

THIRD DIVISION

[G.R. No. 188802, February 14, 2011]

**REVELINA LIMSON, PETITIONER, VS. WACK WACK
CONDOMINIUM CORPORATION, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

On January 22, 1996, Revelina Limson^[1] (Revelina) purchased from Conchita Benitez an apartment unit (Unit 703) at Wack Wack Apartments, Wack Wack Road, Mandaluyong City.

Upon moving in, Revelina noticed defects in the electrical main panel located inside the unit, drawing her to report them, by letter of February 22, 1996, to the Wack Wack Condominium Corporation (respondent), a non-stock corporation organized for the purpose of holding title to and managing the common areas of Wack Wack Apartments

Racquel Gonzalez, who sits as Member of respondent's Board of Directors, replied by letter of February 23, 1996 that under Section 3 of the House Rules and Regulations, it is the duty of the unit owner to maintain the electrical and plumbing systems at his/her expense.

By still another letter dated February 28, 1996, Revelina informed respondent that the "switch board is such that No. 12 wire is protected by 30 ampere fuse" and that five appliances - refrigerator, freezer, iron, dryer and washing machine - are connected to only one fuse.

Revelina later sought professional assistance from a private electrical consultant, Romago, Incorporated. It was concluded that the wirings in Unit 703 are unsafe, hazardous and did not comply with the Philippine Electrical Code.

On Revelina's request, the City Building Office conducted an inspection of Unit 703 following which a Report dated January 21, 1997 was accomplished with the following findings and recommendations:

Findings:

1. The load center consists of 100 A 2 pst main switch and fusible cut out Blocks with 16 circuits. The fusible cut out block enclosure is not provided with cover, exposing electrical live part that makes it hazardous, unsafe and will be difficult to maintain because a portion was blocked by a shelf.

2. The jumper cable from main safety switch to fusible cut-out blocks used 2 #10 wire (Capt. 60 amp) per phase. This is undersized and would overheat.
3. The fusible current protective device where all 30 Amp., sp., 240 v FOR 2 #12 TW (20 AMP. Capacity wire) this does not comply with the provision of the Philippine Electrical Code that stipulates rating of the protective device shall be the same as the conductor ampacity especially on a multi outlet circuit.
4. Power supply for water heaters was tapped to small appliance for convenience outlet circuit.

Recommendation:

1. Replacement of fusible load center with panel board and circuit breaker components to correct the problem as enumerated on items 2, 3, 4 of our findings.
2. Replace the embedded circular loom with conduit on moulding.
3. Check all grounded circuit for water heater lad.
4. Provide separate circuit for water heater lad.
5. Submit As Built Electrical Plan signed and sealed by a Professional Electrical Engineer together with the previous approved Electrical Plan. (emphasis and underscoring supplied)

The Report was sent by then Mayor Benjamin Abalos, Sr. to respondent by letter dated January 31, 1997. On February 3, 1997, respondent, through Architect Eugenio Gonzalez, wrote Revelina to demand that repairs in line with the above-stated recommendation of the City Building Office be undertaken within ten (10) days.

Before the deadline, respondent's Board of Directors convened on February 7, 1997 and resolved to impose a daily fine of P1,000.00 on Revelina and her husband Benjamin, to commence on February 14, 1997, should the latter fail to comply.

Revelina and her husband refused to undertake the repairs and to pay the fine. They claimed that the electrical main panel forms part of the common areas, citing Section 6 of Republic Act No. 4726^[2], "An Act to Define Condominium, Establish Requirements for its Creation and Government of its Incidents," the pertinent provision of which reads:

Sec. 6. Unless otherwise expressly provided in the enabling or master deed or the declaration of restrictions, the incidents of a condominium grant are as follows:

- a.) x x x **The following are not part of the unit:** bearing walls, columns, floors, roofs, foundations, and other common structural elements of the buildings; lobbies, stairways, hallways and other areas of common use, elevator equipment and shafts, central heating, central refrigeration and central air conditioning equipment, reservoir, tanks, pumps and other central services and facilities, pipes, ducts, flues,

chutes, conduits wires and other **utility installations, wherever located, except the outlets thereof when located within the unit.** (emphasis and underscoring supplied)

They argued that an electrical main panel is in the nature of a utility installation.

Meanwhile, Revelina and her husband purchased an oversized whirlpool. In the process of installation, the 7th floor utility room which is adjacent to Unit 703 was damaged.

Revelina claimed that an agreement had been reached under which respondent would take charge of the repair of the utility room and would bill her for the cost incurred therefor but respondent failed to do so. Yet the Board of Directors assessed her and her husband a fine of P1,000.00 per day until the utility room is repaired.

Respondent thereupon filed a complaint for specific performance and damages against Revelina and Benjamin before the Securities and Exchange Commission (SEC) upon the following causes of action:

1. To compel the defendants (Spouses Limson) to undertake the necessary repairs of the defective and hazardous condition of the electrical wiring of their Unit 703 in accordance with the report and recommendation of the Office of the Building Official of Mandaluyong City;
2. To seek payment of liquidated damages from the defendants in accordance with the Resolution of the Board of Directors of plaintiff (respondent herein), starting February 15, 1997 until the defendants shall have complied with the aforestated report and recommendation of the building officials; and
3. To seek payment of [sic] from the defendants for the damages they have caused to the common area of Wack Wack Apartments due to their insistence to install in their unit an over-sized whirlpool.^[3]

Pursuant to A.M. No. 00-11-03,^[4] the complaint was transferred to the Regional Trial Court (RTC) of Mandaluyong City for disposition.

As of June 30, 1997, the assessments and penalties charged against the spouses had reached P569,736.94. On July 17, 1997, respondent filed a Notice of Assessment with the Register of Deeds, Mandaluyong City with application for foreclosure and public auction of Unit 703.

At the public auction held on August 28, 1997, respondent emerged as highest bidder and thereupon purchased Unit 703 in the amount of P569,736.94, on account of which it was issued a Certificate of Sale on September 15, 1997.

By Decision of December 22, 2003, Branch 214 of the Mandaluyong RTC dismissed

respondent's complaint for lack of merit in this wise:

Guided by the findings and recommendation of the building official of Mandaluyong City, it would appear that the questioned electrical installations are to be considered as part of the common area and not of Unit 703, though the same are necessarily found inside the said unit. As contained in Section 6, par. 1 of the Condominium Act: "a) The boundary of the Unit granted are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof. **The following are not part of the unit:** bearing walls, columns, floors, roofs, foundations, and other common structural elements of the buildings; lobbies, stairways, hallways and other areas of common use, elevator equipment and shafts, central heating, central refrigeration and central air conditioning equipment, reservoir, tanks, pumps and other central services and facilities, pipes, ducts, flues, chutes, conduits wires and **other utility installations, wherever located, except the outlets thereof when located within the unit.** (underscoring supplied; emphasis in the original)^[5]

On appeal, the Court of Appeals, by Decision of December 19, 2008,^[6] **reversed** the decision of the trial court, holding in the main that for the electrical main panel to be considered as part of the common areas, it should have been intended for communal use and benefit. The subject electrical main panel being located inside the unit and its principal function being to control the flow of electricity into the unit, the appellate court concluded that charges for its repair cannot be for respondent's account.

On the imposition of fine on the spouses Limson for failure to correct the faulty electrical wiring despite notice, the appellate court upheld respondent's authority to enforce the same. Finding, however, that the amount of P1,000 fine per day was excessive, it reduced the same to P200.

Respecting respondent's imposition of a fine of P1,000 per day on the spouses' alleged failure to repair the 7th floor utility room, the appellate court disallowed the same, however, it holding that respondent did not first seek reimbursement from them before assessment.

Finally, the appellate court denied respondent's prayer for actual damages in the amount of P5,000 representing repair expenses on the utility room, it having failed to present receipts therefor.

Her Motion for Reconsideration having been denied, Revelina filed the present petition for review.

The Court finds for Revelina.

The pertinent provisions of the Wack Wack Apartments Master Deed follow: