SPOUSES NICETAS DELOS SANTOS, TIMOTEO ANTOLIN, AURORA PEGOLLO, AND BENJAMIN MARIANO, PETITIONERS, VS. COURT OF APPEALS, 12TH DIVISION, AND MAUNLAD HOMES, INC., RESPONDENTS.

G.R. No. 127465. October 25, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is an appeal via certiorari from the decision of the Court of Appeals[1] affirming that of the trial court finding that petitioners were not bona fide lessees of the land but usurpers or deforciants, neither legitimate tenants nor residents who had legally occupied the land by contract, hence, they could not avail themselves of P. D. No. 1517 (Section 6) giving legitimate tenants the right of first refusal.

The Facts

The facts, as found by the Court of Appeals, are as follows:

> "On April 13, 1989, Maunlad Homes, Inc. (Maunlad) filed a complaint for recovery of possession against Timoteo Antolin, Ellen dela Cruz and Nicetas delos Santos (Antolin, et al.) docketed as Civil Case No. 206-M-89. Maunlad alleged that it is the registered owner, under TCT No. T-244595, of a parcel of land known as Lot No. 2637-B, situated in Guinhawa, Malolos, Bulacan. Through tolerance, Antolin, et al. have occupied portions of the property where they have erected their respective houses. Despite repeated demands by Maunlad, Antolin, et al. have refused without any valid reason, to vacate the premises. Consequently, Maunlad filed the action for recovery of possession.
>
> "In their answer, Antolin, et al. alleged that their occupation of the property was not an account of Maunlad's tolerance but as lessees of the brothers Rogelio and Teodoro Sandiko, former owners thereof. The conveyance of the property to Maunlad did not terminate the lease by virtue of B. P. Blg. 877, as amended by R. A. No. 6643, and Article 1687 of the Civil Code. They were not informed of the intended sale nor given the opportunity to buy the land before the same was sold by the Sandiko's to Maunlad in violation of their "right of first refusal" under P. D. No. 1517.
>
> "Antolin, et al. further alleged that Timoteo Antolin received a letter from Teodoro Sandiko dated October 25, 1986 which contained an offer for him to buy the portion of the property he is occupying. However while the negotiations regarding said offer were in progress, the property in dispute was sold to Maunlad. They set up a counterclaim for damages.
>
> "Meantime, on April 19, 1989, Nicetas delos Santos and Timoteo Antolin (defendants in Civil Case No. 206-M-89), together with Aurora Pegolio and Benjamin Mariano (delos Santos, et al.) filed a complaint against Maunlad (plaintiff in Civil Case No. 206-M-89), impleading likewise the brothers Rogelio Sandiko and Teodoro Sandiko, and praying for the annulment of the sale to Maunlad, and for damages. In their complaint,

> docketed as Civil Case No. 222-M-89, delos Santos, et al. reiterated the same allegations embodied in their answer in Civil Case No. 206-M-89, except that it additionally prayed for the issuance of a preliminary injunction to stop Maunlad from bulldozing the property in question.
>
> "Maunlad, as defendant in Civil Case No. 222-M-89, filed its answer, and asserted a counterclaim which substantially reiterated the allegations in its complaint in Civil Case No. 206-M-89.
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> "Teodoro Sandiko, who had died in the meantime, was substituted by his wife, Celia Sandiko, while Rogelio Sandiko, who also died, was substituted by his son, David Sandiko.
>
> "Following the amendment of the complaint in Civil Case No. 222-M-89, the two cases were consolidated. On July 8, 1991, the court a quo rendered its decision subject of this appeal."[2]

After due proceedings, on August 27, 1996, the Court of Appeals promulgated a decision, the dispositive portion of which reads as follows:

> "WHEREFORE, the decision appealed from is hereby AFFIRMED. No Costs.
>
> "SO ORDERED."[3]

Hence, this appeal.[4]

The Issues

The issues to be resolved are as follows:

> 1) Whether or not P. D. No. 1517 and B. P. Blg. 877 are applicable to this case, and
>
> 2) Whether or not there was a perfected contract of sale between petitioners and the Sandikos.[5]

The Court's Ruling

We find P. D. No. 1517 not applicable to the case at bar.

We agree with the Court of Appeals that the "right of first refusal" under P. D. No. 1517 does not apply because its intended beneficiaries are legitimate tenants, not usurpers or occupants by tolerance.[6] As found by the Court of Appeals, petitioners were not legitimate tenants as "Maunlad had made formal demands upon them to vacate the property" and "no rental was collected from, nor paid by, them after 1986."[7]

In any event, the law is undisputably applicable only in specific areas declared to be located within the so-called urban zones.[8] The Court of Appeals found, as a matter of judicial notice, that no part of the province of Bulacan has been declared to be, or classified as, an urban land reform area.[9]

On another tack, Batas Pambansa Blg. 877, as amended, prohibits the ejectment of a lessee upon the ground that the leased premises has been sold to a third party. Section 5, provides:

> "SEC. 5. Grounds for Judicial Ejectment.--Ejectment shall be allowed on the following grounds:
>
> "(a) Assignment of lease or subleasing of residential units in whole or in part, including the acceptance of boarders or bedspacers, without the written consent of the owner/lessor.
>
> "(b) Arrears in payment of rent for a total of three (3) months: Provided, That in case of refusal by the lessor to accept payment of the rental agreed upon, the lessee may either deposit, by way of consignation, the amount in court, or with the city or municipal treasurer, as the case may be, or in a bank in the name of and with notice to the lessor, within one month after the refusal of the lessor to accept payment.
>
> "The lessee shall thereafter deposit the rental within ten days of every current month. Failure to deposit rentals

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> for three months shall constitute a ground for ejectment. If an ejectment case is already pending, the court upon proper motion may order the lessee or any person or persons claiming under him to immediately vacate the leased premises without prejudice to the continuation of the ejectment proceedings. At any time, the lessor may, upon authority of the court, withdraw the rentals deposited.
>
> "The lessor, upon authority of the court in case of consignation and upon joint affidavit by him and the lessee to be submitted to the city or municipal treasurer and to the bank where deposit was made, shall be allowed to withdraw the deposits.
>
> "(c) Legitimate need of owner/lessor to repossess his property for his own use or for the use of any immediate member of his family as a residential unit, such owner or immediate member not being the owner of any other available residential unit within the same city or municipality: Provided, however, That the lease for a definite period has expired: Provided, further, That the lessor has given the lessee formal notice three (3) months in advance of the lessor's intention to repossess the property: and Provided, finally, That the owner/lessor is prohibited from leasing the residential unit or allowing its use by a third party for at least one year.
>
> "(d) Absolute ownership by the lessee of another dwelling unit in the same city or municipality which he may lawfully use as his residence: Provided, That the lessee shall have been formally notified by the lessor of the intended ejectment three months in advance.
>
> "(e) Need of the lessor to make necessary repairs of the leased premises which is the subject of an existing order of condemnation by appropriate authorities concerned in order to make the said premises safe and habitable: Provided, That after said repair, the lessee ejected shall have the first preference to lease the same premises: Provided, however, That the new rental shall be reasonably commensurate with the expenses incurred for the repair of the said residential unit: and Provided, finally, That if the residential unit is condemned or completely demolished, the lease of the new building will no longer be subject to the provisions of this Act.
>
> "(f) Expiration of the period of the lease contract.
>
> "No lessor or his successor-in-interest shall be entitled to eject the lessee upon the ground that the leased premises has been sold or mortgaged to a third person regardless of whether the lease or mortgage is registered or act."

Section 5 (f) applies in case of expiration of the period of the lease contract, whether written or verbal.[10][1] Here, the lease agreement between petitioners and the Sandikos did not fix the period of the lease, but provided that rentals were paid yearly. This was a lease for a definite period and expired at the end of each year.[11] The lease was not renewed. Consequently, the prohibition in Batas Pambansa Blg. 877 to eject the lessee on the ground that the leased premises has been sold or mortgaged to a third person does not apply.

What is more, in case of sale of real property, the sale is unenforceable unless reduced to writing under the statute of frauds.[12] Hence, the alleged sale of the premises in question to the Sindikos could not be enforced.

The Fallo

IN VIEW WHEREOF, the Court AFFIRMS the decision of the Court of Appeals in toto.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In CA-G. R. CV No. 37332, promulgated on August 27, 1996, Agcaoili, J., ponente, Elbinias and Verzola, JJ., concurring. Petition, Rollo, pp. 15-23.

[2] Rollo, pp. 15-23, at pp. 16-17.

[3] Rollo, pp. 15-23.

[4] Petition, filed on January 6, 1997, Rollo, pp. 3-14. On October 26, 1998, we gave due course to the petition (Rollo, p. 70).

[5] Ibid., at p. 7.

[6] Bermudez v. Intermediate Appellate Court, 143 SCRA 351, 355 [1986]; Zansibarian Residents Asso. v. Municipality of Makati 135 SCRA 235, 239 [1985]; Dumawal v. Court of Appeals, 194 SCRA 565, 571 [1991].

[7] CA Decision, Rollo, at p. 20.

[8] Solanda Enterprises, Inc. v. Court of Appeals, 365 Phil. 194, 205-206 [1999]; Aquino v. Intermediate Appellate Court, 132 SCRA 377, 379 [1984].

[9] CA Decision, Rollo, p. 23; Petitioner's Memorandum, Rollo, pp. 113-119, at p. 115. Memorandum for Private Respondent, Rollo, pp. 106- 111, at p. 108.

[10] Arquelada v. Philippine Veterans Bank, 329 SCRA 536, 553 [2000]; De Vera v. Court of Appeals, 329 Phil. 175, 180-181 [1996].

[11] Article 1687, Civil Code.

[12] Article 1403, par. 2 (f) Civil Code; Cf. Mactan Cebu Int'l. Airport Authority v. Court of Appeals, 331 Phil. 1046, 1053-1054 [1996].

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