

SPOUSES LETICIA & JOSE ERVIN ABAD, SPS. ROSARIO AND ERWIN COLLANTES, SPS. RICARDO AND FELITA ANN, SPS. ELSIE AND ROGER LAS PIÑAS, LINDA LAYDA, RESTITUTO MARIANO, SPS. ARNOLD AND...

G.R. No. 189239. November 24, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Fil-Homes Realty and Development Corporation and Magdiwang Realty Corporation (respondents), co-owners of two lots situated in Sucat, Parañaque City and covered by Transfer Certificates of Title Nos. 21712 and 21713, filed a complaint for unlawful detainer on May 7, 2003 against above-named petitioners before the Parañaque Metropolitan Trial Court (MeTC).

Respondents alleged that petitioners, through tolerance, had occupied the subject lots since 1980 but ignored their repeated demands to vacate them.

Petitioners countered that there is no possession by tolerance for they have been in adverse, continuous and uninterrupted possession of the lots for more than 30 years; and that respondent's predecessor-in-interest, Pilipinas Development Corporation, had no title to the lots. In any event, they contend that the question of ownership must first be settled before the issue of possession may be resolved.

During the pendency of the case or on June 30, 2004, the City of Parañaque filed expropriation proceedings covering the lots before the Regional Trial Court of Parañaque with the intention of establishing a socialized housing project therein for distribution to the occupants including petitioners. A writ of possession was consequently issued and a Certificate of Turn-over given to the City.

Branch 77 of the MeTC, by Decision of March 3, 2008, rendered judgment in the unlawful detainer case against petitioners, disposing as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants Leticia and Ervin Abad et. als. ordering the latter and all persons claiming rights under them to VACATE and SURRENDER possession of the premises (Lots covered by TCT NOS. (71065) 21712 and (71066) 21713 otherwise known as Purok I Silverio Compound, Barangay San Isidro, Parañaque City to plaintiff and to PAY the said plaintiff as follows:

- The reasonable compensation in the amount of P20,000.00 a month commencing November 20, 2002 and every month thereafter until the defendants shall have finally vacated the premises and surrender peaceful possession thereof to the plaintiff;
- P20,000.00 as and for attorney's fees, and finally
- Costs of suit.

SO ORDERED.[1] (emphasis in the original)

The MeTC held that as no payment had been made to respondents for the lots, they still maintain ownership thereon. It added that petitioners cannot claim a better right by virtue of the issuance of a Writ of Possession for the project beneficiaries have yet to be named.

On appeal, the Regional Trial Court (RTC), by Decision of September 4, 2008,[2] reversed the MeTC decision and dismissed respondents' complaint in this wise:

x x x The court a quo ruled that the case filed by plaintiffs (respondents herein) is unlawful detainer as shown by the allegations of the Complaint. The ruling of the court a quo is not accurate. It is not the allegations of the Complaint that finally determine whether a case is unlawful detainer, rather it is the evidence in the case.

Unlawful detainer requires the significant element of "tolerance". Tolerance of the occupation of the property must be present right from the start of the defendants' possession. The phrase "from the start of defendants' possession" is significant. When there is no "tolerance" right from the start of the possession sought to be recovered, the case of unlawful detainer will not prosper.[3] (emphasis in the original; underscoring supplied)

The RTC went on to rule that the issuance of a writ of possession in favor of the City bars the continuation of the unlawful detainer proceedings, and since the judgment had already been rendered in the expropriation proceedings which effectively turned over the lots to the City, the MeTC has no jurisdiction to "disregard the . . . final judgment and writ of possession" due to non-payment of just compensation:

The Writ of Possession shows that possession over the properties subject of this case had already been given to the City of Parañaque since January 19, 2006 after they were expropriated. It is serious error for the court a quo to rule in the unlawful detainer case that Magdiwang Realty Corporation and Fil-Homes Realty and Development Corporation could still be given possession of the properties which were already expropriated in favor of the City of Parañaque.

There is also another serious lapse in the ruling of the court a quo that the case for expropriation in the Regional Trial Court would not bar, suspend or abate the ejectment proceedings. The court a quo had failed to consider the fact that the case for expropriation was already decided by the Regional Trial Court, Branch 196 way back in the year 2006 or 2 years before the court a quo rendered its judgment in the unlawful detainer case in the year 2008. In fact, there was already a Writ of Possession way back in the year 1996 (sic) issued in the expropriation case by the Regional Trial Court, Branch 196. The court a quo has no valid reason to disregard the said final judgment and the writ of possession already issued by the Regional Trial Court in favor of the City of Parañaque and against Magdiwang Realty Corporation and Fil-Homes Realty Development Corporation and make another judgment concerning possession of the subject properties contrary to the final judgment of the Regional Trial Court, Branch 196.[4] (emphasis in the original)

Before the Court of Appeals where respondents filed a petition for review, they maintained that respondents' "act of allowing several years to pass without requiring [them] to vacate nor filing an ejectment case against them amounts to acquiescence or tolerance of their possession." [5]

By Decision of May 27, 2009,[6] the appellate court, noting that petitioners did not present evidence to rebut respondents' allegation of possession by tolerance, and considering petitioners' admission that they commenced occupation of the property without the permission of the previous owner â€œ Pilipinas Development Corporation â€œ as indicium of tolerance by respondents' predecessor-in-interest, ruled in favor of respondents. Held the appellate court:

Where the defendant's entry upon the land was with plaintiff's tolerance from the date and fact of entry, unlawful detainer proceedings may be instituted within one year from the demand on him to vacate upon

demand. The status of such defendant is analogous to that of a tenant or lessee, the term of whose lease, has expired but whose occupancy is continued by the tolerance of the lessor. The same rule applies where the defendant purchased the house of the former lessee, who was already in arrears in the payment of rentals, and thereafter occupied the premises without a new lease contract with the landowner.[7]

Respecting the issuance of a writ of possession in the expropriation proceedings, the appellate court, citing *Republic v. Gingoyon*,^[8] held the same does not signify the completion of the expropriation proceedings. Thus it disposed:

WHEREFORE, premises considered, the instant Petition is GRANTED. The assailed Decision of the Court a quo is REVOKED and SET ASIDE. The Decision of the Metropolitan Trial Court dated March 3, 2008 is hereby REINSTATED with MODIFICATION [by] deleting the award for attorney's fees.

SO ORDERED. (underscoring supplied)

Petitioners' motion for reconsideration was denied by Resolution dated August 26, 2009, hence, the filing of the present petition for review.

The petition fails.

In the exercise of the power of eminent domain, the State expropriates private property for public use upon payment of just compensation. A socialized housing project falls within the ambit of public use as it is in furtherance of the constitutional provisions on social justice.^[9]

As a general rule, ejectment proceedings, due to its summary nature, are not suspended or their resolution held in abeyance despite the pendency of a civil action regarding ownership.

Section 1 of Commonwealth Act No. 538^[10] enlightens, however:

Section 1. When the Government seeks to acquire, through purchase or expropriation proceedings, lands belonging to any estate or chaplaincy (cappellania), any action for ejectment against the tenants occupying said lands shall be automatically suspended, for such time as may be required by the expropriation proceedings or the necessary negotiations for the purchase of the lands, in which latter case, the period of suspension shall not exceed one year.

To avail himself of the benefits of the suspension, the tenants shall pay to the landowner the current rents as they become due or deposit the same with the court where the action for ejectment has been instituted. (emphasis and underscoring supplied)

Petitioners did not comply with any of the acts mentioned in the law to avail of the benefits of the suspension. They nevertheless posit that since the lots are the subject of expropriation proceedings, respondents can no longer assert a better right of possession; and that the City Ordinance authorizing the initiation of expropriation proceedings designated them as beneficiaries of the lots, hence, they are entitled to continue staying there.

Petitioners' position does not lie.

The exercise of expropriation by a local government unit is covered by Section 19 of the Local Government Code (LGC):

SEC. 19. Eminent Domain. - A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose, or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws: Provided, however, That the power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the owner, and such offer was not accepted: Provided, further, That

the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated: Provided, finally, That the amount to be paid for the expropriated property shall be determined by the proper court, based on the fair market value of the property.

Lintag v. National Power Corporation[11] clearly outlines the stages of expropriation, viz:

Expropriation of lands consists of two stages:

The first is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, "of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint x x x.

The second phase of the eminent domain action is concerned with the determination by the court of "the just compensation for the property sought to be taken." This is done by the court with the assistance of not more than three (3) commissioners x x x .

It is only upon the completion of these two stages that expropriation is said to have been completed. The process is not complete until payment of just compensation. Accordingly, the issuance of the writ of possession in this case does not write finis to the expropriation proceedings. To effectuate the transfer of ownership, it is necessary for the NPC to pay the property owners the final just compensation.[12] (emphasis and underscoring supplied)

In the present case, the mere issuance of a writ of possession in the expropriation proceedings did not transfer ownership of the lots in favor of the City. Such issuance was only the first stage in expropriation. There is even no evidence that judicial deposit had been made in favor of respondents prior to the City's possession of the lots, contrary to Section 19 of the LGC.

Respecting petitioners' claim that they have been named beneficiaries of the lots, the city ordinance authorizing the initiation of expropriation proceedings does not state so.[13] Petitioners cannot thus claim any right over the lots on the basis of the ordinance.

Even if the lots are eventually transferred to the City, it is non sequitur for petitioners to claim that they are automatically entitled to be beneficiaries thereof. For certain requirements must be met and complied with before they can be considered to be beneficiaries.

In another vein, petitioners posit that respondents failed to prove that their possession is by mere tolerance. This too fails. Apropos is the ruling in Calubayan v. Pascual:[14]

In allowing several years to pass without requiring the occupant to vacate the premises nor filing an action to eject him, plaintiffs have acquiesced to defendant's possession and use of the premises. It has been held that a person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against them. The status of the defendant is analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner. In such a case, the unlawful deprivation or withholding of possession is to be counted from the date of the demand to vacate. (emphasis and underscoring supplied)

Respondents bought the lots from Pilipinas Development Corporation in 1983. They stepped into the shoes of the seller with respect to its relationship with petitioners. Even if early on respondents made no demand or filed no

action against petitioners to eject them from the lots, they thereby merely maintained the status quo - allowed petitioners' possession by tolerance.

WHEREFORE, the petition for review is DENIED.

CONCHITA CARPIO MORALES

Associate Justice

WE CONCUR:

Brion, Bersamin Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, p. 150.

[2] Id. at 169-176.

[3] Id. at 172.

[4] Id. at 174-176.

[5] CA rollo, Petition for Review, p. 20.

[6] Penned by Associate Justice Myrna Dimaranan-Vidal with the concurrence of Associate Justices Portia Aliño-Hormachuelos and Rosalinda Asuncion-Vicente, rollo, pp. 64-76.

[7] Id. at 71-72 (citations omitted).

[8] G.R. No. 166429, December 19, 2005, 478 SCRA 474.

[9] Vide Antonio v. Geronimo, G.R. No. 124779, November 29, 2005, 476 SCRA 340-341.

[10] Took effect on May 26, 1940.

[11] G.R. No. 158609, July 27, 2007, 528 SCRA 287.

[12] Id. at 287.

[13] Vide rollo, pp. 227-228

[14] G.R. No. L-22645, September 18, 1967, 21 SCRA 146, 148.

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