JON AND MARISSA DE YSASI, PETITIONERS, VS. ARTURO AND ESTELA ARCEO, RESPONDENTS.

G.R. No. 136586. November 22, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review of the decision,[1] dated August 31, 1998, of the Court of Appeals, affirming the decision of the Regional Trial Court, Branch 67, Pasig City, which dismissed petitioners' amended complaint for damages and ordered them instead to pay respondents back rentals and attorney's fees, as well as the appeals court's resolution,[2] dated November 27, 1998, denying petitioners' motion for reconsideration.

The antecedent facts are as follows:

On October 1, 1988, petitioner spouses Jon and Marissa de Ysasi leased from spouses Arturo and Estela Arceo, respondents herein, the latter's premises located at No. 91 East Capitol Drive, Barrio Kapitolyo, Pasig, Metro Manila in order to carry on their business of handpainting and finishing services. Petitioners paid P5,000.00 as goodwill money and P15,000.00 as deposit for three months.

It appears that due to heavy rains, the roof of the building leaked and the premises were flooded, as a result of which the schedule of the delivery of handpainted mouldings to petitioners' customers was disrupted. Although petitioners asked respondents to make the necessary repairs, the latter repaired only a portion of the leased premises. Consequently, petitioners stopped paying rent as well as their share of the electric, water, and telephone bills from December 1988 up to the time they vacated the leased premises in June 1989.

Respondents in turn filed an ejectment suit against petitioners in the Metropolitan Trial Court, Branch 71, Pasig City. In its decision, the MeTC, while ruling that petitioners were justified in suspending the payment of rent, ordered the deposits made by them to be applied to the payment of rentals up to June 1989 and directed them to pay the electric and water bills.[3] On appeal to the Regional Trial Court, Branch 156, Pasig City, the decision was modified inasmuch as petitioners were ordered to pay P20,000.00 as balance of their rentals up to the time they vacated the premises.[4]

Petitioners then filed a complaint in the Regional Trial Court, Branch 67, Pasig City, for specific performance or rescission of contract with damages, which they subsequently changed to a claim for damages in view of the expiration of the lease contract.[5] The trial court, however, dismissed the complaint and ordered petitioners to pay respondents the sums of P5,000.00 as attorney's fees and P20,000.00 as back rentals, with interest at the legal rate.[6] On appeal to the Court of Appeals, the decision was affirmed. Petitioners' motion for reconsideration was subsequently denied. Hence this appeal.

Petitioners contend that:

> - THE HONORABLE COURT OF APPEALS COMMITTED A CLEAR ERROR IN INTERPRETING THAT UNDER THE CONTRACT OF LEASE DATED 1 OCTOBER 1988 THERE WAS AN IMPLIED

> WAIVER OF REPAIRS INCLUDING REPAIRS FOR HIDDEN AND UNKNOWN DEFECTS.
>
> - THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT PRIVATE RESPONDENTS ARE NOT LIABLE TO PAY DAMAGES TO PETITIONERS INASMUCH AS THE FAILURE OF THE FORMER TO MAKE THE NECESSARY REPAIRS ON THE SUBJECT PREMISES WAS NOT THE DIRECT AND PROXIMATE CAUSE OF THE DAMAGES SUSTAINED BY THE LATTER.
>
> - THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT PETITIONERS SHOULD BE HELD LIABLE TO PAY DAMAGES TO PRIVATE RESPONDENT PARTICULARLY THE SUM OF TWENTY THOUSAND (P20,000.00) PESOS REPRESENTING THE ALLEGED UNPAID RENTALS.[7]

After reviewing the records of this case, we affirm the decision of the Court of Appeals dismissing petitioners' amended complaint for damages and ordering the payment of attorney's fees to respondents. However, the order for payment of unpaid rentals with interest to respondents should be deleted.

First. Petitioners anchor their complaint for damages on respondents' failure, as lessors, to make the necessary repairs on the leased premises as provided in Art. 1654(2) of the Civil Code.[8] The Court of Appeals held that under the contract of lease of the parties, there was an implied waiver of right to demand repairs to be made by the lessee.[9]

The records show that respondent Mrs. Arceo caused certain repairs to be done on the leased premises at the request of petitioners,[10] although the latter alleged that the repairs made were inadequate.[11] This fact indicates that there was no implied waiver of repairs on the part of the lessee. For Art. 1371 of the Civil Code provides that "In order to judge the intention of the contracting parties, their contemporaneous and subsequent acts should be principally considered."

Petitioners contend that respondents were liable for hidden defects and, for this purpose, cite the following provisions of the Civil Code:

> Art. 1566. The vendor is responsible to the vendee for any hidden faults or defects in the thing sold, even though he was not aware thereof.
>
> This provision shall not apply if the contrary has been stipulated, and the vendor was not aware of the hidden faults or defects in the thing sold.
>
> Art. 1653. The provisions governing warranty, contained in the Title on Sales, shall be applicable to the contract of lease.

Petitioners' contention is without merit. Petitioner Jon de Ysasi admitted on cross-examination that he inspected the premises three or four times before signing the lease contract.[12] During his inspection, he noticed the rotten plywood on the ceiling which in his opinion was caused by leaking water or "anay" (termites). Yet, he decided to go through with the lease agreement.[13] Hence, respondents cannot be held liable for the alleged warranty against hidden defects. What we said in Coca-Cola Bottlers Philippines, Inc. v. Court of Appeals[14] applies mutatis mutandis to this case:

> Considering that the representatives of the petitioner were given every opportunity to visit and inspect the premises prior to the execution of the contract of lease, we cannot impute bad faith on the part of respondents for having allegedly withheld the information that the leased land was a former fishpond.
>
> . . . .
>
> Accordingly, private respondents cannot be held liable for the alleged warranty against defects under Art. 1561 of the Civil Code.

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Under Arts. 1561 and 1653 of the Civil Code, the lessor is responsible for warranty against hidden defects, but he is not answerable for patent defects or those which are visible. Such appears to be the case here.

Second. Petitioners contend that respondents' obligation to make the necessary repairs on the premises was fixed in the decision both of the Metropolitan Trial Court (MeTC) and the Regional Trial Court (RTC) in the ejectment case and that such is now conclusive on the parties.[15]

We disagree. Although the MeTC held respondents responsible for repairs, it does not appear that the RTC affirmed the same on appeal. The RTC in fact decided the case in favor of respondents. Instead of holding petitioners justified in refusing to pay rentals because of respondents' alleged failure to comply with their obligation to make repairs, the RTC in fact ordered them to pay respondents the sum of P20,000.00, representing the balance of the rentals from the time they withheld payment up to the time they vacated the leased premises in June 1989.[16]

Nor is there any basis for petitioners' claim of P41,007.35 as damages for improvements allegedly made, consisting of tables and chairs, considering that the said pieces of furniture were removed by them when they transferred to another place.[17] As regards the business losses allegedly incurred by petitioners as a result of the cancellation of job orders in the amount of P100,000.00, such damages have not been sufficiently established by them as attributable to respondents' fault or neglect.[18]

It has not been duly proven in the case that respondents failed to fulfill their obligations as lessors or that they acted with fraud or bad faith. As heretofore mentioned, respondents did cause repairs to be made on the leased premises upon petitioners' request, but the latter claimed that the repairs made were inadequate.

For the foregoing reasons, there is no basis for petitioners' claim for actual, moral, and exemplary damages and attorney's fees.

Third. Petitioners deny that they are liable for unpaid rentals to respondents in the amount of P20,000.00.[19]

We find merit in this contention. The appeals court erred in affirming the ruling of the trial court which went beyond its jurisdiction in ordering petitioners to pay unpaid rentals to respondents. The trial court held:

> In the case at bar, there is no evidence to show that the defendants were liable to repair the roof and ceiling of the leased premises. They [are] also not liable for the alleged damages sustained by the plaintiffs. On the other hand, defendants had not sufficiently established that they sustained damages to warrant the award for moral and exemplary damages. However, it is unfortunate that the plaintiffs had filed the instant action for which they should pay attorney's fees to the defendants in the amount of P5,000.00. Plaintiffs should also pay the sum of P20,000.00 representing the balance of their rentals up to the time they vacated the leased premises in June 1989 with interest at the legal rate starting from January 1991.[20]

This ruling is based on the final judgment of the MeTC in the ejectment case which ordered thus:

> WHEREFORE, the Court hereby renders judgment modifying the judgment of the lower court in the sense that defendants are adjudged to pay plaintiffs the amount of P20,000.00 representing the balance of their rentals up to the time they vacated the leased premises in June, 1989.[21]

It would seem that the judgment in the ejectment case, particularly the payment of unpaid rentals, had not yet been enforced.[22] Consequently, the proper remedy of respondents herein was to file a motion for issuance of a writ of execution within five years from date of entry, or, after five years, to file an action for revival of judgment, pursuant to Rule 39, §6 of the 1997 Rules on Civil Procedure.

Thus, when the trial court ordered the payment of unpaid rentals, it decided an issue which had already been

adjudicated with finality by another court. It had no jurisdiction to do so. As correctly pointed out by petitioners, respondent did not claim payment of unpaid rentals in their "Answer with Counterclaim" dated October 23, 1989.[23] The ruling of this Court in Lazo v. Republic Surety & Insurance Co., Inc.[24] is apropos:

> The actuation of the trial court was not legally permissible, especially because the theory on which it proceeded involved factual considerations neither touched upon the pleadings nor made the subject of evidence at the trial. Rule 6, Section 1, is quite explicit in providing that "pleadings are the written allegations of the parties of their respective claims and defenses submitted to the court for trial and judgment." This rule has been consistently applied and adhered to by the courts.
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> "The subject matter of any given case is determined . . . by the nature and character of the pleadings submitted by the parties to the court for trial and judgment." Belandres vs. Lopez Sugar Central Mill Co., Inc., 97 Phil. 100, 103.
>
> "It is a fundamental principle that judgments must conform to both the pleadings and the proof, and must be in accordance with the theory of the action upon which the pleadings were framed and the case was tried; that a party can no more succeed upon a case proved, but not alleged, than upon one alleged but not proved." (Ramon v. Ortuzar, 89 Phil. 730, 742).
>
> "It is a well-known principle in procedure that courts of justice have no jurisdiction or power to decide a question not in issue." (Lim Toco vs. Go Fay, 80 Phil. 166)
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> "A judgment going outside the issues and purporting to adjudicate something upon which the parties were not heard, is not merely irregular, but extrajudicial and invalid." (Salvante v. Cruz, 88 Phil. 236, 244.)

Fourth. Petitioners contend that there is no basis for the award of attorney's fees. This matter, however, was not raised by them in the Court of Appeals. Consequently, they cannot now raise it for the first time on appeal.[25]

WHEREFORE, the decision of the Court of Appeals is AFFIRMED with the MODIFICATION that the order for payment of unpaid rentals with interest to respondents is deleted.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Per Justice Mariano M. Umali and concurred in by Justices Romeo J. Callejo, Sr., and Salvador Valdez, Jr.

[2] Id.

[3] Rollo, pp. 60-64.

[4] RTC Records, pp. 325-328; Exh. 8. The RTC decision on the ejectment case became final when petitioners herein failed to appeal.

[5] RTC Records, pp. 44-52.

[6] RTC Decision, pp. 3-4; RTC Records, pp. 399-400.

[7] Petition, p. 10; Rollo, p. 20.

[8] Art. 1654. The lessor is obliged:

> . . . .
>
> (2) To make on the same during the lease all the necessary repairs in order to keep it suitable for the use to

which it has been devoted, unless there is a stipulation to the contrary; . . . .

[9] CA Decision, pp. 7-9; Rollo, pp. 47-49.

[10] TSN (Jon de Ysasi III), pp. 15-16, Aug. 30, 1990; TSN (Mrs. Estela Arceo), p. 10, Oct. 13, 1993.

[11] TSN (Jon de Ysasi III), p. 15, Nov. 22, 1990.

[12] TSN (Jon de Ysasi III), p. 6, Nov. 22, 1990.

[13] Id., pp. 13-14.

[14] 229 SCRA 533, 541 (1994).

[15] Petition, pp. 13-15; Rollo, pp. 23-25.

[16] RTC Decision (Ejectment case), pp. 1-4; RTC Records, pp. 325-328; Exh. 8.

[17] CA Decision, p. 9; Rollo, p. 49; See also TSN (Jon de Ysasi III), p. 10, July 24, 1991.

[18] Id., p. 10; Id,, p. 50; RTC Decision, p. 2; RTC Records, p. 398.

[19] Petition, pp. 21-22; Rollo, pp. 32-33.

[20] RTC Decision, p. 3; RTC Records, p. 399.

[21] RTC Decision (Ejectment case), p. 4; RTC Records, p. 328.

[22] TSN (Jon de Ysasi III) pp. 3-5, July 24, 1991.

[23] See RTC Records, pp. 12-16.

[24] 31 SCRA 329, 334 (1970).

[25] Tan Chun Suy v. Court of Appeals, 229 SCRA 151 (1994).

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