

MARGARITA S. MAYORES AND LUCIA D. ABENA, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, HON. NICOLAS A. GEROCHI, JR., IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, M...

G.R. No. 73425. October 15, 1986

Ponente: NARVASA, J.

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NARVASA, J.:

At issue in this case is petitioners' right to effect judicial ejectment of their lessees upon the invoked ground set out in Section 5 (c) of B.P. Blg. 25, viz:

"x x x Need of owner/lessor to repossess his property for his own use or for the use of any immediate member of his family as a residential unit, such owner or immediate member not being the owner of any other available residential unit: Provided, however, That the period of the lease has expired: Provided, further, That the lessor has given the lessee notice three months in advance of the lessor's intention to repossess the property: and Provided, finally, That the owner/lessor or immediate member stays in the residential unit for at least one year, except for justifiable cause."

Petitioners are septuagenarians. They are owners in common of a duplex apartment one unit of which is used as their residence, and the other is occupied by private respondents, their lessees. Petitioners filed suit in the Municipal Court of Makati in March, 1981 to evict their lessees and recover possession of the leased premises for the reason that being both of advanced age, spinsters and sickly, they needed the place "for their personal use to be occupied by x x x (their) nieces to stay near their premises and attend to their needs[1]. In answer, their lessees denied the complaint's averments chiefly for want of knowledge or information, and alleged that plaintiffs have a "morbid and sinister obsession to eject x x x (them) by any means and whatever cost "; that the applicable law, PD No. 1642 "is silent as to grounds for ejectment"; that even under B.P. Blg. 25, plaintiffs have no legal cause to evict them since "plaintiffs' alleged nieces x x x are definitely and clearly NOT x x x immediate member of plaintiffs' family"[2]

The only proofs on record are those adduced by petitioners (plaintiffs). Private Respondents (defendants) "failed to present any evidence x x x (despite) being granted several postponements"[3]. According to the Makati MTC -

"The evidence shows that both plaintiffs are old and sickly spinsters who are co-owners of a duplex house together with the land on which it is erected situated at 8454 Mayapis St., Makati, x x x one-half of which is occupied by the defendants Adela Mikasol and husband under a verbal contract of lease at a monthly rental of P390.00 plus P20.00 for electricity; that on May 25, 1979, plaintiffs caused a letter of demand (Exh. 'B') be sent to the defendants, giving them three (3) months within which to vacate the premises in question because they need the same for their personal use; that plaintiffs need the premises in question because they would like their two nieces Alma Abena-Salazar and Cleofe Reyes to occupy the same, the latter being the persons who takes care of preparing their foods and who attend to their needs; that Alma Abena-Salazar lives in Palanan, Makati, while Cleofe's husband is scheduled to leave for abroad; that if the plaintiffs can get possession of the

premises in question, they would convert the same into one unit by removing the partition of said duplex house; that on February 3, 1980 they again caused a letter of demand (Exh. 'C') be sent to defendants asking them to vacate the premises in question because of personal need. However, the defendants ignored the demands to vacate x x x ; that the plaintiffs brought the matter to the barangay court concerned, but no settlement was reached thereat, hence the corresponding certification to file the case in Court was issued by the Barangay Court (Exh.'A')" [4].

Opining that the facts demonstrated petitioners' "right to repossess the premises in question pursuant to Sec. 5 (c) of Batas Pambansa Blg. 25," the Makati MTC rendered judgment on July 5, 1983 sentencing private respondents:

- To vacate the premises x x x and surrender the same to the plaintiffs;
- To pay the rentals in arrears at the rate of P390.00 per month starting February 1981, minus payment made to the plaintiffs;
- To pay the amount of P1,000.00 as attorney's fees; (and)
- To pay the costs of suit."

This judgment was however overturned on appeal by the Regional Trial Court.[5] The RTC ruled that while it "commiserates with the flight (sic) of the appellees, and without closing its eyes to the realities of old age, nevertheless, in the interpretation of the law, more importantly (so) that the right of another person may (not) be wrongfully traversed, sympathy will find no place in the higher perspective of protecting that right which could have already attained vested status;" and that ejectment could not be decreed on the alleged ground of personal need of the premises by petitioners' nieces since the latter "do not fall within the periphery of immediate members of the family" in contemplation of Section 2(c) (in relation to Section 5[c]) of BP Blg. 25. It therefore adjudged that private respondents have the "right to continue as lessees-occupants of the leased unit" and that they should be paid P1,000.00 as attorney's fees by petitioners-lessors.

The Intermediate Appellate Court affirmed this judgment of the MAKATI RTC, by Decision promulgated on October 15, 1985[6].

It would appear that the Intermediate Appellate Court and the Regional Trial Court have not read the undisputed facts correctly. The eviction of private respondents from the leased premises is sought not principally because the place is needed for the personal use of petitioners' nieces. It is rather petitioners' own imperative need to be assisted, and ministered and attended to in their old age and their infirmities, and the accompanying necessity to make room in their home for the persons who would thus assist, and minister and attend to them, i.e., their nieces and their families, that is the basis of the application for repossession of the leased unit. To interpret the facts in the manner that the IAC and the RTC have done, would not only be logically unwarranted but would result in an unkind and oppressive application of the law. Legal and humanitarian considerations preclude turning a deaf ear to petitioners' plea for relief from their plight, which they express in the following terms:

"The petitioners refuse to believe that because they do not have any immediate members of their family, they are left helpless and without any help from the law in bringing in companions who will stay with them during their twilight years. Of course, during these remaining years of their lives, they would surely desire to be with persons whom they love and persons who really care for them. Only these nieces Alma Abena Salazar and Cleofe de Vera Reyes could satisfy them during their childhood and students days. And surely their closeness during those days must have brought assurances of their being loved and taken cared of during their remaining years. Love and happiness pervade in this kind of atmosphere. And this is the kind of atmosphere that they would like to live until they die. Must they therefore be denied this kind of life during their remaining years? Must they be left, during these years, miserable and helpless and be denied the care and love that they richly

deserve? The petitioners refuse to believe that this is the intention and spirit of the New rental law - a law that is inhuman and cruel[7].

In *Ongchengco v. City Court of Zamboanga*,[8] this Court held that "in the same humanitarian and equitable spirit" that inspired the enactment of P.D. No. 20 "for the precise purpose of alleviating the living conditions of those in need owing to the effects of calamities" it was mete and proper to pronounce petitioner in that case "entitled to the judicial ejectment prayed for."

"x x x For petitioner is not only an old man of seventy-five. He is, furthermore, sick and disabled. Under the special environmental circumstances of this case, the denial to him of the return of his property would be tantamount to depriving him not only of his constitutional right to his property but his right of survival. In this regard, contrary to the lower court's ruling, petitioner's testimonial evidence on his urgent necessity to recover his land from respondents in order to raise urgent funds for his serious illness stands uncontroverted and stands as having been duly proven"[9].

In *Betts v. Matias*,[10] a similar ruling was laid down.

"x x x (I)n the case at bar, petitioner and his wife are alleged to be of advanced age such that the cold and dampness of the concrete ground floor where they are presently living adversely affect their health. Considering that the property in question is their own home, it would be inhuman and inequitable to deny to this aged couple in the remaining years of their lives the occupancy of that part of their own dwelling where they would not be unnecessarily exposed to colds and their serious consequences for old folks. The point is well taken that it could not have been the intention of Presidential Decree No. 20 to deprive a homeowner of the rightful use of his own home, more so, where he had made available to his lessee the ground floor of his dwelling, but the lessee had according to the complaint reneged on her agreement to move thereto, in the mistaken belief that said PD 20 gave her a better and preferred right than the owners themselves."[11]

In *Sinclair v. Court of Appeals*,[12] the principle was reaffirmed. That case involved a retired Muslim Commander of the Philippine Navy, then "in his 70's and in the twilight years of his life," whose "utmost desire (was) to be with his children" at a time when he was "old, sickly and jobless" and whose "only wish x x x (was) to provide x x x (his) children with their own dwelling, untainted by any mercenary motive". In this situation, the Court ruled that ?

"x x x A strict and rigid compliance with PD 20 is therefore not in order, for an exemption from its provisions is warranted for humanitarian reasons as has been explicitly announced by this Court in the case of *Ongchengco vs. City Court of Zamboanga*[13], speaking through Justice Teehankee who said that extreme necessity for personal use of the property entitles the owner to exemption from the operation of PD 20 which suspends the provision of Art. 1673 of the Civil Code on judicial ejectment."[14]

Analogous considerations dictate the award of relief to petitioners in this case.

WHEREFORE, the decisions of the Intermediate Appellate Court dated October 15, 1985 and of the Regional Trial Court dated January 16, 1984 are reversed and set aside, and judgment is rendered ordering the private respondents to vacate the premises subject of these proceedings and to surrender the same to petitioners, to pay petitioners rentals in arrears at the rate of P300.00 monthly starting February 1981 until they shall have fully vacated said premises, less any payments made or judicially deposited in the course of appeal, plus the sum of P1,000.00 for attorney's fees, and to pay the costs. This Decision is immediately executory upon promulgation.

SO ORDERED.

Yap (Chairman), Melencio-Herrera, Cruz, and Feliciano, JJ., concur.

[1] Rollo, p. 20

[2] Rollo, pp. 24-25

[3] Rollo, p. 29

[4] Rollo, pp. 28-29

[5] Rollo, pp. 30-33

[6] Rollo, pp. 53-57

[7] Rollo, p. 17

[8] 95 SCRA 313, Per Teehankee, now C.J.

[9] Id., p. 318

[10] 97 SCRA 439, also per Teehankee, now C.J.

[11] Id., p. 443-444

[12] 115 SCRA 318, per Castro, J.

[13] 95 SCRA 313, supra

[14] Id., pp. 326-327

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