

FIRST DIVISION

[G.R. No. 113627, February 06, 2001]

**CORAZON C. SHIN AND CHUNG HWA KYOON, PETITIONERS, VS.
COURT OF APPEALS, ALORASAN REALTY DEVELOPMENT
CORPORATION, AND NORDY DIPLOMA, RESPONDENTS.**

DECISION

PARDO, J.:

The case is a petition for review on certiorari of the decision^[1] of the Court of Appeals which set aside the injunction granted in favor of Corazon Shin and Chung Hwa Kyoon, and the resolution^[2] denying reconsideration.

Alorasan Realty Development Corporation (Alorasan) is the registered owner of a parcel of land and building located at 2332 Roxas Boulevard, Pasay City, with an area of approximately 1,800 square meters.

On January 1, 1981, Alorasan leased the lot and building to Nordy Diploma for a period of one (1) year. After a year, the parties verbally renewed the lease on month to month basis.

On May 21, 1990, Nordy Diploma represented himself to be the owner of the property and leased it to Chung Hwa Koon for a period of three (3) years, commencing June 15, 1990 to June 14, 1993, renewable for another two years. Chung Hwa Koon paid Diploma the sum of P360,000.00 as advance rentals.

On November 14, 1990, Chung assigned his rights over the lease contract to Corazon Shin. A month later, Chung Hwa Koon and Corazon Shin entered into a partnership agreement over the property and introduced improvements for its eventual operation as a restaurant, disco joint, and offices.

Shin and Chung thereafter approached Nordy Diploma to negotiate a longer lease period of at least ten years to allow them enough time to expand their business and construct on the leased premises a two-storey building to be utilized as a health club. Nordy Diploma approved the proposal. Subsequently, Chung and Shin proceeded with the construction of the building.

However, in April 1991, Alorasan learned about the new building being constructed on the premises and manifested its objection to the construction. Consequently, Shin and Chung discovered that Nordy Diploma was not the real owner of the leased premises, and that Alorasan Realty Development Corporation owned the lot.

On April 17, 1991, Alorasan advised Nordy Diploma in writing that it was terminating the lease contract and demanded that he vacate the leased premises. On May 6, 1991, Alorasan sent another letter to Nordy Diploma, giving the latter

fifteen (15) days from receipt within which to vacate the leased premises. Despite the letters, Nordy Diploma refused to vacate. Consequently, on June 7, 1991, Alorasan filed with the Metropolitan Trial Court, Pasay City an action for unlawful detainer against Nordy Diploma.^[3]

Meanwhile, the Pasay City Building Official, upon complaint of Alorasan, directed Shin and Chung to stop construction of the building for lack of showing that they had the necessary building permit. Aggrieved by the turn of events in the face of the near completion of their building, on October 8, 1991, Shin and Chung filed with the Regional Trial Court, Pasay City a complaint for damages with preliminary injunction against Nordy Diploma, Alorasan and the Pasay City Building Official.^[4]

On July 15, 1992, the trial court issued an order^[5] granting a writ of preliminary injunction and enjoining Alorasan, Nordy Diploma and the Pasay City Building Official from disturbing, obstructing, and/or hampering Shin and Chung's possession and use of the leased premises. On August 11, 1992, Alorasan filed with the Court of Appeals a petition questioning the trial court's issuance of the injunction order.^[6]

In the meantime, on July 28, 1992, the Metropolitan Trial Court, Pasay City decided Alorasan's complaint for ejectment against Nordy Diploma. The court ordered Nordy Diploma to vacate the premises and peacefully surrender possession of the premises to Alorasan.^[7] The decision became final and executory and a writ of execution was subsequently issued.

On August 31, 1993, the Court of Appeals promulgated its decision finding that the issuance of the writ of preliminary injunction was improper and reversed the trial court's ruling. The Court of Appeals found the injunction unnecessary, as there was no showing that Nordy Diploma and Alorasan would not be able to compensate Shin and Chung for the damages sought. The Court of Appeals also noted that Shin and Chung, while praying for the nullification of their lease contract with Nordy Diploma, at the same time insisted on maintaining possession of the premises on the basis of the same lease contract. The Court of Appeals likewise held that the injunction prematurely assumed that Alorasan was in bad faith, before evidence had been presented in the trial court. Thus, the Court of Appeals set aside the order granting the preliminary injunction.^[8]

Hence, this petition.^[9]

Petitioners contend that the trial court issued a writ of preliminary injunction considering petitioners' right of possession and equity. They allege that the Court of Appeals improperly based its decision on Alorasan's defenses even if there had been no trial on the merits. Petitioners also ask the Court to rule not only on the injunction but also on the merits of the damage suit.

On the other hand, respondent Alorasan contends that the petition has become moot because petitioners had been ousted from the premises by a writ of execution^[10] issued by the Metropolitan Trial Court, Pasay City in Civil Case No. 146-91, for unlawful detainer. The building was demolished and the premises turned over to respondent Alorasan.