



Republic of the Philippines
Supreme Court
Bacolod City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 29, 2022, which reads as follows:

“G.R. No. 261733 (*Ernesto Basquiñez Saniano and Ernest Eleazar Saniano v. Joselina Basquiñez Sañano*). — The Court resolves to **DENY** the Petition for Review on *Certiorari* for failure to show any reversible error in the assailed judgment as to warrant the exercise of this Court’s discretionary appellate jurisdiction pursuant to Section 6, Rule 45 of the Rules of Court.

This case involves a 120-square meter parcel of land known as Lot No. 3-H (subject lot) located at Centro Occidental, Polangui, Albay, and registered under the name of respondent Joselina Basquiñez Sañano (Joselina), as evidenced by Transfer Certificate of Title (TCT) No. T-97494. The subject lot is also duly registered for taxation purposes in the name of Joselina.

Sometime in 2008, petitioner Ernesto Basquiñez Saniano (Ernesto), older brother of Joselina, financed the construction of a building over the subject lot. Ernesto likewise caused the registration of the said building in the name of his son, petitioner Ernest Eleazar Saniano (Ernest). All of these occurred without any prior verbal or written agreement with Joselina. Sometime in 2003, Joselina borrowed money from Ernesto in the amount of ₱100,000.00, which she eventually paid in 2013. Then, three years later, Joselina, through counsel, sent a letter dated August 19, 2016, demanding Ernesto to vacate the subject lot and demolish the building thereon, but to no avail. Thus, Joselina filed a Complaint for recovery of possession and damages against petitioners Ernesto and Ernest before the Municipal Circuit Trial Court (MCTC).

Joselina alleged that petitioners constructed the building over the subject lot without her express consent; that she did not know that the building will be registered for taxation purposes in the name of Ernest; that she could not protest the construction as she was then indebted to Ernesto, who is the oldest in their family.

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Petitioners, on the other hand, admitted that Joselina is the owner of the subject lot but argued that she gave her consent to the construction of the building on the said lot. Joselina failed to protest or object to the construction of the building at any time, and even supervised the construction of the building, oversaw the operations of the businesses therein, and received the proceeds therefrom.

The MCTC rendered a Decision¹ dated July 12, 2018, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of plaintiff Joselina Basquiñez Sañano. Accordingly, defendants Ernesto Basquiñez Saniano and Ernest Eleazar Saniano, and all persons claiming rights under them are hereby ordered to immediately vacate the subject property, Lot No. 3-H, located at Central Occidental, Polangui, Albay, being occupied by them to plaintiff Joselina Basquiñez Sañano [sic] and to pay the plaintiff the amount of Five Thousand Pesos (PhP 5,000.00) per month from the last demand to vacate (August 19, 2016) as reasonable rent for the use of the subject real property until they finally vacate the same.

SO ORDERED.²

The MCTC found that Ernesto is a builder in bad faith as he constructed a three-storey building in the subject property owned by and registered in the name of Joselina without her consent and permission. It also found that while Ernest had no participation in the construction of the building, the same was declared and registered in his name for tax declaration purposes. Joselina, as owner of the subject property, has the right to appropriate what has been built on the same without any obligation to pay indemnity therefor.³ Aggrieved, petitioners appealed to the Regional Trial Court (RTC).

In a Decision dated July 22, 2019,⁴ the RTC affirmed the MCTC but deleted the award of reasonable rent and, instead, ordered the remand of the case to the MCTC to determine the appropriate proceedings for the purpose of applying Article 449 of the Civil Code and other pertinent provisions of the Civil Code. The dispositive portion of the RTC Decision reads:

WHEREFORE, the appeal is DENIED for lack of merit. The assailed Decision of the court [*a quo*] in Civil Case No. 1751-P dated July 12, 2018[,] is AFFIRMED with modification that the award of reasonable compensation is deleted on reasons afore-discussed.

Upon finality hereof, let the records of this case be forwarded back immediately to the court [*a quo*] who shall conduct the appropriate

¹ *Rollo*, pp. 247-270. Penned by Presiding Judge Blancaflor V. Joven Salgado.

² *Id.* at 270.

³ *Id.* at 269.

⁴ *Id.* at 294-300. Penned by Judge Ignacio C. Barcillano, Jr.



proceedings only for the purpose of determining the proper application of Article 449 in relation to the other Articles above-mentioned. In such proceedings, the court [*a quo*] shall determine on record which particular option the herein appellee avails of, such as whether to indeed appropriate the constructed building (Exhibit “2”) for herself without indemnifying the appellants as to the value thereof, or to seek the demolition of the constructed building at the expense of the appellants, or to seek instead payment of the price of the land from the appellants, among other things, and inclusive further of the determination of the amount representing such necessary expenses incurred by appellants for the perseveration of the land, if there would be any, in consonance with the first paragraph of Article 546, Civil Code.

Costs de officio.

SO ORDERED.⁵

Since petitioners’ motion for reconsideration was also denied by the RTC, they elevated the case to the Court of Appeals (CA) via a Petition for Review under Rule 42 of the Rules of Court. On July 21, 2021, the CA rendered the assailed Decision⁶ dismissing their appeal for lack of merit.

The CA found petitioners to be builders in bad faith since they failed to establish their claim of implied consent from Joselina in the construction of the building on her property.⁷ The appellate court applied Arts. 449, 450, 451, and 452 of the Civil Code and held that Joselina, being the owner of the land, has the right to appropriate for herself what has been built on her property without any obligation to pay indemnity therefor, and petitioners, being builders in bad faith, have no right to a reimbursement of the improvement built thereon. Alternatively, Joselina may demand demolition or removal of the building at the expense of the petitioners, or compel the latter to pay the price of the land or pay the proper rent. In all instances, Joselina is entitled to damages from the petitioners. Petitioners can only claim from Joselina reimbursement for the necessary expenses for preservation of the land as stated in Art. 452 of the Civil Code.⁸ The appellate court held that to determine the necessary expenses that should be paid by Joselina as well as the option to be exercised by her, the RTC properly remanded the case to the MCTC.⁹

Petitioners moved for reconsideration but this was denied by the CA in a Resolution dated June 20, 2022.¹⁰ Thus, this instant Petition for Review on *Certiorari* where petitioners maintain that they are builders in good faith as

⁵ Id. at 300.

⁶ Id. at 8-26. Penned by Associate Justice Angelene Mary W. Quimpo-Sale and concurred in by Associate Justices Japar B. Dimaampao (now a Member of this Court), and Marie Christine Azcarraga-Jacob.

⁷ Id. at 23.

⁸ Id. at 24.

⁹ Id. at 25.

¹⁰ Id. at 127-129. Penned by Associate Justice Angelene Mary W. Quimpo-Sale and concurred in by Associate Justices Marlene Gonzales-Sison and Marie Christine Azcarraga-Jacob.

Joselina gave her implied consent to the construction of the building on her lot; thus, she should be made to reimburse for the costs of the building. They allege that Joselina and Ernesto discussed the construction during the death anniversary of their mother in 2009 and that Joselina gave her consent thereto; that from the time of the construction of the building until its completion, she never questioned nor protested the same; and that she was able to receive monetary benefits and income from the businesses therein.

The petition lacks merit.

As correctly found by the lower courts, petitioners were builders in bad faith.

Bad faith contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes.¹¹ To be deemed a builder in good faith, it is essential that a person asserts title to the land on which he builds, *i.e.*, that he be a possessor in the concept of owner, and that he be unaware that there exists in his title or mode of acquisition any flaw which invalidates it.¹² The factual circumstances surrounding the instant case lead to the conclusion that petitioners were builders in bad faith.

As duly found by the lower courts, Joselina is the owner of the subject lot, which petitioners themselves admit and acknowledge. Petitioners cannot, therefore, claim that they were builders in good faith as they were fully aware that the land on which they constructed the building was not theirs, but that of Joselina.

Neither can petitioners claim good faith in the construction of the building on Joselina's property considering that they failed to establish that the latter gave her implied consent thereto. We refer to the CA's factual findings: *first*, there is no clear evidence that Ernesto and Joselina ever discussed the construction of the building during their mother's death anniversary; as in fact, Joselina did not talk with Ernesto from 2008 up to the present regarding the building;¹³ *second*, Joselina was not able to question or protest the construction of the building since she still owed her brother the money she borrowed at that time, and she feared that Ernesto will suddenly collect from her;¹⁴ *third*, Joselina was not able to do anything about the construction of the building, not even to go home to Polangui, due to lack of funds;¹⁵ and *fourth*, petitioners, other than Ernesto's own testimony, did not

¹¹ *Princess Rachel Development Corp. v. Hillview Marketing Corp.*, G.R. No. 222482, June 2, 2020, citing *Villanueva v. Sandiganbayan*, 295 Phil. 615, 623 (1993).

¹² *Id.*, citing *Spouses Espinoza v. Spouses Mayandoc*, 812 Phil. 95, 102 (2017).

¹³ *Rollo*, p. 22.

¹⁴ *Id.*

¹⁵ *Id.*

present any evidence proving that Joselina received monetary benefits and income from the businesses in the said building.¹⁶ Joselina's lack of consent can also be shown by the letter she gave to petitioners demanding them to vacate the subject lot and demolish the building. Thus, the factual findings of the lower courts all point to the conclusion that Joselina was a landowner in good faith, while petitioners were builders in bad faith.

The following provisions of the Civil Code governing the rights of a landowner in good faith and a builder in bad faith find application in this case:

ART. 449. He [or she] who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right of indemnity.

ART. 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he [or she] may compel the builder or planter to pay the price of the land, and the sower the proper rent.

ART. 451. In the cases of the two preceding articles, the landowner is entitled to damages from the builder, planter or sower.

ART. 452. The builder, planter or sower in bad faith is entitled to reimbursement for the necessary expenses of preservation of the land.

x x x x

ART. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he [or she] has been reimbursed therefor.

Thus, applying the foregoing, Joselina has the right to appropriate what has been built on her property, without any obligation to pay indemnity therefor. Due to their bad faith, petitioners forfeit what they have built without any right to be paid indemnity.

Meanwhile, while necessary expenses shall be refunded to the builder, whether he or she built the same in good faith or in bad faith, pursuant to Article 452, Joselina's property was not in fact preserved but used, and was consequently damaged, due to the construction of the building. Notably, petitioners did not file a counterclaim for the refund of necessary expenses to which they may have been entitled, if at all. Neither do petitioners have the right of retention over the encroached portions as the right of retention is afforded only to a possessor in good faith.

¹⁶ Id. at 22-23.

Should Joselina choose not to exercise the right to appropriate the improvements as granted to her under Article 449 of the Civil Code, she may exercise either of her alternative rights under Articles 450 and 451, *i.e.*, (a) to demand the removal or demolition of what has been built at petitioners' expense; or (b) to compel petitioners to pay the price or value of the portions they had encroached upon, whether or not the value of the land is considerably more than the value of the improvements.

In addition, Article 451 of the Civil Code grants the landowner the right to recover damages from a builder in bad faith. In *Princess Rachel Development Corp. v. Hillview Marketing Corp.*,¹⁷ the Court explained that while Article 451 does not provide the basis for damages, the amount thereof should reasonably correspond with the value of the properties lost or destroyed as a result of the occupation in bad faith, as well as the fruits from those properties that the landowner reasonably expected to obtain.¹⁸ In the said case, the Court justified the award of nominal damages pursuant to Articles 2221¹⁹ and 2222²⁰ of the Civil Code which provide that such damages can be awarded where any property right has been invaded.

Considering the circumstances of the instant case, and the assessed value of the subject lot of PHP12,000.00 as of July 25, 2016,²¹ the amount of PHP10,000.00 as nominal damages would be proper and reasonable.

WHEREFORE, the Petition is **DENIED**. The Court of Appeals' Decision dated July 21, 2021 in CA-G.R. SP No. 163169 is **AFFIRMED** with **MODIFICATION** in that the case is ordered **REMANDED** to the 5th Municipal Circuit Trial Court of Polangui-Libon-Oas-Albay for further proceedings for the proper application of Articles 449, 450, and 451 of the Civil Code. The trial court shall grant Joselina Basquiñez Sañano a reasonable period within which to exercise her option to:

1. Appropriate what has been built without any obligation to pay indemnity therefor; OR
2. Demand that petitioners remove what they had built at their expense; OR
3. Compel petitioners to pay the value of the land.

Petitioners Ernesto Basquiñez Saniano and Ernest Eleazar Saniano are further ordered to **PAY** nominal damages in the amount of PHP10,000.00, in

¹⁷ G.R. No. 222482, June 2, 2020.

¹⁸ *Id.*, citing *Heirs of Durano, Sr. v. Spouses Uy*, 398 Phil. 125, 155 (2000).

¹⁹ ART. 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

²⁰ ART. 2222. The court may award nominal damages in every obligation arising from any source enumerated in Article 1157, or in every case where any property right has been invaded.

²¹ *Rollo*, p. 9.

accordance with Article 451, in relation to Articles 2221 and 2222 of the Civil Code.

SO ORDERED.” *Marquez, J., on official business.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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