

SE JONG ENGLISH LANGUAGE ACADEMY INC. REPRESENTED BY CELEDENIO C. CALUZA AND LEE SEUL YI, PETITIONER, VS. PACIFIC SEAMEN SERVICES, RESPONDENT.

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

Akin to the axiom on sales permitting the vendee to defer payment of the price if he be disturbed in his possession by vindicatory action or foreclosure of mortgage,[1] through Rule 42, We will assess petitioner's excuse to suspend payment of monthly rent on respondent's leased property[2] following the disposition from the Regional Trial Court, Makati City, Branch 148 in Civil Case No. 10-1044,[3] which sustained the conclusion of the Court of the First Level[4] concerning petitioner's status as deforciant of the realty at No. 16 Bayanihan Street, West Triangle Homes, Quezon City.

The dispute between the parties can be traced from a Contract of Lease[5] executed on July 4, 2007 for the subject property leased by petitioner from respondent for three years from June 15, 2007 until July 14, 2010 for a monthly rental fee of P220,000.00 exclusive of 12% VAT and net of 5% withholding tax.

Petitioner paid three months advance rental in the aggregate amount of P660,000.00 exclusive of 12% VAT and net of 5% withholding tax and three months deposit in the sum of P660,000.00. Thereafter, petitioner assumed possession and the three months advance rental fee were applied for the July to September 2007 monthly dues.

Trouble ensued after October 1, 2007 when petitioner did not pay the monthly rent despite several notices therefor.[6]

Per petitioner's reply-letter dated March 24, 2008,[7] while it acknowledged the unpaid monthly dues, coupled with the intention to settle, petitioner justified non-payment of monthly dues premised on respondent's alleged misrepresentation.

An exchange of correspondence transpired until June 6, 2008 when a final demand to pay and vacate was sent to the petitioner.[8] Subsequent thereto, a suit for desahucio was filed by the respondent against petitioner before the court of origin.[9]

In exculpation, petitioner reiterated the so-called misrepresentation of the respondent to the effect that petitioner can lease the property to be utilized by petitioner as a language school but the plan was aborted due to the homeowners' prohibition. Thus, it was theorized that petitioner relied on respondent's representation to the effect that petitioner can operate a school in the area. It further claimed that due to misrepresentation, fraud and concealment allegedly committed by respondent, it incurred expenses for renovation of the building. By invoking Article 1658 of the Civil Code, petitioner believed that it has the right to suspend payment of rent since the respondent failed to maintain the lessee in peaceful and adequate enjoyment of the property leased.

On September 1, 2010, the court of origin ruled in favor of respondent and adjudged in this wise:

“WHEREFORE, premises considered, judgment is hereby rendered ordering defendant SE JONG ENGLISH

LANGUAGE ACADEMY, INC. (represented by Celedonio C. Caluza and Lee Seul Yi) to vacate the property located at No. 16 Bayanihan Street, West Triangle Homes, Quezon City, and to deliver peaceful possession thereof to plaintiff.

Defendant is likewise ordered to pay plaintiff the amount of P2,455,200.00 representing rental in arrears inclusive of interest and VAT for the period October 1, 2007 to May 31, 2008, the amount of P220,000.00 per month plus 3% a month for the payment and 12% VAT per month as compensation for the use and occupation of the leased premises from June 1, 2008 until the premises shall have been surrendered to plaintiff, and the amount of P20,000.00 as and by way of attorney's fees.

Cost against defendant.

SO ORDERED.”

Aggrieved by the verdict, petitioner appealed^[10] but the Second Level Court was far from persuaded when it assayed paragraph five of the lease contract to the effect that the leased premises was intended for office purposes only regarding educational and tutorial services. According to the appellate court, the proviso excluded the concept of a school.^[11]

In the current Petition, petitioner reiterated its posture that the very reason it leased the real property of respondent was due to respondent's offer that petitioner can erect and operate a language school. However, petitioner's purpose did not materialize due to the proscription from the Homeowner's Association of the West Triangle Homes, which information was allegedly concealed by respondent. Petitioner thus posited that it has the right to suspend payment of the monthly rental since the respondent failed to maintain the petitioner in peaceful and adequate enjoyment of the leased premises for the entire duration of the lease contract.

Petitioner further alleged that due to misrepresentation, concealment and fraud committed by respondent, the lease contract they entered into was void from the very beginning and it sought reimbursement of the P660,000.00 advance rental it paid to respondent.

By contrast, the respondent's President claimed that it was petitioner, through Mrs. Lee Seul Yi and Mr. Celedonio Caluza, which proposed to rent the subject property from the respondent to be utilized as an office for petitioner's fishing business. While petitioner complied with the three months advance and three months deposit requirement, petitioner, failed and refused to pay its monthly dues on the succeeding months despite several demands. With these turn of events, respondent lodged a complaint for unlawful detainer against petitioner.

It must be recalled that the relationship between petitioner and respondent stemmed from the lease contract they executed. By virtue of such contractual tie, the respondent, as lessor, bound itself to deliver the thing leased to the lessee for enjoyment and use of a thing for a price certain and for a period which may be definite or indefinite.^[12] Furthermore, the respondent was also obliged to deliver the thing leased in such conditions as to render it fit for the use intended.^[13]

Simply stated, a lease contract is a reciprocal contract. By signing the lease agreement, the lessor granted possession over the property to the lessee for a period of time in exchange for rental payment.^[14]

Based on the available facts, there was no dispute that the respondent relinquished possession of the property leased to petitioner. Consequently, petitioner was obliged to pay the price of the lease according to the terms stipulated in the contract.^[15]

Pursuant to the Contract of Lease, particularly paragraph 2, petitioner had the obligation to pay the monthly rent of P220,000.00 exclusive of 12% VAT and 5% withholding tax.^[16] Also, petitioner was required to make a three months advance payment in the sum of P660,000.00.^[17]

As stipulated by the parties, the three months advance shall be applied to petitioner's July, August and September, 2007 rental fees.

Now, what about petitioner's persistence of deferment in the payment of rental thereafter?

Paragraph five of the lease contract,[18] was explicit that the leased property was intended as an office space for educational and tutorial services. There was no categorical provision in the lease contract that petitioner can devote the leased premises for a school or an academy. Indeed, given the clear language of the covenant, verbal legis will subordinate ratio legis.[19] While the 'whereas clause' spoke of the lessee's intent to occupy the leased property '... for the purpose of establishing and operating an English tutorial center...,'[20] the prefatory statement on the contract, just like the Preamble for the Constitution,[21] can hardly serve as a matrix of a substantive right for petitioner.

By parity of reasoning then:

'A preamble is that part of the statute written immediately after its title, which states the purpose, reason or justification for the enactment of the law. It is usually expressed in the form of "Whereas" clauses...

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The preamble is not an essential part of a statute. Hence, where the meaning of a statute is clear and unambiguous, the preamble can neither expand nor restrict its operation, much less prevail over its text. Nor can a preamble be used as basis for giving a statute a meaning not apparent on its face.'[22]

Verily, even assuming for the sake of argument that there was a transgression on the part of the lessor as relayed by the lessee in the course of the suit below, jurisprudence instructs Us that where the lessee had occupied the premises and paid rentals without protest on the condition of the thing leased, it cannot unilaterally suspend payment on a belated claim of breach by the lessor.[23]

Moreover, when petitioner introduced improvements on the subject real property and renovated the building, it appeared that petitioner did not obtain the necessary permit and licenses required by the government. As aptly ruled by the court a quo:[24]

"...The defendant introduced improvements, albeit without a building permit, to turn out and renovate the premises for purposes of making it a school. It is proven, when the defendant sought a permit from the Office of the City Mayor of Quezon City to devote the premises into a school and as a matter of fact the school name is Se Jong English Language Academy, Inc. plaintiff only allowed the defendant to use the premises for office purposes only for educational and tutorial services.

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Further, the defendants should have known and ought to know that it is not the duty nor obligation of plaintiff to find out if the Mayor's permit being sought by defendants will be granted by the City Mayor of Quezon City. It is for the defendants to do so. Defendants should have made a feasibility study of their intention to put up a school at West Triangle before embarking in renting a property, renovating it, spending P25,000,000.00 for improvements and finding out whether a Mayor's Permit may be granted to them, aside from the permit to be given by the Department of Education Culture and Sports. The defendants did not and yet they blame plaintiff for their own omission, lack of preparation and negligence.

The fact that the defendants were not given a Mayor's Permit is their own doing. Before any renovation of a building is made especially if the renovation will be substantially expensive, they have to get a permit first. In this case, the Court noted that the renovation was ahead than the request for a renovation or building permit."

Furthermore, it would be reasonable to convey the message that from the initial stage of the lease, petitioner already had an inkling that a problem might arise relative to the construction and operation of the language school since it cannot obtain the permit of the homeowner's association. Logically, petitioner could have postponed renovation of the leased premises pending compliance with certain requirements from the government agency and clarification of restrictions from the homeowners' association. Yet, petitioner practically threw caution to the wind, so to speak, and opted to venture into what it envisioned amidst legal constraints.

In default of any justifiable cause for non-payment of monthly rental, the respondent had the right to terminate the contract pursuant to paragraph 16 of the lease contract,[25] nay, pursue the suit for recovery of possession.[26]

WHEREFORE, based on the foregoing discourse, the Petition for Review is hereby DENIED for lack of merit.

SO ORDERED.

De Leon, (Chairperson) and Cruz, JJ., concur.

[1] Article 1590, Civil Code; 5 Padilla, Civil Code Annotated, Sixth Edition, 1974, page 676.

[2] Rollo, pp. 147-155.

[3] Rollo, pp. 147-155.

[4] Rollo, pp. 121-125.

[5] Rollo, pp. 30-34.

[6] Rollo, pp. 268, 270-271, 274-275, 277-279, 280, 281-282, 285-286, 288-289, 290-291, 292-293.

[7] Rollo, page 276.

[8] Rollo, pp. 283-284.

[9] Rollo, pp. 55-63.

[10] Rollo, pp. 126-127.

[11] Rollo, pp. 153-155.

[12] Article 1643 of the Civil Code; Remington Industrial Sales Corp. v. Chinese Young Men's Christian Association of the Phil. Islands Doing Business under the name Manila Downtown YMCA, G.R. No. 171858, August 31, 2007.

[13] Article 1654 of the Civil Code.

[14] Spouses Socrates Sy and Cely Sy v. Andok's Litson Corporation, G.R. No. 192108, November 21, 2012.

[15] Article 1657 of the Civil Code.

[16] Contract of Lease, Rollo, p. 30-31; "RENTAL. The lessee agrees to pay the LESSOR the monthly rental fee of Two Hundred Twenty Thousand (P220,000.00) Pesos, Philippine currency, exclusive of 12% Value Added Tax and net of 5% Withholding Tax. Upon the signing of this Contract of Lease, the LESSEE shall pay the LESSOR three (3) months advance rental in the amount of Six hundred Sixty Thousand (P660,000.00) Pesos, exclusive of 12% VAT and net of 5% Withholding Tax. The LESSOR agrees that the advance rental shall be only applied on the second month of the lease to accommodate rental fee shall automatically commence on the second month of

the lease or not renovations have been completed. Succeeding monthly rentals shall be payable on the 1st day of the month they are due, without need for demand by the LESSOR, and payment shall be made at the principal office of the LESSOR. The LESSEE hereby agrees to pay 3% interest per month on any delay in payments of the monthly rentals.

[17] Contract of Lease paragraph 3, Rollo, p. 31; “DEPOSIT. The LESSEE shall pay the LESSOR the sum equivalent to three (3) months rent or Six Hundred Sixty Thousand (P660,000.00) Pesos, Philippine currency to guarantee the payment of any future damage to the leased premises, unpaid utilities and other obligations to third parties by the LESSEE during the term of the agreement, which deposit shall bear no interest. Unless applied to said damages, unpaid utilities and other obligations to third parties, said deposit shall be returned to the LESSEE within sixty (60) days after termination of this agreement: provided, however, that the deposit cannot be applied to back rentals owed by the LESSEE prior to the expiration of this agreement. Furthermore, if the LESSEE vacates the premises before the expiration of the period of lease or otherwise pre-terminates this agreement, the total amount of the deposit shall be forfeited in favor of the LESSOR by way of liquidated damages.

[18] “5. Use of Premises- the premises should be used exclusively for the office purposes only, specifically for educational or tutorial services, and shall not be used whatsoever for residential purposes or in any illegal or unlawful activity or to keep materials; chemicals and other considered as fire hazards or nuisance to the building.”; Rollo, p. 31.

[19] Article 1370, Civil Code; Agpalo, Statutory Construction, 4th Edition, 1998, page 121.

[20] Annex A, Petition for Review, Rollo, page 30; cf. paragraph 2, Petition for Review dated October 17, 2012, Rollo, page 8.

[21] Cruz, Philippine Political Law, 2002 edition, page 51 – ‘The Preamble is not a source of substantive right since its purpose is only to introduce, i.e., “to walk before,” the Constitution...’

[22] Agapalo, Vide, pp. 75-76, citing *People vs. Purisima*, G.R. No. 42050, November 20, 1978, 86 SCRA 542 [1978], *People vs. Garcia*, 85 Phil. 663 [1950].

[23] 4 Vitug, Civil Law, 2nd Edition, 2006, page 12, citing *Geronimo Realty Co. vs. Court of Appeals*, 83 SCRA 542, 549-550.

[24] Rollo, pp. 153-154.

[25] “TERMINATION. The LESSOR may, at its option, consider this agreement automatically rescinded and canceled, without need of any court action, upon five (5) days notice given to the LESSEE based on the following grounds: a. Failure of the LESSEE to pay bills or charges mentioned or contemplated herein as they fall due for any reason whatsoever within the period to pay. b. For any violation made by the LESSEE or its agents and representatives of any the terms and conditions stipulated in this contract.

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[26] Article 1673 of the Civil Code; *Cebu Automatic Motors, Inc., and Tirso Uytengsu III v. General Milling Corporation*, G.R. No. 151168, August 25, 2010.; cf Section 1, Rule 70 of the Rules of Court specifies who may be the plaintiff in an action for forcible entry, viz: Section 1. Who may institute proceedings, and when. - x x x a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any

time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs. (Emphasis supplied.);

Section 2, Rule 70 of the Rules of Court provides:

Sec. 2. Lessor to proceed against lessee only after demand. Unless otherwise stipulated, such action by the lessor shall be commenced only after demand to pay or comply with the conditions of the lease and to vacate is made upon the lessee, or by serving written notice of such demand upon the person found on the premises, or by posting such notice on the premises if no person be found thereon, and the lessee fails to comply therewith after fifteen (15) days in the case of land or five (5) days in the case of buildings. [Emphasis supplied.]

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