

FIRST DIVISION

[G.R. NO. 160867, September 20, 2006]

**BONIFACIO NAKPIL, PETITIONER, VS. MANILA TOWERS
DEVELOPMENT CORPORATION, RESPONDENT.**

G.R. NO. 160886

**MANILA TOWERS DEVELOPMENT CORPORATION, PETITIONER,
VS. BONIFACIO NAKPIL, RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

This is a consolidation of two Petitions for Review, assailing the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 72289 dated August 25, 2003 and the Resolution dated November 19, 2003 denying the motion for reconsideration thereof.

The Antecedents

A 14-storey high rise building was constructed at 777 Ongpin St., Sta. Cruz, Manila. Sometime in 1964, its owner, Cheong Kiao Ang, leased the building to about 200 Filipino Chinese tenants who used the same for either residential or commercial purposes. One of these tenants was Atty. Bonifacio Nakpil who leased Room 204 in the mezzanine floor. He used the unit as his law office.^[2] The tenants of the building later formed the House International Building Tenants Association, Inc. (HIBTAI).

The property was mortgaged with the Government Service Insurance System (GSIS) as security for a loan Ang had earlier obtained. Upon failure to pay the loan, the GSIS had the real estate mortgage foreclosed and the property sold at public auction, with GSIS as the winning bidder. The latter, in turn, sold the property to the Centertown Marketing Corporation (CMC) which assigned all its rights to its sister-corporation, the Manila Tower Development Corporation (MTDC) for P21,000,000.00. The HIBTAI protested, claiming that its members had the priority to buy the property.^[3] The tenants refused to pay their rentals and instead remitted them to HIBTAI.

On June 29, 1981, the City Engineer wrote the MTDC, through Luis Javellana, requesting that the defects of the building be corrected. The City Engineer warned the MTDC that the defects were serious and would endanger the lives of the tenants if not immediately corrected. The City Engineer reiterated his request in a letter dated July 10, 1981 to MTDC urging that the building be immediately repaired. However, before the MTDC could make the necessary repairs, the HIBTAI, on October 2, 1982, filed a complaint against the GSIS for injunction and damages in the Court of First Instance (CFI) of Manila.

On January 31, 1983, the court rendered judgment dismissing the complaint. However, on February 23, 1983, HIBTAI filed another complaint for annulment of contract and damages in the CFI of Manila, docketed as Civil Case No. 83-15875, against the CMC, MTDC and GSIS. It averred that under Presidential Decree (P.D.) No. 1517, the tenants had the priority right to purchase the property. The court rendered judgment dismissing the complaint, prompting HIBTAI to appeal the decision to the appellate court. The ruling of the trial court was later affirmed on February 4, 1986. HIBTAI assailed the ruling in this Court via petition for review. On June 30, 1987, this Court rendered judgment affirming the decision of the CA.^[4] According to the Court, the tenants of the building, not the HIBTAI, were the real parties-in-interest as parties-plaintiffs.

About eight (8) years later, on October 12, 1995, Atty. Samuel S. Samuela, the building administrator, wrote Architect Juan A. Maravillas, Jr., then Officer-in-Charge (OIC), Office of the Building Official, City of Manila, requesting for an immediate ocular inspection of the building to determine its safety. The letter mentioned that, as far back as 1981, the City Engineer and Building Official had ordered the building condemned after inspection. Atty. Samuela stated that when the MTDC was about to initiate the repairs on the building, the tenants filed several suits against it; this prevented MTDC from complying with the said order. During the pendency of these cases, the tenants likewise took control of the building and even illegally put up structures in the building without MTDC's consent. He pleaded to the Building Official to give priority to his request to prevent undue injuries and protect the lives of the tenants.^[5]

The City Building Official granted the request and scheduled an ocular inspection of the building at 2:00 p.m. on October 24, 1995.^[6]

With prior notices to the tenants and in the presence of a representative of HIBTAI, Amado Ramoneda, the representatives of the Office of the Building Official conducted an ocular inspection of the building.^[7] On November 3, 1995, they submitted a Building Inspection Report with the following findings:

I. STRUCTURAL ASPECT (Sec. 3.1 Rule VII-IRR)

1. Cracks on the exterior interior walls are prominent which manifest earthquake movement and decrease in seismic resistance. Damages to beams and columns are feasible.

II. ELECTRICAL ASPECT (Sec. 3.3 Rule VII-IRR)

2. Wiring system are already old, obsolete and not properly maintained;
3. Some junction boxes are not properly covered thus exposing the wiring connections;
4. Usage of dangling extension cords and octopus wiring connections were likewise observed.

III. SANITARY/PLUMBING ASPECT (Sec. 3.5 Rule VII-IRR)

5. Defective sanitary/plumbing installations;
6. Poor drainage system that caused the stagnation of waste water within the back part (Ground Floor) of the building;
7. All sanitary/plumbing fixtures on vacated 9th, 10th & 11th floors, due to lack of proper maintenance has los[t] their trap seals, this allowed the escape of toxicating sewer gas from the system.

IV. ARCHITECTURAL ASPECT (Sec. 3.6 Rule VII-IRR).

8. Steel frames and roofings at deck are rusted/corroded and inadequately maintained;
9. Broken window glass panes and rusted steel casement;
10. Inadequate light and ventilation resulting from illegal constructions at the required open space areas;
11. Illegal use of 14th floor as sauna bath parlor which is non-conforming to City Ordinance.

OTHERS

12. Non-compliance with the provisions of BP 344, the Law to Enhance Mobility of Disabled Persons;
13. Illegal construction at the estero easement area and at the required open spaces in violations of Section 3.8 Rule VII-IRR.^[8] (Underscoring supplied)

The City Building Official recommended that the windows glass/frames be repaired and the illegally appended structures removed. It was also recommended that the use of the sauna bath be discontinued and the old electrical wiring system and fixtures be replaced. He also stated that the structural integrity of the building was questionable, and that structural testing was needed.^[9]

Consequently, on November 10, 1995, the City Building Official wrote a letter to the building administrator, ordering him to cause the tenants to vacate the building and undertake the necessary repairs and rehabilitation of the building. The following warning was also issued:

Failure to comply herewith shall constrain this Office to impose further administrative sanctions in accordance with the provisions of the National Building Code PD. 1096, as well as the other existing laws and ordinances. This is without prejudice to further legal action that may be taken under the provisions of Articles 482 and 694 to 707 of the Civil Code of the Philippines.^[10]

However, the MTDC did not respond to the letter. On January 24, 1996, the City Building Official issued a Closure Order to the MTDC and ordered the building administrator to cause the tenants to vacate the building within fifteen (15) days

from notice and to commence its repair. He also directed MTDC to file an application for the necessary permits before the start of the actual repairs, together with a certification on structural stability from the building's structural designer and to attach thereto the results of the structural testing as well as the recommendation/evaluation reports, scope of project activities, repair/renovation plans and retrofitting plans. The order would only be lifted after the defects or deficiencies of the subject building or structure shall have been corrected or substantially complied with in accordance with Section 21, Rule VIII-IRR, P.D. No. 1096, without prejudice to further action that may be taken under the provisions of Articles 482, and 694 to 707 of the Civil Code, as well as other existing laws and ordinances.^[11]

The City Building Official conducted a reinspection of the building and, on March 26, 1996, made the following recommendation:

It is recommended that because of:

- 1) the adamant refusal of the owners of the building to correct the serious defects noted by this Office as early as 1981 up to the present, notwithstanding notices to this effect;
- 2) the directive of national as well as local leaders to intensify the campaign against buildings which are dangerous to life and limb as exemplified in the tragic Ozone case in Quezon City; and
- 3) the possibility of City officials incurring criminal as well as administrative liabilities for failure to take positive steps to protect the lives of the people against ruinous or dangerous buildings.

The persistence of the owners of the building in not undertaking the required urgent repairs allegedly because of suits filed against them, gives this Office no better alternative but to recommend that the City Engineer be authorized and directed to make the necessary repairs and all expenses thereto be shouldered by the owners of the building and also to order the occupants of the building to immediately vacate the premises to give way to the repair and to ensure the protection of their lives and property.

Approval of this request is urgently needed.^[12]

The City Mayor approved the recommendation and directed the repairs of the building by the City Building Official with the expenses therefor to be charged against the account of MTDC.^[13]

On June 28, 1996, notices were sent to the tenants, giving them fifteen (15) days within which to vacate the building to give way to its general repair.^[14] However, at the time, Atty. Nakpil was in the United States for medical treatment, and his secretary was left behind to take care of the law office.

Felix Ong, one of the tenants in the building and the President of the HIBTAI, filed a

petition for prohibition with a plea for a writ of preliminary injunction and/or a temporary restraining order (TRO) with damages against the MTDC, City Engineer and Police Major Franklin Gacutan, docketed as Civil Case No. 96-79267. Ong prayed that a TRO be issued to enjoin respondents from conducting repair and rehabilitation work within the building, which the court granted.

Clemente Sy, who claimed to be the *Barangay* Captain of *Barangay* No. 297, Zone 29 where the building was located and the incumbent President of the House International Building Tenants Association, filed a similar petition against the same respondents, including MTDC.^[15]

At about 4:00 p.m. on July 19, 1996, a group of men led by Engr. Melvin Balagot, the Chief Slum Clearance and Demolition Services of the Office of the City Building Official, entered the building and, in compliance with the order of the City Mayor as recommended by the City Building Official, commenced the repairs and tore down some of the structures. However, the repair works were temporarily suspended on July 22, 1996 as a result of the TRO issued by the court in favor of Ong in Civil Case No. 96-79267.

On July 23, 1996, Engr. Balagot submitted the following Report:

1. That all the occupants thereat already vacated the premises to give way for the repair work of the subject structure except for the unit occupied by the security guards at the ground floor;
2. That most of the interior walls were already dismantled by this Office to give way for immediate replacement.
3. It is likewise reported that the said building is not safe for occupancy for the meantime.

For your information and further instruction.

(SGD)
MELVIN Q. BALAGOT
Engineer V
Chief, Slum Clearance and
Demolition Services.^[16]

Upon his arrival in the Philippines, Atty. Nakpil filed, on November 5, 1996, a complaint in the Regional Trial Court (RTC) of Manila against the MTDC, seeking for actual, moral, and exemplary damages, attorney's fees, litigation expenses, costs of suit and other reliefs. The case was docketed as Civil Case No. 65980. He alleged that the MTDC, through its agents and representatives and the policemen who accompanied the demolition team, forced the guard to open the gate to the building, and, thereafter, 200 people armed with hammer and crowbars started destroying the mezzanine floor of the building on July 19, 1996. His room was destroyed, the walls and partitions were completely hammered down, and the electricity was cut off. His personal belongings were either scattered, thrown away, or stolen. He pointed out that he had been renting the premises and complying with the conditions of the lease since 1965. The MTDC violated his right as lessee to the possession of the premises, unlawfully depriving him of said possession without any