

OSMUNDO MEDINA, ROSARIO BANZUELA, NATIVIDAD GATCHALIAN, ANTONIO REYES, DAMIAN MARABE, ANGELITO ADOLFO, VIRGILIO ABALARAO, ANTONIA GONZALES, DANILO MARIANO, GAUDENCIO MARIANO, PA...

G.R. No. 75450. November 08, 1990

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition to review the decision of the Court of Appeals dated June 26, 1986, dismissing petitioners' petition for prohibition, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the petition is hereby DISMISSED. The temporary restraining order previously issued is hereby lifted, dissolved and set aside. No pronouncement as to costs.

"SO ORDERED."

Briefly, the antecedent facts are as follows:

Petitioners are residents of Marulas-A, a parcel of land situated in Caloocan City, which is owned by the Philippine National Railways (PNR). They claim to be long-time legitimate tenants and sub-tenants of the PNR.

In August of 1980, fire hit Marulas-A which rendered a number of families homeless, petitioners included. Subsequently, petitioners started reconstructing their dwellings. The said constructions were allegedly authorized by respondent Asistio, in his capacity as Mayor of Caloocan City.

In February 1982, PNR sold the lot in question to the City Government of Caloocan. The latter bought the lot in coordination with the then Ministry of Education, Culture and Sports preparatory to the construction of a new school building thereon.

Having learned of the sale of the lots which they have been occupying to the City Government of Caloocan, petitioners, in April 1982, sent a letter-petition to respondent Asistio anent their impending eviction from the premises and asked that they be allowed to continue to occupy the same (Rollo, p. 106).

In January 1984, petitioners again sent another letter addressed to respondent Asistio this time expressing their willingness to purchase the property sold by the PNR at a reasonable price pursuant to Presidential Decree No. 1517 (proclaiming urban land reform in the Philippines and providing for the implementing machinery thereof).

Subsequently, petitioners received a "Paunawa sa Paglilipat" sent by respondent Asistio through the City Architect, Edmundo Sadie. Thereupon, petitioners requested assistance from the Human Settlements Regulatory Commission and a dialogue was held between petitioners and respondent to work out a possible compromise.

The parties failed to reach a compromise so that on February 1, 1985, respondent City Engineer Uson delivered a final notice to petitioners requiring them to remove and demolish their respective houses, which reads as follows:

"Pursuant to the provisions of the Letter of Instruction No. 19 and its amendment, and the Memorandum of the Office of the President dated November 13, 1972, you are hereby directed to remove/demolish your house at above address which has illegally occupied, encroached, obstructed and/or usurped the road right-of-way, waterways, open space, other government lot or other private lot in violation of laws, decrees, instructions, order and/or ordinances within ten (10) days from notice hereof.

"You are further advised that in the event of your failure to remove/demolish said structure within the stated period, the city government will undertake the same at your expense or will undertake other measures necessary or required under the circumstances." (Rollo, p. 120)

On February 8, 1985, petitioners filed a petition for prohibition before this Court, docketed as G.R. No. 69790, which was then referred to the Court of Appeals (then Intermediate Appellate Court) for reception of evidence.

On June 26, 1986, the Court of Appeals issued the assailed decision dismissing the petition. Petitioner's motion for reconsideration was denied. Hence, this instant petition.

Petitioners assign the following errors:

I.

THE IAC ERRED IN FINDING THAT THE PETITION IS BEREFT OF SUBSTANCE AND DEVOID OF MERIT BECAUSE IT ALLEGES THAT EXCEPT FOR PETITIONER MEDINA, ALL THE PETITIONERS ARE NOT LEGITIMATE TENANTS BUT SQUATTERS WHO BUILT THEIR HOUSES NEAR OR ALONG THE RAILROAD TRACKS.

II.

THE IAC ERRED IN FINDING THAT THE HOUSES OF THE PETITIONERS WERE ILLEGALLY CONSTRUCTED AS THEY WERE BUILT ON PUBLIC PROPERTY AND WITHOUT ANY BUILDING PERMITS.

It is at once apparent that petitioners' assignment of errors takes issue with the findings of facts and appreciation of the evidence passed upon by the Court of Appeals which is now brought before this Court for review.

In support of their petition, petitioners seek reliance in the case of *Cunanan v. Lazatin* (74 Phil. 719 [1944]) contending that a question as to whether or not the conclusion drawn by the Court of Appeals from proven facts is correct, involves a question of law.

We find petitioners' argument devoid of merit. The *Cunanan* case (*supra*) relied upon by petitioners speaks of proven facts. In the case at bar, the facts are yet to be proven. As held in *Cunanan*:

"There is no question of facts here because the facts are admittedly proven. Whether or not the conclusion drawn by the Court of Appeals from those facts is correct, is a question of law which this Court is authorized to pass upon." (Underscoring supplied)

The ruling in *Cunanan* cannot apply to the case at bar in the absence of proven facts. Moreover, for a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. And the distinction is well-known: There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts (II Moran, Comments on the Rules of Court, 1979 Ed., 473; citing *Ramos, et al., v. Pepsi-Cola Bottling Co., et al.*, 19 SCRA 289 [1967]).

Petitioners' allegation that the Court of Appeals "grossly disregarded" their Exhibits "A", "B", "C", "D", and "E",

in effect, asks us to re-examine all the evidences already presented and evaluated - as well as the findings of fact made - by the Court of Appeals. Thus, in *Sotto v. Teves* (86 SCRA 154 [1978]), We held that the appreciation of evidence is within the domain of the Court of Appeals because its findings of fact are not reviewable by the this Court (*Manlapaz v. CA*, 147 SCRA 236 [1987]; *Knecht v. CA*, 158 SCRA 80 [1988] and a long line of cases).

It is not the function of this Court to analyze or weigh such evidence all over again. Our jurisdiction is limited to reviewing errors of law that may have been committed by the lower court. (*Nicolas et al., v. CA*, 154 SCRA 635 [1987]; *Tiongco v. de la Merced*, 58 SCRA 89 [1974]).

It is a well-settled rule in this jurisdiction that only questions of law may be raised in a petition for certiorari under Rule 45 of the Rules of Court, this Court being bound by the findings of fact made by the Court of Appeals. The rule, however, is not without exception. Thus, findings of fact by the Court of Appeals may be passed upon and reviewed by this Court in the following instances, none of which obtain in the instant petition:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures (*Joaquin v. Navarro*, 93 Phil. 257 [1953]); (2) When the inference made is manifestly mistaken, absurd or impossible (*Luna v. Linatok*, 74 Phil. 15 [1942]); (3) Where there is a grave abuse of discretion (*Buyco v. People*, 95 Phil. 453 [1955]); (4) When the judgment is based on a misapprehension of facts (*Cruz v. Sosing*, L-4875, Nov. 27, 1953); (5) When the findings of fact are conflicting (*Casica v. Villaseca*, L-9590 Ap. 30, 1957; unrep.);* (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (*Evangelista v. Alto Surety and Insurance Co.*, 103 Phil. 401 [1958]); (7) The findings of the Court of Appeals are contrary to those of the trial court (*Garcia v. Court of Appeals*, 33 SCRA 622 [1970]; *Sacay v. Sandiganbayan*, 142 SCRA 593 [1986]);* (8) When the findings of fact are conclusions without citation of specific evidence on which they are based (*Ibid.*); (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents (*Ibid.*); and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record (*Salazar v. Gutierrez*, 33 SCRA 242 [1970]).

Essential to the resolution of petitioners' assignment of errors is the issue of whether or not they are legitimate tenants of PNR entitled to the benefits provided under Sec. 6, PD 1517, which reads:

"Section 6. Land Tenancy in Urban Areas. Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have already occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree."

Invoking Presidential Decree No. 1517, petitioners claim to be legitimate tenants and sub-tenants of PNR for more than ten (10) years. As such, they contend that under said decree, they cannot be evicted from the premises they are currently occupying and have the right of first refusal to purchase the same within a reasonable time and at a reasonable price.

The Court of Appeals found otherwise. It said:

"The records, however, disclose that only petitioners Osmundo Medina, Natividad Gatchalian, Rosario Band(z)uela, Antonia de los Reyes and Antonia Gonzales appear to be lessees of the PNR while the rest appear to be squatters. Of the five lessees, only petitioner Osmundo Medina, however, was able to renew his contract of lease with the PNR under Contract No. 8603 which will expire on December 31, 1985. It also appears that the houses of Medina, Gatchalian and Banzuela are situated within the territorial jurisdiction of Manila while

that of Antonia de los Reyes and Antonia Gonzales are within the jurisdiction of Caloocan City." (Rollo, p. 18).

While it is true that Marulas-A is a priority development area under Proclamation 1967 (1980), petitioners' alleged right of first refusal and the consequent prerogative to stay thereon never existed in the absence of contract over the disputed land. In *Bermudez v. Intermediate Appellate Court* (143 SCRA 351 [1986]), we held:

"It is a proved fact that the disputed land is in an area already proclaimed for priority development, and that the petitioners have occupied the premises for more than ten (10) years. Nonetheless, We hold that they cannot take advantage of the beneficent provisions (e.g. right of first refusal) granted by Presidential Decree No. 1517, because among other things they are not bona fide tenants of the property.

"Sections 3 (f) and 6 of PD 1517 provides:

"(f) Tenant refers to 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 contract, those who enter the land by force or deceit, or those whose possession is under litigation.

"xxx xxx xxx

"Section 6. Land Tenancy in Urban Areas. Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have already occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree." (Underscoring supplied)

Based on the afore-quoted provision, only legitimate tenants may be extended the protective mantle of the decree cited to the exclusion of all others. Since the petitioners do not have contracts with the PNR to qualify them as legitimate tenants, the protection afforded therein cannot be rightfully invoked (*Zansibarian Residents Ass'n. v. Municipality of Makati*, 135 SCRA 239 [1985]; cf. *Aquino v. Intermediate Appellate Court*, 132 SCRA 377 [1984]). Consequently, petitioners cannot also be granted the right of first refusal to purchase the property involved.

It appears, however, that petitioners Osmundo Medina, Natividad Gatchalian, Rosario Banzuela, whose houses are within the limits of the City of Manila, and Antonio de los Reyes and Antonia Gonzales are registered lessees of PNR (Rollo, p. 97). Since the house of the above-named three (3) petitioners fall outside the jurisdiction of Caloocan City, respondents are without authority to order the demolition of their dwellings. Consequently, the appealed decision must be modified in this respect. On the other hand, petitioners de los Reyes and Gonzales failed to adduce any evidence showing legitimate occupancy of the disputed property for the last ten (10) years by virtue of a contract. Their bare assertions sans substantive proof militate against their cause.

Petitioners claim that they have been religiously paying the rentals, only that the receipts issued therefor by PNR were either lost or burned by the August fire. Records of the PNR submitted by petitioners indicate, however, that latest payments made by petitioners date back as far as 1971 and 1962 (Rollo, p. 100-102). Contrary to what they claim, petitioners have been remiss in the payment of rentals. The fact that PNR instituted no ejectment proceedings against petitioners only amounted to tolerance and cannot legitimize their occupancy.

Petitioners likewise deny that their houses are built near or along railroad tracks because a memorandum issued by the Gen. Manager of PNR (Annex "Q") allowed them to build their houses within five (5) meters from the outer rail tracks (Rollo, p. 11). We note an overt mischief in their denial. Indeed, a perusal of the memorandum (Exh. "Y", Rollo, p. 133) adverted to reveals no such authorization. Instead, it makes demands that the PNR

right-of-way "be cleared immediately of all houses and other structures built and existing within 5-meters from the outer rail tracks."

It may be gleaned from the foregoing that petitioners have indeed been occupying restricted areas. As such, illegal constructions thereon may be demolished by respondents pursuant to Letter of Instruction No. 19, as amended and the Memorandum of the Office of the President dated November 13, 1972.

It is further contended that petitioners were issued building permits by respondent Asistio as proven by the fact that they were able to secure water and electrical connection since the agencies concerned, MWSS and MERALCO, respectively, require prior presentation of said permits (Rollo, p. 5).

The contention is without merit. If building permits were actually issued as claimed by petitioners, We see no reason why not even a single permit was presented in evidence. Granting that the alleged permits were either lost or burned, a duplicate copy thereof could have been secured from either MWSS or MERALCO, or from the city government of Caloocan itself which issued the same. There being none, it cannot be presumed that petitioners were possessed of the requisite building permits.

In *Zanzibarian Residents Ass'n. v. Municipality of Makati* (supra), we upheld the authority of municipal mayors to remove illegal constructions along railroad tracks, thus:

"On the other hand, the authority of respondent to demolish the houses or shanties of the petitioners is mandated by P.D. 772 and LOI No. 19. Section 1 of LOI No. 19 orders certain public officials, one of whom is the municipal mayor to remove all illegal construction, including buildings, on and along esteros and river banks; those along railroad tracks and those built without permits on public or private property."

Finally, reliance is placed on Presidential Decree No. 2016 (1986) which prohibits the eviction of occupant families from lands identified and proclaimed as Areas for Priority Development or Urban Land Reform Zone, the General Moratorium on Eviction and Demolition (Rollo, p. 121-122) and Resolution No. 2-87 of the Presidential Commission for the Urban Poor (PCUP) providing policies and guidelines on squatting, otherwise known as "Tigil Tayuan, Tigil Gibaan" (Rollo, pp. 123-127).

Section 4 of PCUP Resolution No. 2-87 states that "subject to existing laws", all urban poor occupants of dwelling structures built on or before February 25, 1986 shall be extended the necessary assistance and protection on their dwelling; whereas, par. (f) of the same section provides, among others, that "Court orders to evict squatters shall be respected" (Rollo, pp. 124-125). In the General Moratorium, there is again a reference to Court orders in B.2, viz., "(r)elocation and resettlement will be undertaken only as a last recourse except in danger areas and those covered by Court orders (Rollo, p. 122).

Read in harmony with the phrase "subject to existing laws", Section 4 of Resolution No. 2-87 is deemed subject to Section 3 (f) of PD 1517 (supra) as regards those occupants "whose possession is under litigation", as in the case at bar, the resolution of which calls for a Court order. Since the property subject of the controversy has been under litigation prior to the issuance of PD 2016 and PCUP Resolution No. 2-87, petitioners cannot be considered as included thereunder.

WHEREFORE, the appealed decision dismissing the petition is hereby **AFFIRMED** with the modification that respondents are without authority to demolish the houses of petitioners Medina, Gatchalian and Banzuela, being outside of respondents' territorial jurisdiction. As thus modified, the petition for certiorari is hereby **DENIED** with respect to all other petitioners. No costs.

SO ORDERED.

Fernan, C.J., and Gutierrez, Jr., JJ., concur.

Feliciano, J., on leave.

* Actually the same as exception No. 5.

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