

**EL CID PAGURAYAN, ANTONIO SOLOMON, ANGELITO REÑOSA AND
VILMA RAMOS DATOON, FOR THEMSELVES AND AS
REPRESENTATIVES OF THE TENANTS, OCCUPANTS AND BUILDERS
IN GOOD FAITH OF THE DON ...**

G.R. No. 154577. July 23, 2008

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari[1] of the January 31, 2002 decision[2] and August 5, 2002 resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 44378.

On February 4, 1974, respondent Leonardo T. Reyes filed a complaint for specific performance and damages against respondents Dolores Soriano et al. (hereinafter referred to as the Sorianos) in the then Court of First Instance of Tuguegarao, Cagayan, Branch V, docketed as Civil Case No. 2136. On June 5, 1975, a decision was rendered in favor of respondent Reyes. To satisfy the judgment, the deputy provincial sheriff of Cagayan levied on three parcels of land belonging to the Sorianos. The properties consisted of residential and commercial lots located around the Don Domingo public market, Tuguegarao, Cagayan, covered by TCT Nos. T-50744 (Lot No. 3-A), T-52072 (Lot No. 3747-G-1) and T-49633. The levied properties were sold in a public auction wherein respondent Reyes was the sole and highest bidder. Since the Sorianos never exercised their right of redemption, a deed of absolute sale covering the properties was issued to respondent Reyes.

On October 14, 1982, the Sorianos filed a complaint for declaration of nullity of the auction sale and certificate of sheriff's sale with damages in the Regional Trial Court (RTC) of Tuguegarao, Cagayan, Branch 5, docketed as Civil Case No. 3093. In a decision dated October 3, 1988, the RTC upheld the validity of the deed of sale and certificate of sheriff's sale.[4] The CA[5] and this Court[6] affirmed it and the decision became final and executory on July 27, 1992.

Thereafter, respondent Reyes filed a motion for execution and the issuance of a writ of possession in the RTC.[7] On February 22, 1993, the RTC granted the motion. [8] On October 18, 1995, the RTC issued a resolution ordering that a writ of possession be issued to respondent Reyes and commanding the lessees of the subject lots to pay their rentals to him.[9] On November 26, 1996, a writ of execution was issued.[10] Because petitioners El Cid Pagurayan et al., as occupants of the lots, refused to vacate and remove their improvements,[11] a writ of demolition followed on March 19, 1997.[12]

Consequently, petitioners sought to intervene and to quash the writ of demolition.[13] The RTC, in a resolution dated May 26, 1997, denied this motion.[14] It held that, since petitioners were lessees of the judgment debtors (the Sorianos), they could not be deemed to be third parties holding the property adversely, hence their rights ended when that of their lessor ceased.[15] On May 30, 1997, an alias writ of demolition was issued. [16]

On June 10, 1997, petitioners filed a petition for certiorari under Rule 65 of the Rules of Court docketed as

CA-G.R. SP No. 44378 assailing the May 26, 1997 RTC resolution and May 30, 1997 alias writ of demolition. On June 11, 1997, the CA issued a temporary restraining order. On July 2, 1997, the CA issued a resolution directing the issuance of a writ of preliminary injunction^[17] enjoining the implementation of the assailed resolution and writ. Respondent Reyes questioned this resolution in this Court in G.R. No. 129750. We denied the petition for lack of merit on December 21, 1999. Thereafter, proceedings in CA-G.R. SP No. 44378 continued.

On January 31, 2002, the CA rendered a decision denying the petition for certiorari and denied reconsideration in a resolution dated August 5, 2002. It held that petitioners were the agents/lessees of the Sorianos and that the October 18, 1995 resolution commanding them to pay rent to respondent Reyes did not automatically create a lessor-lessee relationship between them. Respondent Reyes was entitled to the fruits of the properties as the purchaser and lawful owner thereof.^[18]

Hence this petition.^[19]

Were petitioners mere agents of the Sorianos or were they lessees of respondent Reyes? If they were only the agents of the Sorianos who were the judgment debtors in Civil Case No. 3093, they were bound by the judgment rendered against the former. However, if they could be considered the lessees of respondent Reyes, then they could not be ejected via mere writs of execution and demolition.^[20]

Petitioners admit that they were the "tenants, occupants and builders in good faith" of the land formerly owned by the Sorianos.^[21] However, they claim that, as early as 1992, they had been paying rent to respondent Reyes. They argue that the fact that he accepted their payments established and confirmed the lessor-lessee relationship between them. Furthermore, in a letter dated October 26, 1994, respondent Reyes' counsel informed them that they should pay their rent to his client as lawful owner.^[22] Therefore, they assert, they no longer derived their right of occupancy from the Sorianos but from respondent Reyes himself. ^[23]

Respondent Reyes counters that, as purchaser of the properties in an execution sale, he was entitled to the rent.^[24] Thus, his acceptance thereof did not create a contract of lease between him and petitioners. He avers that he never intended to establish a lease contract with petitioners.^[25]

The petition is devoid of merit.

A contract of lease is a consensual, bilateral, onerous and commutative contract by which the owner temporarily grants the use of his property to another who undertakes to pay the rent.^[26] Being a consensual contract, it is perfected at the moment there is a meeting of the minds on the thing and the cause and consideration which are to constitute the contract.^[27] Without the agreement of both parties, no contract of lease can be said to have been created or established. ^[28] Nobody can force an owner to lease out his property if he is not willing.

Respondent Reyes maintains that he never entered into a contract of lease with petitioners. The only proof presented by petitioners of the alleged lease was Reyes' acceptance of rentals from them but respondent Reyes insists that he was entitled to receive those rentals as the owner of the properties.

We agree with respondent Reyes. Under Section 34, Rule 39 of the old Rules of Court, respondent Reyes, as the purchaser in the execution sale, was allowed to receive the rentals if the purchased properties were occupied by tenants. Moreover, as the owner of the properties after the expiration of the redemption period, he was entitled to their fruits.^[29]

Petitioners never held the properties adversely to (but in fact derived their rights from) the judgment debtors, the Sorianos. Since they were the lessees of the judgment debtors against whom the writs of possession and demolition could unquestionably be enforced, the said writs could (and can) be enforced against them as well.^[30]

WHEREFORE, the petition is hereby DENIED.

Costs against petitioners.

SO ORDERED.

Puno, C.J. (Chairperson), Carpio, Azcuna, and Leonardo-De castro, JJ., concur.

* The Presiding Judge Adrian N. Pagalilauan of the Regional Trial Court, Tuguegarao, Cagayan, Branch 5 and the Court of Appeals were originally impleaded as public respondents. However, they were excluded pursuant to Rule 45, Section 4 of the Rules of Court.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Ma. Alicia Austria-Martinez (now Supreme Court Associate Justice) and Roberto A. Barrios (deceased) of the First Division of the Court of Appeals; rollo, pp. 33-47.

[3] Associate Justice Austria-Martinez was replaced by Associate Justice Edgardo P. Cruz in the Special Former First Division; id., pp. 48-49.

[4] Penned by Judge Hilarion L. Aquino; id., pp. 192-209.

[5] Docketed as CA- G.R. CV No. 20012 and the decision was rendered on June 19, 1991; id., p. 35.

[6] Docketed as G.R. No. 101568. On April 1, 1992, we denied the petition with finality; id.

[7] Filed on November 18, 1992; id., p. 218.

[8] The Sorianos appealed to the CA but the latter ultimately decided in favor of respondent Reyes; id., p. 219.

[9] Id., pp. 213-214.

[10] Id., pp. 217-220.

[11] They alleged that they were mostly subsistence talipapa vendors, peddlers, wage earners and entrepreneurs in and around the Don Domingo public marker; id., p. 8.

[12] Id., p. 231.

[13] Id., pp. 233-238.

[14] Penned by Judge Adrian N. Pagalilauan; id., pp. 242-256.

[15] Id., pp. 106-108, citing *Malonzo v. Mariano*, G.R. No. 53998, 31 May 1989, 173 SCRA 667, 673-674 and Section 17, Rule 39 of the old Rules of Court (now Section 16).

[16] Id., pp. 259-262.

[17] Upon the filing of petitioners of a bond in the amount of P200,00.00; id., p. 39.

[18] Id., p. 46; see also Section 34, Rule 39 of the old Rules of Court (now Section 32).

[19] In a resolution dated August 15, 2005, the Court dispensed with the filing of comment of the Sorianos who no longer had any interest in the case; id., p. 351.

[20] Petitioners also raised the issue of the applicability of RA 7279 (or the Urban Development and Housing Act of 1992) to their case. This was raised for the first time in petitioners' motion for reconsideration filed in the CA (Id., p. 306). It is settled jurisprudence that an issue which was neither averred in the complaint nor raised during the trial in the lower courts cannot be raised for the first time on appeal as it would be offensive to the basic rules of fair play, justice, and due process (*Roman Catholic Archbishop of Manila v. CA*, G.R. No. 123321, 3 March 1997, 269 SCRA 145, 153, citations omitted). Besides, this would entail factual determinations which we cannot pass upon.

[21] Rollo, p. 10.

[22] Id., p. 123.

[23] Id., pp. 19-20.

[24] He quotes Section 34, Rule 39 of the old Rules of Court.

[25] Rollo, pp. 301-302.

[26] *Chua Tee Dee v. Court of Appeals*, G.R. No. 135721, 27 May 2004, 429 SCRA 418, 434, citing *Lim Si v. Lim*, 98 Phil. 868, 870 (1956).

[27] *Bugatti v. Court of Appeals*, 397 Phil. 376, 395 (2000), citing Vitug, *Compendium of Civil Law and Jurisprudence*, 1993 edition, 653-654.

[28] *Lim Si v. Lim*, supra note 26 at 870-871.

[29] See *Samartino v. Raon*, G.R. No. 131482, 3 July 2002, 383 SCRA 664, 674.

[30] *Malonzo v. Mariano*, supra note 15.

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