

ALEJANDRO ATIENZA, SR., PETITIONER, VS. THE HON. COURT OF APPEALS, HON. RAMON MABUTAS, JR., RTC OF MANILA, BRANCH XLII AND FRANCISCO LAJA AND CONSTANCIA LAJA, RESPONDENTS.*G.R. No. 94493. July 17, 1992*

Ponente: GRINO-AQUINO, J.

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This petition for review on certiorari under Rule 45 of the Rules of Court was filed by Alejandro Atienza, Sr. for the purpose of annulling the Resolution dated July 31, 1990 of the Court of Appeals, as well as the decision of the Regional Trial Court of Manila, Branch XLII, affirming the decision of the Metropolitan Trial Court of Manila, Branch 9, in Civil Case No. 127656-CV which ordered Atienza to vacate the premises located at No. 2136 F. Muñoz St., Singalong, Malate, Manila, and to pay attorney's fees plus costs to the plaintiffs, spouses Francisco and Constancia Laja.

The Laja spouses are the owners of a house at No. 2136 F. Muñoz Street, Singalong, Malate, Manila, erected on a parcel of land known as Lot 13, Block 1 of the Tramo/Singalong ZIP Project, leased to them by the Philippine National Railways (PNR) in 1947. They were granted in the same year a "Certificate of Priority" by the Office of the President, through the Board of Liquidators, which would entitle them to priority rights in the acquisition of the said parcel of land. The house is declared for taxation under Tax Declaration No. B-080-02045 in the name of Francisco Laja.

On November 13, 1987, the Lajas leased a portion of their house to Alejandro Atienza, Sr. for a monthly rental of P1,000 for a period of one (1) year, to expire on November 14, 1988.

Upon the expiration of the lease, Laja sent a notice to Atienza, informing him that they were not renewing his lease and asked him to vacate the premises. Atienza, however, did not comply, prompting the Lajas to file an ejectment complaint against him in the Metropolitan Trial Court of Manila, Branch 9 (Civil Case No. 127656, entitled "Francisco Laja and Constancia Laja vs. Alejandro Atienza, Sr.") on the grounds of: (1) expiration of the lease; and (2) the plaintiff's need to repossess the leased premises for the use of their son, Roberto.

Atienza's defense to the action was the decision of the Arbitration and Award Committee of the National Housing Authority (NHA) awarding a 56-sq.m. portion of the lot to him and a certain Dueñas.

On August 30, 1989, MTC Judge Pedro Callejo rendered judgment ordering Atienza to vacate the leased premises and to pay P1,000 as attorney's fees to the plaintiffs, plus costs. The MTC adverted to the fact that the Arbitration and Award Committee itself clarified that its decision is "distinct and separate from the on-going court litigation [the ejectment case] considering that [the] issues being considered are different from each other e.g. the AAC is concerned with the issue of who will be awarded lots in the projects." (back of p. 47, Record.)

Atienza appealed to the Regional Trial Court of Manila (Civil Case No. 89-50400 entitled, "Francisco Laja, et al. vs. Alejandro Atienza, Sr."). On January 8, 1990, the Regional Trial Court rendered a decision upholding in toto

the judgment of the Metropolitan Trial Court. It said:

"x x x The defendant-appellant having admitted the execution of the subject contract on November 13, 1987 which had expired one year thereafter (November 14, 1988), he is subsequently barred from contesting plaintiffs' (appellees') legal personality to bring the instant case. And why should he be more popish than the pope--the alleged owner, Roberto Laja, not having even come forward to interpose a claim of ownership over the disputed property? Or is he merely using this as a subterfuge to prolong his stay on the premises the period of which had already long expired? On this score, the court a quo had no jurisdiction to decide any question of title or ownership of the parcel of land whereon the subject house stands--and it did act correctly. Anyway, as pointed out in their memorandum, the plaintiffs (appellees herein) want to repossess the leased premises for the use of their son, Roberto Laja. We further take note of plaintiffs'appellees' averment in their memorandum that the subject house had been declared for taxation purposes (evidenced by Tax Declaration No. B-080-02045, City of Manila) in the name of Francisco Laja, which fact also remained undisputed. Above all, the defendant-appellant should focus his attention on the last paragraph of the questioned decision (before the dispositive portion) which borders on plaintiffs' (appellees') interest over the subject premises, thereby obliterating the former's pretensions. With the foregoing, the second assigned error of the trial court below falters." (pp. 123-124, Record.)

Atienza filed a petition for review in the Court of Appeals (CA-G.R. SP No. 20054), but the appellate court denied due course to the petition in its resolution of February 23, 1990. In due time, Atienza came to this Court for relief.

The Court has considered the petition for review, the comments of the respondents, and the reply thereto, but has found no reversible error in the decision complained of, hence, it is constrained to deny the petition for lack of merit. Indeed, the award of the lot to the petitioner by the NHA is not a valid defense to the private respondents' action to eject him from the house which admittedly belongs to the private respondents. The only issue in an ejectment suit is the possession of the leased premises (the house) not the ownership of the lot, the award of which to the petitioner is still being contested by Laja in another action (*Alvir vs. Vera*, 130 SCRA 357; *Mediran vs. Villanueva*, 37 Phil. 752; *Bautista vs. Fernandez*, 38 SCRA 549; *Vda. de Sengbengco vs. Arellano*, 1 SCRA 711).

WHEREFORE, the petition for review is DENIED for lack of merit. Costs against the petitioner.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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