Romualdez Marcos who was then in the process of constructing the nearby Philippine Village Hotel x x x.

In lieu of the hotel, appellee was instead allowed to construct a cinema, a driving range and other structures in a portion of the leased premises x x x.

Sometime afterwards, appellee requested the appellants to allow it to construct offices and stores in the vacant portions of the leased areas to avoid its being idle but such request was declined by appellants in a letter to appellee dated 20 July 1989. In said letter, it was explained that the rental rate, which is P2,007.60 a month was one of the reasons why the construction permit was not granted. The appellee was also informed that the appellant found the renewal clause x x x as disadvantageous to the latter. Hence, as early as August 1987, the then Manila International Airport Authority (MIAA) Board of Directors had instructed the MIA Management to renegotiate the terms and conditions of the lease contract before the application for a construction permit can be considered x x x.

On 18 August 1989, appellee replied and asked for a reconsideration of the denial of the application for a construction permit. Two other follow-up letters were also sent by the appellee on 4 October 1989 and 8 November 1989 x x x.

In November 1989, the appellant responded through a letter stating that it has deferred action on the application as it was updating its master plan of development of the NAIA that will involve utilization of the property leased to the appellee x x x.

Earlier, the Office of the Government Corporate Counsel, Department of Justice, released its Opinion No. 071, dated 3 April 1989, stating that appellant NAIAA cannot decline appellee's application for permit to construct offices and stores within the leased premises.

Notwithstanding this opinion as well as the series of letters sent by the appellee, the appellant corporation, however, still refused to issue the requested construction permit.

The appellee then instituted a complaint for specific performance with prayer for damages and mandatory injunction on 17 August 1990 before the Regional Trial Court in Pasay City. Through their complaint, the appellee sought to compel the appellants to issue a construction permit for the construction of a building housing offices and stores within the leased premises x x x.

In their answer, the appellants controverted the action on the ground that the lease contract envisions a hotel and not the construction of offices and stores x x x.

The appellee then filed an amended complaint with leave of court on 14 February 1991 praying alternatively for the construction of a hotel as provided for in the lease contract x x x.

On 17 April 1991, while the case was pending, the appellant wrote the appellee requiring the latter to submit the plans and drawings of the proposed hotel for endorsement to Air Transportation Office. This request was made in anticipation of possible amicable settlement that may be achieved during the pre-trial of the case x x x.

On 29 April 1991, the appellee submitted the required plans and specifications with a reminder that the same had been previously submitted and that the Director of Civil Aviation, now Air Transportation Office, had already approved it x x x.

A supplemental complaint with petition for preliminary injunction and restraining order was filed on 30 July 1991 by the appellee. The appellee prayed that the appellant be restrained from collecting concessionaire's privilege fees for its subleases and other amounts not contemplated in the lease contract x x x."

On January 15, 1992, the trial court issued a temporary restraining order enjoining petitioners from collecting aforementioned Concessionaire's Privilege Fees on the sub-lessees' use of the premises leased out to private respondent Salem and from evicting the latter from the premises in case of non-payment of said fees.

Thereafter, trial on the merits ensued.

On May 20, 1993, upon private respondent Salem's motion, the trial court issued a writ of preliminary injunction pendente lite enjoining petitioners from collecting the aforementioned fees and from committing any and all acts in furtherance of or aimed at enforcing said collection.

On July 20, 1993, the trial court rendered judgment in favor of private respondent Salem, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered:

1. Ordering [NAIAA] to issue permit to [Salem] for the construction of offices and stores and/or the hotel pursuant to the Lease Contract x x x and allowing [Salem] to use and occupy the leased premises for a period of 25 years counted from the issuance of the construction permit, the lease to be renewable for another 25 years thereafter at the option of the plaintiff under the same terms and conditions specified in the Lease Contract; provided, however, that the period herein fixed shall not apply with respect to [Salem's] existing improvements in the leased premises, the term of which shall be the remaining period of 25 years representing the renewal option exercised by [Salem] after the expiration of the original period;

2. Declaring null and void [NAIAA's] concessionaires fees x x x and all other similarly situated collection

process imposed unto [Salem] not otherwise covered, embranced [sic] or authorized under the Lease Contract x x x;

3. Making permanent the writ of preliminary injunction issued;

4. Ordering x x x NAIAA to pay [Salem] the sum of P500,000.00 compensatory damages per annum beginning March 1984 and yearly thereafter, until the subject construction permit is finally issued;

5. Ordering x x x NAIAA to pay [Salem] the sum of P200,000.00 x x x as x x x attorney's fees; and

6. Cost against [NAIAA]."[5]

Unable to agree with the trial court's decision, petitioners filed an appeal with respondent Court of Appeals. Before the respondent appellate court, petitioners contended that the trial court erred in:

1) ordering [NAIAA] to issue a permit to [Salem] for the construction of offices and stores and/or hotel pursuant to the lease contract;

2) allowing [Salem] to use and occupy the leased premises for a period of twenty-five years from the issuance of the permit, the same to be renewable for another twenty-five years thereafter at [Salem's] option under the same terms and conditions;

3) declaring null and void [NAIAA's] concessionaires fees and all other similarly situated collection process imposed unto [Salem] not otherwise covered embraced or authorized under the lease contract;

4) ordering [NAIAA] to pay [Salem] the sum of P500,000 compensatory damages per annum beginning March 1984 and yearly thereafter, until the subject construction permit is finally issued; [and]

5) ordering [NAIAA] to pay[Salem] the sum of P200,000 as attorney's fees."[6]

The lease contract being sought to be enforced by private respondent Salem having already expired on February 15, 1992, or twenty-five (25) years after its approval on February 15, 1967, petitioners anchored their arguments before the respondent Court of Appeals on the fact of the expiration of said lease contract. Petitioners asseverated that the fact of the expiration of the lease contract in question, rendered moot and academic, and thus, unenforceable, the orders of the trial court for NAIAA to issue the building permits and to allow Salem to use and occupy the leased premises for a period of twenty-five (25) years from the issuance of the building permit, renewable for the same period at the option of Salem.

The respondent appellate court, however, was utterly unconvinced. It ratiocinated its affirmance of the trial court's judgment, in this wise:

"The first argument hinges on the fact that, by its terms, the lease contract had expired on 15 February 1992.

The trial court opined that:

'By and large, considering that the obligation to issue the permit to construct the hotel devolves upon the defendants and that the principal purpose of the Lease Contract was to construct the hotel, the period of the lease should commence on the date when the construction permit is issued. In other words, unless the permit is issued, the term of the lease cannot be deemed to have commenced, with respect to the envisioned hotel aspect. The rationale being that 'when a contract is subject to a suspensive condition, its birth or effectivity can take place only if and when the event which constitutes the condition happens or is fulfilled.' However, with respect to the other areas which have been occupied by the plaintiff, upon prior authorization from the defendants, the remaining period by reason of partial novation of contract shall be 25 years only, representing the renewal term which plaintiff had the option x x x.'

Strictly speaking, the term of the contract should be reckoned from the date of its approval by the Secretary of Public Works and Communications, which was on 15 February 1967. This is expressly provided for in the contract itself.

We do agree with the trial court, however, that under the circumstances of this case, the term of the contract cannot be considered as having commenced on the date of such approval.

It will be recalled that, as stated by the trial court, the principal objective of the lease contract is the construction of a hotel within the leased premises. This is in line with the desire to improve and beautify the airport premises. It was not merely for the appellant to lease out the premises.

The construction of the hotel is, likewise the principal obligation of the lessee. The accomplishment of this obligation, however, is conditioned on the grant of a construction permit by the appellant corporation. The construction permit, in turn, was to be granted after the appellee complied with certain preliminary obligations, such as clearing and filling up the area, and preparation of plans and specifications for the hotel to be constructed.

While the appellee complied with its preliminary obligation as well as its obligation to pay rentals, the appellant refused to grant the necessary construction permit. This refusal was not due to defects in the plans and specification or some other fault on the part of the lessee, but to some impediment attributable to the appellant. Since the permit is, by the terms of the lease contract, a necessary condition for the construction of the hotel, the project never materialized.

Under the circumstances, there is basis for the trial court to consider the issuance of the construction permit as a suspensive condition before the contract can become effective. The principal object of the contract, its reason for being, as it were, which is the construction of a hotel will never materialize without the issuance of the permit.

Indeed, the appellee's right to compel appellant to comply with its obligations under the lease contract should not be rendered moot and academic by the supposed expiration of the contract. This is because the failure of the appellee to enjoy the full benefits and to implement the principal objective of the contract is not due to its fault but to the appellants' fault. The appellee, in fact, had applied for the construction permit even before the term of the lease supposedly expired. It must also be stressed that the plans and specifications submitted by the appellee were already approved by the officers of the then Civil Aviation Administration. Thus, no fault can be attributed to the appellee with respect to the non-implementation of the primary objective of the lease contract.

We, therefore, find no reversible error in the conclusion of the trial judge that the term of the lease contract with respect to the hotel aspect cannot be deemed to have commenced, unless the permit is issued.

The contract not having expired, it still remains the law between the appellant and the appellee with respect to their obligations relating to the property in question x x x.

The appellant, therefore, cannot object to the application of the renewal clause which objection is now being raised in the appellant's second assignment of error. Likewise, the appellant cannot impose fees or payments on the appellee which were not contemplated in the lease contract. Significantly, the appellant has not shown us any provision of the contract or an alternative interpretation of its terms that would show that the imposition of additional fees is not precluded by the contract.

The alleged disadvantage to the appellant due to the relatively low rental rate vis-à-vis the increasing commercial value of the property is not enough reason to disregard the obligatory force of the contractual stipulations regarding rentals and renewal, or for that matter, of all other obligations arising from contract. Except in cases specified by law, lesion or inadequacy of cause shall not invalidate a contract, unless there has been fraud, mistake or undue influence x x x. As has been held, the fact that the bargain was a hard one coupled with the mere inadequacy of price, when both parties are in a position to form an independent

judgment concerning the contract, is not a sufficient ground for cancellation of the contract x x x.

It also does not help the appellants' cause for them to argue that the lease contract in question was a political favor granted during the term of the late President Marcos. Significantly, no moves has been made to have the contract nullified. The appellants also have not shown any concrete proof to show that fraud or undue influence has attended the execution of the lease contract.

Under the circumstances, the trial court did not err in upholding the renewal clause of the lease contract as well as in disallowing the concessionaire and other fees imposed on the appellee by the appellant.”[7]

The respondent appellate court, echoing the disquisition of the trial court, categorically found petitioner liable for a patent violation by petitioners of its obligation under the lease contract to issue the building permit that would have officially allowed private respondent Salem to proceed with the construction of the proposed hotel.

Such violation of the lease contract was not, however, merely a matter of non-performance by petitioners of their obligations under the lease contract. The violation, in fact, was tainted with evident bad faith and a manifest intent to blackmail private respondent Salem into agreeing to a unilateral increase in the rentals in exchange for the issuance of the building permit applied for by Salem in 1989 for the construction of air freight offices and shops for other allied services. There is no denying this grossly malicious intent to blackmail private respondent Salem especially after petitioners assessed and demanded from Salem, additional charges in the form of accumulated Privilege Concession Fees amounting to P245,960.00. In the face of this blatant bad faith dealing by petitioners, the trial court found petitioners liable for compensatory damages in the amount of P500,000.00 per annum from March, 1984 until the issuance of the building permit.

Petitioners did not hesitate to question the aforementioned award in its appeal taken to the respondent appellate court. The Court of Appeals, however, found the award of damages, attorney's fees and costs of suit in favor of private respondent Salem to be justified in view of petitioners' bad faith dealing with private respondent Salem. The Court of Appeals reasoned:

“With respect to the award of compensatory damages and of attorney's fees, the appellant has not convinced us that such award is unjustified. Those who in the performance of their obligation are guilty of delay are liable for damages x x x.

It is an undisputed fact that the appellee has not been able to construct the hotel it envisioned due to the fault of the appellant. Instead it was only allowed to construct a driving range, cinema and a building housing several offices. Meanwhile, a good part of the land cleared up and prepared by the appellant remained idle. Clearly, therefore, it has not realized the profits it would have earned had it been allowed to build the hotel as early as 1967 when the contract was entered into by the parties.

We also agree with the trial court's finding of bad faith on the part of the appellant. This is contrary to the argument of the appellant that it was not guilty of bad faith or grave abuse of discretion. The unjustified refusal of the appellant to act on the application for the construction permit forced the appellee to institute this case to protect its interests, thereby incurring expenses in the process. We note that the appellant still refused to issue the permit even as the Office of the Government Corporate Counsel rendered an opinion categorically stating that the appellant cannot escape its obligations under the lease contract. Another circumstance evidencing bad faith is the fact that the refusal of the appellant to issue a permit is not due to the fault of the appellee or defects in its plans and specifications but rather to force the negotiation of a higher lease rental.

The award of damages is, therefore, proper.”[8]

Hence this petition on the following grounds:

“I

THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONERS ACTED IN BAD FAITH WHICH IS CONTRARY TO EVIDENCE.

II

THE COURT OF APPEALS ERRED IN AFFIRMING THE AWARD OF COMPENSATORY DAMAGES ON THE BASIS OF SUCH FINDING WHICH IS CONTRARY TO LAW.

III

THE COURT OF APPEALS ERRED IN NOT FINDING THE AWARD OF ATTORNEY’S FEES EXCESSIVE.”

At the outset, we take note of the fact that petitioners no longer dispute the disposition of the respondent appellate court as regards the issues of the non-expiration of the lease contract, the right of Salem to obtain the building permit to construct the proposed hotel, the continuous effectivity of the renewal clause in favor of private respondent Salem, and the nullity of any rental fees and all other additional charges not found in the lease contract. These issues were the subject of the first three assigned errors raised by Salem before respondent Court of Appeals. As those portions of the decision of the respondent appellate court containing the latter’s disposition of said first three assigned errors, are deemed final and no longer subject of this appeal, this court has no authority to disturb the same.

Petitioners only now take exception to the award of compensatory damages as being unwarranted in the absence of bad faith on the part of petitioners in refusing to issue the building permit to construct the proposed hotel which private respondent Salem is obligated to build under the lease contract, as well as the award of attorney’s fees which petitioners claim to be excessive under the circumstances of the instant case. We shall thus proceed to rule on the sole issue of the propriety of the award of compensatory damages and attorney’s fees, including costs of suit.

The petition lacks merit, and we hereby affirm the herein assailed decision of the Court of Appeals, with the observation, however, that the award of compensatory damages of P500,000.00 per annum should be reckoned, not from March, 1984 but from February 14, 1991 when private respondent Salem amended its Complaint and theretofore prayed for the issuance of the building permit to construct the proposed hotel envisioned under the lease contract.

Petitioners insist that they have proceeded to collect various charges not contemplated by the lease contract on the honest belief that the new schedule of rental fees and Privilege Concession Fees were imposable on private respondent Salem. They claim that they withheld the issuance of the building permits, first in 1967 to construct the proposed hotel on the pretext that the same would pose competition to the then First Lady’s Philippine Village Hotel; second, in 1989 to construct air freight offices on the ground that the rental fees being paid by Salem were very low and the renewal clause in the lease contract was disadvantageous to petitioners; and, third, in 1991 to construct the originally proposed hotel under the lease contract on the ground that the lease contract was going to expire in 1992.

Petitioners’ refusal to issue the building permit to allow Salem to construct the air freight offices and/or the proposed hotel, however is not as innocent as they wish it to appear. In fact, petitioner Carrascoso, in his letter dated July 20, 1989, minced no words in conveying the message to private respondent Salem that its application for a building permit to construct air freight offices was being denied because Salem was paying very low rental

fees under the subsisting lease contract. Petitioner Carrascoso, in said letter, laid the ground work for the subsequent assessment and demand by petitioners for private respondent Salem to pay additional fees and charges not at all included in the lease contract. Thereafter, Salem repeatedly pleaded, through letters, for the issuance of the building permit, but petitioners simply continued demanding for additional fees in the form of Privilege Concession Fees. This, notwithstanding the unequivocal recommendation of the Office of the Government Corporate Counsel that petitioners issue the said building permit as they are duty bound to do so under the lease contract whose provisions cannot be unilaterally defeated or unjustifiedly evaded by petitioners.

What is undeniable from the nexus of circumstances surrounding the unwarranted, arbitrary and defiant refusal of petitioners to perform their obligations under the lease contract, is that such refusal is patently ill-motivated and grossly tainted with malice and bad faith. "For, 'bad faith' contemplates a 'state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purpose.'"[9] Petitioners, willfully oblivious to the obvious -- that the additional fees and charges sought to be collected from Salem, were not contained in the subsisting lease contract -- and the learned directive of the Office of the Government Corporate Counsel -- that the lease contract is the law between the parties -- consciously chose to harass and coerce private respondent Salem into accepting the increased rental charges in exchange for the issuance of the building permits. Put simply, the plan of petitioners was to blackmail private respondent Salem, and so petitioners must now answer for their malevolent scheme.

It must be noted, however, that while we uphold the herein assailed decision of the Court of Appeals, we believe that the award of compensatory damages should be reckoned, not from March, 1984, but from February 14, 1991. Nowhere in the records of this case is there any mention of the significance of March, 1984 as to justify the award of damages to be reckoned from said date. Rather, said award should be reckoned from February 14, 1991 when private respondent Salem amended its Complaint and alternatively prayed for the issuance of the building permit to construct the originally proposed hotel under the lease contract subject of this case. The inclusion of the alternative prayer for the issuance of the building permit for the proposed hotel, through the amendment of the Complaint on February 14, 1991, amounted to the proper demand by private respondent Salem for the issuance of said permit. Since petitioners did not forthwith issue the permit, as it should have done, considering that Salem had an absolute right thereto under the lease contract, private respondent Salem inevitably suffered damages from the time of such denial.

Finally, petitioners contend that the award of attorney's fees in the amount of P200,000.00 is excessive. We disagree. In the first place, it is the trial court that is principally tasked with fixing such amount.[10] Secondly, the facts and circumstances in the instant case point to the reasonableness of the amount fixed by the trial court. Lastly, in view of the pecuniary considerations at stake in the instant controversy, the voluminous pleadings filed by private respondent Salem's counsel in the trial court, the Court of Appeals and in this court, and the nature and importance of the litigation involved herein, we find sufficient basis for the determination by the trial court of the award of attorney's fees in the amount of P200,000.00.

WHEREFORE, the instant petition is DENIED. The decision of the Court of Appeals in CA-G.R. CV No. 42806 is hereby AFFIRMED with the slight modification that the award of compensatory damages of P500,000.00 per annum be reckoned not from March, 1984, but from February 14, 1991 until the building permit for the construction of the proposed hotel under the Contract of Lease is issued by petitioners.

Costs against petitioners.

SO ORDERED.

Bellosillo, Vitug, and Kapunan, JJ., concur.

Padilla, J. (Chairman), on leave.

[1] In CA-G.R. CV No. 42806, promulgated on March 8, 1995 and penned by Associate Justice Antonio M. Martinez and concurred in by Associate Justices Consuelo Ynares-Santiago and Ruben T. Reyes; Rollo, pp. 70-81.

[2] Sixth Division.

[3] Branch 117, National Capital Judicial Region, Pasay City with the Honorable Leonardo M. Rivera as Presiding Judge.

[4] Docketed as Civil Case No. 7500.

[5] Decision of the Regional Trial Court dated July 20, 1993, pp. 19-20; Rollo, pp. 68-69.

[6] Decision of the Court of Appeals dated May 8, 1995, p. 7; Rollo, p. 76.

[7] Decision of the Court of Appeals dated May 8, 1995, pp. 7-11; Rollo, pp. 76-80.

[8] Decision of the Court of Appeals dated May 8, 1995, p. 11; Rollo, p. 80.

[9] *Air France v. Carrascoso*, 18 SCRA 155, 166-167 [1966].

[10] *Id.*, p. 171.

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