

**SY OH, PETITIONER-APPELLANT, VS. HON. GREGORIO N. GARCIA, AS
PRESIDING JUDGE, BRANCH I OF CITY COURT OF MANILA AND
PIVGETH INDUSTRIES & DEVELOPMENT CORPORATION,
RESPONDENTS-APPE...**

G.R. No. L-29328. June 30, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

These two appealed cases present an identical question: In the event that there are various letters of demand, should the one-year period in ejectment suits be counted from the first or the last one sent the lessee? In both cases, the answer of the lower courts was that it should be the latest that controls in accordance with what has previously been held by us. We have no occasion, therefore, to overrule them. These two appeals cannot prosper.

Petitioners Sy Oh[1] and Lim Chi,[2] actual occupants of the Arias Building located at the corner of Carriedo and Estero Cegado Streets, Manila, each under a verbal contract of lease, were made defendants in ejectment suits by the private respondent Pivgeth Industries & Development Corp., owner of such building. The suits were filed on July 21, 1967 in the Sala of respondent Judge Gregorio N. Garcia of the City Court of Manila. Both petitioners, as defendants, moved to dismiss the case on the ground of lack of jurisdiction alleging that the first notice or demand to vacate was sent to them as far back as April 27, 1964. Such motion to dismiss for lack of jurisdiction were denied by respondent Judge in view of the fact that the final letter of demand or notice to vacate was in the case of petitioner Sy Oh sent on Sept. 30, 1966 and Lim Chi on September 29, 1966. It was the view of the respondent Judge, therefore, in both cases that the suit was filed clearly within the one-year period.

This conclusion of respondent Judge Garcia was assailed in two petitions for certiorari filed by each of the petitioners with the Court of First Instance of Manila. Both petitions failed, the jurisdiction of respondent Judge Garcia being sustained, the decision in the case of petitioner Sy Oh being rendered on May 10, 1968 by the Hon. Ricardo C. Puno and of petitioner Lim Chi being rendered by the Hon. Guillermo Santos on July 6, 1968.

Hence these appeals to us by the two petitioners. As above noted, we affirm the respective decisions of Judges Puno and Santos. The jurisdiction of respondent city court Judge Garcia is immune from any such attack.

The conclusion arrived at in the above two cases of the lower court judges finds support in adjudicated cases. *Racaza v. Susana Realty, Inc.*,[3] a 1966 decision, was cited by both judges. As was there held: "Moreover, even if the action were based on non-payment of rent, the one-year period should be reckoned from the second notice, on the theory that respondent has the right to waive his action based on the first demand and to let the lessee remain in the premises." Judge Guillermo S. Santos likewise relied on the even later opinion announced in *Calubayan v. Pascual*. [4] Thus: "Even assuming, for the sake of argument, that the various notifications for defendant to see the plaintiff could be construed as demands upon the defendant to vacate, the length of time that defendant detained the premises is to be reckoned with from the date of the last demand."

Such a view has been steadfastly adhered to by us ever since the 1913 opinion of *Lucido v. Vita*.^[5] What would have been objectionable would have been a departure therefrom by the lower courts. Fortunately, such a thought did not occur to either Judge Santos or Judge Puno. They decided the matter before them correctly.

In the light of the above indisputable controlling legal principle the assignment of alleged errors in each of the two above cases made by the same counsel for both petitioners Sy Oh and Lim Chi is distinguished only by its futility. No useful purpose would be served by discussing each of them separately as the alleged grievance made much of in all four errors assigned could be summed up in the asserted inapplicability of the above decisions, announcing a principle to which there has been unwavering adherence on our part. The one-year period is to be counted from the last letter of demand.

Necessarily then, any attempt to distinguish the situation present in each of the above two cases is far from persuasive. Moreover, to crown such an effort with success is to frustrate and defeat the basic objective underlying the procedural rule on ejectment suits. This resort to a technicality so clearly apparent on its face and thus devoid of merit cannot possibly succeed. Otherwise, the summary character of unlawful detainer actions, which even now, through maneuvers of the lessees affected, may at times be set at naught, vanishes. It is not for us to give the seal of our approval to any argument, even if sought to be clothed with deceptive plausibility, that would contribute to such a far-from commendable result.

WHEREFORE, the decision of the honorable Ricardo C. Puno of May 10, 1968 in L-29328, and the decision of the honorable Guillermo S. Santos of July 6, 1968 in L-29589 are hereby affirmed. With costs against petitioners Sy Oh and Lim Chi in each of the above cases.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, Teehankee, and Barredo, JJ., concur.

Dizon, J., took no part.

[1] L-29328.

[2] L-29589.

[3] 18 SCRA 1172 (1966).

[4] 21 SCRA 146 (1967).

[5] 25 Phil. 414, 426 (1913).

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