

FIRST DIVISION

[G.R. No. 194538, November 27, 2013]

MORETO MIRALLOSA AND ALL PERSONS CLAIMING RIGHTS AND INTERESTS UNDER HIM, PETITIONER, VS. CARMEL DEVELOPMENT, INC., RESPONDENT.

D E C I S I O N

SERENO, C.J.:

This is an appeal by way of a Petition for Review on Certiorari^[1] dated 6 December 2010 assailing the Decision^[2] and Resolution^[3] of the Court of Appeals (CA) in C.A.-G.R. SP No. 105190, which reversed the Decision^[4] and Order^[5] of the Regional Trial Court (RTC), Branch 121, Caloocan City in Civil Case No. C-22018. The RTC had reversed the Decision^[6] of the Metropolitan Trial Court (MeTC), Branch 52, Caloocan City in Civil Case No. 03-27114, ordering petitioner to vacate the subject property in this case for ejectment.

The antecedent facts are as follows:

Respondent Carmel Development, Inc. was the registered owner of a Caloocan property known as the Pangarap Village located at Barrio Makatipo, Caloocan City.^[7] The property has a total land area of 156 hectares and consists of three parcels of land registered in the name of Carmel Farms, Inc. under Transfer Certificate of Title (TCT) Nos. (62603) 15634, (62605) 15632 and (64007) 15807.^[8] The lot that petitioner presently occupies is Lot No. 32, Block No. 73 covered by the titles above-mentioned.^[9]

On 14 September 1973, President Ferdinand Marcos issued Presidential Decree No. 293 (P.D. 293),^[10] which invalidated the titles of respondent and declared them open for disposition to the members of the Malacañang Homeowners Association, Inc. (MHAI), to wit:

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation 1081, dated September 21, 1972 and General Order No. 1 dated September 22, 1972 do hereby order and decree that any and all sales contracts between the Government and the original purchasers, are hereby cancelled, and those between the latter and the subsequent transferees, and any and all transfers thereafter, covering lots 979, 981, 982, 985, 988, 989, 990, 991-new, 1226, 1228, 1230, and 980-C-2 (LRC PSD-1730), all of Tala Estate, Caloocan City are hereby declared invalid and null and void ab initio as against the Government;

that Transfer Certificates of Title Nos. 62603, 6204, 6205, covering lots 1, 2, and 3., PCS-4383, **all in the name of Carmel Farms, Inc., which are a consolidation and subdivision survey of the lots hereinbefore enumerated, are declared invalid and considered cancelled as against the Government; and that said lots are declared open for disposition and sale to the members of the Malacañang Homeowners Association, Inc., the present bona fide occupants thereof, pursuant to Commonwealth Act No. 32, as amended.** (Emphasis supplied)

By virtue of P.D. 293, a Memorandum^[11] was inscribed on the last page of respondent's title, as follows:

Memorandum – Pursuant to Presidential Decree No. 293, this Certificate of Title is declared invalid and null and void ab initio and considered cancelled as against the government and the property described herein is declared open for disposition and sale to the members of the Malacañang Homeowners Association, Inc.

On the basis of P.D. 293, petitioner's predecessor-in-interest, Pelagio M. Juan, a member of the MHAI, occupied Lot No. 32 and subsequently built houses there.^[12] On the other hand, respondent was constrained to allow the members of MHAI to also occupy the rest of Pangarap Village.^[13]

On 29 January 1988, the Supreme Court promulgated *Roman Tuason and Remedio V. Tuason, Attorney-in-fact, Trinidad S. Viado v. The Register of Deeds, Caloocan City, Ministry of Justice and the National Treasurer*^[14] (*Tuason*), which declared P.D. 293 as unconstitutional and void ab initio in all its parts. The dispositive portion is herein quoted as follows:

WHEREFORE, Presidential Decree No. 293 is declared to be unconstitutional and void *ab initio* in all its parts. The public respondents are commanded to cancel the inscription on the titles of the petitioners and the petitioners in intervention of the memorandum declaring their titles null and void and declaring the property therein respectively described open for disposition and sale to the members of the Malacañang Homeowners Association, Inc. to do whatever else is needful to restore the titles to full effect and efficacy; and henceforth to refrain, cease and desist from implementing any provision or part of said Presidential Decree No. 293. No pronouncement as to costs.

On 17 February 1988, the Register of Deeds then cancelled the Memorandum inscribed on respondent's title,^[15] eventually restoring respondent's ownership of the entire property.

Meanwhile, sometime in 1995, petitioner took over Lot No. 32 by virtue of an Affidavit executed by Pelagio M. Juan in his favor.^[16]

As a consequence of *Tuason*, respondent made several oral demands on petitioner to vacate the premises, but to no avail.^[17] A written demand letter which was sent sometime in April 2002 also went unheeded.^[18]

On 14 January 2003, respondent filed a Complaint for Unlawful Detainer^[19] before the MeTC. After due hearing on 9 November 2007, the trial court rendered a Decision^[20] in the following manner:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant, in the following manner:

1. Ordering the defendant to vacate the subject property located at Lot No. 32, Block 73, Gregorio Araneta Ave., Makatipo, Caloocan City, together with all persons claiming right under her;
2. To pay the sum of ₱10,000.00 as Attorney's fees;
3. To pay the costs of suit.

SO ORDERED. (Emphases in the original)

In so ruling, the trial court stated that respondent was the registered owner of the property until its title was voided by P.D. 293.^[21] It had no alternative but to allow petitioner's occupancy of the premises.^[22] Since the latter's occupation was only by mere tolerance of respondent, petitioner was necessarily bound by an implied promise that he would vacate the property upon demand.^[23] Failure to do so would render him liable for unlawful detainer.

Aggrieved, petitioner appealed to the RTC. On 30 April 2008, it rendered a Decision^[24] reversing the findings of the MTC, as follows:

WHEREFORE, premises considered, the decision appealed from is hereby REVERSED AND SET ASIDE and the complaint is accordingly DISMISSED. With costs against plaintiff-appellee.

SO ORDERED. (Emphasis in the original)

In the opinion of the RTC, respondent's Complaint did not make out a case for unlawful detainer.^[25] It maintained that respondent's supposed acts of tolerance must have been present right from the start of petitioner's possession.^[26] Since the possession was sanctioned by the issuance of P.D. 293, and respondent's tolerance only came after the law was declared unconstitutional, petitioner thus exercised possession under color of title.^[27] This fact necessarily placed the Complaint outside the category of unlawful detainer.^[28]

On 24 September 2008, respondent appealed to the CA.^[29] The appellate court rendered a Decision^[30] on 25 May 2010, the dispositive portion of which states:

WHEREFORE, in view of the foregoing, the petition is **GRANTED**. The assailed decision dated April 30, 2008 of the RTC (Branch 121) of Caloocan City in Civil Case No. C-22018 is **REVERSED and SET ASIDE** and the Decision dated November 9, 2007 of the MTC (Branch 52) of Caloocan City in Civil Case No. 03-27114 is hereby **REINSTATED**.

SO ORDERED. (Emphases in the original)

In disposing of the issues, the CA observed that petitioner's arguments could not be upheld.^[31] The question of whether tolerance had been exercised before or after the effectivity of P.D. 293 would only matter if what was at issue was the timeliness of the Complaint or whether the Complaint was one for unlawful detainer or forcible entry.^[32] Since the Complaint specifically alleged that the possession of respondent was by petitioner's tolerance, and that respondent's dispossession had not lasted for more than one year, it then follows that the MeTC rightly acquired jurisdiction over the Complaint.^[33]

Moreover, with the determination of who was the lawful and registered owner of the property in question, the owner necessarily enjoyed or had a better right to the possession and enjoyment there.^[34] Hence, petitioner had no right to the continued possession of the property.^[35] Neither could he be considered a builder in good faith who could avail himself of the benefits under Article 448 of the Civil Code.^[36] From the moment P.D. 293 was declared unconstitutional and the title to the property restored to respondent, petitioner could no longer claim good faith.^[37] Thus, as provided under Article 449, petitioner loses what he would be building, planting, or sowing without right of indemnity from that time.^[38]

On 25 May 2010, petitioner filed a Motion for Reconsideration, but it was denied in a Resolution^[39] issued by the CA on 15 October 2010.

Hence, the instant Petition.

On 2 May 2011, respondent filed a Comment^[40] on the Petition for Review; and on 17 May 2011, petitioner filed a Reply.^[41]

ISSUES

From the foregoing, we reduce the issues to the following:

1. Whether or not the MeTC had jurisdiction over the case;
2. Whether or not *Tuason* may be applied here, despite petitioner not being a party to the case; and
3. Whether or not petitioner is a builder in good faith.

THE COURT'S RULING

We shall discuss the issues seriatim.

The MeTC rightly exercised jurisdiction, this case being one of unlawful detainer.

Petitioner alleges that the MeTC had no jurisdiction over the subject matter, because respondent had filed the Complaint beyond the one-year prescriptive period for ejectment cases. Despite losing ownership and possession of the property as early as 14 September 1973 when P.D. 293 took effect, respondent allegedly still failed to take the necessary action to recover it.^[42]

Petitioner also insists that tolerance had not been present from the start of his possession of the property, as respondent extended its tolerance only after P.D. 293 was declared unconstitutional.^[43] This situation necessarily placed respondent's cause of action outside the category of unlawful detainer.^[44] Consequently, the presence of an ownership dispute should have made this case either an *accion publiciana* or an *accion reivindicatoria*.^[45]

Unfortunately, petitioner's contentions are without merit. The MeTC rightly exercised jurisdiction, this case being one of unlawful detainer.

An action for unlawful detainer exists when a person unlawfully withholds possession of any land or building against or from a lessor, vendor, vendee or other persons, after the expiration or termination of the right to hold possession by virtue of any contract, express or implied.^[46] Here, possession by a party was originally legal, as it was permitted by the other party on account of an express or implied contract between them.^[47] However, the possession became illegal when the other party demanded that the possessor vacate the subject property because of the expiration or termination of the right to possess under the contract, and the possessor refused to heed the demand.^[48]

The importance of making a demand cannot be overemphasized, as it is jurisdictional in nature.^[49] The one-year prescriptive period for filing a case for unlawful detainer is tacked from the date of the last demand, the reason being that the other party has the right to waive the right of action based on previous demands and to let the possessor remain on the premises for the meantime.^[50]

In this case, it is clear from the facts that what was once a legal possession of petitioner, emanating from P.D. 293, later became illegal by the pronouncement in *Tuason* that the law was unconstitutional. While it is established that tolerance must be present at the start of the possession,^[51] it must have been properly tacked **after** P.D. 293 was invalidated. At the time the decree was promulgated, respondent had no option but to allow petitioner and his predecessor-in-interest to enter the property. This is not the "tolerance" envisioned by the law. As explained in *Tuason*, the decree "was not as claimed a licit instance of the application of social justice principles or the exercise of police power. It was in truth a disguised, vile stratagem