RAFAEL DIMACULANGAN, PETITIONER, VS. GONDALINA CASALLA, RESPONDENT.

G.R. No. 156689. June 08, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Sought to be annulled by a Petition for Review on Certiorari under Rule 45 of the Rules of Court are the November 4, 2002 Decision[1] and January 10, 2003 Resolution[2] of the Court of Appeals (CA) in CA G.R. SP-No. 47271.

The material facts are of record.

A 63-square meter lot known as Lot 1, Block 8A, Tramo Wakas, ZIP Project, Paranaque, Manila (subject lot) is found within the Tramo II Urban Bliss Project of the National Housing Authority (NHA). On it stands a 3-door structure.

On February 1, 1987, the NHA conducted a census of the project and found the structure on the subject lot occupied by Rafael Dimaculangan (Dimaculangan), Renato/Leticia Ferrer (Ferrer) and Sebastian dela Cruz (Dela Cruz). The NHA issued to said occupants census tags as "renters."[3]

However, it appears that rights to the subject lot and structure were previously held by Sabina Casalla but the latter transferred the same to Gondalina Casalla (Casalla) by virtue of an Affidavit of Transfer[4] dated October 19, 1987. Dimaculangan, Ferrer and Dela Cruz recognized Gondalina's rights to the structure, and executed a Kasunduan dated January 7, 1988, which reads:

> Pinagtitibay ng kasunduang ito na sina Ginoong SEBASTIAN DELA CRUZ, Ginoong RAFAEL DIMACULANGAN, at Gng. LETICIA FERRER, na nangungupahan sa bahay na pag-aari ni Gng. GONDALINA R. CASALLA, ay pumapayag na umupa sa nasabing istructura sa taning na isang taon (12 months) mula ika-1 Pebrero 1988 hanggang ika-1 ng Pebrero 1989.
>
> Pagkalipas ng nasabing palugit, kami ay nakahandang lumisan sa nasabing bahay, at nasa sa may-ari na ang huling kapasyahan kung kami ay kanya pang bibigyan ng panibagong palugit.[5] (Emphasis added)

Meanwhile, the NHA issued a master list dated March 14, 1988 where it recorded Casalla as "absentee structure owner" and Dimaculangan, Ferrer and Dela Cruz as "renters." Casalla appealed her status before the NHA Arbitration Awards Committee (NHA-AAC), which granted the same in Resolution No. 031[6] dated September 13, 1988. NHA-AAC also recommended that preferential rights to the subject lot be awarded to Casalla.

The one-year grace period under the January 7, 1988 Kasunduan lapsed on February 1, 1989 but Dimaculangan, Ferrer and Dela Cruz did not vacate the structure. This prompted Casalla to file against them a complaint for ejectment with the Metropolitan Trial Court (MTC), Paranaque. On September 27, 1993, the parties executed a compromise agreement for the turn-over of the structure to the possession of Casalla, which the MTC approved.[7]

Around the time the compromise agreement was executed, Dimaculangan, Ferrer and Dela Cruz also filed with the NHA a letter asking that they be given preferential rights to the subject lot on the basis of their status as "renters." Their request was denied by NHA-District IV - NCR Manager Ma. Teresa P. Oblipias who, in a letter[8] dated January 10, 1994, informed them that, based on NHA-AAC Resolution No. 031, Casalla had preferential rights to the subject lot.

Dimaculangan, Ferrer and Dela Cruz questioned Resolution No. 031 before the NHA General Manager; although Dela Cruz later abandoned his claim by executing a waiver on September 4, 1994.

In a letter-decision dated September 19, 1994, addressed to Casalla, NHA General Manager Robert P. Balao resolved the dispute in this manner:

> The District's AAC recommended the award to you of the 63 sq. m. lot which was protested by DIMACULANGAN, who alleged, among others, that you purchased the structure from your mother-in-law only in October 1987 while he was already censused as a renter in February 1987.
>
> This confirms your status as absentee structure owner (ASO) as listed in our census masterlist. You are therefore disqualified to the lot award.
>
> Renter SEBASTIAN DE LA CRUZ has voluntarily waived his rights and interests over the contested lot in an instrument dated 2 September 1994, and, therefore, is no longer entitled to a lot award.
>
> IN VIEW HEREOF, the NHA resolved to award to renters RAFAEL DIMACULANGAN and RENATO FERRER pro-indiviso the 63 sq. m. Lot 1, Block 8A, Tramo Wakas ZIP Project, Paranaque, Manila.
>
> You are directed to sell your structure to renters DIMACULANGAN and FERRER at terms mutually acceptable to you within sixty (60) days from receipt of notice, otherwise, if no sale is effected after 60 days, you are deemed to have waived your rights and interests over said structure and the renters are given the option to dismantle the same to enable them to put up their own structures.
>
> This resolution on your case is FINAL and should you opt to appeal, you have thirty (30) days from receipt of notice to perfect your appeal to the Office of the President pursuant to Administrative Order No. 18, series of 1987.[9]

Casalla[10] appealed to the Office of the President (OP) which issued a Resolution dated June 23, 1997 in her favor, thus:

> WHEREFORE, premises considered, the letter-decision dated September 19, 1994 is hereby SET ASIDE, and Resolution No. 031 dated September 13, 1988 is hereby CONFIRMED AND REINSTATED.
>
> SO ORDERED.[11]

Dimaculangan filed a motion for reconsideration which the OP denied in an Order[12] dated March 6, 1998. He then filed a petition for review with the CA.[13]

The CA rendered the November 4, 2002 Decision assailed herein, the dispositive portion of which reads:

> WHEREFORE, the assailed decision is SET ASIDE. A new judgment is hereby ENTERED declaring both petitioner and respondent legally DISQUALIFIED from being awarded the lot in question.
>
> Let Lot I, Block 8A, Tramo Wakas ZIP Project, Paranaque, Metro Manila REVERT to the National Housing Authority for proper disposition to legally qualified applicants.
>
> SO ORDERED.[14]

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Casalla and Dimaculangan filed their respective Motions for Reconsideration which the CA denied in its January 10, 2003 Resolution.

Dimaculangan (petitioner) now challenges before us the aforequoted Decision and Resolution on the ground that the CA committed grievous error in disqualifying him from being awarded preferential rights to the subject lot.

Before we delve into that, a few preliminary matters will have to be emphasized.

First, the possession of the structure on the subject lot is the subject matter of the ejectment case before the MTC. As borne by the records, the parties in that case entered into a compromise agreement which the MTC approved but petitioner, Ferrer and Dela Cruz later defied its terms. Hence, the MTC issued on August 8, 1994 a writ of execution, [15] placing Casalla in possession of the structure. The writ was implemented on September 19, 1994 as shown by a Certificate of Turn-Over of Possession.[16]

Second, the status of Ferrer and Dela Cruz and their rights to a portion of the subject lot are not involved in the present Petition, for said parties did not join the appeal before the OP and CA.

Finally, the portion of the CA Decision and Resolution disqualifying Casalla is not an issue in the present Petition. Casalla filed a separate petition with this Court, docketed as G.R. No. 156752, but the same was denied in our Resolution of April 9, 2003. Said Resolution became final and executory on May 27, 2003.[17]

Therefore, the only matter for resolution here is that portion of the CA Decision and Resolution declaring petitioner not entitled to preferential rights to a portion of the subject lot.

In its September 19, 1994 letter-decision, the NHA declared petitioner entitled to own, pro-indiviso, a portion of the subject lot and to buy from Casalla the portion of the structure standing on said lot which he had been renting. The NHA based its decision on the 1987 census which declared petitioner a "renter" on the property.

In reversing the NHA and declaring petitioner disqualified to own a portion of the subject lot, the OP cited the following grounds:

> As disclosed by the records of the case, respondent-appellee filed the protest with the NHA after the lapse of six (6) years from the time the lot was awarded to petitioner-appellant Gondalina Casalla. To our mind, respondent-appellee's protest with the NHA was an afterthought aimed at circumventing the terms and conditions of the "Kasunduan" whereby respondent-appellant Dimaculangan has explicitly recognized the right of complainant-appellant Casalla over the property in dispute. His refusal to vacate the structure despite the lapse of the stipulated period has made him a deforciant with no recognizable rights under the law. Thus, complainant-appellant was compelled to institute an ejectment proceedings with the Metropolitan Trial Court of Paranaque to fully impress upon him (Dimaculangan) her superior right over the property. Again, the court in recognition of her (Casalla's) right readily approved the compromise agreement wherein respondent Dimaculangan agreed to vacate the premises in December 1993.
>
> With regards to Casalla's being earlier declared an "ABSENTEE AWARDEE," this supposed status of hers was found inaccurate and not in conformity with the real circumstances by the Awards and Arbitration Committee, NHA, through Resolution No. 031 dated September 13, 1998.[18]

In affirming the disqualification of petitioner, the CA relied on our ruling in Nidoy v. Court of Appeals[19] that Presidential Decree (P.D.) No. 1517 (Urban Land Reform Program) is not intended for apartment dwellers, least of all deforciants on the property. The CA held that petitioner was a mere tenant of one of the apartments on the subject lot, and that his continued possession of the apartment became illegal when he failed to vacate the same in accordance with the terms of the Kasunduan.

Petitioner impugns the reasoning of the CA and argues that Nidoy is not apropos because the structure his family

is occupying is not an apartment unit, but a mere makeshift shack which he rents for P1,200.00 a month, compared to regular apartments in Paranaque City which fetch a minimum monthly rent of P5,000.00. He cites B.E. San Diego, Inc. v. Court of Appeals[20] as the applicable ruling, for it is imbued with the liberal spirit of P.D. No. 1517.

We commiserate with petitioner, but we cannot oblige him.

Section 6 of PD 1517 grants preferential rights to landless tenants/occupants to acquire land within urban land reform areas:

> Sec. 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.

Section 2 of Presidential Decree (P.D.) No. 2016[21] reinforced P.D. No. 1517 by prohibiting the eviction of qualified tenants/occupants:

> Sec. 2. No tenant or occupant family, residing for ten years or more reckoned from the date of issuance of Presidential Decree No. 1517 otherwise known as the Urban Land Reform Law, in land proclaimed as Areas for Priority Development or Urban Land Reform Zones or is a project for development under the ZIP in Metro Manila and the SIR Program in the regional cities shall be evicted from the land or otherwise dispossessed.

The protective mantle of P.D. No. 1517 and P.D. No. 2016, however, extends only to landless urban families who meet these qualifications: a) they are tenants as defined under Section 3 (f) of P.D. No. 1517;[22] b) they built a home on the land they are leasing or occupying;[23] c) the land they are leasing or occupying is within an Area for Priority Development and Urban Land Reform Zone;[24] and d) they have resided on the land continuously for the last ten (10) years or more.[25]

There is no question that the subject lot in the present case is found within an urban land reform zone. There is likewise no question that Casalla owned the structure the petitioner was renting. The dispute is whether petitioner would qualify as a legitimate tenant or occupant thereon.

He does not.

As found by the CA, petitioner was initially a tenant of the structure on the subject lot but later became a deforciant when he reneged on his commitment under the January 7, 1988 Kasunduan to vacate the property by February 1, 1989. As of that time, his status was no longer that of legitimate tenant, for it was neither by contract nor tolerance that he remained on the property.

Moreover, in the same Kasunduan, petitioner acknowledged that he did not build the structure on the subject lot, but merely rented the same from Casalla. It is in this sense that he was a mere "apartment dweller." The term "apartment dweller" is not to be taken literally as referring exclusively to apartments. Rather, taken in the context of Section 6 of P.D. No. 1517, the term refers to a structure intended for dwelling or as a home which was not built by the occupant, but merely rented by him from another. As we said in Arlegui v. Court of Appeals, apartment dwellers are excluded from the protective mantle of the Urban Land Reform Law.[26]

Finally, there is nothing in the records by which to determine the exact period that petitioner had been occupying the subject lot. Even if we were to base it on his allegation that he started occupying the property in 1980, the period of his tenancy would still fall short of the requirement of ten years. To reiterate, petitioner became a

deforciant in 1989 when he refused to honor the Kasunduan; hence, from 1980 to 1989, his occupancy only reached a period of nine (9) years.

All told, the CA did not err in declaring that petitioner has no preferential rights to the subject lot.

WHEREFORE, the petition is DENIED.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

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[1] Penned by Associate Justice Eubulo G. Verzola (now deceased) and concurred in by Associate Justices Candido V. Rivera (now retired) and Amelita G. Tolentino; CA rollo, p. 86.

[2] Id. at 115.

[3] Id. at 18.

[4] Id. at 51.

[5] Id. at 52.

[6] Id. at 55.

[7] Id. at 56.

[8] Id. at 19.

[9] Id. at 15-16.

[10] Based on the records, Casalla appealed only that portion of the September 19, 1994 NHA letter-decision granting Dimaculangan rights to the subject lot and structure. Ferrer and Dela Cruz were not named respondents in said appeal.

[11] CA rollo, p. 12.

[12] Id. at 13.

[13] Based on the records, Ferrer and Dela Cruz did not join Dimaculangan in his petition.

[14] CA rollo, p. 92.

[15] Id. at 56.

[16] Id. at 58.

[17] CA rollo, p. 150.

[18] Rollo, pp. 27-28.

[19] G.R. No. 105017, September 30, 1992, 214 SCRA 394.

[20] G.R. No. 80223, February 5, 1993, 218 SCRA 446.

[21] Prohibiting the Eviction of Occupant Families from Land Identified and Proclaimed as Areas for Priority

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Development (APD) or as Urban Land Reform Zones and Exempting such Land from Payment of Real Property Taxes.

[22] Section 3. Definitions. As used in this Decree, the following words and phrases shall have the following meanings and definitions: x x x (f) Tenant refers to the rightful occupant of land and its structures, but does not include those whose presence on the land is merely tolerated and without the benefit of contract, those who enter the land by force or deceit, or those whose possession is under litigation.

[23] Arlegui v. Court of Appeals, 428 Phil. 381, 391 (2002).

[24] Frilles v. Yambao, 433 Phil. 715, 724 (2002).

[25] Dee v. Court of Appeals, 382 Phil. 352, 363 (2000).

[26] Supra note 23 at 391, citing Nidoy v. Court of Appeals, supra note 19 at 398.

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