

DRA. MA. CECILIA P. SERRANO, PLAINTIFFS-APPELLEE, VS. SPS. JETHRO AUSTRIA ORDINARIO & CATALINA ACOSTA, DEFENDANTS-APPELLANTS.

Ponente: SORONGON, J.

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SORONGON, J.:

This is an appeal from the Decision[1] dated December 8, 2010 of the Regional Trial Court (RTC) of Cabanatuan City, Branch 24 in Civil Case No. 5126-AF.

The case arose from an action for Breach of Contract and Damages filed by Dra. Ma. Cecilia P. Serrano (plaintiff-appellee) against spouses Jethro Austria Ordinario and Catalina Acosta (defendants-appellants). In her complaint, plaintiff-appellee alleged that on August 13, 2003, she and defendants-appellants entered into a Lease Contract[2] over a commercial lot situated at Maharlika Highway, Cabanatuan City for a term of one (1) year commencing from August 13, 2003 until August 13, 2004 at the option of both parties. They also agreed among others, that:

"xxx

2.2 That the yearly rental of the premises shall be P80,000.00 but payment shall be monthly in the amount of P6,670.00 which shall be deposited every month with Metrobank near the premises on the account of lessor with an increased of 10% per year and whatever improvements introduced therein shall be for the lessor at the end of the contract;

2.3 that the premises was so constructed according to the plan and specifications of the lessee as made by the lessor and that lessee shall be used exclusively for car airconditions shop only, that all permits for the business like licenses, cable, water and light and other utilities needed by the business of the lessee shall be for his account;

2.4 All the necessary maintenance of the building, the wear and tear of the premises shall be for the good account of the lessee, that the latter cannot sublease the premises to other person without the written permission of the lessor and in the event the lessee introduced a permanent improvement on the premises at the end of the contract shall belong to the lessor without the payment from the later;

2.5 That in case any of the party desires to terminate this contract, an advance notice of THIRTY (30) days shall be given and in the event however that the party violates any of the term or condition above hereof the party at fault shall pay all the damages and expenses including attorney's fee of not less than P10,000.00 and that the venue of enforcement of this contract shall be at Cabanatuan City.

xxx"

Immediately on August 13, 2003, defendants-appellants took possession of the subject premises. But came August 14, 2004, without any of the parties terminating the contract of lease or entering into another written agreement, defendants-appellants remained in the premises and continued to pay their monthly rent therefor.

On November 23, 2005, defendants-appellants told plaintiff-appellee of their intention to vacate the premises and sometime in January 2006, they left the rented area without notifying plaintiff-appellee at least 30-days in advance.

When plaintiff-appellee visited the rented premises she found out that the improvements she introduced thereon pursuant to the plans and specifications of defendants-appellants were removed by the latter leaving the place in a non tenatable condition. She called defendants-appellants for a conference but the latter merely ignored her. Hence, she filed a complaint for Breach of Contract and Damages against them.

In their Answer[3], defendants-appellants admitted that they had a Lease Contract with plaintiffs-appellees which was not renewed upon its expiry but their lease of the premises continued thereafter on a month-to-month basis. It is not true that they failed to notify plaintiff-appellee of their desire to vacate the premises. The complaint for breach of contract has no basis since they had complied with their underlying obligations including the payment of the monthly rentals and bills for water and electricity.

The parties failed to amicably settle the case, thus, trial on the merits ensued. Thereafter, the trial court rendered its now assailed judgment[4] in this wise:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Dra. Cecilia P. Serrano and against defendants Jethro Ordinario and Catalino Acosta, as follows:

1. Ordering the defendants to pay plaintiff the amount of Php150,000.00 representing the costs of the improvements introduced by and expenses paid by plaintiff in accordance with the plan and specifications of the defendants, that were removed and/or destroyed by the defendants;
2. Ordering the defendants to pay the Bills for light and water in the total sum of Php1,422.22; and
3. Ordering the defendants to pay plaintiff the amount of Php50,000.00 as attorney's fees and costs of suit in the amount of Php12,827.50.

SO ORDERED."

Defendants-appellants interposed the present appeal alleging that the Regional Trial Court of Cabanatuan City, Branch 24, committed grave and reversible errors:

(A) OF CONCLUDING THAT THE DEFENDANTS VIOLATED THE PROVISIONS OF THE LEASE CONTRACT WHEN THEY FAILED TO GIVE AN ADVANCE NOTICE OF THIRTY (30) DAYS PRIOR TO THE TERMINATION OF THE CONTRACT;

(B) OF CONCLUDING THAT IMPROVEMENTS WERE MADE BY THE PLAINTIFF ON THE LEASED PREMISES AND THAT IT WAS THE RESPONSIBILITY OF THE DEFENDANTS TO PRESERVE THE SAME AND RETURN IT TO THE PLAINTIFF, WHEN IN TRUTH AND IN FACT, IN ACCORDANCE WITH THE DEMAND LETTER, THE COST OF IMPROVEMENTS SOUGHT BY THE PLAINTIFF WAS THE IMPROVEMENTS INTRODUCED BY THE LESSEES;

(C) OF CONCLUDING THAT THE DEFENDANTS BREACHED THE LEASE CONTRACT THEY ENTERED INTO WITH THE PLAINTIFF AND DO NOT DESERVE EQUITY FOR THEIR WRONGFUL ACTS AND AWARDED DAMAGES IN FAVOR OF THE PLAINTIFF.

The assigned errors will be discussed in seriatim for being interrelated to each other.

Indisputedly, the subject contract of lease is only for a period of one (1) year commencing from August 3, 2003 renewable at the option of both parties. Accordingly, the contract ceased to be effective upon the day fixed therein without need of demand[5]. However, defendants-appellants continued their stay in the leased premises with the acquiescence of plaintiff-appellee who did not ask them to vacate the same. This kind of arrangement, to our mind

is an implied new lease based on the principle of tacita reconduccion. To put it differently, no positive act was made by both parties to indicate their intention to renew or enter a new contract of lease. In such a situation, Article 1670 of the Civil Code is apropos; thus:

"If at the end of the contract the lessee should continue enjoying the thing leased for fifteen days with the acquiescence of the lessor, and unless a notice to the contrary by either party has previously been given, it is understood that there is an implied new lease, not for the period of the original contract, but for the time established in articles 1682 and 1687. The other terms of the original contract shall be revived."

The Supreme Court made an elaborate discussion of Article 1670 of the Civil Code in the case of *Dizon vs. Magsaysay*[6] which was reiterated in the 2010 case of *Cebu Bionic Builders Supply, Inc. vs. DBP*[7], thus:

"[T]he other terms of the original contract" which are revived in the implied new lease under Article 1670 are only those terms which are germane to the lessee's right of continued enjoyment of the property leased. This is a reasonable construction of the provision, which is based on the presumption that when the lessor allows the lessee to continue enjoying possession of the property for fifteen days after the expiration of the contract he is willing that such enjoyment shall be for the entire period corresponding to the rent which is customarily paid — in this case up to the end of the month because the rent was paid monthly. Necessarily, if the presumed will of the parties refers to the enjoyment of possession the presumption covers the other terms of the contract related to such possession, such as the amount of rental, the date when it must be paid, the care of the property, the responsibility for repairs, etc. But no such presumption may be indulged in with respect to special agreements which by nature are foreign to the right of occupancy or enjoyment inherent in a contract of lease."

What about this case? Is the 30-day notification requirement under the old contract still applicable it being "germane to the continued enjoyment by the lessee of the leased property"? Our answer is in the affirmative. Upon the expiration of the lease and the parties failed to enter into a new contract of lease within fifteen (15) days therefrom and the lessee (plaintiff-appellee) allowed the lessor (defendants-appellants) to continue enjoying the possession of their property, such prior 30-day notice stated in the old contract is deemed revived and to be followed by the parties in the renewed lease.

Defendants-appellants' insistence that the implied new lease with plaintiff-appellee is on a month-to-month basis, and therefore at the end of each month the lease automatically expires, without need of informing the other party of the said termination because the law itself provides for the termination, will not hold. Jurisprudence taught us that "if rent is paid monthly, the lease is on a month-to-month basis and under the contemplation of Art. 1687 of the Civil Code, it is a lease with a definite period, the term of which expires every end of the month and upon demand by the lessor on the lessee to vacate[8]. Clearly, the right to terminate such implied contract lies with the lessor. In the present case, there was no express act on the part of the plaintiff-appellee that she was against the continued stay by the defendants-appellants on the property. It was defendants-appellants who vacated the premises without notifying in advance plaintiff-appellee, in violation of the revived 30-day prior notice requirement agreed upon by the parties in the old contract.

Indeed, defendants-appellants' act of vacating the leased premises without sufficient notice to plaintiff-appellant violates the provisions of the lease agreement and constitutes bad faith. Under our Civil Code, they may be held liable for moral damages.

Articles 2219, 2220, and 21 of the Civil Code provide:

Art. 2219. Moral damages may be recovered in the following and analogous cases:

xxx xxx xxx

(10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

Art. 2220. Wilfull injury to property may be a legal ground for awarding moral damages if the court should

find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith. (Emphasis supplied)

Art. 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

Similarly, when a wrongful act is accompanied by bad faith or when a party acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner exemplary damages may be extended to the aggrieved party under Article 2232[9] of the Civil Code.[10] Since the award of exemplary damages is proper in this case, attorney's fees and cost of the suit may also be recovered as provided under Article 2208[11] of the Civil Code.[12]

On the liability of the defendants-appellants to reimburse plaintiff-appellee of the cost of the improvements the latter had made on the leased premises, the following provisions of the agreement are enlightening:

2.3 that the premises was so constructed according to the plan and specifications of the lessee as made by the lessor and that leased premises shall be used exclusively for car airconditions shop only, that all permits for the business like licenses, cable, water and light and other utilities needed by the business of the lessee shall be for his account;

2.4 All the necessary maintenance of the building, the wear and tear of the premises shall be for the good account of the lessee, that the latter cannot sublease the premises to other person without the written permission of the lessor and in the event the lessee introduced a permanent improvement on the premises at the end of the contract shall belong to the lessor without the payment from the later."

From the foregoing provisions of the contract of lease nothing therein declare that any improvement that plaintiff-appellee introduced, even if it is for the account and enjoyment of defendants-appellants, the latter is obliged to reimburse. What is clear from the agreement that the improvements were constructed for the suitable use for which the lease is intended. In other words, the structure was intentionally constructed according to the use of defendants-appellants' air condition shop. It is as if the construction was made as an indispensable requirement for herein defendants-appellants to enter into the lease agreement. There is no such stipulation agreed upon by the parties for the reimbursement of the improvements introduced in the leased premises, otherwise, they could have explicitly included the same in the contract of lease. A party to a contract cannot unilaterally enlarge the other party's liability or obligation to suit his whims and caprices without running afoul to the principle of mutuality of contracts.

Notwithstanding, as shown by the photographs[13] taken by the plaintiff-appellee and formally offered as evidence for the latter, defendants-appellants did not exercise due care in removing the installations or improvements, fixtures and the like causing extreme damage to the premises thereby entitling plaintiff-appellee to reimbursement of the expenses she incurred for the renovation or repair thereof, which claim was not duly rebutted by the defendants-appellants.

WHEREFORE, the appeal is DENIED. The December 8, 2010 Decision of the Regional Trial Court of Cabanatuan City, Branch 24 is AFFIRMED subject to the following MODIFICATIONS, viz:

- Ordering defendants-appellants to pay damages in the amount of Two Hundred Fifty Thousand Pesos (Php250,000.00) representing the cost of the renovation for the damaged premises;
- Ordering defendants-appellants to pay moral damages in the amount of Twenty Five Thousand Pesos (Php25,000.00);
- Ordering defendants-appellants to pay exemplary damages in the amount of Twenty Thousand Pesos(Php20,000.00);

- Ordering defendants-appellants to pay the Bills for Light and Water in the total sum of One Thousand Four Hundred Twenty Two and Twenty Two Centavos (Php1,422.22);
- Ordering defendants-appellants to pay attorney's fees in the amount of Fifty Thousand Pesos (Php50,000.00);
- Ordering defendants-appellants to pay the cost of herein suit in the amount of Twelve Thousand Eight Hundred Twenty Seven and Fifty Centavos (Php12,827.50).

SO ORDERED.

[*]Gonzales-Sison, (Acting Chairperson), and [**]Ybañez, JJ., concur.

[*] Acting Chairperson per Office Order No. 485-14 -RSF dated November 24, 2014

[**] Acting Senior Member per Office Order No. 485-14 -RSF dated November 24, 2014

[1] Rollo, pp. 47-66

[2] Records, pp.8-9

[3] Records, pp. 18-22

[4] Supra at note 1

[5] Article 1669 of the New Civil Code

[6] No. L-23399, May 31, 1974, 57 SCRA 0020250

[7] G.R. No. 154366, November 17, 2010

[8] Labastida vs. Court of Appeals, 287 SCRA 662, De Vera vs. Court of Appeals, 260 SCRA 396

[9] Article 2232 of the Civil Code provides that "in contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner."

[10] Amado v. Salvador, G.R. No. 171401, 13 December 2007, 540 SCRA 161; Tanay Recreation Center and Development Corp. v. Fausto, 495 Phil. 400 (2005).

[11] Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In action for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable. (Emphasis supplied)

[12] Unlad Resources Development Corporation v. Dragon, G.R. No. 149338, 28 July 2008, 560 SCRA 63.

[13] Exhibit B and submarkings, Records, pp. 10-11

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