MARIA TERESA C. FAJARDO A.KA. TESS FAJARDO, PETITIONER, V. GEMMA D. MARIANO REPRESENTED BY HER ATTORNEY-IN-FACT, DRA. LEONIDA D. MARIANO, RESPONDENT.

Ponente: BUESER, J.

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BUESER, J.:

Before us is an appeal by way of petition for review of the January 24, 2012 Decision[1] of the Metropolitan Trial Court, Branch 65 of Makati City, the dispositive portion of which reads -

> "WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff. Defendant Ma. Teresa C. Fajardo, a.k.a. Tess Fajardo, and all persons claiming rights under her are ordered to vacate the property located at No. 4801 Barasoain Street, Barangay Tejeros, Makati City, and to deliver peaceful possession thereof to plaintiff Gemma D. Mariano represented by her attorney-in-fact Leonida D. Mariano, and for defendant to pay plaintiff the amount of P20,000.00 as and by way of attorney's fees.
>
> Costs against the defendant.
>
> SO ORDERED."

and the May 2, 2013 Decision[2] of the Regional Trial Court, Branch 150 of Makati City.

The Facts

Gemma Mariano ("respondent") is the registered owner of a house and lot located at 4801 Barasoain Street, Barangay Tejeros, Makati City covered by Transfer Certificate of Title No. 217843[3] of the Registry of Deed of Makati City ("subject property"). Maria Teresa Fajardo ("petitioner") has been leasing the subject property from respondent since 2005, without a written contract.

On September 22, 2010, respondent, through counsel, informed petitioner, through writing, that the lease would no longer be renewed and will be terminated five (5) months after or on February 28, 2011. However, despite the notice, petitioner refused to vacate the premises of the subject property on February 28, 2011 and continued to remain in possession, despite repeated demands, prompting respondent to file an action for unlawful detainer.

Petitioner denied the allegations of the respondent. She assailed the legality of the deed of sale alleging that it was fictitious and simulated. Her uncle was already bed-ridden when the sale was consumated. She admitted to have received the demand letters dated September 22, 2010 and March 25, 2011 but argued that the ground for her ejectment is not among those allowed under the Rental Control Act of 2009 or R.A 9653. Besides, she has never been remiss in the payment of the monthly rentals, in the amount of P,5000 per month. Furthermore, she has been renting the subject property for over forty-four (44) years.

After due proceedings the MeTC issued the first assailed Decision and held that -

> "Assessing the allegations in the Complaint and Answer, taken together with the evidence presented before this Court, the Court finds by preponderance of evidence that plaintiff has established her right to evict the

> defendant and all persons claiming rights under her.
>
> Indeed, when the plaintiff demanded for the defendant to vacate the premises, she did so in the exercise of her right to posses and enjoy her property."

Aggrieved, petitioner appealed.

In the second assailed Decision, the trial court affirmed the decision of the MeTC, viz -

> "Evidence at hand clearly show that plaintiff Mariano informed defendant of her intention to terminate the lease over the property, five (5) months prior to the expiration of the lease on 28 February 2011. Within that period, plaintiff waived the monthly rentals from the defendant.
>
> xxx
>
> Clearly, the ground for ejectment exist in this case and plaintiff could lawfully ask for defendant's eviction from the premises. As already discussed, the month-to-month verbal lease contract of the parties expired on 28 February 2011 when plaintiff properly informed defendant thru a letter dated September 22, 2010 of her intention to terminate the contract of lease as well as the notice to vacate the property dated March 25, 2011. Upon proper demand and notice to vacate, there is sufficient cause for ejectment under Section 9 (e) of R.A. 9653, that is, the expiration of the period of the lease contract."

Hence, this petition.

Issue

> THE LOWER COURTS ERRED WHEN IT ORDERED PETITIONER TO VACATE THE SUBJECT PROPERTY.

This Court's Ruling

Petitioner posits that the trial court erred in upholding the decision of the MeTC ordering her and all persons claiming rights under her to vacate the subject property. R.A 9653 should be applied in the case at bar and not Article 1673 of the Civil Code. It is clear that the reason why respondent is asking her to vacate the subject property is for the respondent to be able to sell it and sale is not one of the reasons provided for under R.A. 9653 for ejectment of tenants.

The petition fails.

Both the MeTC and the trial correctly found that there was a valid demand to vacate the subject property.

This petition involves an action for unlawful detainer, which is an action to recover possession of real property from one who unlawfully withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied. The possession of the defendant in an unlawful detainer case is originally legal but becomes illegal due to the expiration or termination of the right to possess.[4] The sole issue for resolution in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the parties.

The Court has consistently upheld the registered owners' superior right to possess the property in unlawful detainer cases.[5] It is an age-old rule that the person who has a Torrens Title over a land is entitled to its possession.[6] It has repeatedly been emphasized that when the property is registered under the Torrens system, the registered owner's title to the property is presumed legal and cannot be collaterally attacked, especially in a mere action for unlawful detainer.[7] Petitioner's collateral attack on respondent's title and her actuation that the sale of the subject property, by petitioner's uncle to respondent, is simulated finds no application in the instant

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case. The Supreme Court has explicitly held that in unlawful detainer cases it does not even matter if the party's title to the property is questionable.

The TCT of respondent is evidence of indefeasible title over the subject property and, as its holder, she is entitled to its possession as a matter of right. All the arguments presented by the petitioner are not enough to oust respondent's right as registered owner. If respondent would like to sell the subject property she can do so.

Lastly, petitioner is mistaken in her argument that Article 1673 of the Civil Code has no application in the case at bar.

Article 1673 provides -

> "The lessor may judicially eject the lessee for any of the following causes:
>
> (1) When the period agreed upon, or that which is fixed for the duration of lease under Article 1682 and 1687, has expired.
>
> xxx"

Section 9 of RA 9653, on the other hand, provides -

> Section 9. Ground for Judicial Ejectment – Ejectment shall be allowed on the following grounds:

xxx

> d) Expiration of the period of the lease contract."

The lease contract had expired on February 28, 2011. Petitioner had been notified, five (5) months, prior to the expiration of the contract that it would no longer be renewed. As respondent's goodwill, petitioner was not anymore asked to pay rental fees, from the time the notice was given until February 28, 2011. Despite this, petitioner stubbornly holds on to the subject property, knowing fully well, that possession legally belongs to the respondent. Hence, the trial court is correct in ordering the petitioner to pay the respondent the amount of P20,000.00 as and by way of attorney's fees. As a final note. While it is true that a savings account was opened by the petitioner, it was opened under her name and not in trust for the respondent. This is not consignation as defined under the law.

All told, no error was committed by the Metropolitan Trial Court and the Regional Trial Court in issuing the Decisions dated January 24, 2012 and May 2, 2013 , respectively.

WHEREFORE, the appeal is DENIED. The assailed Decisions are AFFIRMED in toto.

SO ORDERED.

Zalameda[*] (Acting Chairperson) and Sempio Diy,[**] JJ., concur.

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[*] Vice Justice De Guia-Salvador per Office Order No. 184-14-ABR dated May 5, 2014.

[**] Acting Junior Member per Office Order No. 187-14-ABR dated May 6, 2014.

[1] Rollo, pp.30-33.

[2] Id. at 34-39.

[3] Id. at 41.

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[4] Spouses Marcos Esmaquel vs. Maria Coprada, G.R. No. 152423, December 15, 2010.

[5] Spouses Pascual vs. Spouses Coronel, G.R. No. 159292, July 12, 2007.

[6] George S. Tolentino et al vs. Pacifico S. Laurel et al., G.R. No. 181368, February 22, 2012 citing Caña v. Evangelical Free Church of the Philippines, G.R. No. 157573, February 11, 2008.

[7] Supra, note 4.

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