

FRANCISCO VERGARA AND SEVERINO CAMARAO, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, HON. ANTONIO P. SOLANO, PRESIDING JUDGE, RTC, BRANCH 86, QUEZON CITY, NATIONAL HOUSING AUT...

G.R. No. 74998. May 07, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

In this petition for review by certiorari, petitioners seek the nullification of the Decision[1] of the Court of Appeals dismissing their appeal on the ground of *res judicata*.

The antecedent facts are as follows:

Petitioners who are occupants of Lot 7, Block 100 located in Malaya Avenue, Quezon City filed a complaint for annulment of the sale of said property to Santiago de los Reyes, the subsequent transfers and the final conveyance to private respondent William Ong Genato on May 12, 1979. Due to petitioners' failure to prosecute, the case was dismissed. Their appeals to the Court of Appeals and Supreme Court were likewise denied.

Consequently, the case was remanded to the trial court for execution. The petitioners were ordered to vacate the property and to surrender its possession to private respondent. However, petitioners filed a case before the Court of Appeals questioning the orders of execution. This was denied by the court on the ground that the questioned decision on which the writ of execution was based has long become final and executory.

Thereafter, pursuant to a memorandum issued by the Ministry of Human Settlements on May 4, 1984, petitioners filed a petition for certiorari on February 4, 1985 before the Court of Appeals, contending that they cannot be ejected in view of the inclusion of the property in the Zonal Improvement Program. This petition was again dismissed by the court on the ground that the said memorandum cannot be considered a supervening event which can justify the staying of the execution of a final and executory judgment.

Later, P.D. 2016[2] entitled "PROHIBITING THE EVICTION OF OCCUPANT FROM LAND IDENTIFIED AND PROCLAIMED AS AREAS FOR PRIORITY DEVELOPMENT (APD) OR AS URBAN LAND REFORM ZONES AND EXEMPTING SUCH LAND FROM PAYMENT OF REAL PROPERTY TAXES" was promulgated on January 23, 1986. Invoking this decree, petitioners filed another petition for certiorari before the Court of Appeals. They alleged that due to its promulgation, they cannot be evicted from the land. Petitioners anchored their argument on Section 2 of P.D. 2016, which provides:

"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 court in denying the petition held that "the promulgation of P.D. 2016 on January 23, 1986 does not alter the

legal situation that the final judgment in this case must be executed." Furthermore, the court stated that P.D. 2016 merely seeks to implement P.D. 1517, Section 6 and does not enlarge its scope by including within its benefits those who are not tenants against whom a final judgment of eviction has been rendered.

Hence the present appeal.

The records show that by virtue of a writ of execution, petitioners were ordered to vacate the premises and to surrender the property to private respondent William Ong Genato. This writ of execution was an offshoot of a final and executory judgment in case for annulment of sale which was dismissed due to petitioners failure to prosecute. According to Section 3, Rule 17 of the Rules of Court, such a dismissal shall have the effect of an adjudication upon the merits.

The fact that the judgment has now become final and executory is an undisputed fact. Nevertheless, petitioners still seek to have it reconsidered in view of the promulgation of P.D. 2016.

Petitioners present before this Court for resolution the following issues, to wit:

- "1. Whether or not a private land identified as project for development under the Zonal Improvement Program for Metro Manila and the Slum Improvement Program for regional cities is covered by P.D. 2016 which became effective on January 23, 1986.
2. Whether or not occupant of a private land identified as project for development under the Zonal Improvement Program for Metro Manila may be ejected from the land pending acquisition of the same from the owner by the National Housing Authority.
3. Whether or not execution of a final decision ejecting the occupant family from the lot identified and declared as projects for development under the Zonal Improvement Program for Metro Manila and the Slum Improvement and Resettlement Program may be suspended pursuant to P.D. 2016 pending acquisition of the lot from the owner."[3]

The pivotal issue is whether or not petitioners are to be considered "tenants" in order to avail themselves the benefits of the Urban Land Reform Law (P.D. 1517) and P.D. 2016.

P.D. 2016 was promulgated so as to protect the beneficiaries of the Urban Land Reform Law (P.D. 1517) from landowners who were able to go around the law, particularly Section 6 thereof. This rationale can be found in the decree (P.D. 2016) itself, to wit:

"WHEREAS, notwithstanding the above-mentioned presidential issuances relating to the institution of urban land reform and its implementing machinery, resident families in Areas for Priority Development or Urban Land Reform Zones are being evicted from such land in violation of Section 6 of the Urban Land Reform Law which provides the qualified families within Urban Land Reform Zone 'shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same;'

WHEREAS, landowners of the above-cited land are able to go around Section 6 of the Urban Land Reform Law by offering to sell the land to occupant families at a very high price which is beyond the occupant's capacity to pay and subsequently evicting them for failure to exercise their option to buy the said land thus, rendering the Urban Land Reform Law inoperative and of no consequence."

We agree with the pronouncement of the Court of Appeals that P.D. 2016 merely seeks to implement the Urban Land Reform Law (P.D. 1517) and does not enlarge the scope of its coverage. Nowhere in the said decree can there be found additional qualified beneficiaries nor a re-definition of who are to be considered "tenants".

Petitioners alleged that they are occupants by invoking the dictionary's definition of the term "occupant" as one

who has the actual use or possession of the thing and not as a "tenant" who holds the thing under a contract or agreement.

The fact that petitioners are in actual possession of the property is beyond question and therefore they are to be considered "occupants". But the issue is, are they qualified occupants? The legal right to possess the property is essentially the controversy in this case.

The Urban Land Reform Law (P.D. 1517) defines the term "tenant"[4] as the rightful occupant of land and its structure, but does not include those whose presence on the land is merely tolerated and without the benefit of a contract, those who enter the land by force or deceit, or those whose possession is under litigation.

From this definition, the law evidently considers the term "tenant" and "qualified occupant" in the same context.

Petitioners cannot be considered "tenants" or "qualified occupants" as defined in the Urban Land Reform Law (P.D. 1517), for their continued presence in the premises can at most be considered merely tolerated for they do not have any legal right to stay in the premises in view of the final and executory judgment of eviction.

Petitioners further alleged that Sec. 1 of P.D. 2016 which provides that "any slum or similarly depressed community identified or proclaimed as an Area for Priority Development or an Urban Land Reform Zone x x x shall be under the coverage of the Urban Land Reform Law x x x ", is in effect enlarging the coverage of the Urban Land Reform Law.

We cannot give merit to the above argument. The "slum" or "depressed community" referred to in P.D. 2016 cannot be considered additional beneficiaries of the Urban Land Reform Law (P.D. 1517) but merely additional places or properties covered under the said law. Beneficiaries of the Urban Land Reform Law (P.D. 1517) should refer to the tenants or families qualified to avail of its benefits and not the properties covered by it.

From these factual backdrop and provisions of law, We find no reversible error in the questioned decision.

WHEREFORE, in view of the foregoing, the assailed decision is hereby AFFIRMED. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Rollo pp. 40-43, composed of Associate Justices Vicente V. Mendoza, ponente, and Edgardo L. Paras, Luis A. Javellana and Ricardo P. Tensuan, concurring.

[2] O.G. Vol. 82, Nos. 5-8, February 1986 pp. 795-797.

[3] Rollo, p. 6.

[4] P.D. 1517 "Urban Land Reform Law", 75 O.G. 1-5 January 1979 pp. 9-15.

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