

LIMPAN INVESTMENT CORPORATION, PETITIONER, VS. LIM SY, RESPONDENT.

G.R. No. L-31920. April 08, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to reverse and set aside: (a) the Decision[*] of the Court of Appeals in CA G.R. 35152-R entitled *Limpan vs. Lint Sy*, which affirmed the Decision[**] of the Court of First Instance of Manila, dismissing the complaint of petitioner for unlawful detainer against herein respondent, and (b) the resolution[***] of the same Court denying the Motion for Reconsideration dated April 14, 1970.

As found by the trial court and by the Court of Appeals the factual background of this case is as follows:

"Lim Sy is the lessee of the premises identified as Nos. 706-708 Misericordia Street, City of Manila, which is a portion of a big building presently belonging to the Limpan Investment Corporation fronting on Misericordia, Soler and Florentino Torres Streets. He originally occupied the premises beginning the year 1953, when the property was then owned and registered in the name of Isabelo P. Lim, continuously up to the present. In August and September, 1953, Lim Sy paid a monthly rental of P 400 for each door or P800 for the entire leased premises but from October to the end of that year, the rental was reduced to P350 per door. Beginning the year 1954, Lim Sy asked for a further reduction of the rental but no agreement was reached between him and the owner of the building.

"On October 5, 1954, Isabelo P. Lim filed an action in the Municipal Court of Manila (Civil Case No. 33492) against Lim Sy for the ejectment of the latter from the leased premises and to order him to pay rental at the rate of P800 a month until he finally vacates the property. After due trial, the Municipal Court of Manila dismissed the complaint and Isabelo P. Lim elevated the case on appeal to the Court of First Instance of Manila.

"After a trial de novo was held, the Court of First Instance of Manila rendered judgment for Lim Sy and denied the prayer of Isabelo P. Lim to eject the former from the leased premises, but ordered him to pay the latter as rental thereof, the sum of P361 a month for the two doors, beginning January 1, 1954. Not satisfied with said decision, Isabelo P. Lim appealed therefrom to the Court of Appeals and the case was docketed therein ...

"On April 22, 1957, the Court of Appeals promulgated its decision affirming that of the Court of First Instance of Manila insofar as it denied the prayer of the owner to eject the lessee but modified it by fixing the monthly rental for the leased premises at the rate of P300 per door or a total of P600.

"On the basis of the decision of the Court of Appeals, Lim Sy had been paying regularly the rentals for the leased premises. In July 1959, however, notice was given to Lim Sy that the rentals beginning August of that year, would be increased to P750 a month. Notwithstanding said notice, Lim Sy did not pay the increased rental but only the reasonable compensation fixed by the Court of Appeals for the occupancy of the two doors of the building.

"On October 30, 1959, Limpan Investment Corporation and Isabelo P. Lim, as joint owners of the property, filed an action in the Municipal Court of Manila, which was docketed therein as Civil Case No. 72309, for the

ejectment of Lim Sy from the leased premises on account of his refusal to pay the increased rental of the sum of P750 a month. Lim Sy filed a motion to dismiss the complaint on the ground that the decision of the Court of Appeals was res judicata of the ejectment case. On December 24, 1959, the Municipal Court sustained the motion of Lim Sy on the specific ground relied upon therein and accordingly the ejectment case was dismissed. No appeal was taken from the order of dismissal by the Limpan Investment Corporation or Investment Corporation or Isabelo P. Lim and in due time it became final.

"In the meantime, Lim Sy continued to occupy the leased premises and to pay the corresponding rentals therefor. On June 25, 1963, however, the Limpan Investment Corporation claiming to be the sole owner of the leased premises sent a letter to Lim Sy which reads as follows:

'Please take notice that we are terminating your monthly lease on the 30th of June 1963, in this respect you are hereby requested to restore possession of the premises in good habitable condition.

'If you desire to continue occupation beyond such date, you will have to pay P950.00 monthly rent effective July 1, 1963, and until such time (when) you leave the premises.

'In order to avoid judicial action for detainer, it will be accordingly wise to vacate the place on June 30, 1963.'

"On July 3, 1963, Atty. Magsalin, counsel for Lim Sy, replied to the letter of the Limpan Investment Corporation informing it that his client was not agreeable to pay the increased rental for the leased premises at P950 a month but would continue to do so at the same rate fixed by the Court of Appeals.

"On August 21, 1963, Limpan Investment Corporation filed an action in the City Court of Manila praying for the ejectment of Lim Sy from the leased premises and that he be ordered to pay a monthly rental at the rate of P950 beginning July 1, 1963 should he continue occupying the premises until he vacate the same. Lim Sy filed a motion to dismiss the complaint on the ground that the action is barred by prior judgments. The City Court denied the motion and so the defendant set up the special defense of res judicata in his answer. After the trial on the merits, the City Court dismissed the complaint on the ground that the decision of the Court of Appeals in CA-G.R. No. 17476-R fixing the reasonable rental of the leased premises at P600 a month and the order of the Municipal Court in Civil Case No. 72309 dismissing the said ejectment, constitute res judicata to the present action. From this decision, the plaintiff appealed to this Court and the defendant reproduced the answer he filed in the inferior court." (Decision, CA-G.R. No. 35152-R, Rollo, pp. 14-16)

The Court of First Instance of Manila rendered judgment dismissing the Complaint and ordering the plaintiff to pay to the defendant the sum of P500.00 as attorney's fees, with costs.

On appeal, the Court of Appeals ruled in favor of the defendant-appellee as follows:

"We agree with the holding of the lower court that the present action was brought to nullify and set at naught the decision in CA-G.R. No. 17476-R since the plaintiff does not need the premises and the apparent reason for the notice of termination of the lease was to collect a higher rental of P950.00 a month; that there has been no change in the condition of the premises in question nor a revision of the real estate tax assessment thereof which would justify a reexamination of the reasonableness of the rental for the occupancy of the leased premises; that with the passing of time, if any change should be made in the amount of rental to be charged, it should not be to increase but rather to reduce it.

"The award of P500.00 as attorney's fees is justified since the defendant had been compelled to incur unnecessary expenses of litigation due to the unreasonable act of the plaintiff.

"WHEREFORE, finding no error in the judgment appealed from, the same is hereby affirmed, with costs against the plaintiff-appellant.

"SO ORDERED." (Decision, CA-G.R. No. 35152-R, pp. 17-18)

Hence, this petition.

Plaintiff-appellant (petitioner), raised the following assignments of error in its brief:

I

THE LOWER COURT ERRED IN FINDING THAT THE PRESENT ACTION IS TO INCREASE RENTAL AND NOT TO TERMINATE THE LEASE CONTRACT CONSIDERING THAT THE CONTRACT OF LEASE IS ON A MONTH TO MONTH BASIS, PLAINTIFF COULD, AS IT DID IN THIS CASE, TERMINATE THE SAME AT THE END OF ANY MONTH, AND THEREFORE, COULD LEGALLY EJECT THE LESSEE.

II

THE LOWER COURT ERRED IN FINDING THAT THE RENTAL FOR THE PREMISES SHOULD BE SIX HUNDRED PESOS (P600.00) CONSIDERING THAT THE CONTRACT OF LEASE IS ON A MONTH TO MONTH BASIS AND, THEREFORE, COULD

BE TERMINATED BY EITHER PARTY AT THE END OF ANY MONTH, PLAINTIFF CAN, UPON NOTICE OF TERMINATION OF THE CONTRACT OF LEASE AND NOTICE TO VACATE THE PREMISES, IMPOSE A NEW RATE OF RENTAL UP TO AND UNTIL DEFENDANT ACTUALLY VACATES THE PREMISES VOLUNTARILY OR IS COMPELLED TO DO SO THROUGH AN ACTION FOR EJECTMENT AS IN THE CASE AT BAR.

III

THE LOWER COURT ERRED IN ORDERING PLAINTIFF TO PAY DEFENDANT THE SUM OF FIVE HUNDRED PESOS (P500.00) FOR ATTORNEY'S FEES AND THE COSTS OF SUIT CONSIDERING THAT PLAINTIFF HAS THE RIGHT TO TERMINATE THE CONTRACT OF LEASE OF DEFENDANT AND UPON THE LATTER'S REFUSAL TO LEAVE THE PREMISES EJECT HIM JUDICIALLY.

NEW ASSIGNMENT OF ERROR

THE COURT OF APPEALS ERRED IN APPLYING THE RULE OF RES JUDICATA IN THIS CASE.
(Brief for Plaintiff-Appellant, pp. 5-7)

In the resolution of May 5, 1970 (Rollo, p. 21) this petition was given due course.

The main issues in this case are: (a) whether or not the lessor can terminate a contract of lease on a month to month basis upon oral and written notice of termination and (b) whether or not the rule of res judicata applies in the case at bar.

The petition is impressed with merit.

This case having transpired in 1970 is not covered even by the first Rental Law, Republic Act 6359, which was approved and became effective in 1971. As such, it is governed by the provisions of the Civil Code.

This Court has categorically declared that the lessor has a clear and indubitable right to eject the lessees, the period of the lease having expired at the end of every monthly period.

By the manner of payment of rentals, that is monthly in advance, the terms of the contract whether oral or written are very clear, that it is renewed from month to month (unless sooner terminated upon due notice).

Private respondent argues that the termination of the lease effective June 30, 1963 was merely a guise to increase the rentals effective July, 1963.

This question has been laid to rest in a long line of decisions where this Court ruled as follows:

"The rule is settled that the owner of the land leased has the right not only to terminate the lease at the expiration of the term, but also to demand a new rate of rent. The tenant or lessee has the option either to accept the new rent or vacate the premises. (Iturralde vs. Alfonso, 7 Phil. 576; Iturralde vs. Evangelista, 7 Phil. 588; Iturralde vs. Magcauas, 9 Phil. 599; Cortez vs. Ramos, 46 Phil. 189). As (lessees), after the termination of their lease, refused either to pay the new rent or to vacate the lots after the termination of their lease, they have evidently become deforciants, and can be ousted judicially without the need of a demand. (Co Tiamco vs. Diaz, 75 Phil. 672; Art. 1669, New Civil Code)." (Bulahan et al. vs. Tuazon, et al., 109 Phil. 251 [1960]; quoted in Roxas vs. Alcantara, 113 SCRA 26 [1982]. The Bulahan ruling is reiterated in Gindoy vs. Tapucar, et al., 75 SCRA 31, 41 [1977]).

Thus, in a like situation, where petitioner sent a reminder to private respondent as to the impending expiration of the lease contract with a statement that was in effect an offer or proposal to renew the contract of lease on the terms and conditions stated, among which is an increase in rental, this Tribunal categorically stated that: "Only the owner has the right to fix the rents. The Court cannot determine the rents and compel the lessor or owner to conform thereto and allow the lessee to occupy the premises on the basis of the rents fixed by it." (Lim Bi vs. him, 98 Phil. 868 [1956] cited in Roxas vs. Alcantara, supra).

Private respondent likewise claims that the previous decision of the Court of Appeals fixing the rental at P600.00 a month is a bar to the present action.

This Court has ruled that although the first action of the owner for the ejectment of the tenant was dismissed by the court under a judgment that became final and executory, such dismissal does not preclude the owner from making a new demand upon the tenant to vacate should the latter again fail to pay the rents due. "This second demand for the payment of the rents and for the surrender of the possession of the leased premises and the refusal of the tenant to vacate would then constitute a new cause of action. The action on the first case could not therefore, serve as a bar to the second action for ejectment." (Viray vs. Marinas, 49 SCRA 45-46 [1973]).

PREMISES CONSIDERED, (1) the decision of the Court of Appeals appealed from is REVERSED and SET ASIDE; (2) the respondent is required: (a) to vacate the premises in question together with any and all persons claiming any right under him; (b) to pay the monthly rental of P950.00 with legal interest until respondent vacates the premises; (c) to pay the sum of P500.00 for attorney's fees; and (d) to pay the costs; and (3) this decision is Immediately executory.

SO ORDERED.

Yap (Chairman), Melencio-Herrera, and Sarmiento, JJ., concur.
Padilla, J., took no part.

[*].Penned by Justice Salvador V. Esquerra and concurred in by Justices Ramon O. Nolasco and Arsenio Solidum.

[**] Penned by Judge Federico C. Alikpala.

[***].Ibid.

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