

FIRST DIVISION

[G.R. No. 120851, May 14, 1997]

**NINYO AQUINO INTERNATIONAL AIRPORT AUTHORITY AND
EDUARDO CARRASCOSO, PETITIONERS, VS. COURT OF APPEALS,
HON. LEONARDO M. RIVERA AND SALEM INVESTMENT
CORPORATION, RESPONDENTS.
D E C I S I O N**

HERMOSISIMA, JR., J.:

Before us is a petition for review under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision^[1] of the Court of Appeals^[2] which affirmed in toto the judgment rendered by the Regional Trial Court^[3] in favor of private respondent Salem Investment Corporation (hereafter, "Salem").

Salem had filed an action for specific performance with damages and mandatory injunction^[4] against petitioners Ninoy Aquino International Airport Authority (hereafter, "NAIAA") and Eduardo Carrascoso when the latter, with evident bad faith and manifest intent to avoid its obligations under a subsisting Contract of Lease, unilaterally increased the rentals fixed in said lease contract and refused to issue the corresponding building permit to construct the hotel subject of said lease contract unless Salem agreed to such unilateral rental increase.

The respondent Court of Appeals narrated the relevant antecedents of this case, as to which there is no dispute, in this manner:

"Sometime in 1967, the predecessor-in-interest of appellant Ninoy International Airport Authority ('NAIAA'), the Civil Aeronautics Administration ('CAA'), an agency of the Republic of the Philippines, leased to the appellee a parcel of land fronting the Manila Domestic Airport in Pasay City. This is a portion of the land described in TCT No. 6735 registered in the name of the Republic of the Philippines.

This piece of government property was leased because the area was 'an eyesore to the airport premises due to the fact that a major portion of it consist[ed] of swampy and talahib infested silt and abandoned fishponds and occupied by squatters and some CAA employees with ungainly makeshift dwellings.' Thus, in accordance with its general plan to improve and beautify the airport premises and in pursuance of its desire to provide facilities and conveniences as may be necessary for the comfort, convenience and relaxation of transients, tourists and the general public, the CAA leased the subject premises to appellee, a private corporation engaged in hostelry and allied businesses, who [was] ready, willing and able to cooperate with the CAA in the implementation of its general development plan for the airport premises.

The lease contract provided, among other things, that:

'2. That within the leased premises, the LESSEE shall construct the hotel building and other necessary improvements x x x. The final plans and specifications for the hotel building and other necessary improvements including the 'Golf Driving Range' x x x shall be submitted to the LESSOR for approval within Ninety (90) days from receipt of a copy of this Contract as approved by the Secretary of Public Works and Communications. x x x The LESSEE shall begin construction within Ninety (90) days from receipt by the LESSEE of the written notification by the LESSOR that the leased premises are free from squatters and other occupants, to be completed within Two (2) years thereafter.

x x x

3. That the term of the lease shall be for a period of Twenty-Five (25) years, commencing from the date of receipt of approval of this Contract by the Secretary of Public Works and Communications, and at the option of the LESSEE, renewable for another Twenty-Five (25) years. It is understood, that after the first 25 years lease, the ownership of, and full title to, all the buildings and permanent improvements introduced by the LESSEE on the leased premises including those introduced on the Golf Driving Range shall automatically vest in the LESSOR, without cost.

x x x

4. That the renewal of this lease contract shall be for another period of Twenty-Five (25) years, under the same terms and conditions herein stipulated; provided, however, that, since the ownership of the hotel building and permanent improvement have [sic] passed on to the LESSOR, the LESSEE shall pay as rental, in addition to the rentals herein agreed upon, an amount equivalent to One (1%) percent of the appraised value of the hotel building and permanent improvements at the time of expiration of Twenty-Five (25) years lease period, payable annually x x x.'

The lease was approved on 15 February 1967.

In compliance with its obligation under the lease contract, appellee paid the stipulated monthly rentals. It also ejected about 700 squatter families on the leased premises and filled up the area which was then swampy and overgrown with 'talahib' (i.e., cogon grass). The appellee also prepared the plans and specifications of the proposed [h]otel and submitted the same to [the CAA]. The plans were approved by the CAA through its Senior Civil Engineer, Chief of the Airport Division and the Director of Civil Aviations. The construction of the hotel, however, did not materialize as the previous officials of appellant corporation under the administration of the late President Ferdinand Marcos withheld approval allegedly to avoid displeasing former First Lady Imelda Romualdez Marcos who was then in the process of constructing the nearby Philippine Village Hotel x x x.

In lieu of the hotel, appellee was instead allowed to construct a cinema, a driving range and other structures in a portion of the leased premises x x

x.

Sometime afterwards, appellee requested the appellants to allow it to construct offices and stores in the vacant portions of the leased areas to avoid its being idle but such request was declined by appellants in a letter to appellee dated 20 July 1989. In said letter, it was explained that the rental rate, which is P2,007.60 a month was one of the reasons why the construction permit was not granted. The appellee was also informed that the appellant found the renewal clause x x x as disadvantageous to the latter. Hence, as early as August 1987, the then Manila International Airport Authority (MIAA) Board of Directors had instructed the MIA Management to renegotiate the terms and conditions of the lease contract before the application for a construction permit can be considered x x x.

On 18 August 1989, appellee replied and asked for a reconsideration of the denial of the application for a construction permit. Two other follow-up letters were also sent by the appellee on 4 October 1989 and 8 November 1989 x x x.

In November 1989, the appellant responded through a letter stating that it has deferred action on the application as it was updating its master plan of development of the NAIA that will involve utilization of the property leased to the appellee x x x.

Earlier, the Office of the Government Corporate Counsel, Department of Justice, released its Opinion No. 071, dated 3 April 1989, stating that appellant NAIAA cannot decline appellee's application for permit to construct offices and stores within the leased premises.

Notwithstanding this opinion as well as the series of letters sent by the appellee, the appellant corporation, however, still refused to issue the requested construction permit.

The appellee then instituted a complaint for specific performance with prayer for damages and mandatory injunction on 17 August 1990 before the Regional Trial Court in Pasay City. Through their complaint, the appellee sought to compel the appellants to issue a construction permit for the construction of a building housing offices and stores within the leased premises x x x.

In their answer, the appellants controverted the action on the ground that the lease contract envisions a hotel and not the construction of offices and stores x x x.

The appellee then filed an amended complaint with leave of court on 14 February 1991 praying alternatively for the construction of a hotel as provided for in the lease contract x x x.

On 17 April 1991, while the case was pending, the appellant wrote the appellee requiring the latter to submit the plans and drawings of the proposed hotel for endorsement to Air Transportation Office. This request

was made in anticipation of possible amicable settlement that may be achieved during the pre-trial of the case x x x.

On 29 April 1991, the appellee submitted the required plans and specifications with a reminder that the same had been previously submitted and that the Director of Civil Aviation, now Air Transportation Office, had already approved it x x x.

A supplemental complaint with petition for preliminary injunction and restraining order was filed on 30 July 1991 by the appellee. The appellee prayed that the appellant be restrained from collecting concessionaire's privilege fees for its subleases and other amounts not contemplated in the lease contract x x x."

On January 15, 1992, the trial court issued a temporary restraining order enjoining petitioners from collecting aforementioned Concessionaire's Privilege Fees on the sub-lessees' use of the premises leased out to private respondent Salem and from evicting the latter from the premises in case of non-payment of said fees.

Thereafter, trial on the merits ensued.

On May 20, 1993, upon private respondent Salem's motion, the trial court issued a writ of preliminary injunction pendente lite enjoining petitioners from collecting the aforementioned fees and from committing any and all acts in furtherance of or aimed at enforcing said collection.

On July 20, 1993, the trial court rendered judgment in favor of private respondent Salem, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered:

1. Ordering [NAIAA] to issue permit to [Salem] for the construction of offices and stores and/or the hotel pursuant to the Lease Contract x x x and allowing [Salem] to use and occupy the leased premises for a period of 25 years counted from the issuance of the construction permit, the lease to be renewable for another 25 years thereafter at the option of the plaintiff under the same terms and conditions specified in the Lease Contract; provided, however, that the period herein fixed shall not apply with respect to [Salem's] existing improvements in the leased premises, the term of which shall be the remaining period of 25 years representing the renewal option exercised by [Salem] after the expiration of the original period;
2. Declaring null and void [NAIAA's] concessionaires fees x x x and all other similarly situated collection process imposed unto [Salem] not otherwise covered, embranced [sic] or authorized under the Lease Contract x x x;
3. Making permanent the writ of preliminary injunction issued;
4. Ordering x x x NAIAA to pay [Salem] the sum of P500,000.00 compensatory damages per annum beginning March 1984 and yearly thereafter, until the subject construction permit is finally issued;
5. Ordering x x x NAIAA to pay [Salem] the sum of P200,000.00 x x x as x x x

attorney's fees; and

6. Cost against [NAIAA]."^[5]

Unable to agree with the trial court's decision, petitioners filed an appeal with respondent Court of Appeals. Before the respondent appellate court, petitioners contended that the trial court erred in:

- 1) ordering [NAIAA] to issue a permit to [Salem] for the construction of offices and stores and/or hotel pursuant to the lease contract;
- 2) allowing [Salem] to use and occupy the leased premises for a period of twenty-five years from the issuance of the permit, the same to be renewable for another twenty-five years thereafter at [Salem's] option under the same terms and conditions;
- 3) declaring null and void [NAIAA's] concessionaires fees and all other similarly situated collection process imposed unto [Salem] not otherwise covered embraced or authorized under the lease contract;
- 4) ordering [NAIAA] to pay [Salem] the sum of P500,000 compensatory damages per annum beginning March 1984 and yearly thereafter, until the subject construction permit is finally issued; [and]
- 5) ordering [NAIAA] to pay[Salem] the sum of P200,000 as attorney's fees."^[6]

The lease contract being sought to be enforced by private respondent Salem having already expired on February 15, 1992, or twenty-five (25) years after its approval on February 15, 1967, petitioners anchored their arguments before the respondent Court of Appeals on the fact of the expiration of said lease contract. Petitioners asseverated that the fact of the expiration of the lease contract in question, rendered moot and academic, and thus, unenforceable, the orders of the trial court for NAIAA to issue the building permits and to allow Salem to use and occupy the leased premises for a period of twenty-five (25) years from the issuance of the building permit, renewable for the same period at the option of Salem.

The respondent appellate court, however, was utterly unconvinced. It ratiocinated its affirmance of the trial court's judgment, in this wise:

"The first argument hinges on the fact that, by its terms, the lease contract had expired on 15 February 1992.

The trial court opined that:

'By and large, considering that the obligation to issue the permit to construct the hotel devolves upon the defendants and that the principal purpose of the Lease Contract was to construct the hotel, the period of the lease should commence on the date when the construction permit is issued. In other words, unless the permit is issued, the term of the lease cannot be deemed to have commenced, with respect