

ANTONIO ORBASE AND MILAGROS ORBASE, PETITIONERS, VS. MAXIMA NOCOS, JULIAN ZAPANTA, CESAR PANIMBATAN AND INTERMEDIATE APPELLATE COURT, SECOND CIVIL CASES DIVISION, METRO MANILA, ...

G.R. No. 70603. May 30, 1986

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In this special civil action for certiorari, petitioners Antonio and Milagros Orbase question the power of the Intermediate Appellate Court to amend its decision after entry of judgment had been made.

The factual background is as follows:

In Civil Case No. 270 of the former Court of First Instance of South Cotabato, the spouses Antonio and Milagros Orbase (petitioners herein) sued Maxima Nocos, Julian Zapanta and Cesar Panimbatan (private respondents herein). The complaint prayed that judgment be rendered against the defendants:

- "1. appointing a receiver to take possession of the building in litigation and receive the income therefrom during the pendency of this action, upon filing of an obligation by plaintiffs in such amount as this Court may deem sufficient;
- "2. declaring the plaintiffs as the sole, lawful and absolute owners of the building and restoring them to its possession as incident to the ownership by the plaintiffs;
- "3. ordering defendants to pay the plaintiffs the sum of P5,000.00 as damages suffered by the latter on account their having been dispossessed by their own building;
- "4. ordering defendants to pay plaintiffs the amount of P23,600.00 representing the monthly income of the building since October, 1969 up to August, 1974;
- "5. ordering defendants to pay plaintiffs P5,000.00 as attorney's fees;
- "6. adjudging to plaintiffs such other reliefs as are just and equitable under the premises." (RA, pp. 5-6.)

On October 14, 1976, the trial court rendered judgment as follows:

- "(1) Finding that plaintiffs Milagros Orbase and Antonio Orbase are the lawful, sole and absolute owner of the building built on Lots No. 4564 and 4567, Ts-217 located along Osmena St., General Santos City;
 - "(2) Ordering defendants Maxima Nocos, Julian Zapanta and Cesar Panimbatan to vacate the building in question and deliver to plaintiffs the possession of same in concept of ownership on said building.
- "All other claims of plaintiffs as well as counterclaim of defendants are hereby denied for lack of merit." (RA, p. 115.)

The defendants appealed to the Court of Appeals. On November 9, 1983, the Intermediate Appellate Court rendered a decision which reads in part as follows:

"While it is true that in Civil Case No. 1083 the Court of First Instance of South Cotabato ordered the plaintiffs to return the land to the defendants, it must be remembered that plaintiff's possession of the land is dependent on and cannot be dissociated from their possession of the building. Under the law, the occupancy of a building or house not only suggests but also implies the tenancy or possession in fact of the land on which the building or house is constructed.

"Since the plaintiffs constructed the subject building in good faith, they have the right to retain the same pending reimbursement of their expenses. This right extends to the land itself because the right to retain the improvement as long as the indemnity for expenses is not paid implies the tenancy or possession in fact of the land on which the improvement is built (*De Guzman vs. De la Fuente*, 55 Phil. 501, 503; *Martinez vs. Baganus*, 28 Phil. 500, 504; *Baquiran vs. Baquiran*, 53 O.G. 1130).

"WHEREFORE, the judgment appealed from is hereby affirmed." (IAC rollo, p. 141.)

A motion for reconsideration was filed by the defendants-appellants on December 23, 1983 and after comment was submitted by the plaintiffs-appellees opposing the motion, the appellate court denied it for lack of merit on February 9, 1984. (IAC rollo, pp. 148, 154 and 162.)

On May 30, 1984, the appellate court noted that its decision became final as of March 9, 1984. It resolved to issue entry of judgment as of the latter date.

On July 3, 1984, the defendants-appellants filed with the appellate court a motion for clarification stating inter alia:

"2. That the decision failed to state with certainty the exact amount the defendants should lawfully pay the plaintiffs as reimbursement for the expenses incurred by the latter in the construction of the building subject of this case.

"3. That there is a need that the amount of reimbursement be fixed so that the decision can be complied and so as not to place the parties in a state [of] suspension and uncertainty and in order to forestall the advent of a new litigation between them in line with the pronouncement of the Honorable Supreme Court, in the case of *Ilacad vs. Court of Appeals*, No. L-24435, August 26, 1977 x x x.

"WHEREFORE, it is respectfully prayed of this Honorable Court that the judgment in this case be clarified or that the amount reimbursement due to the plaintiffs be fixed or determined. The defendants further pray for such other and further reliefs as may be just and equitable under the pre-mises." (IAC rollo, pp. 172-175.)

On July 16, 1984, the appellate court "RESOLVED to require the adverse party to state her expenses in the construction of the building in light of the documentary evidence presented in this case." (Id., p. 176.)

On October 21, 1984, the plaintiffs-appellees complied. They stated:

"That as shown by the evidence presented during the trial as testified by plaintiff-appellee, Milagros Orbase in court and the official receipts presented by her as evidence during trial the total amount spent in the construction of the building is about P23,199.85; Xerox copies of pertinent pages of Transcript of Stenographic Notes p. 34-48 (testimony of Milagros Orbase) are hereto attached as Annexes "A", "A-1" to "A-14" inclusive for ready reference." (Id., p. 180.)

The appellate court on November 12, 1984, required the defendants-appellants to comment on the figure submitted by the plaintiffs-appellees and they did by stating that the figure was not correct; that the reimbursement be fixed at P7,596.50.

On December 5, 1984, the appellate court issued a resolution as follows:

"Before this Court is a motion to clarify the judgment promulgated on November 9, 1983 which affirmed the decision of the trial court.

"The defendants-appellants pray that the amount to be paid to the plaintiffs-appellees as reimbursement for the subject building be fixed.

"On October 24, 1984, the plaintiffs-appellees submitted their compliance (Rollo, p. 180) to our Resolution dated September 27, 1984 (Ibid., p. 179), stating that they spent the amount of P23,199.85 for the completion of the unfinished building which they had purchased from Macario Tenefrancia and Fausto Abena, Jr. for P5,000.00 (Exhibits A and A-1). The said building stood on a parcel of land Tenefrancia and Abena had leased from Julian Zapanta (Exhibit C-1). The statement of expenses was objected to by the defendants-appellants (Ibid., p. 182).

"As stated in our Decision, the evidence shows that the plaintiffs-appellees completed the unfinished structure at the cost of P12,298.89 (Exhibits E, E-1 to E-180).

"IN VIEW OF THE FOREGOING, the dispositive portion of the decision is hereby amended to read as follows:

"WHEREFORE, the judgment appealed from is hereby affirmed. The defendants-appellants are ordered to reimburse the plaintiffs-appellees the amount of P12,298.89 incurred by the latter for the completion of the subject building in addition to the sum of P5,000.00 which the plaintiffs-appellees paid to Macario Tenefrancia and Fausto Abena, Jr.'" (Id., pp. 195-196.)

On January 8, 1985, the plaintiffs-appellees filed a motion to reconsider the above-quoted resolution. In their motion they raised for the first time the argument that the appellate court's resolution was null and void because the decision of November 9, 1983, had long become final and executory. The motion was denied. Hence the instant petition.

The petition is not impressed with merit.

It is to be noted first of all that when the defendants-appellants sought a clarification of the appellate court's decision, the plaintiffs-appellees did not object thereto. In fact, they complied with the resolution of the court by claiming that they should be reimbursed in the amount of P23,199.95. This only shows that the exercise was truly one of clarification as prayed for by the defendants-appellants and not an amendment.

It was only after the plaintiffs-appellees could not have their amount accepted that they raised the question of jurisdiction. This recalls to mind the fable of the sour grapes. To be sure, the question of jurisdiction can be raised at any stage of a case. But this Court is of the opinion that the appellate court did not lack jurisdiction in issuing the questioned resolution. For the resolution even as it used the word "amended" did not in fact and in law amend its final decision; it merely clarified the affirmative relief which it gave in its judgment - that the plaintiffs-appellees are the owners of the building as builders in good faith and therefore entitled to be reimbursed for their expenses with right of retention.

There is one other aspect to be considered. The plaintiffs are builders in good faith and as such entitled to reimbursement for their expenses with a right of retention until paid. If the clarification made by the Intermediate Appellate Court is struck down, the plaintiffs will have to institute another suit in respect of their expenses. In the meantime the defendants are deprived of the possession of their property because of the plaintiffs' right of retention. It is thus manifest that granting the petition would be counter-productive for all concerned.

WHEREFORE, the petition is dismissed for lack of merit. Costs against the petitioner.

SO ORDERED.

Yap, Narvasa, Melencio-Herrera, and Cruz, JJ., concur.

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