

**SPOUSES EMETERIO AND LOLITA GUZMAN, PETITIONERS, VS.
HONORABLE COURT OF APPEALS AND SPOUSES GUILLERMO AND
GERARDA EVANGELISTA, RESPONDENTS.**

G.R. No. 81949. September 15, 1989

Ponente: CORTES, J.

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CORTES, J.:

This is a petition for review on certiorari which seeks the reversal of the decision of the Court of Appeals rendered in CA-G.R. SP No. 13475 setting aside the decisions of the Regional Trial Court and Metropolitan Trial Court, and dismissing the complaint for ejectment filed by petitioners against private respondents.

The facts of the case are as follows:

Since 1937, private respondents have been in possession of a 184 sq. m. parcel of land situated at M. Policarpio Street, Bagong Barrio, Navotas, Metro Manila by virtue of an oral lease agreement with the late Mercedes Policarpio whereby the former agreed to pay a monthly rental of thirty eight pesos (P38.00), payable in advance within the first five (5) days of each month.

Petitioner Lolita Guzman, on the other hand, is presently the registered owner of the same property, having acquired the same from the Estate of the late Mercedes Policarpio by virtue of a Deed of Absolute Sale dated March 3, 1986 executed in her favor by the administratrix Rufina Samaniego. This sale was judicially approved by the probate court in Special Proceedings No. 2640 entitled "Testate Estate of Mercedes Policarpio". Lolita Guzman's ownership is evidenced by TCT No. T-134078 issued by the Register of Deeds of Caloocan City on March 17, 1986.

Soon after the sale, Lolita Guzman, through her counsel, sent private respondents a letter dated March 21, 1986 informing them that she is the new owner of the subject property and demanding that they vacate it in view of their failure to pay the monthly rentals since October 1983 despite previous demands by the former owner and pay the rentals in arrears.

Due to the failure of private respondents to reply to, or comply with, the above demand, petitioner spouses brought their complaint before the Barangay Chairman, but no amicable settlement was reached. Petitioners then filed on May 7, 1986 a complaint for ejectment against private respondents in the Metropolitan Trial Court, invoking Section 5(b) of Batas Pambansa Blg. 877. The case was docketed as Civil Case No. 2839.

Private respondents, in their verified answer, alleged that they had been religiously paying their monthly rentals for the subject property upon which they constructed their home until the middle part of 1984 when they were advised by the administratrix Rufina Samaniego to cease making payments because the estate was then being partitioned and the subdivided units were to be offered for sale to the respective occupants at twenty-five thousand pesos (P25,000.00). They had offered to pay the amount in cash on the condition that a clear title would be given, but were informed that it would be sometime before titles could be issued for the individual units. But in

violation of their "right of first refusal" under Pres. Dec. No. 1517 [otherwise known as the Urban Land Reform Law], the administratrix executed an absolute deed of sale over the property in favor of petitioner Lolita Guzman. They finally concluded that petitioners had no cause of action against them in view of the nullity of this deed of sale.

On May 5, 1987, the court rendered judgment against private respondents ordering them to vacate the subject property and to pay the sum of one thousand one hundred seventy-eight pesos (P1,178.00) representing unpaid rentals from October 1983 until April 1986 and the sum of thirty-eight pesos (P38.00) for every month thereafter until they have completely surrendered possession of the property to the petitioners. The court held that:

* * *

The defendant admitted in his answer (par. 3) that he received the letter of demand dated March 17, 1986 (sic) sent by the plaintiffs' counsel, but there is (sic) no reply or answer was made by the defendant to the aforesaid letter of demand, to explain why he should not pay the rentals claimed by the plaintiffs. Thus, the plaintiffs were constrained to file the present action under Section 5 (b) of BP 877.

The plaintiffs being the registered owner of the property in question, as evidence (sic) by TCT No. T-134078, they have the better right of possession as adverse to the defendant. Moreover, the defendant cannot be considered as a legitimate tenant as contemplated by the Urban Land Reform Act, he having failed to comply religiously with his obligation to pay the agreed rentals on time, he became a possessor in bad faith and his ejectment from the premises is allowed by BP 877 and therefore not entitled to the protection of P.D. No. 1517 as amended and its implemented (sic) proclamations of the Rental Control Law.

* * *

[MTC Decision, p. 3: Rollo, p. 52.]

On appeal, this decision was affirmed in toto by the Regional Trial Court on October 16, 1987 in Appealed Civil Case No. 262-MN.

Private respondents then filed on December 11, 1987 petition for review with the Court of Appeals. In a decision promulgated on January 28, 1988, the Court of Appeals[1] set aside the decisions of the lower courts and dismissed for lack of merit petitioners' complaint for ejectment. The Court of Appeals held that the ejectment of Private respondents from the subject property on the ground of non-payment of rentals was baseless and improper, finding that:

* * *

. . . [private respondents] have been leasing and actually occupying subject lot since 1937 at a meager rental of P38.00 a month, and did even offer to pay cash of P25,000.00 therefor, it is simply unbelievable that they defaulted or failed to pay the measly rental of P38.00 a month as [petitioners] would like the court to understand. [Private respondents'] theory that they were told to stop paying their rents sometime in October 1984 is more in accord with reason and human experience. If they were really told by the administratrix of the estate of the deceased owner-lessor to hold or defer their rental payments, it stands to reason that [they] never defaulted in the payment of their rental for the lot in question. Indeed, if they were not advised to pay their rents, why should [they] falter in their rental payments when they have their house thereon, are actually residing therein and have the financial capacity to buy the lot in dispute on spot cash basis?

. . . If they stopped paying the monthly rental therefor since October 1984, it was not due to inability or refusal on their part to pay; but was upon the advice of the administratrix of the estate of the late owner-lessor Mercedes Policarpio. The latter unequivocally [sic] told [private respondents] not to pay their rents anymore because the area would be subdivided and sold to the actual occupants, including the [private respondents]

with respect to the lot in question which they have been renting and occupying for around fifty (50) years already. With the foregoing explanation of [private respondents] for their failure to pay their rental starting October 1984, an assertion inducing faith and reliance and which has not been effectively controverted, [their] ejection on the ground of non-payment of rental is improper and cannot be sanctioned.

* * *

[CA Decision, pp. 5-6; Rollo, pp. 18-19.]

Moreover, the Court of Appeals upheld private respondents' contention that they have the "right of first refusal" to purchase the property pursuant to Section 6 of Pres. Dec. No. 1517.

Hence, petitioners filed the instant petition, assigning the following as errors:

I. THE HONORABLE COURT OF APPEALS ERRED IN APPLYING SECTION 6 OF PRESIDENTIAL DECREE NO. 1517, OTHERWISE KNOWN AS URBAN LAND REFORM LAW IN FAVOR OF PRIVATE RESPONDENTS IN UTTER DISREGARD OF THE EXPRESS PROVISIONS OF PROCLAMATION NO. 1967 WHICH SPECIFIES THE AREAS OF APPLICABILITY OF THE "URBAN ZONES" MENTIONED IN SAID SECTION 6 OF P.D. NO. 1517;

II. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT PRIVATE RESPONDENTS WERE NOT GUILTY OF NON-PAYMENT OR RENTALS [Petition, p. 5; Rollo, p. 6.]

After a careful consideration of the issues raised in the pleadings and the various laws applicable to the case at hand, this Court finds merit in the instant petition.

I.

The Court holds that there is no basis to the claim that the sale of the subject property between the estate of the late Mercedes Policarpio and petitioner Lolita Guzman is null and void for being violative of the "right of first refusal" granted to tenants under Section 6 of Pres. Dec. No. 1517.

Section 6 of Pres. Dec. No. 1517 reads as follows:

SECTION 6. Land Tenancy in Urban Land Reform 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 legally 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.

It is clear from the language of the law that only legitimate tenants who have resided for ten years or more on specific parcels of land situated in declared Urban Land Reform Zones or Urban Zones, and who have built their homes thereon, have the right not to be dispossessed therefrom and the "right of first refusal" to purchase the property under reasonable terms and conditions to be determined by the appropriate government agency.

At the time of the sale of the subject property to petitioners, Proclamation No. 1967 [Amending Proclamation No. 1893 by specifying 244 sites in Metropolitan Manila as Areas for Priority Development (APDs) and Urban Land Reform Zones], promulgated on May 14, 1980, was the prevailing law enumerating the parcels of land affected by Pres. Dec. Nos. 1517, 1640[2] and 1642,[3] and LOI No. 935. A simple reading of the list of 244 sites described in the annex to Proclamation No. 1967 reveals that the subject property was not among the APDs or Urban Land Reform Zones in Navotas. Thus, when the subject property was sold to petitioners, it was neither covered by nor subject to the conditions set forth in, the Urban Land Reform Law.

This is made all the more obvious by the fact that Resolution No. 1369 of the National Housing Authority Board of Directors which proclaimed the Estate of the late Mercedes Policarpio in Navotas an APD was passed only on December 18, 1987 [Rollo, p. 81] long after the sale was executed between administratrix Rufina Samaniego and petitioners and judicially approved by the probate court. Private respondents, therefore, have no basis in claiming that the sale violated the "right of first refusal" granted to tenants by Pres. Dec. No. 1517.

Furthermore, notwithstanding the fact that, as provided by the above resolution, the subject property is presently an APD or Urban Land Reform Zone private respondents still do not enjoy the protective mantle of Pres. Dec. No. 1517.

In the first place, petitioners' cause of action to evict private respondents accrued, and the complaint on the basis thereof was filed, while the subject property had not yet been declared an APD and subject to Pres. Dec. No. 1517. In addition, prior to the issuance of Resolution No. 1369, the Metropolitan Trial Court in Civil Case No. 2839 had already rendered a decision in favor of petitioners ordering private respondents to vacate the property for non-payment of rentals pursuant to Section 5 (b) of Batas Pambansa Blg. 877.

Secondly, private respondents are not even "tenants" within the purview of Pres. Dec. No. 1517, Section 3 (f) of this decree, which defines the term "tenant", provides:

Tenant refers to the rightful occupant of land and its structures, 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 [Underscoring supplied.]

It cannot be denied that at the time the subject property was declared an APD in December 1987, the right of private respondents to occupy and possess the subject property was then an issue under litigation in the action for ejectment filed against them by petitioners.

Thirdly, private respondents are not the "legitimate tenants" envisaged in Section 6 of Pres. Dec. No. 1517 considering that their possession of the subject property has been rendered illegal by their stubborn and unjustifiable refusal to comply with their obligation to pay their monthly rentals to petitioners.[4]

Consequently, the Court holds that respondent appellate court committed a reversible error in applying the provisions of Pres. Dec. No. 1517 to sustain private respondents' defense in the action for ejectment.

II.

Anent the second error raised, the record of the case does not support respondent appellate court's conclusion that private respondents were not in default in the payment of their monthly rentals due to petitioners.

While discussion was made concerning private respondents' explanation for non-payment of the rentals due to the estate of the late Mercedes Policarpio, this is irrelevant to the issue at hand. What is palpably clear from the record of the case is the fact that private respondents had failed to pay the monthly rentals which accrued from the time petitioner Lolita Guzman acquired ownership of the subject property in March 1986.

Upon the purchase of the leased property and proper notice by the vendee to the lessee, the latter must pay the agreed monthly rentals to the new owner since, by virtue of the sale, the vendee steps into the shoes of the original lessor to whom the lessee bound himself to pay [Mirasol v. Magsuci, G.R. No. L-17125, November 28, 1966, 18 SCRA 801.] In the instant case, despite their receipt of the demand letter dated March 21, 1986 informing them of the change of property ownership, private respondents unjustifiably failed to pay the monthly rentals which accrued for the account of the new owner. Their belief that the subject property should have been sold to them does not justify the unilateral withholding of rental payments due to Lolita Guzman as new owner of the property.

Private respondents must be reminded that Article 1658 of the New Civil Code provides only two instances wherein the lessee may suspend payment of rent, namely, in case the lessor fails to make the necessary repairs or to maintain the lessee in peaceful and adequate enjoyment of the property leased [See *Reyes v. Arca*, G.R. No. L-21447, November 29, 1965, 15 SCRA 442.]

Private respondents should have at the very least replied to Lolita Guzman's letter and tendered payment of the monthly rentals which accrued in her favor beginning March 1986, and if such were to be refused by her, then private respondents should have made a consignment thereof or deposited the rentals due pending the resolution of their alleged claim against the administratrix of the estate of the late Mercedes Policarpio [See *Ipapo v. IAC*, G.R. No. 72740, January 27, 1987, 147 SCRA 342.] Instead, they opted to take a hard-line stance in refusing to acknowledge Lolita Guzman as owner and lessor, and, in so doing, gave cause to be declared in default in their obligation to pay rentals due her [See *Landicho v. Tensuan*, G.R. No. 51216, June 30, 1987, 151 SCRA 410.] Thus, when petitioners filed their action for ejectment, the rentals (which were payable in advance within the first five days of each month) corresponding to the months of March, April and May, 1986 had not been paid. And the glaring situation to date is that private respondents continue to occupy the subject property without having paid a single monthly rental which accrued pending litigation. Under these circumstances, the Court finds that sufficient cause for their ejectment under Section 5 (b) of Batas Pambansa Blg. 877[5] has been established. [See *Roxas v. IAC*, G.R. Nos. 74279 and 74801-03, January 20, 1988, 157 SCRA 166.]

It might be argued that petitioners' action for ejectment was prematurely filed on May 7, 1986 because less than three (3) months had elapsed since private respondents failed to tender payment of the March 1986 rental in favor of the new lessor Lolita Guzman.

However, this point was never raised as an issue in the proceedings below by private respondents, and, therefore, cannot be passed upon for the first time on appeal [Matienzo v. Servidad, G.R. No. L-28135, September 10, 1981, 107 SCRA 276; *Dulos Realty & Development Corporation v. Court of Appeals*, G.R. No. 76668, January 28, 1988, 157 SCRA 425.] And, even assuming that the action for ejectment was indeed prematurely filed in the court a quo, such will not in anyway change the conclusion reached by this Court that petitioners have established a right to evict private respondents from the subject property for non-payment of rentals. For if the Court were to dismiss petitioners' complaint based on this point, there would be more than sufficient basis for petitioners to file another complaint for ejectment against private respondents as delinquent lessees under Section 5(b) Batas Pambansa Blg. 877 in view of the latter's inexcusable failure to pay, deposit or consign for the account of petitioners monthly rentals since March 1986 up to the present. It must be borne in mind that ejectment cases must be expeditiously resolved and terminated. Certainly, it will serve the ends of justice for the Court to promptly settle the issue of non-payment of rentals in the case at bar, rather than to require the parties to litigate anew. Otherwise, as the Court has had occasion to state, "further proceedings will undoubtedly be only a waste of effort and time and to continuing prejudice of the petitioners. It will only prolong the already unjustified stay of the private respondent[s] and provide [them] an unwarranted excuse to remain in the leased premises, notwithstanding her nonpayment of the corresponding rentals for the past several years" [*Ipapo v. IAC*, supra.]

Finally, the Court is not unaware of Civil Case No. 957-MN pending in the Regional Trial Court of Malabon. This action was instituted by private respondents on July 1, 1987 against petitioners and administratrix Rufina Samaniego for the annulment of the sale and the reconveyance of the subject property in favor of private respondents.

As correctly held by respondent appellate court, Civil Case No. 957-MN poses no prejudicial question to the resolution of the instant petition. Well settled is the rule that the mere allegation of ownership of the property in dispute by the defendant in an ejectment suit or the pendency of an action for reconveyance of title over the same

property does not divest the inferior court of its jurisdiction over the ejectment suit [Alilaya v. Espanola, G.R. No. L-36208, September 18, 1981, 107 SCRA 564; De la Cruz v. Court of Appeals, G.R. No. 57454, November 29, 1984, 133 SCRA 520; Drilon v. Gaurana, G.R. No. L-35482, April 30, 1987, 149 SCRA 342.] The only exception to this rule is where the question of de facto possession cannot be determined properly without settling that of de jure possession and ownership because the latter is inseparably linked with the former [Andres v. Soriano, 101 Phil. 848 (1957); Castro v. de los Reyes, 109 Phil. 64 (1960); Alvir v. Vera, G.R. No. L-39338, July 16, 1984, 130 SCRA 357; De la Santa v. Court of Appeals, G.R. Nos. L-30560 and L-31078, November 18, 1985, 140 SCRA 44.]

Such exception is unavailing in the case at bar. Petitioner Lolita Guzman was at the time of the institutions of the ejectment suit the titled owner of the property, having acquired the same by absolute deed of sale which was judicially approved by the probate court. Private respondents' claim of preference, on the other hand, rests on the mere allegation that an agreement to purchase and sell existed between them and the administratrix Rufina Samaniego. Yet, no written document evidencing this agreement has been presented by them to enforce, much less support, their claim. From the facts thus presented, the claim of preference is without concrete basis in fact and in law and does not preclude the courts from assuming, and continuing to exercise, jurisdiction over the ejectment suit [De la Cruz v. Court of Appeals, supra.]

Premises considered, the Court finds that petitioners have established a cause of action for the ejectment of private respondents for non-payment of rentals pursuant to Section 5(b) of Batas Pambansa Blg. 877.

But inasmuch as no evidence has been presented by petitioners to the effect that the original owner or vendor of the subject property had assigned to them her rights under the lease agreement with the lessees, i.e. the collection of rentals in arrears, there is no legal basis for ordering private respondents to pay monthly rentals which accrued prior to March 1986.

Moreover, since private respondents had built in good faith their house on the leased subject property, it is appropriate to mention that Article 1678 of the New Civil Code⁵ governs the parties' rights thereto. As the new lessors, petitioners have the option to appropriate the house and other useful improvements made by private respondents by paying one-half of their value. But private respondents do not have the right to compel petitioners to appropriate the improvements and make reimbursement, nor to retain possession of the subject property until such reimbursement. Their right under the law is the removal of the house and other useful improvements in the event that petitioners refuse to reimburse the above amount [Lapena v. Morfe, 101 Phil. 997 (1957); Balucanag v. Francisco, G.R. No. L-33422, May 30, 1983, 122 SCRA 498.] "Incidentally, as regards ornamental objects, private respondents may remove the same provided that no damage is caused to the principal thing and petitioners do not choose to retain them by paying their value at the time the lease is extinguished.

WHEREFORE, the judgment of respondent appellate court rendered in CA-G.R. SP No. 13475 is REVERSED. Private respondents and all persons claiming rights under them are hereby ordered to immediately vacate the subject property and surrender possession thereof to petitioners, and to pay petitioners rentals in arrears in the monthly sum of thirty-eight pesos (P38.00) to be computed only from March 1986 until they have completely vacated the subject property, the further sum of two thousand pesos (P2,000.00) as attorney's fees, and costs of the suit. This case is REMANDED to the Regional Trial Court for the determination of the value of the improvements made by private respondents on the subject property, in accordance with Article 1678 of the New Civil Code.

SO ORDERED.

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

Feliciano, J., on leave.

[1] Penned by Fidel P. Purisima with Segundino G. Chua and Nicolas P. Lapena, Jr. concurring.

[2] Freezing the prices of land in Metropolitan Manila at current value. (1979)

[3] Freezing the rates of rental, above three hundred pesos a month, of residential and commercial buildings, houses, apartments, and dwelling units in Metropolitan Manila at current levels. (1979).

[4] This point will be discussed in length in the following section of this decision.

[5] SEC. 5. Grounds For Judicial Ejectment. Ejectment shall be allowed on the following grounds:

(b) Arrears in payment of rent for a total of three (3) months: Provided, That in case of refusal by the lessor to accept payment of the rental agreed upon, the lessee may either deposit, by way of consignment, the amount in court, or with the city or municipal treasurer, as the case may be, or in a bank in the name of and with notice to the lessor, within one month after the refusal of the lessor to accept payment.

The lessee shall thereafter deposit the rental within ten days of every current month. Failure to deposit rentals for three months shall constitute a ground for ejectment. . . .

5 ARTICLE 1678. If the lessee makes, in good faith, useful improvements which are suitable to the use for which the lease is intended, without altering the form or substance of the property leased, the lessor upon the termination of the lease shall pay the lessee one-half of the value of the improvements at that time. Should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby. He shall not however, cause any more impairment upon the property leased than is necessary.

With regard to ornamental expenses, the lessee shall not be entitled to any reimbursement, but he may remove the ornamental objects, provided no damage is caused to the principal thing, and the lessor does not choose to retain them by paying their value at the time the lease is extinguished.

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