Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MORETO MIRALLOSA and all persons claiming rights and interests under him,
Petitioner,

- versus -

CARMEL DEVELOPMENT, INC.,
Respondent.

G.R. No. 194538

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:
NOV 27 2013

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DECISION

SERENO, *CJ:*

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:

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[1] *Rollo*, pp. 28-55.
[2] Id. at 7-19; CA Decision dated 25 May 2010, penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Antonio L. Villamor and Florito S. Macalino.
[3] Id. at 20; CA Resolution dated 15 October 2010.
[4] Id. at 112-114; RTC Decision dated 30 April 2008, penned by Presiding Judge Adoracion G. Angeles.
[5] Id. at 115; RTC Order dated 11 August 2008.
[6] Id. at 187-190; MeTC Order dated 9 November 2007, penned by Acting Presiding Judge Josephine M. Advento-Vito Cruz.

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.

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[7] Id. at 8.
[8] Id.
[9] Id.
[10] *See* Presidential Decree No. 293 otherwise known as "Cancelling the Sale Certificates and/or Transfer Certificates of Title Numbers 62603, 62604, And 62605, covering Lots 1, 2, and 3, respectively, Pcs-4383, all in the name of Carmel Farms, Inc., which is a consolidation and subdivision of Lots 979, 981, 982, 985, 988, 989, 990, 991-New, 1226, 1230, and 980-C-2 (Lrc Psd-1730), All of Tala Estate, Caloocan City, and Declaring the same open for disposition to the Malacañang Homeowners Association, Inc., the present occupants, pursuant to the provisions of Commonwealth Act Number 32, as amended."
[11] *Rollo,* p. 8.

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 inscripted 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:

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[12] Id.
[13] Id. at 8-9.
[14] 241 Phil. 650, 663 (1988).
[15] *Rollo*, p. 9.
[16] Id. at 408.
[17] Id. at 10.
[18] Id. at 9-10.
[19] Id. at 117-120.
[20] Supra note 6.

> **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]

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[21] Id. at 188.
[22] Id.
[23] Id. at 189.
[24] Supra note 4.
[25] Id. at 114.
[26] Id.
[27] Id.
[28] Id.

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.

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[29] Id. at 56-108.
[30] Supra note 2.
[31] Id. at 15.
[32] Id.
[33] Id. at 15-16.
[34] Id. at 17.
[35] Id.
[36] Id.
[37] Id.
[38] Id. at 18.
[39] Supra note 3.

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.

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[40] Id. at 395-414.
[41] Id. at 451-463.
[42] Id. at 37.
[43] Id. at 45-46.
[44] Id.
[45] Id. at 37.

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 deliberately resorted to favor a few individuals, in callous and disdainful disregard of the rights of others. **It was in reality a taking of private property without due process and without compensation whatever, from persons relying on the indefeasibility of their titles in accordance with and as explicitly guaranteed by law.**"[52]

When respondent sent petitioner a demand letter in April 2002 and subsequently filed the Complaint in January 2003, it did so still within the

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[46] *Samelo v. Manotok Services, Inc.*, G.R. No. 170509, 27 June 2012, 675 SCRA 132, citing *Racaza v. Gozum*, 523 Phil. 694, 707 (2006).
[47] *Jose v. Alfuerte*, G.R. No. 169380, 26 November 2012, 686 SCRA 323, citing *Estate of Soledad Manantan v. Somera*, G.R. No. 145867, 7 April 2009, 584 SCRA 81, 89-90.
[48] Id.
[49] *Cajayon v. Sps. Batuyong*, 517 Phil. 648 (2006), citing *Muñoz v. Court of Appeals*, G.R. No. 102693, 23 September 1992, 214 SCRA 216.
[50] *Leonin v. Court of Appeals*, 534 Phil. 544 (2006), citing *Cañiza v. CA*, 335 Phil. 1107, 1117 (1997); *Penas, Jr. v. Court of Appeals*, G.R. No. 112734, 7 July 1994, 233 SCRA 744, 747.
[51] *Sarona v. Villegas*, 131 Phil. 365, 372 (1968).
[52] Supra note 14, at 662-663.

one-year prescriptive period imposed by the rules. It matters not whether there is an ownership issue that needs to be resolved, for as we have previously held, a determination of the matter would only be provisional. In *Heirs of Ampil v. Manahan*,[53] we said:

> In an unlawful detainer case, the physical or material possession of the property involved, independent of any claim of ownership by any of the parties, is the sole issue for resolution. But where the issue of ownership is raised, the courts may pass upon said issue in order to determine who has the right to possess the property. This adjudication, however, is only an initial determination of ownership for the purpose of settling the issue of possession, the issue of ownership being inseparably linked thereto. As such, the lower court's adjudication of ownership in the ejectment case is merely provisional and would not bar or prejudice an action between the same parties involving title to the property.

Tuason may be applied despite petitioner not being a party to that case, because an unconstitutional law produces no effect and confers no right upon any person.

Petitioner argues that respondent has no cause of action against him, because under the doctrine of operative fact and the doctrine of *res inter alios judicatae nullum aliis praejudicium faciunt,* petitioner should not be prejudiced by *Tuason*; the declaration of the unconstitutionality of P.D. 293 should not affect the rights of other persons not party to the case.[54]

Again, petitioner's argument deserves scant consideration. In declaring a law null and void, the real issue is whether the nullity should have prospective, not retroactive, application.[55] *Republic v. Court of Appeals*[56] is instructive on the matter:

> The strict view considers a legislative enactment which is declared unconstitutional as being, for all legal intents and purposes, a total nullity, and it is deemed as if had never existed. x x x.
>
> A judicial declaration of invalidity, it is also true, may not necessarily obliterate all the effects and consequences of a void act occurring prior to such a declaration. Thus, in our decisions on the moratorium laws, we have been constrained to recognize the interim effects of said laws prior to their declaration of unconstitutionality, but

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[53] G.R. No. 175990, 11 October 2012, 684 SCRA 130, 139.
[54] *Rollo*, pp. 46-48.
[55] *Republic of the Philippines v. Court of Appeals*, G.R. No. 79732, 8 November 1993, 227 SCRA 509.
[56] Id. at 512.

> there we have likewise been unable to simply ignore strong considerations of equity and fair play. x x x.

As a general rule, a law declared as unconstitutional produces no effect whatsoever and confers no right on any person. It matters not whether the person is a party to the original case, because "[n]ot only the parties but all persons are bound by the declaration of unconstitutionality, which means that no one may thereafter invoke it nor may the courts be permitted to apply it in subsequent cases. It is, in other words, a total nullity."[57] Thus, petitioner's invocation of the doctrine of *res inter alios judicatae nullum aliis praejudicium faciunt* cannot be countenanced. We have categorically stated that the doctrine does not apply when the party concerned is a "successor in interest by title subsequent to the commencement of the action, or the action or proceeding is *in rem*, the judgment in which is binding against him."[58] While petitioner may not have been a party to *Tuason*, still, the judgment is binding on him because the declaration of P.D. 293 as a nullity partakes of the nature of an *in rem* proceeding.

Neither may petitioner avail himself of the operative fact doctrine, which recognizes the interim effects of a law prior to its declaration of unconstitutionality.[59] The operative fact doctrine is a rule of equity. As such, it must be applied as an exception to the general rule that an unconstitutional law produces no effects.[60] The doctrine is applicable when a declaration of unconstitutionality will impose an undue burden on those who have relied on the invalid law,[61] but it can never be invoked to validate as constitutional an unconstitutional act.[62]

In this case, petitioner could not be said to have been unduly burdened by reliance on an invalid law. Petitioner merely anchored his right over the property to an Affidavit allegedly issued by Pelagio M. Juan, a member of the MHIA, authorizing petitioner to occupy the same.[63] However, this Affidavit was executed only sometime in 1995, or approximately seven years after the *Tuason* case was promulgated.[64] At the time petitioner built the structures on the premises, he ought to have been aware of the binding effects of the *Tuason* case and the subsequent unconstitutionality of P.D. 293. These circumstances necessarily remove him from the ambit of the operative fact doctrine.

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[57] Id. at 511.
[58] *Dar Adventure Farm Corp., v. Court of Appeals*, G.R. No. 161122, 24 September 2012, 681 SCRA 580, 583.
[59] Supra note 55, at 512.
[60] *League of Cities of the Philippines v. COMELEC*, G.R. No. 176951, 24 August 2010, 628 SCRA 819.
[61] *Chavez v. JBC*, G.R. No. 202242, 17 July 2012, 676 SCRA 579, citing *Planters Products, Inc. v. Fertiphil Corporation*, G.R. No. 166006, 14 March 2008, 548 SCRA 485, 516-517.
[62] Supra note 61.
[63] *Rollo*, pp. 408-409.
[64] Id.

Petitioner may not be deemed to be a builder in good faith.

Petitioner also argues that he is a builder in good faith for want of knowledge of any infirmity in the promulgation of P.D. 293.[65] Being a builder in good faith, he believes that he is entitled to the reimbursement of his useful expenses and that he has a right to retain possession of the premises, pending reimbursement of the value of his improvements to be proven during trial, in accordance with Article 545 of the Civil Code.[66]

Upon perusal of the records, however, we hold that petitioner is not a builder in good faith. A builder in good faith is "one who builds with the belief that the land he is building on is his, or that by some title one has the right to build thereon, and is ignorant of any defect or flaw in his title."[67] Since petitioner only started occupying the property sometime in 1995 (when his predecessor-in-interest executed an Affidavit in his favor), or about seven years after *Tuason* was promulgated, he should have been aware of the binding effect of that ruling. Since all judicial decisions form part of the law of the land, its existence should be "[o]n one hand, x x x matter of mandatory judicial notice; on the other, *ignorantia legis non excusat.*"[68] He thus loses whatever he has built on the property, without right to indemnity, in accordance with Article 449 of the Civil Code.[69]

WHEREFORE, the Petition for Review on Certiorari is hereby **DISMISSED.** The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 105190 are **AFFIRMED.**

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

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[65] Id. at 460.
[66] Id.
[67] *Rosales v. Castelltort*, 509 Phil. 137, 147 (2005), citing *Macasaet v. Macasaet*, 482 Phil. 853, 871 (2004) (citation omitted).
[68] *Lapid v. Laurea*, 439 Phil. 887, 896-897 (2002).
[69] Civil Code, Art. 449. He who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity.

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice