

THIRD DIVISION

[G.R. No. 156689, June 08, 2007]

RAFAEL DIMACULANGAN, PETITIONER, VS. GONDALINA CASALLA, RESPONDENT.

DECISION

AUSTRIA-MARTINEZ, J.:

Sought to be annulled by a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court are the November 4, 2002 Decision^[1] and January 10, 2003 Resolution^[2] of the Court of Appeals (CA) in CA G.R. SP-No. 47271.

The material facts are of record.

A 63-square meter lot known as Lot 1, Block 8A, Tramo Wakas, ZIP Project, Paranaque, Manila (subject lot) is found within the Tramo II Urban Bliss Project of the National Housing Authority (NHA). On it stands a 3-door structure.

On February 1, 1987, the NHA conducted a census of the project and found the structure on the subject lot occupied by Rafael Dimaculangan (Dimaculangan), Renato/Leticia Ferrer (Ferrer) and Sebastian dela Cruz (Dela Cruz). The NHA issued to said occupants census tags as "renters."^[3]

However, it appears that rights to the subject lot and structure were previously held by Sabina Casalla but the latter transferred the same to Gondalina Casalla (Casalla) by virtue of an Affidavit of Transfer^[4] dated October 19, 1987. Dimaculangan, Ferrer and Dela Cruz recognized Gondalina's rights to the structure, and executed a *Kasunduan* dated January 7, 1988, which reads:

Pinagtitibay ng kasunduang ito na sina Ginoong SEBASTIAN DELA CRUZ, Ginoong RAFAEL DIMACULANGAN, at Gng. LETICIA FERRER, na nangungupahan sa bahay na pag-aari ni Gng. GONDALINA R. CASALLA, ay pumapayag na umupa sa nasabing istructura sa taning na isang taon (12 months) mula ika-1 Pebrero 1988 hanggang ika-1 ng Pebrero 1989.

Pagkalipas ng nasabing palugit, kami ay nakahandang lumisan sa ***nasabing bahay***, at nasa sa may-ari na ang huling kapasyahan kung kami ay kanya pang bibigyan ng panibagong palugit.^[5] (Emphasis added)

Meanwhile, the NHA issued a master list dated March 14, 1988 where it recorded Casalla as "absentee structure owner" and Dimaculangan, Ferrer and Dela Cruz as "renters." Casalla appealed her status before the NHA Arbitration Awards Committee (NHA-AAC), which granted the same in Resolution No. 031^[6] dated September 13, 1988. NHA-AAC also recommended that preferential rights to the subject lot be

awarded to Casalla.

The one-year grace period under the January 7, 1988 *Kasunduan* lapsed on February 1, 1989 but Dimaculangan, Ferrer and Dela Cruz did not vacate the structure. This prompted Casalla to file against them a complaint for ejectment with the Metropolitan Trial Court (MTC), Paranaque. On September 27, 1993, the parties executed a compromise agreement for the turn-over of the structure to the possession of Casalla, which the MTC approved.^[7]

Around the time the compromise agreement was executed, Dimaculangan, Ferrer and Dela Cruz also filed with the NHA a letter asking that they be given preferential rights to the subject lot on the basis of their status as "renters." Their request was denied by NHA-District IV - NCR Manager Ma. Teresa P. Oblipias who, in a letter^[8] dated January 10, 1994, informed them that, based on NHA-AAC Resolution No. 031, Casalla had preferential rights to the subject lot.

Dimaculangan, Ferrer and Dela Cruz questioned Resolution No. 031 before the NHA General Manager; although Dela Cruz later abandoned his claim by executing a waiver on September 4, 1994.

In a letter-decision dated September 19, 1994, addressed to Casalla, NHA General Manager Robert P. Balao resolved the dispute in this manner:

The District's AAC recommended the award to you of the 63 sq. m. lot which was protested by DIMACULANGAN, who alleged, among others, that you purchased the structure from your mother-in-law only in October 1987 while he was already censused as a renter in February 1987.

This confirms your status as absentee structure owner (ASO) as listed in our census masterlist. You are therefore disqualified to the lot award.

Renter SEBASTIAN DE LA CRUZ has voluntarily waived his rights and interests over the contested lot in an instrument dated 2 September 1994, and, therefore, is no longer entitled to a lot award.

IN VIEW HEREOF, the NHA resolved to award to renters RAFAEL DIMACULANGAN and RENATO FERRER pro-indiviso the 63 sq. m. Lot 1, Block 8A, Tramo Wakas ZIP Project, Paranaque, Manila.

You are directed to sell your structure to renters DIMACULANGAN and FERRER at terms mutually acceptable to you within sixty (60) days from receipt of notice, otherwise, if no sale is effected after 60 days, you are deemed to have waived your rights and interests over said structure and the renters are given the option to dismantle the same to enable them to put up their own structures.

This resolution on your case is FINAL and should you opt to appeal, you have thirty (30) days from receipt of notice to perfect your appeal to the Office of the President pursuant to Administrative Order No. 18, series of 1987.^[9]

Casalla^[10] appealed to the Office of the President (OP) which issued a Resolution dated June 23, 1997 in her favor, thus:

WHEREFORE, premises considered, the letter-decision dated September 19, 1994 is hereby SET ASIDE, and Resolution No. 031 dated September 13, 1988 is hereby CONFIRMED AND REINSTATED.

SO ORDERED.^[11]

Dimaculangan filed a motion for reconsideration which the OP denied in an Order^[12] dated March 6, 1998. He then filed a petition for review with the CA.^[13]

The CA rendered the November 4, 2002 Decision assailed herein, the dispositive portion of which reads:

WHEREFORE, the assailed decision is SET ASIDE. A new judgment is hereby ENTERED declaring both petitioner and respondent legally DISQUALIFIED from being awarded the lot in question.

Let Lot I, Block 8A, Tramo Wakas ZIP Project, Paranaque, Metro Manila REVERT to the National Housing Authority for proper disposition to legally qualified applicants.

SO ORDERED.^[14]

Casalla and Dimaculangan filed their respective Motions for Reconsideration which the CA denied in its January 10, 2003 Resolution.

Dimaculangan (petitioner) now challenges before us the aforequoted Decision and Resolution on the ground that the CA committed grievous error in disqualifying him from being awarded preferential rights to the subject lot.

Before we delve into that, a few preliminary matters will have to be emphasized.

First, the possession of the structure on the subject lot is the subject matter of the ejectment case before the MTC. As borne by the records, the parties in that case entered into a compromise agreement which the MTC approved but petitioner, Ferrer and Dela Cruz later defied its terms. Hence, the MTC issued on August 8, 1994 a writ of execution, ^[15] placing Casalla in possession of the structure. The writ was implemented on September 19, 1994 as shown by a Certificate of Turn-Over of Possession.^[16]

Second, the status of Ferrer and Dela Cruz and their rights to a portion of the subject lot are not involved in the present Petition, for said parties did not join the appeal before the OP and CA.

Finally, the portion of the CA Decision and Resolution disqualifying Casalla is not an issue in the present Petition. Casalla filed a separate petition with this Court, docketed as G.R. No. 156752, but the same was denied in our Resolution of April 9, 2003. Said Resolution became final and executory on May 27, 2003.^[17]