

MACARIA JOYA AND ROMEO DUMAWAL, PETITIONERS, VS. COURT OF APPEALS (TWELFTH DIVISION) AND HCL PROPERTIES, INC., RESPONDENTS.

G.R. No. 89734. February 27, 1991

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

The issue in these petitions for review is whether or not the transfer of a parcel of land to a corporation organized by the owners of the land, in exchange for shares of stock of the said corporation, may be considered a "sale," within the contemplation of Presidential Decree No. 1517 (Urban Land Reform Law), which grants to the tenants of the land a right of first refusal or pre-emption.

A parcel of land with an area of 1,386 square meters, situated at 662 Dimasalang Street, Bo. San Roque, Pasay City, was owned by the spouses Eutiquio and Herminia Capco. The property was occupied by the houses of Macaria Joya and twenty-one (21) other persons for over ten years. They were supposed to pay a nominal monthly rental, but many of them defaulted.

Upon the death of Eutiquio, his widow Herminia, and their children Jaime, Myrla, Romeo, all surnamed Capco, and Celia Capco Atendido, formed the HCL Properties, Inc. (hereafter HCL) and assigned the property to the corporation in exchange for no par value shares of stock worth P400,000 of the said corporation.

HCL caused the cancellation of the title in the name of the original owners and a new TCT No. 117304 was issued on May 28, 1987 in the name of the corporation.

Dimasalang Street in barrio San Roque, Pasay City, is located within an Area for Priority Development (APD) listed in Proclamation No. 1967 and certified by the Housing and Land Use Regulatory Board No. 112 (pp. 38-39, Rollo of G.R. No. 91299; p. 27, Rollo of G.R. Nos. 90844-48).

Sections 3(f) and 6 of P.D. No. 1517, as amended by P.D. No. 2016 dated January 23, 1986, provide:

"SEC. 3(f). 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."

"SEC. 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 land 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."

Because the lessees (petitioners Macaria Joya and Romeo Dumawal in G.R. No. 89734, petitioner Edwin Kantong in G.R. No. 91299, and respondents Guiat Go, Luis Matris, Amelia Guianan, Amor Villanueva and Julian

Cervantes in G.R. No. 90844) failed to pay their rentals and incurred arrears which they did not pay despite repeated demands. HCL filed ejectment complaints against them in the different branches of the Metropolitan Trial Court in Pasay City.

Joya's arrears for 17 months, at P85 per month, amounted to P1,445. However, in her answer to the ejectment complaint, Joya alleged lack of cause of action against her because she no longer resides in the premises; she had already transferred her house to Romeo Dumawal. Nevertheless, she claimed a right of first refusal under P.D. 1517, for having been a tenant of the land for more than ten years.

The Metropolitan Trial Court, Branch 46, rendered judgment for the lot owners, holding that the Urban Land Reform Law (P.D. 1517), may not be invoked by Joya or Dumawal because: (1) there was no sale, only an assignment, of the land by the owners to the family corporation; (2) the land is not listed as an area for priority development under Proclamation No. 1967; and (3) Joya and Dumawal have violated the lease by failing to pay the rentals for 17 months.

On appeal by Joya, et al., the Regional Trial Court, Branch 118, reversed the trial court. It held that the property is among the 245 areas for priority development listed in Proclamation No. 1967, as amended by Proclamation No. 2284; that the Deed of Exchange whereby the property was transferred to HCL for shares of stock of that corporation was in effect a sale; and that the petitioner has a right of first refusal for having resided on the property for more than ten years. Upon a petition for review filed by HCL in the Court of Appeals, (CA-G.R. SP No. 17128), the Court of Appeals, Twelfth Division[*], on July 12, 1989 set aside the regional trial court's decision. It ordered Joya and Dumawal and all persons claiming under them, to vacate the premises and to pay their rental arrears to HCL.

The Appellate Court held that the transfer of the property to the family corporation of the Capcos "merely changed their ownership from one form to another. The ownership of the property remained in the same hands inasmuch as the Capco heirs are the stockholders of the HCL Corporation. There was no transfer of actual ownership interest by the Capco heirs to a third party. Since there was no sale of the land in dispute x x x there was no basis for the private respondents to invoke in their favor the right of first refusal provided for in P.D. 1517" (p. 33, Rollo of G.R. No. 89734).

The ejectment complaints against Guiat Go, et al. alleged that they were delinquent in the payment of their monthly rentals as follows:

1. Guiat Go - P1,727 - (for July 1987 to July 1988)
2. Luis Matris - P2,000 - (for December 1986 to July 1988)
3. Amelia Guianan - P1,275 - (for March 1987 to July 1988)
4. Amor Villanueva - P1,740 - (for February 1987 to July 1988)
5. Julian Cervantes - no lease, occupancy merely tolerated.

The Metropolitan Trial Court, Branch 48, Pasay City, rendered a decision on March 6, 1989 dismissing the complaint. It held that Guiat Go, et al., were entitled to the right of first refusal under P.D. 1517.

This decision was affirmed by the Regional Trial Court, Branch 113, and the Court of Appeals (Sixth Division[*]) in CA-G.R. SP Nos. 18417-18421, on October 30, 1989. The appellate court held that the HCL Corporation, even as a family corporation, was a separate and distinct person from the incorporators, the members of the Capco family.

"The Deed of Exchange is an outright act of disposition of the land and transfer of ownership thereof to a third person. In incorporating HCL Corporation, even as a family corporation, the corporation became a separate and distinct personality from the members of the Capco family -- the incorporators. In transferring the land the new entity called HCL Corporation, it did so for valuable consideration. The Articles of Incorporation fixed the consideration for the Capcos' (vendors') interest on the land in terms of pesos even if the shares of stock issued in consideration thereof have no fixed par value, unlike a share of stock with par value. The fact that the property was transferred to the corporation and a new TCT No. 117304 was issued in the name of the corporation, strongly indicates that the transaction was not simply an exchange of interest of the same owner but an outright transfer or disposition of ownership of real property from the Capcos to a third party -- the HCL Corporation. And therefore, may justify the exercise by the defendants of the right of refusal." (p. 32, Rollo of G.R. Nos. 90844-48.)

Although the Court of Appeals held that "deliberate and intentional" non-payment of rent by Guiat Go, et al. was "violative of the lease agreement x x x and is a sufficient cause for ejectment" (p. 33, Rollo of G.R. Nos. 90844-48), it nevertheless upheld the tenant's right of first refusal in view of "national policy" underlying the Urban Land Reform Law (P.D. 1517) (p. 33, Rollo of G.R. Nos. 90844-48).

The ejectment complaint against Edwin Kantong was decided by the Pasay City Metropolitan Trial Court in favor of the HCL Properties, Inc. It ordered petitioner to pay private respondent his arrears and to vacate the premises.

On appeal, the Regional Trial Court, Branch 111 reversed the trial court's decision and dismissed the case for lack of jurisdiction because the property is covered by the Urban Land Reform Law.

The Court of Appeals, Eighth Division[*] (CA-G.R. SP No. 17908, December 6, 1989), reversed the regional trial court and reinstated the metropolitan trial court's decision in favor of HCL. The Court of Appeals held that as respondent Kantong had violated his lease by refusing to pay rent since March 1987, he was not a "legitimate tenant" (p. 44, Rollo of G.R. Nos. 90844-48) within the purview of Section 6, P.D. 1517 for his possession had been rendered illegal by his unjustifiable refusal to comply with his obligation to pay rental to HCL.

The Court is here confronted with conflicting decisions of the Court of Appeals - two in favor of HCL Properties, Inc. and one against - on the issue of whether, under the peculiar factual situation in these cases, the lessees may claim a right of first refusal or pre-emption to the lot in question which the owners transferred to the family corporation, HCL, in exchange for shares of stock of said corporation.

The Court holds that the lessees in these cases may not claim a right of first refusal for two reasons:

First, because the lessees herein, all of whom have violated their lease contracts by defaulting in the payment of their rentals, have not been "legally occupying" the leased premises. Their right to occupy the property ceased when they violated the lease and the lessor asked them to vacate its property. They thereafter became deforciants or illegal occupants of the property. Since Section 6 of P.D. 1517 grants the right of first refusal only to "legitimate tenants who have resided on the land for ten years or more" and "residents who have legally occupied the land by contract continuously for the last ten years," petitioners Dumawal and Kantong (in G.R. No. 89734 and 91299), and respondents Guiat Go, Luis Matris, Amelia Guianan and Amor Villanueva (in G.R. Nos. 90844-48) who have been illegally residing on the land without paying rent, are not entitled to exercise the right of first refusal under Section 6 of the Urban Land Reform Law.

Secondly, the assignment of the land to HCL, the family corporation of the Capco family, in exchange for shares of stock of said corporation, was, as correctly ruled by the Twelfth Division of the Court of Appeals in CA-G.R. SP No. 17128, not a sale but a change in the form of ownership, from communal to corporate.

The sale contemplated in Section 6 of P.D. 1517 is a conveyance of the property from the owners to third persons.

Under the law, such a transfer of title may not be consummated without first giving to the "legitimate tenants" of the land a preferential right to purchase it under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of the Decree. We see in this case, however, no intention of the owners to part with the ownership of their land. They merely incorporated bringing their property with them into their corporation so that instead of belonging to them as co-owners, it now belongs to them as stockholders of the corporation. Against said corporation, the tenants cannot claim a preferential right to the property for it is not the purpose of P.D. 1517 to grant such a preference to the lessees over the owners themselves.

WHEREFORE, the petitions for review of the petitioners Macaria Joya and Romeo Dumawal and Edwin Kantong in G.R. No. 89734 and G.R. No. 91299 are dismissed for lack of merit, and the decisions of the Court of Appeals in CA-G.R. SP No. 17128 and CA-G.R. SP No. 17908 are hereby affirmed. The petition for review filed by HCL Properties, Inc. in G.R. Nos. 90844-48 is granted and the decision of the Court of Appeals (Sixth Division) in CA-G.R. SP Nos. 18417-18421 is hereby annulled and set aside. The private respondents, Guiat Go, Luis Matris, Amelia Guanan, Amor Villanueva and Julian Cervantes, are ordered to vacate the property in question and to pay their rental arrears, with legal rate of interest from July 1988 until they actually vacate the leased premises. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

[*] Justice Gloria C. Paras as the actg. chairman, with Justices Luis L. Victor and Regina G. Ordoñez-Benitez, as members.

[*] Justice Jose C. Campos, Jr. as the chairman, with Justices Emeterio C. Cui and Nicolas P. Lapeña, Jr. as members.

[*] Justice Oscar M. Herrera as the chairman, with Justices Lorna S. Lombos-dela Fuente and Fernando A. Santiago, as members.

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