

ANTONIO BENOLIRAO, PETITIONER, VS. THE HON. COURT OF APPEALS AND EMMANUEL TIMBUNGCO, RESPONDENTS.

G.R. No. 75968. November 07, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The petitioner is the owner of an apartment in Pasay City which has been leased since 1968 to the private respondent, who works with his wife in a factory nearby and whose children study in the neighborhood. On April 29, 1985, the petitioner sued the private respondent for ejectment on two grounds, viz., that he had subleased the property and that he owned a house and lot in Las Piñas, Rizal, that he could use for his residence. Judgment in favor of the petitioner was rendered in the Metropolitan Trial Court of Pasay City[1] and affirmed by the Regional Trial Court of Pasay City[2] but reversed by the Court of Appeals.[3] This petition faults that reversal and asks that the decision of the respondent court dated September 18, 1986 be set aside.

The petition is based on BP 25, which was the law in force at the time the complaint was filed before it was repealed by BP 877,[4] BP 25 provided inter alia as follows:

SEC. 5. Grounds for Judicial Ejectment - Ejectment shall be allowed on the following grounds:

a. Subleasing or assignment of lease of residential units in whole or in part, without the written consent of the owner/lessor: Provided, That in the case of subleases or assignments executed prior to the approval of this Act, the sublessor/assignor shall have sixty days from the effectivity of this Act within which to obtain the written approval of the owner/lessor or terminate the sublease or assignment.

x x x

d. Ownership by the lessee of another residential unit which he may use as his residence: Provided, That the lessee shall have been notified by the lessor of the intended ejectment three months in advance.

The ownership of the house and lot in Las Piñas was vigorously debated in the lower courts, but this issue need not detain us in this petition. The reason is that such ownership has been virtually conceded by the private respondent in his memorandum, where he declared:

Contrary to the false claim and pretention of petitioner, private respondent never resides at his house at Canaynay Court at Las Piñas, Metro Manila x x x. (Emphasis supplied.)[5]

It is also noteworthy that he did not even dispute the contention that he and his wife go to the leased premises only during the noon break from their work, implying that they are really residing at his house in Las Piñas.

There is also the evidence of the tax declarations in his name of the property in Las Piñas,[6] which he has not controverted. As this Court has held:

Declarations of land for taxation purposes are the most eloquent indicia of a person's intent to possess a land under claim of title.[7]

x x x

It is true that tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership, but they constitute at least proof that the holder had a claim of title over the property.[8]

In the "Salaysay" submitted to this Court, he and his wife stated under oath that they reside at Las Piñas ("nakatira sa Las Piñas").[9] Actually, whether or not the private respondent resides in his property at Las Piñas is immaterial because residence in the other place was not required by Section 5 of BP 25. All the lessor had to establish was that the lessee owned "another residential unit which he may use as his residence."

It is also noteworthy that by the private respondent's own admission, the property in Las Piñas was not on lease to a third person.[10] This was all the more reason why he could use it as his own residence, as he has in fact expressly asserted in the affidavit.

We reject the contention that mere ownership of such residential unit is not enough ground for the ejectment of the lessee. The law clearly says it is. Also untenable is the private respondent's submission that his ejectment would cause him much inconvenience because of the distance of Las Piñas from his place of work and the school where his children are studying. Such a circumstance, unfortunate as it may be to him, does not constitute an exception to Section 5 of BP 25.

The private respondent also argues that BP 25 has since been repealed and that the applicable law now is BP 877, which in Section 5 thereof provides as a ground for the ejectment of the lessee his:

(d) "Absolute ownership by the lessee of another dwelling unit in the same City or Municipality which he may lawfully use as his residence. x x x" (Underlining supplied)

He points out that this ground is not available against him because the other residential unit is in Las Piñas and not in Pasay City, where the leased apartment is situated.

BP 877 is not controlling because it became effective only on June 12, 1985, after the cause of action in the case at bar arose. The corresponding complaint was filed on April 29, 1985. It is a well-settled rule that the law in force at the time of the occurrence of the cause of action is the applicable law notwithstanding its subsequent amendment or repeal.[11]

The respondent court was correct in holding that the sublease of the leased premises to the private respondent's brother-in-law had not been sufficiently established. That ground has become irrelevant, however, because of the existence of the other ground laid down in Section 5(d) of BP 25.

We hold that under Section 5(d) of BP 25, which was the law in force at the time the ejectment case arose, the private respondent could be validly ejected for being the owner of another residential unit that he could use as his residence. It is true that this ground has since been modified by BP 877. But BP 25 was the law at the time the controversy arose and so must be obeyed and applied despite its subsequent repeal.

WHEREFORE, the challenged decision of the respondent court is SET ASIDE. The dispositive portion of the decision of the Metropolitan Trial Court of Pasay City dated September 10, 1985, as affirmed by the decision of the Regional Trial Court of Pasay City dated May 5, 1986, is REINSTATED. It is so ordered.

Narvasa, (Chairman), Feliciano, Griño-Aquino, and Medialdea, JJ., concur.

[1] Decision penned by MTC Judge Ricardo D. Conjares.

[2] Decision penned by RTC Judge Dionisio N. Capistrano.

[3] Aldecoa, Jr., J., ponente, with Campos and Puno, JJ., concurring

[4] BP 25 took effect on April 10, 1979 and expired five (5) years thereafter or on April 10, 1984. By virtue of P.D. No. 1912, which took effect on March 29, 1984, the effectivity of BP 25 was extended up to December 31, 1984. BP 877, which took effect on December 28, 1984 further extended BP 25 up to June 30, 1985.

[5] Rollo, p. 93.

[6] Rollo, pp. 23-24.

[7] Querubin vs. Alconcel, 67 SCRA 105.

[8] Director of Lands vs. Reyes, 68 SCRA 177.

[9] Rollo, p. 127.

[10] Original Records, pp. 61-62.

[11] Joint Ministry of Health - MOLE Accreditation Committee for Medical Clinics vs. Court of Appeals, G.R. No. 78254, April 25, 1991; Buyco vs. PNB, 112 Phil. 588; In re Will of Riosa, 39 Phil. 23.

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