

DOLOMITE MINING CORPORATION, PETITIONER, VS. DIONISIA MONTALBO AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 98451. January 28, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

Petitioner, Dolomite Mining Corporation (petitioner), filed this Petition for Review of the Decision[*] of the Honorable Court of Appeals holding that the actual area leased by petitioner from private respondent, Dionisia Montalbo (private respondent), was 1,206 square meters instead of 896 square meters only and affirming the award of attorney's fees and litigation expenses by the trial court[**] to private respondent and the new rent fixed by the said lower court.

We summarize the relevant facts as follows:

On September 15, 1980, petitioner and private respondent entered into a Contract of Lease[1] over a parcel of land which, according to the contract, measured 896 square meters. The pertinent provisions of the agreement are quoted, to wit:

"WHEREAS, the LESSOR represents and warrants to be the absolute owner of certain parcel (s) of land situated at the Barangay of Pugalo, Municipality of Alcoy, Province of Cebu, with a total area of 896 square meters and more particularly described as follows:

Parcel A: Cadastral Lot No. 18, Cadastral Survey No. _____, _____ Cadastre, bounded on the North by Pedro Dueñas; on the East by Sea shoreline; on the South by Felipe Diaz; and on the West by Eleuterio Carting; containing an area of 896 square meters and covered by tax Declaration No. 10756.

x x x x x

III

TERM OF LEASE

The term of this lease shall be for a period of twenty-five (25) years commencing from September 15, 1980 unless sooner terminated as hereinafter provided. x x x

IV

RENTAL

The LESSEE shall pay to the LESSOR an annual rate in the amount of P0.15 per square meter for the parcel (s) A x x x the total annual rental being the amount of P134.40 within the first month of each contract year. The amount of annual rental, however, may be re-negotiated by the parties not oftener than every five (5) years thereafter based on the trend of land values in the Municipality of Alcoy as prepared by the Cebu Provincial assessor. x x x."

In August 1985, private respondent asked for an increase in rent in the amount of P2.50 a square meter. Petitioner,

however, was willing to pay only 25% more than the prevailing rent. For the failure of the parties to agree at a new rate, private respondent eventually filed a complaint docketed as Civil Case No. CEB-4282 before the Regional Trial Court, Branch 24 of Cebu City.

In the said complaint, private respondent averred that the land was 1,206 square meters; asked that the new rent be pegged at P5.00 per square meter; and prayed for an award of moral damages amounting to P10,000.00, attorney's fees amounting to P5,000.00, and litigation expenses amounting to P5,000.00.

After trial on the merits, the Regional Trial Court held that the actual area leased was 896 square meters, that being the area stipulated in the contract, and applying the Parol Evidence Rule, private respondent was estopped from claiming otherwise. In the dispositive portion of the decision, the trial court stated:

"WHEREFORE, predicated on the foregoing consideration, the court hereby pegs the annual rental of subject parcel of land for the five-year period from 1985 to 1990 in the amount of P1.20/sq. meter or as total annual rental of P1,032.00. Likewise, defendant is hereby ordered to pay plaintiff P5,000.00 as attorney's fees and litigation expenses in the amount of P2,000.00.

SO ORDERED."[2]

From this judgment, both parties appealed to respondent Court. As stated earlier, the respondent Court, contrary to the finding of the trial court, held that the parcel of land had an area of 1,206 square meters. The dispositive portion of its decision stated:

"WHEREFORE, with the modification that the annual rental on the land, containing an area of 1,206 square meters, for the period of five (5) years starting September 15, 1985 to September 14, 1990, shall be at the rate of P1.20 per square meter or in the amount of P1,447.20, the decision is hereby affirmed.

No pronouncement as to costs.

SO ORDERED."[3]

Thereafter, petitioner interposed the instant Petition where it contends that the respondent Court erred in holding that:

"1. THE ACTUAL AREA OF LEASED PROPERTY TO THE PETITIONER BY THE RESPONDENT IS 1,206 SQUARE METERS AND NOT 896 SQUARE METERS.

2. THE ANNUAL LEASE RENTAL IS P1,447.20 AND NOT 25% INCREASE OF THE AMOUNT OF THE ANNUAL RENTAL PAID DURING THE FIRST FIVE (5) YEARS OF THE LEASE.

3. THE RESPONDENT IS ENTITLED TO P5,000.00 ATTORNEY'S FEES AND P2,000.00 LITIGATION EXPENSES."[4]

We find no merit in the petition.

The issue involved in this case could have been easily resolved in the land surveyor's office. For indeed, the question regarding the disputed land area involved is purely factual in nature. What better evidence can show the actual land area leased than the survey plan. All petitioner had to do was to present as its evidence the survey plan it allegedly requested the Bureau of Lands to draw defining the areas actually leased to it by various lessors but it did not. Neither did it present such survey plan as it promised to do so during the trial of the case before the Court a quo.

To prove its allegation that it merely leased 896 square meters of mineral land from the lessor, petitioner presented the Lease Contract, request for resurveys and list of claimants, all of which deserve scant consideration

for the same are self-serving evidences. On the other hand, private respondent's claim that the land involved measures 1,206 square meters is supported by several tax declarations.[5] We are all aware that the area reflected in the tax declarations is only an approximation but petitioner has miserably failed to present sufficient evidence to justify a reversal of the respondent Court's decision.

We hereby quote with approval the respondent Court's decision, to wit:

"Exhibit "15" is a xerox copy of a letter dated February 5, 1980 written by Dolomite Mining Corporation, thru its representative named Francisco S. Billones, addressed to Mr. Felix Abella, Regional Director CESO IV of the Bureau of Lands, Cebu City, informing the latter that the former is agreeable that the latter will conduct a cadastral survey of "the minesite area only"; that the former is agreeable "to pay additional P100.00 per lot x x; the survey shall be completed by the 3rd week of March 1980.

x x x x x

Exhibit "17" is a xeroxed copy of the "list of claimants. This exhibit is undated, unsigned and contains three columns. The first column has the heading "Name of Claimants", the second "Area in Hectares"; and the third "Remarks". The name Dionisio Duenas in Exhibit 17, with the figure .0896 following it which falls under the column "Area in Hectares", has been marked as Exhibit "17-C".

Exhibits "15", "16", "17" and "17-C" do not show or prove anything. They do not show any actual survey of the lot in litigation. Neither the plan nor the technical description thereof has been marked as exhibits. x x x.

In the light of the foregoing, the only plausible conclusion is that the area of plaintiff-appellant's lot is One Thousand Two Hundred Six (1,206) square meters as stated in Tax Declaration No. 10756. Since the whole lot, is being occupied by defendant-appellant, computation of its rental should be computed on the basis of the said area.

Defendant-appellant's contention that plaintiff-appellee is now in estoppel from questioning the area of 896 stated in the contract is without merit.

The rental stipulated in the contract is based upon the area in square meters of the land covered thereby. It follows that when there is a negotiation for the increase of rentals the area of the land leased or rented which is intimately related thereto will also be affected by said negotiation. This is especially so in the present case where there is a conflict in the area stated in the contract with that appearing in the tax declaration.

Estoppel may apply in so far as the area of the land and the rentals therefor for the past period of five years is concerned but not with respect to future rentals to be computed after the lapse of the first five years of the contract.

It not having been shown that there really was an actual relocation survey of the land at the time or before the contract of lease was entered into and no credible explanation having been submitted to show how the area of 896 square meters was arrived at, the area of the land stated in the tax declaration of the lot must control and should be used as basis in computing the amount of rentals to be paid its owner."[6]

Anent the issue on the amount of rental to be paid, We concur with the respondent Court's affirmation of the trial court's decision, to wit:

"Since contract has the force of law between the contracting parties, the correct basis upon which the annual rental of subject parcel of land is to be renegotiated should have been the "latest trend of land values in Alcoy, Cebu, in 1985 as prepared by the Cebu Provincial Assessor", as expressly stipulated by the parties in the Contract of Lease. However, bereft of such rightful basis, the court in the exercise of its utmost discretion and on grounds of equity and fairness, resolves to fix the annual rental of subject parcel of land for the five-year period from 1985 to 1990 at P1.20/sq. meter, which amount is about halfway between defendant's offer of an

increase of 25% and plaintiff's counter offer of P2.50/sq. meter before she filed the instant case. From an annual rental of P0.15/sq. meter to P1.20/sq. meter, there is a percentage increase of about 700%. To the mind of the court, this percentage increase is most reasonable for both plaintiff and defendant under the circumstances.

Definitely, the plaintiff is entitled to an increase in the rental of her land leased by defendant considering that at the time the contract was entered into in 1980 said land was agricultural and when defendant leased the same, it made use of it as a mineral land. On the part of the defendant, increasing the annual rental from P0.15/sq. meter to P1.20/sq. meter would not be unconscionable taking into consideration that in one way or another it must have realized some profit out of using subject parcel of land as mineral land."^[7]

Considering that the rental is P1.20 per square meter per annum and the area of the lot is 1,206 square meters, the aggregate annual rental thereon must then be P1,447.20.

As to the issue of damages, We fully agree with the respondent Court's award of attorney's fees amounting to P2,000.00 since private respondent was compelled to protect her rights.

WHEREFORE, in view of the foregoing, the decision of the Court of Appeals is hereby **AFFIRMED** in toto and this Petition is **DISMISSED** for lack of merit.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, and Regalado, JJ., concur.
Nocon, J., no part.

[*] CA-G.R. CV. No. 20985, April 16, 1991. Penned by Associate Justice Asaali S. Isnani and concurred in by Presiding Justice Rodolfo A. Nocon and Associate Justice Filemon H. Mendoza; Rollo, pp. 29-36.

[**] Regional Trial Court of Cebu, Br. 24, in Civil Case No. CEB-4282, December 6, 1988, penned by Judge Priscilla S. Agana; Records, pp. 242-249; Rollo, pp. 51-59.

[1] Petition, Annex "B", Rollo pp. 38, 40-42; Exhibit "E", Records, pp. 90-100.

[2] Records, p. 249; Rollo, p. 59.

[3] Rollo, p. 36.

[4] Petition, p. 6; Rollo, p. 11.

[5] Exhibit "A", Records, p. 85; Exhibit "C", Records, p. 87; Exhibit "H", Records, p. 103.

[6] CA Decision, pp. 4-5; Rollo, pp. 32-33.

[7] RTC Decision, p. 9; Records, p. 249. Quoted in CA Decision, p. 7; Rollo, p. 35.

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