

## **SECOND DIVISION**

**[ G.R. No. 156118, November 19, 2004 ]**

**PABLO T. TOLENTINO AND TEMPUS PLACE REALTY MANAGEMENT CORPORATION, PETITIONERS, VS. HON. OSCAR LEVISTE, PRESIDING JUDGE, RTC, QUEZON CITY, BR. 97 AND SPOUSES GERARDO CINCO, JR. AND PAMELA H. CINCO, RESPONDENTS.**

### **DECISION**

**PUNO, J.:**

Petitioners Pablo T. Tolentino and Tempus Place Realty Management Corporation seek the review and reversal of the decision and amended decision of the Court of Appeals in CA-G.R. SP No. 59506 entitled "Tempus Place Realty Management Corporation and Pablo T. Tolentino vs. Hon. Oscar Leviste, Presiding Judge, RTC - Quezon City, Branch 97 and Sps. Gerardo Cinco, Jr., and Pamela H. Cinco." The Court of Appeals denied petitioners' petition for annulment of the decision of the Regional Trial Court (RTC) of Quezon City, Branch 97, on the action for specific performance with damages filed by respondents Spouses Gerardo and Pamela Cinco against them.

The antecedent facts are as follows:

On October 18, 1996, respondents Spouses Gerardo Cinco, Jr. and Pamela Cinco filed a complaint for specific performance with damages against petitioners Tempus Place Realty Management Corporation and Pablo T. Tolentino. The complaint alleged that respondents purchased from petitioners a condominium unit in Tempus Place Condominium II at Katarungan St., Diliman, Quezon City. Despite, however, the execution of the Deed of Absolute Sale and the delivery of the owner's copy of the condominium certificate of title, petitioners failed to deliver possession of the unit because they have allegedly leased it to a third party. The complaint further alleged that petitioners refused to pay the corresponding capital gains tax and documentary stamp tax on the transaction, and execute the necessary board resolution for the transfer of the property, thus preventing respondents from registering the Deed of Absolute Sale and transferring the title to the unit in their names. The respondents claimed that because petitioners refused to deliver possession of the unit and instead leased it to a third party, they are entitled to a reasonable rental value in the amount of P20,000.00 a month from May 1994 until the time the possession of the unit is delivered to them. They also claimed moral damages in the amount of P1,000,000.00 and exemplary damages in the amount of P1,000,000.00 plus attorney's fees in the amount of P1,000,000.00.<sup>[1]</sup>

As petitioners failed to file their answer to the complaint, Hon. Oscar Leviste, Presiding Judge, RTC, Branch 97, Quezon City, issued an order on January 17, 1997 granting respondents' motion to declare petitioners in default. He also appointed

the Branch Clerk of Court to act as commissioner to receive respondents' evidence *ex parte*.<sup>[2]</sup> After reception of evidence, the trial court, on April 15, 1997, issued a decision for the respondents. It stated:

This Court after considering the oral and documentary evidences presented by the plaintiff finds that the allegation contained in their pleadings are all true facts and are entitled to the relief as prayed for, to wit:

- 1) To deliver to the plaintiffs the possession of the condominium unit covered by CCT No. 5002 of the Register of Deeds of Quezon City;
- 2) To pay the corresponding capital gains tax and documentary stamps tax on the transaction, and deliver the receipts thereof to the plaintiffs;
- 3) To execute and deliver to the plaintiffs the necessary Board Resolution;
- 4) Jointly and severally, to pay plaintiffs the following:
  - a. Actual damages in the amount of P20,000.00 a month from May 1994, up to the time possession of the condominium units (*sic*) is delivered to the plaintiffs representing the reasonable rental value of the unit;
  - b. Moral damages in the amount of P1,000,000.00;
  - c. Exemplary damages in the amount of P1,000,000.00;
  - d. Attorney's fees in the amount of P1,000,000.00.<sup>[3]</sup>

Petitioners thereafter filed a motion for new trial. They contended that their right to fair and impartial trial had been impaired by reason of accident, mistake or excusable negligence of their former counsel, a certain Atty. Villamor.<sup>[4]</sup> The trial court denied the motion for new trial for lack of merit.<sup>[5]</sup>

On November 3, 1997, petitioners, through their new counsel, Atty. Ricardo A. Santos, filed a notice of appeal of the April 15 decision of the trial court.<sup>[6]</sup> The Court of Appeals, however, dismissed the appeal on February 26, 1999 on the ground of abandonment as petitioners failed to submit the required appeal brief.<sup>[7]</sup> The decision became final and executory on March 26, 1999 and was recorded in the Book of Entries of Judgment.<sup>[8]</sup>

On July 4, 2000, petitioners filed with the Court of Appeals an action for annulment of judgment based on the following grounds:

1. The judgment in default granted reliefs in excess of what is prayed for in the complaint in gross violation of the clear provisions of the 1997 Rules of Civil Procedure.

2. The judgment in default awarded unliquidated damages in palpable violation of the mandatory provision of Section 3[,] Rule 9, 1997 Rules of Civil Procedure.
3. The judgment in default is in gross violation of Section 14, Article VIII, 1987 Constitution and Section 1, Rule 36, 1997 Rules of Civil Procedure.
4. The judgment in default was rendered in violation of the rights of the petitioner to substantive and procedural due process.
5. Corrollarily, the gargantuan award for damages by the court a quo in patent and blatant violation of the law and settled jurisprudence [is] unconscionable and clearly violative of substantial justice and equities of the case.
6. Petitioners have good and substantial defenses in respect of private respondents' claims.
7. A fortiori, the court has no jurisdiction and/or authority and has committed a grave abuse of discretion in awarding amounts in excess of what is prayed for in the complaint nor proved by the evidence as well as in palpable violation of the mandatory provisions of the Civil Code and the Rules of Court and applicable decisions of the Supreme Court. Consequently, the challenged judgment in default is an absolute nullity.<sup>[9]</sup>

On April 23, 2002, the appellate court issued a decision modifying the trial court decision. It explained that the annulment of judgment may be based on the grounds of extrinsic fraud and lack of jurisdiction, and it is important that petitioner failed to move for new trial, or appeal, or file a petition for relief, or take other appropriate remedies assailing the questioned judgment, final order or resolution through no fault attributable to him. The Court of Appeals found that the trial court decision may not be annulled on the ground of extrinsic fraud. It stated that the failure of petitioners' counsel to file an appellant's brief in the Court of Appeals did not amount to extrinsic fraud as to justify annulment of judgment, as it was not shown that their former counsel's omission was tainted with fraud and/or deception tantamount to extrinsic or collateral fraud. Neither may it be annulled on the ground of lack of jurisdiction as the action for specific performance and damages was within the jurisdiction of the RTC. Nonetheless, the appellate court, in the interest of justice and in the exercise of its sound discretion in determining the amount of damages that may be awarded, held that the moral damages in the amount of one million pesos (P1,000,000.00) was excessive. It lowered the moral damages to P100,000.00. It also reduced the exemplary damages to P100,000.00, and the attorney's fees to P100,000.00.<sup>[10]</sup>

Respondents filed a motion for reconsideration of the Decision of the Court of Appeals. On November 18, 2002, the Court of Appeals issued an Amended Decision, the dispositive portion of which reads:

WHEREFORE, the Motion for Reconsideration is partly GRANTED in that the dispositive portion of the assailed decision is modified as follows:

a) Actual damages in the amount of P10,000.00 a month from May 1994, up to the time possession of the condominium units [sic] is delivered to the plaintiffs (private respondents herein) representing the reasonable rental value of the unit.

b) Moral damages in the amount of One Hundred Thousand Pesos (P100,000.00);

c) Exemplary damages in the amount of One Hundred Thousand Pesos (P100,000.00); and,

d) Attorney's fees in the amount of One [H]undred Thousand Pesos (P100,000.00).

SO ORDERED.<sup>[11]</sup>

Petitioners filed the instant petition for review of the decision and amended decision of the Court of Appeals. They raise the following arguments:

1. The petitioners can avail of the remedy of annulment of judgment to annul the decision of the RTC in Civil Case No. 96-29707 as Hon. Judge Leviste had no jurisdiction and/or acted without jurisdiction in issuing the April 15, 1997 Decision because:

a. The judgment in default granted reliefs in excess of what is prayed for in the complaint in gross violation of the clear provisions of the 1997 Rules of Civil Procedure.

b. The judgment in default awarded unliquidated damages in palpable violation of the mandatory provision of Section 3[,], Rule 9, 1997 Rules of Civil Procedure.

c. The judgment in default is in gross violation of Sec. 14, Art. VIII, 1987 Constitution and Sec. 1, Rule 36, 1997 Rules of Civil Procedure.

d. The judgment in default was rendered in violation of the rights of the petitioner to substantive and procedural due process.

2. The petitioners were prevented from having their day in court because of the gross negligence of their former counsel, which gross negligence amounts to extrinsic fraud.

3. The remedies of appeal, petition for relief or other remedies are no longer available through no fault of petitioners.

4. The petitioners have valid and substantial defenses to respondents' cause of action.<sup>[12]</sup>

The petition is without merit.