

REMEDIOS CABURNAY AND PRIVIES, PETITIONERS, VS. CARMEN VDA. DE ONGSIAKO AND HON. PEDRO A. RAMIREZ, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, RESPONDENTS.

G.R. No. 57321. February 24, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The petition in this case seeks to review the decision of the Court of First Instance of Manila, Branch XXX, which affirmed a judgment of the City Court of Manila, Branch VII. The petition has been filed under Sec. 45 of the Judiciary Act of 1948, as amended, the relevant provisions of which stipulate the following:

"SEC. 45. Appellate jurisdiction. - x x x .

"In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: x x x Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal."

The facts are stated in the decision, dated April 21, 1981, of the Court of First Instance of Manila, Branch XXX, which is reproduced in full as follows:

"In the City Court of Manila, Branch VII, Carmen Vda. de Ongsiako filed a complaint seeking to eject the defendant Remedios Caburnay and her privies from Room 304 of her building located at Raon corner Ronquillo Streets, Quiapo, Manila, for non-payment of rentals (Civil Case No. 230775).

"Answering the complaint, the defendant averred that if she was in arrears in the payment of the rentals it was due to the plaintiff's refusal to accept payment of the agreed amount of P150 a month and demand on her to pay at P200 a month; and that the increase in rental of the premises occupied by her as her residence was in violation of law.

"After hearing, the trial court rendered judgment holding that the room occupied by the defendant was in a commercial building not devoted to residential purposes, hence not covered by Presidential Decree No. 20. The dispositive part of the judgment provides:

WHEREFORE, judgment is hereby rendered for the plaintiff and against the defendant and privies as follows:

(a) ordering them to vacate the premises and pay to the plaintiff the sum of P2,000.00 as rentals accrued including the month of March, 1977 and the sum of P200.00 per month thereafter starting from the month of April, 1977 until they shall have completely vacated the premises, less any amount made during the pendency of the case;

(b) to pay plaintiff the sum of P500.00 as and for attorney's fees; plus costs of suit.

"The defendant has appealed.

"The facts, as summed up by the trial court, are not in issue. They are:

On May 15, 1965, Nicanor Magallanes rented Room 304 of the Carmen Building located at corner Raon-Ronquillo Streets, Quiapo, Manila, from Carmen Vda. de Ongsiako. As agreed upon in the lease contract, as admitted by both parties, the monthly rental was P150.00 a month to be paid on the 15th of every month. While it was actually Remedios Caburnay, the common-law-wife of Nicanor Magallanes, who occupied the room as her living quarters, it was Nicanor Magallanes who paid the monthly rentals, with the receipt for these rentals issued in the name of the occupant, Remedios Caburnay. Eventually, the room which, together with the other rooms on the same floor (the third), was originally intended for office-holding purposes, was converted into a residential unit.

In a letter dated January 13, 1973 and received three days later (Exh. "1"), the law office of Servando Belmonte and Associates, for and in behalf of Carmen Vda. de Ongsiako, demanded from Remedios Caburnay the payment of unpaid rentals totalling P800.00, broken down as follows:

September 1972	-----	P150. 00
October 1972	-----	150. 00
November 1972	-----	150. 00
December 1972	-----	150. 00
January 1972	-----	200.00

The demand letter gave Remedios Caburnay five (5) days to settle her obligations with Carmen Vda. de Ongsiako, otherwise they would be constrained to take legal action against her.

On January 19, 1973, Remedios Caburnay replied, enclosing in her letter, a check for P150.00 as payment for the September, 1972 rental. She also requested for an 'extension of time' until the end of February, 1973 within which to update her account (Exh. "2").

In the same reply, however, she took exception to the claim in the demand letter that the premises she was occupying was an 'office space.' She pointed out that the premises in question was an apartment she had been using as living quarters since she first occupied it in May, 1965, 'in the same manner as how other tenants and occupants in the apartment building have rented and occupied theirs.' And in accordance with Presidential Decree Nos. 20 and 21, Carmen Vda. de Ongsiako may not increase the rentals beginning January 1, 1973 but which Carmen Vda. de Ongsiako did.

In a letter dated February 14, 1973, Remedios Caburnay again enclosed a check for P150.00 as payment for the October, 1972 rental (Exh. "3"). On July 19, 1973, the Viola and Associates Law Office, in a letter, reminded Remedios Caburnay of her non-payment of rentals to Carmen Vda. de Ongsiako since September, 1972 up to and including July, 1973, which rentals amounted to P2,000.00. Two days later, the lessee replied in a letter, pointing out that the rental agreement for her living quarters was at P150.00 a month and that the P50.00 increase of rental effective January, 1973 was violative of Presidential Decree No. 20, and since she had already remitted two checks totalling P300.00 as rentals payment for September and October, 1972 to Servando Belmonte and Associates, the unpaid rentals should only be from November, 1972 to date at the rate of P150.00 a month for a total of P1,200.00 only to date, not P2,000.00 (Exh. "5").

Carmen Vda. de Ongsiako, for the third time, referred the matter to another law office - Cruz, Villarin, Ongkiko, Academia & Durian. On September 10, 1973, the law office warned Remedios Caburnay on her having 'used the premises for purposes other than those for which same was intended - for office space and related purposes - and despite repeated demands, you have failed and refused to pay the rentals thereon since September, 1972 continuously up to the present (Exh. "6"). She was given five (5) days within which to pay the rentals. She was

also asked to vacate the premises within five (5) days from receipt of the notice, otherwise, appropriate action would be taken against her. Replying in a letter dated September 14, 1973 (Exh. "7"), Remedios Caburnay explained that the dwelling unit in question was residential in nature, that she had already paid rentals covering two months (P300.00) to the lessor's previous counsel, Servando Belmonte and Associates, that she had tried to give further rental payments to the lessor's overseer but who refused to receive them, and that lessor's attempt to increase the rentals effective January, 1973 was violative of PD No. 20.

On September 17, 1973, the Office for Civil Relations of the Philippine Constabulary Command invited Remedios Caburnay, on complaint of Carmen Vda. de Ongsiako, to a conference on the matter at Camp Panopio, Quezon City on September 19, 1973. However, it was already on October 17, 1973 when the conference, with both parties in attendance, took place. There, Remedios Caburnay paid to Carmen Vda. de Ongsiako the amount of P1,050.00 repre-senting the monthly rentals from November 15, 1972 to June 15, 1973 (or for seven months) at the rate of P150.00 a month (Exhs. "9", "9-A", "9-B", "9-C", "9-D", "9-E" and "9-F").

However, since the plaintiff Carmen Vda. de Ongsiako had insisted that defendant owed her rentals at the rate of P200.00 a month effective January, 1973, her computation was that from the seven-month period starting June to December, 1973, the defendant was in arrears in the total amount of P1,400.00, and that from the three-month period from January, 1974 to March of the same year, the arrears totalled P600.00 for a grand total of P2,000.00.

With this computation, Carmen Vda. de Ongsiako, on March 8, 1974 filed a complaint (Civil Case No. 230775) against Remedios Caburnay, seeking, among other things, her ejectment from the premises.

"Upon the filing of her answer, the defendant deposited in court by way of consignment the amount of P1,500 covering the rentals for the period from June 16, 1973 up to April 15, 1974 at the rate of P150 a month (pp. 15-17, record) and the rentals due for the subsequent months at the same rate, all of which were withdrawn by the plaintiff without prejudice to the outcome of the case (pp. 54, 55, 58, record).

"After narrowing down the issues to the following: (1) whether or not the failure of the defendant to settle her accumulated unpaid rents was due to plaintiff's refusal to accept payment, and (2) whether or not the premises in question is a dwelling unit within the purview of Presidential Decree No. 20 prohibiting increase in rent when the monthly rental does not exceed P300.00 as in the present case (pp. 37-38, record) and after hearing, the trial court held:

This Court takes judicial notice of the fact that Quiapo is in the heart of the Metropolis we call Manila. It is a commercial district situated near the church and private offices in the vicinity. The building in which the room occupied by the herein defendant is situated, is along the main thoroughfare -- Quezon Boulevard, along the very area which is the busiest commercial portion of the City. The commercial nature of this place is evidenced by the tax declaration and receipts and no amount of convincing can possibly change the mind of this Court in its classification of the place as a commercial one.

In short, this Court believes that the place is an office space but converted by the defendant to a bedroom without the knowledge and consent of the owner, Mrs. Ongsiako. The place in question being commercial, PD No. 20 has no application, therefore.

"On appeal, the defendant made the following assign-ments of error, to wit:

1. The trial court erred in finding that the room in question is an office space instead of an apartment or dwelling unit subject to P.D. No. 20.
2. The trial court erred in not finding that the default in the payment of rent was due to the instructions of plaintiff who was demanding a monthly increase of P50.00, to her collector and overseer to accept payment only at P200.00 a month and not at the agreed rate of P150.00 a month.

3. The trial court erred in finding that the rentals accrued including the month of March, 1977 is P2,000.00 and that the monthly rental to be paid is at P200.00 a month.

"The Court finds no fault in the trial court's conclusion that the room occupied by the defendant at the plaintiff's building located at the corner of Raon and Ronquillo Streets in Quiapo, Manila, in the vicinity of other buildings housing offices kept by other individuals and entities in 'the busiest commercial portion of the City,' is not a mere residential but an office space. As such the increase in rentals charged by the owner is not covered by the prohibition in Presidential Decree No. 20. That the realty tax assessments and realty taxes due on the building in question is based on the classification that it is devoted to commercial and not residential purposes, may be taken judicial notice of. And to say the least, the enormity of the realty taxes being collected and paid by the building owner fully justifies her in charging the much higher rental of P200 a month for the space occupied by the defendant. For the defendant's failure and re-fusal to pay the increased rentals, the plaintiff may validly terminate the month-to-month lease contract she has with her and judicially eject her from the premises in question.

"The report of the trial court's branch clerk on the ocular inspection conducted, to the effect that there were found a kitchen, toilet and bathroom and a sofa and table, lounging chairs, dining set, beds, aparador, kitchen utensils, refrigerator, and a tocador belonging to the defendant at the premises in question (Exhibit 11, pp. 19-20, record), does not justify a reversal of the judgment appealed from. For, as found by the trial court, the premises in question were originally intended for office purposes but were converted into a residential unit by the defendant. That, with-out the plaintiff's knowledge and consent.

"The defendant's claim that there was no demand made on her to vacate the premises in question is belied by the demand letters dated September 10, 1973 and January 9, 1974, served upon her before the filing of the complaint in the City Court on March 5, 1974 (Exhibits 6 and 10).

"WHEREFORE, the judgment appealed from is affirmed. Costs against the defendant."

It appears from the foregoing that the decisive issue is whether or not the premises leased by the petitioners constitute a dwelling unit within the purview of P.D. No. 20 which prohibits an increase in rental when the monthly rent does not exceed P300.00 notwithstanding the fact that the premises are situated in the heart of the commercial section of Manila.

There is no question that the petitioners are using the premises for residential purposes. This fact has been substantiated by Branch Clerk of Court Francisco C. Sevilla who submitted on June 20, 1975, a Manifestation and Report of Findings at the Ocular Inspection Con-tacted Pursuant to the Order of the City Court of Manila, Branch VII, (Annex D, Petition) which reads as follows:

"COMES NOW the undersigned Branch Clerk of Court and to this Honorable Court most respectfully submits the following manifestation and report of findings at the ocular inspection conducted pursuant to the Court order:

"1. During the ocular inspection conducted on May 20, 1975 by the undersigned at Room 304 Carmen Building, located at 685 Ronquillo St., Quiapo, Manila; the following persons were present:

- a. Atty. Delfin A. Viola - counsel for the plaintiff
- b. Atty. Horacio Viola - counsel for the plaintiff
- c. Atty. Leoncio P. Mercado - counsel for defendant
- d. Mrs. Remedios Caburnay - defendant
- e. Mr. Jose Roldan - overseer of the plaintiff
- f. Mrs. Milagros L. B. Viola - representative of the plaintiff
- g. Job Ramo - Photographer
- h. Mr. Amado S. Lingasin - Court's representative

"2. The undersigned submits that the subject premises more particularly the Carmen Building is located within a commercial vicinity or district;

"3. That per information gathered from Mr. Jose Roldan, overseer of the herein plaintiff, defendant Remedios Caburnay and members of her family live there (diyan sila nakatira), since 1966 as far as Mr. Roldan can remember.

"4. That the defendant is, as it is now, up-to-date in the payment of her rental obligation at the rate of P150.00 a month.

"5. That the suite or room 304 of the Carmen Building is, at the time of the ocular inspection, complete with kitchen, toilet and bath.

"Found in the said premises during the said ocular inspection are the following:

- a. One sofa and one side table
- b. two upholstered lounging chairs
- c. dining set
- d. two cushion semi-double spring mattress beds
- e. aparador
- f. kitchen utensils
- g. one refrigerator and
- h. tocador

"All furnishings, appliances or personalties which are movables belong to defendant Remedios Caburnay.

"Attached herewith are eight (8) pictures taken during the ocular inspection."

The foregoing also shows that the room occupied by the petitioners is primarily intended for habitation and not for office purposes because it is "complete with kitchen, toilet and bath." Both lower courts erred when they concluded that the premises in question were originally intended for office purposes but converted into a residential unit by the petitioners.

Considering that the room occupied by the petitioners is for a residential purpose and is in fact being so used, their petition is highly impressed with merit because it falls squarely under the doctrine laid down in *Saure vs. Pentecostes*, L-46468, May 27, 1981, 104 SCRA 642, penned by the distinguished Chief Justice Fernando, the relevant portion of which reads as follows:

"As was pointed out earlier, the only explanation for this failure to abide by Presidential Decree No. 20 must have been the belief of respondent Judge that the premises in question, being located in a commercial section of the town of Camiling, was outside the operation of the Decree. Such a belief is unjustified. Petitioner was occupying only one of the units in the building in question, all of which served as the dwelling places of the lessees. They therefore fall within the explicit language of the Decree. It is not the location but the use of the premises in question that is decisive. Nor is the application of the Decree defeated by the fact that there is a small photo shop owned by petitioner. Again, what calls for the setting aside of a decision is the fact that respondent Judge disregarded the evidence which showed that petitioner and his family had lived in such place for the last ten years. Under the circumstances, to refuse to recognize that the case for petitioner comes within the operation of the Decree is to disregard and ignore its command. Whatever doubt there may be on that score is removed by this definition of a residential unit in *Batas Pambansa Blg. 25*: 'A residential unit - refers to an apartment, house and/or land on which another's dwelling is located used for residential purposes and shall include not only buildings, parts or units thereof used solely as dwelling places, except motels, motel rooms, hotels, hotel rooms, boarding houses, dormitories, rooms and bedspaces for rent, but also those used for home

industries, retail stores or other business purposes if the owner thereof and his family actually live therein and use it principally for dwelling purposes: Provided, That in the case of a retail store, home industry or business, the capitalization thereof shall not exceed five thousand pesos (P5,000.00); and Provided, further, That in the operation of the store, industry or business, the owner thereof shall not require the services of any person other than the immediate members of his family.” (At pp. 646-647)

WHEREFORE, the decision of the court a quo is hereby set aside; the respondent is ordered to indemnify the petitioners the sum of P500.00 on their counter-claim for attorney's fees and to pay the costs.

SO ORDERED.

Barredo (Chairman), Aquino, Concepcion, Jr., De Castro, Ericta, and Escolin, JJ., concur.

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