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SECOND DIVISION

[G.R. No. 73206. August 6, 1986]

VIRGINIA V. BERMUDEZ, ET AL., *petitioners, vs.* **HON. INTERMEDIATE APPELLATE COURT AND REYNALDO A. BONUS, ET AL.,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; APPEALS; FINDINGS OF FACTS BY INTERMEDIATE APPELLATE COURT, NOT REVIEWABLE WHEN BASED ON SUBSTANTIAL EVIDENCE.—** We agree with the findings of the IAC and find no compelling reasons to deviate from the established rule that the findings of fact of the IAC, when based on substantial evidence, are not reviewable on appeal by *certiorari*. (*Montesa vs. Court of Appeals*, 117 SCRA 770; *Jereos vs. Court of Appeals*, 117 SCRA 395).

2. **LABOR AND SOCIAL LEGISLATION; P.D. 1517 (URBAN LAND REFORM DECREE); CONDITIONS TO QUALIFY AS BENIFICIARY/TENANT UNDER SECTIONS 3 AND 6, THEREOF.—** Sections 3(f) and 6 of P.D. 1517 provides: (f) *Tenant refers to the rightful occupant of land and its structure, but does not include those whose presence on the land is merely tolerated and without the benefit of contract*, those who enter the land by force or deceit, or those whose possession is under litigation. x x x Section 6. Land Tenancy in Urban Reform Areas. *Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have already occupied the lands by contract, continously for the last ten years shall not be dispossessed of the land and* shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree. The preponderance of evidence shows that petitioners entered

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the land through the tolerance of its owner, whether the owner be the private respondent or his predecessor-in-interest, Rita Legarda Inc. Indeed, petitioners have nothing to support their claim that they had a valid contract of lease with the former owner. They were unable to establish the identity of Mang Tomas, nor the latter's authority to administer subject property and to enter into a contract on the former owner's behalf. As occupants of the land by mere tolerance, petitioners may not claim the benefit of Section 6 of P.D. 1517 for the protection of that decree extends to "legitimate tenants" only, i.e., "the rightful occupants of the land and its structures," and not to "those whose presence on the land is merely tolerated and without the benefit of contract x x x." (Sections 3 & 33, subpar. 7, Presidential Decree 1517)

3. **ID.; ID.; APPLICABLE ONLY WHEN OWNER INTENDS TO SELL SUBJECT PROPERTY TO THIRD PARTY.—** Petitioners cannot avail themselves of the protection of P.D. 1517, since this law applies to a case where the owner of the property intends to sell it to a third party. Should this be the intent, the legitimate tenant may not be ejected should he decide to himself purchase the property. Be it noted that it is he (the tenant) who has the right of first refusal, (Section 6, P.D. 1517). As aptly pointed out by the IAC, when the former owner, Rita Legarda Inc., offered the property for sale in installments, the petitioners admittedly did not apply to buy it because they "could not afford it." Petitioners, therefore, have no right to continue their occupancy of the premises. Private respondent, admittedly the new owner thereof, is entitled to the use and possession of his property.

APPEARANCES OF COUNSEL

Bautista Angat & Benavides & Associates for petitioners.
Reynante D. Hipolito for respondents.

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DECISION

PARAS, *J.*:

This is a petition for review of the Amended Decision rendered by the Honorable Intermediate Appellate Court dated December 11, 1985, setting aside its decision dated June 28, 1985, affirming *in toto* the decision rendered by the Regional Trial Court of Manila, Branch XXVII Civil Case No. 84-25087 and that of the Metropolitan Trial Court Branch II in Civil Case No. 064010-CV, Manila.

In January, 1981, private respondent, as the owner of a parcel of land situated at No. 2206 Visayan Avenue, Sampaloc, Manila, filed a complaint with the Municipal Trial Court (MTC) for illegal detainer against the petitioners, alleging that sometime in 1965, private respondent's mother, thru tolerance and exhibiting a Christian attitude, allowed petitioners to occupy the said parcel of land and to construct a temporary residential house thereon with the oral understanding that they may be evicted from the premises at anytime should private respondent's need therefor ever arise; that sometime in December, 1980, private respondent needed the said premises for his own personal use, but petitioners, despite notice and various demands to vacate, refused to do so, thus compelling respondent to file said complaint praying for their ejectment.

Petitioners, on the other hand, alleged that it was not private respondent's mother but Mang Tomas, the administrator of subject land then owned by the Rita Legarda Estate who allowed them to occupy the premises and to construct their house in 1962; that pursuant to an agreement between them, petitioners developed the land in exchange for their occupancy of the same; that at the time the aforesaid complaint for ejectment was filed, petitioners had been legally occupying said land, and residing thereon for more than ten years; and that they cannot be dispossessed of the land in question, invoking the protective mantle of Section 6 of PD 1517, otherwise known as the Urban Land Reform Decree.

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On March 7, 1984, the MTC dismissed the complaint finding P.D. 1517 applicable as the land in question is within the area proclaimed for priority development. (p. 21, *Rollo*)

On appeal, the decision was affirmed by the Regional Trial Court (RTC) in a decision, dated August 31, 1984 and by respondent Intermediate Appellate Court (IAC) in a decision dated June 28, 1985, dismissing the petition for review of the MTC judgment. Private respondent, however, filed a motion for reconsideration in the IAC, arguing that Section 6 of P.D. 1517 in relation to Section 3 thereof cannot apply to petitioners who failed to establish a valid and enforceable contract with the former owner, Rita Legarda Inc.

On December 11, 1985, respondent IAC in its Amended Decision, reversed its ruling by ordering petitioners instead to vacate the premises and to remove their constructions/ improvements therein. (p. 28, *Rollo*)

Hence, this petition, contending that respondent IAC gravely abused its discretion in rendering its Amended Decision.

We agree with the findings of the IAC and find no compelling reasons to deviate from the established rule that the findings of fact of the IAC, when based on substantial evidence, are not reviewable on appeal by *certiorari*. (*Montesa vs. Court of Appeals*, 117 SCRA 770; *Jereos vs. Court of Appeals*, 117 SCRA 395).

It is a proved fact that the disputed land is in an area already proclaimed for priority development, and that the petitioners, have occupied the premises for more than ten (10) years. Nonetheless, We hold that they cannot take advantage of the beneficent provisions (e.g. right of first refusal) granted by Presidential Decree No. 1517, because among other things they are not *bona-fide* tenants of the property.

Sections 3(f) and 6 of P.D. 1517 provides:

(f) *Tenant refers to the rightful occupant of land and its structure, but does not include those whose presence on the land is merely tolerated and without the benefit of contract,* those who enter the land by force or deceit, or those whose possession is under litigation.

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Section 6. Land Tenancy in Urban Reform Areas. *Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have already occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and* shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree." (Italics Supplied)

The preponderance of evidence shows that petitioners entered the land through the tolerance of its owner, whether the owner be the private respondent or his predecessor-in-interest, Rita Legarda Inc. Indeed, petitioners have nothing to support their claim that they had a valid contract of lease with the former owner. They were unable to establish the identity of Mang Tomas, nor the latter's authority to administer subject property and to enter into a contract on the former owner's behalf.

As occupants of the land by mere tolerance, petitioners may not claim the benefit of Section 6 of P.D. 1517 for the protection of that decree extends of "legitimate tenants" only, i.e., "the rightful occupants of the land and its structures," and not to "those whose presence on the land is *merely tolerated* and without the benefit of contract x x x." (Sections 3 & 33, sub-par. 7, Presidential Decree 1517; See also p. 27, *Rollo*).

Furthermore, petitioners cannot avail themselves of the protection of P.D. 1517, since this law applies to a case where the owner of the property intends to sell it to a third party. Should this be the intent, the legitimate tenant may not be ejected should he decide to himself purchase the property. Be it noted that it is he (the tenant) who has the right of first refusal, (Section 6 P.D. 1517). As aptly pointed out by the IAC, when the former owner, Rita Legarda Inc., offered the property for sale in installments, the petitioners admittedly did not apply to buy it because they "could not afford it." (p. 28, *Rollo*) Petitioners, therefore, have no right to continue their occupancy of the premises. Private respondent, admittedly the new owner thereof, is entitled to the use and possession of his property.

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Private respondent's need of the premises for his own use entitles him to recover the possession of the said lot under Batas Blg. 25.

WHEREFORE, the petition for *certiorari* is hereby DISMISSED and the judgment appealed from is hereby AFFIRMED, with costs against the petitioners.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Gutierrez, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. L-47407. August 12, 1986]

SALUD DIVINAGRACIA, EMILIA DIVINAGRACIA, DOLORES DIVINAGRACIA, ROSARIO DIVINAGRACIA and JUANITA DIVINAGRACIA, *petitioners, vs.* **JUDGE JOSUE N. BELLOSILLO, in his capacity as Presiding Judge, Branch VII Court of First Instance, Iloilo City, and CAMILO DIVINAGRACIA,** *respondents.*

SYLLABUS

REMEDIAL LAW; COURT OF FIRST INSTANCE (NOW RTC); HAS JURISDICTION OVER ACTION FOR PARTITION; CASE AT BAR.— We hold that the Court of First Instance (now Regional Trial Court) has jurisdiction over the case because: (1) Camilo claims he is already an acknowledged spurious child (that is already voluntarily acknowledged thru an "authentic writing," and not a person seeking compulsory recognition); if this be true he is entitled to obtain his hereditary share in the