Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

BERMON MARKETING COMMUNICATION CORPORATION, Petitioner,	**G.R. No. 224552**
	Present:
- versus -	PERALTA, *C.J.*, *Chairperson*, CAGUIOA, CARANDANG, ZALAMEDA, and GAERLAN, *JJ.*
SPOUSES LILIA M. YACO and NEMESIO YACO, Respondents.	Promulgated: MAR 0 3 2021

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DECISION

CARANDANG, *J.*:

Before Us is a Petition for Review on *Certiorari*[1] questioning the Decision[2] dated October 23, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 126732 affirming with modification the Decision[3] dated March 30, 2012 of the Regional Trial Court (RTC) in SCA Case No. MC-11-914, which affirmed the Decision[4] dated August 8, 2011 of the Metropolitan Trial Court (MeTC) in Civil Case No. 21584 ordering Bermon Marketing Communications Corporation (petitioner) to vacate the leased premises and to pay reasonable compensation as rental of the property until the same is fully vacated, as well as to pay attorney's fees.

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1 *Rollo*, pp. 10-21.

2 Penned by Associate Justice Melchor Q.C. Sadang, with the concurrence of Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a Member of this Court); id. at 26-36.

3 Penned by Judge Carlos A. Valenzuela; CA *rollo*, pp. 27-30.

4 Penned by Judge Flordeliza M. Silao; id. at 147-153.

Facts of the Case

Respondent Spouses Lilia M. Yaco and Nemesio Yaco (spouses Yaco) are the registered owners of a parcel of land at No. 72 Apo St., Mandaluyong City containing an area of 393 square meters with a one-storey building, an old residential house and an open space between the two buildings. On December 19, 2000, spouses Yaco and petitioner entered into a Contract of Lease[5] dated January 2, 2001, whereby spouses Yaco leased the subject property to petitioner for a period of 6 years for the amount of ₱50,000.00 per month for the first two years and will be subject to a 10% increase every two years.[6]

Under the lease contract it is provided that petitioner shall construct, at its own expense, a second floor on the existing office, which upon termination of the lease will automatically become the property of the spouses Yaco.[7] As claimed by petitioner it incurred expenses of ₱800,000.00 for the construction of the same.[8]

Then, sometime March 2001, petitioner constructed a new building on the open space in the property to be used for its advertisement business. Petitioner claimed that the construction was with the knowledge and consent of the spouses Yaco. Petitioner incurred an expense of ₱1,135,282.41 on the materials[9] and ₱1,049,219.00 on labor.[10] According to the petitioner, the construction of the building was made with the understanding that the lease contract will be extended for another four years.[11]

However, on January 12, 2007, the lease expired without the same being renewed. Thereafter, the lease was converted into a month-to-month basis. On December 14, 2007, spouses Yaco sent petitioner a Demand Letter to vacate the premises and to pay the rent arrears.[12]

Petitioner claimed that the spouses Yaco went to its office and left a handwritten proposal for the rent to be increased to ₱90,000.00 per month. Petitioner did not accept the proposed increase and made a counter-proposal of ₱70,000.00 per month. Spouses Yaco promised to return but they never did.[13] Then, on June 12, 2008, petitioner was surprised when they received a demand letter for the unpaid rentals and to vacate the premises.[14]

Thereafter spouses Yaco filed a Complaint for ejectment[15] praying that the court order petitioner to vacate the premises and to pay the amount of

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5 Id. at 40-42.
6 Id. at 40.
7 Id.
8 Id. at 48.
9 Id. at 100-108.
10 Id. at 119-135.
11 Id. at 58.
12 Id.
13 Id.
14 Id. at 147-148.
15 Id. at 34-38.

₱242,000.00, ₱540,000.00 as payment for the use of improvements from Janurary 12, 2007 up to June 12, 2008, and ₱100,000.00 a month for the use of the entire premises from June 13, 2008 until fully vacated.[16]

In its Answer with Counterclaim,[17] petitioner claimed that the parties agreed that the lease will be extended to 10 years and that petitioner may construct a building on the open space. Petitioner spent more or less ₱2,000,000.00 for the construction of the new building. Further, for the construction of the second floor building, petitioner spent ₱500,000.00. Petitioner claimed that it should be reimbursed of the following amounts, since the same was incurred in improving the property, thereby increasing the value of the land.[18]

As reply, spouses Yaco alleged that they were not liable to reimburse petitioner for the construction cost because the lease provided that the construction of the second floor will be at petitioner's own expense without right of reimbursement, the ownership of the building belonging to spouses Yaco upon expiration of the lease. Further, the construction of the new building on the open space was without consent or knowledge of spouses Yaco.[19]

Ruling of the Metropolitan Trial Court

On August 8, 2011, the MeTC rendered a judgment[20] in favor of the spouses Yaco, to wit:

> WHEREFORE, premises considered, judgment is hereby rendered ordering defendant-corporation and all persons claiming right under it to:
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> 1. vacate the subject premises;
> 2. pay reasonable compensation of P130,000.00 a month as rental from June 13, 2008 until the premises is fully vacated;
> 3. pay the amount of P30,000.00 as attorney's fees;
> 4. pay the costs of suit.
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> Defendant's counterclaim is dismissed.
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> SO ORDERED.[21]

Ruling of the Regional Trial Court

On appeal,[22] the RTC affirmed *in toto* the ruling of the MeTC.[23]

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16 Id. at 37-38.
17 Id. at 45-49.
18 Id.
19 Id. at 52-56.
20 Supra note 4.
21 CA *rollo*, p. 153.
22 Id. at 154.
23 Id. at 30.

Petitioner then filed a petition[24] with the CA to question the decisions of the MeTC and the RTC.

Ruling of the Court of Appeals

On October 23, 2015, the CA partially granted the appeal of petitioner.[25] The CA ruled that Article 448 of the Civil Code applies only to a builder in good faith, meaning one who builds on a land in the honest belief that he is the owner thereof. Article 448 of the Civil Code does not apply to a lessee who builds on the leased premises because the lessee knows that he is not the owner of the leased premises. The law that governs improvements introduced by a lessee on the leased premises is Article 1678 of the Civil Code. The lessor has the option to pay the lessee one-half of the value of the useful improvements. Should the lessor refuse to pay the improvements, the lessee may remove the improvements even though the principal thing may suffer damage.[26]

Still, the spouses Yaco are not liable to pay one-half of the amount of the improvements to petitioner since it cannot be said that the latter was in good faith when it introduced the improvements since it did not present evidence that the respondents consented to such construction. Thus, where the lessee introduced improvements and made repairs on the leased property in violation of the prohibition stipulated in the verbal agreement with the lessor, he cannot claim good faith and is not entitled to a reimbursement of the improvement.[27]

The CA, however, held that the grant of ₱130,000.00 monthly rental is without basis. Here, petitioner alleged that spouses Yaco offered an increased monthly rental of ₱90,000.00 but the former made a counter-offer of ₱70,000.00 monthly rental. Thus, the half-way amount of ₱80,000.00 should be reasonable compensation for the use of the premises.[28] Thus:

> WHEREFORE, the petition is PARTIALLY GRANTED. The August 8, 2011 Decision of the Metropolitan Trial Court, Branch 59, Mandaluyong City in Civil Case No. 21584, which was affirmed in toto by the Regional Trial Court, Branch 213, Mandaluyong City in SCA Case No. MC-11-914 in its March 30, 2012 Decision, is AFFIRMED with MODIFICATIONS, as follows: 1) the amount of P130,000.00 a month awarded as reasonable compensation for the use of the premises from June 13, 2008 until the premises are vacated is REDUCED to P80,000.00 a month; 2) petitioner's deposit of P200,000.00 shall be DEDUCTED from the reasonable compensation stated above; and 3) the award of attorney's fees is DELETED.

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24 Id. at 10-23.
25 *Rollo*, p. 36.
26 Id. at 32-34.
27 Id. at 34.
28 Id. at 34-35.

SO ORDERED.[29] (Emphasis removed).

Petitioner's Arguments

Petitioner argued that Article 1678 of the Civil Code is applicable in the instant case. It claimed that spouses Yaco had already exercised their option under the law when they stated in their demand letters that the improvements were now owned by them. Clearly, they had exercised their option to appropriate the improvements. Corollary, therefore, the obligation to pay one-half of the improvements now arises.[30]

Petitioner claimed that the construction of the improvements was with the consent and knowledge of the spouses. If it is true that the spouses Yaco did not consent as to the construction of the building on the open space, the latter could have exercised their option to have the petitioner remove the improvements.[31]

Respondents' Arguments

Spouses Yaco, on the other hand, argued that they are not liable to pay one-half of the improvements since as provided in the Contract of Lease the improvements will be owned by them at the end of the lease. Thus, they are not liable to reimburse petitioner of the amount it spent to construct the buildings. Further, assuming that Article 1678 is applicable, they are still not liable to pay one-half of the value of the improvements because petitioner is not in good faith when it constructed the building on the open space since they never consented to the construction of the same.[32]

Issues

The controversies that remain in this case are: (1) whether Article 1678 of the Civil Code is applicable in the present case; and (2) whether spouses Yaco is liable to pay one-half of the amount of the improvements to petitioner.

Ruling of the Court

At the outset, the question regarding the propriety of petitioner's ejectment is no longer an issue since spouses Yaco already obtained possession of the subject property. What remains is the applicability of Article 1678 of the Civil Code in this case.

It is settled that only questions of law may be raised in petitions for review on *certiorari*.[33] A question of law exists when the doubt centers on

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29 Id. at 36.
30 Id. at 17.
31 Id. at 18-20.
32 Id. at 90-93.
33 *Urieta Vda. De Aguilar v. Spouses Alfaro*, 637 Phil. 131, 140 (2010), citing the RULES OF COURT, Rule 45, Section 1.

what the law is on a certain set of facts while a question of fact results when the issue revolves around the truth or falsity of the alleged facts.[34] Here, petitioner raised a question of law, since the resolution of the case does not involve re-evaluating the pieces of evidence presented by both parties.

Article 1678 of the Civil Code is not applicable in the present case. Petitioner has effectively waived its right of reimbursement under the Contract of Lease.

Article 1678 of the Civil Code provides that:

> Article 1678. If the lessee makes, in good faith, useful improvements which are suitable to the use for which the lease is intended, without altering the form or substance of the property leased, the lessor upon the termination of the lease shall pay the lessee one-half of the value of the improvements at the time. Should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby. He shall not, however, cause any more impairment upon the property leased than is necessary.
>
> With regard to ornamental expenses, the lessee shall not be entitled to any reimbursement, but he may remove the ornamental objects, provided no damage is caused to the principal thing, and the lessor does not choose. to retain them by paying their value at the time the lease is extinguished.

By express provision of the law, Article 1678 of the Civil Code governs as to the improvements introduced by the lessee on the leased premises during the term of the lease. Article 1678 gives the lessor the sole option to choose whether to appropriate the improvements and to pay one-half of the cost of the improvements or to exercise the option to have the lessee remove the improvements even if the principal thing suffers damage.[35]

The payment of one-half of the value of the improvements was intended to prevent unjust enrichment on the part of the lessor which now has to pay one-half of the value of the improvements at the time the lease terminates because the lessee has already enjoyed the same, whereas the lessor could enjoy them indefinitely thereafter.[36]

Nevertheless, under Article 1306 of the Civil Code, it is provided that "the contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy." Thus, parties are free to enter into agreements and stipulate on the terms and conditions of the

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34 *Heirs of Villanueva v. Heirs of Mendoza*, 810 Phil. 172, 178 (2017).
35 *Cheng v. Sps. Donini*, 608 Phil. 206, 218 (2009).
36 *Parilla v. Dr. Pilar*, 538 Phil. 909, 915 (2006).

contract and waive their rights, so long as the same are not contrary to law, morals, good customs, public order or public policy. In the present case, Spouses Yaco and petitioner stipulated that any improvements shall be constructed at the expense of the lessee which shall automatically become the exclusive property of the lessor at the end of the lease without any reimbursement.[37]

In the case of *Lhuillier v. Court of Appeals*,[38] the agreement of the parties in the contract of lease to the effect that improvements introduced by the lessee shall become the property of the lessor without reimbursement is not contrary to law, morals, public order or public policy. Therefore, the lessee is not prohibited from waiving his right to reimbursement.[39]

Petitioner waived his right to reimbursement of one-half of the amount of the improvements he introduced. Thus, in the absence of any allegation that it did not freely or knowingly waived its right to reimbursement as stipulated in the contract of lease, Bermon is bound by the same. As such, spouses Yaco is not entitled to reimburse petitioner.

While, this Court is aware that in the recent case of *CJH Development Corporation v. Aniceto*,[40] it held that a provision in the contract which grants the lessor right to appropriate the improvement without any obligation to reimburse directly contradicts Article 1678 of the Civil Code and that the lessor cannot own the improvement without paying the lessee,[41] the same is simply an *obiter dictum* since the right of reimbursement was not even put into issue since CJH Development Corporation did not appropriate and used the improvements used by Aniceto. It is settled that "an obiter dictum is a remark made, or opinion expressed, by a judge, in his decision upon a cause by the way, that is, incidentally or collaterally, and not directly upon the question before him, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument. It does not embody the resolution or determination of the court, and is made without argument, or full consideration of the point. It lacks the force of an adjudication, being a mere expression of an opinion with no binding force for purposes of *res judicata*."[42] Thus, it cannot be used as a guiding principle in this case to uphold petitioner's right of reimbursement.

WHEREFORE, the petition is **DENIED**. The Decision dated October 23, 2015 of the Court of Appeals in CA-G.R. SP No. 126732 is **AFFIRMED** *in toto*.

SO ORDERED.

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37 CA *rollo*, p. 40.

38 401 Phil. 829 (2000).

39 Id. at 835.

40 G.R. No. 224006, July 6, 2020.

41 Id.

42 *Dee v. Harvest All Investment Limited*, 807 Phil. 572, 583 (2017), citing *Land Bank of the Phils. v. Santos*, 779 Phil. 587, 608 (2016), citing *Land Bank of the Phils. v. Suntay*, 678 Phil. 879, 913-914 (2011).

ROSMARI D. CARANDANG
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

SAMUEL H. GAERLAN
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.

DIOSDADO M. PERALTA
Chief Justice