

**VIRGILIO C. AQUINO AND JULIANA D. AQUINO, PETITIONERS, VS.
HON. REGIONAL TRIAL COURT, BRANCH 40, DAGUPAN CITY,
PRESIDED BY HON. JUDGE EMMA TORIO FELIPE DE VENECIA AND
LUISA A. D...**

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BERSAMIN, L.P., J:

By petition for review, defendants Spouses Virgilio and Juliana Aquino appeal the decision dated April 28, 2005 of the Regional Trial Court (RTC), Branch 40, in Dagupan City,[1] affirming the decision dated October 8, 2004 of the Municipal Trial Court (MTC), Branch 3, in Dagupan City.[2]

First, the essential antecedents.

On May 3, 2004, respondent Spouses Felipe and Luisa De Venecia commenced this action for unlawful detainer against the petitioners in the MTC, alleging that they were the registered owners of a 3-storey building erected on their land covered by their Transfer Certificate of Title No. 44865; that they leased the property to the petitioners at a monthly rental of P30,000.00, for 1 year from January 6, 2003 to January 6, 2004; that the lease expired on January 6, 2004 and was not renewed; and that despite oral demands made and despite the formal demand letter dated January 8, 2004, the petitioners failed and refused and still fail and refuse to vacate the leased premises to their damage and prejudice.

The petitioners filed their answer with counterclaim, contending that the respondents had no legal grounds to eject them from the premises because upon the expiration of the contract on January 2004, an implied new lease of the property ensued due to the respondents continuing to collect and receive monthly rentals from them; and that the respondents were estopped from cancelling the contract and from ejecting them from the premises.

The case was set for preliminary conference, at which the parties made some admissions, including the identity of the building as the premises involved in the case; the term of the contract of lease having expired on January 6, 2004; and the receipt of rentals even after the expiration of the contract of lease. Thereafter, the parties submitted their position papers.[3]

On October 8, 2004, the MTC rendered its decision, decreeing as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against defendants Spouses Virgilio C. Aquino and Juliana D. Aquino, as follows:

- 1.Ordering defendants, their assigns, agents or other persons acting for themselves to vacate the premises in question and to restore possession to the plaintiffs;
- 2.Ordering defendants to pay plaintiffs the sum of P10,000.00 as attorney's fees;
- 3.Ordering defendants to pay plaintiffs monthly rentals from October 2004 until they vacate the premises in question;
- 4.Ordering defendant to pay plaintiffs litigation expenses in the amount of P5,000.00 and to pay the cost of

suit.

SO ORDERED.[4]

In their appeal, the petitioners, assigned the following errors [5] to wit:

- THE HONORABLE MUNICIPAL TRIAL COURT COMMITTED GRAVE ERROR IN NOT DECLARING THAT THERE WAS IMPLIED RENEWAL OF LEASE.
- THE HONORABLE MUNICIPAL TRIAL COURT ALSO COMMITTED GRAVE ERROR IN ORDERING THE EVICTION OF THE DEFENDANTS-APPELLANTS FROM THE LEASE PREMISES.
- THE HONORABLE MUNICIPAL TRIAL COURT LIKEWISE COMMITTED GRAVE ERROR IN NOT HOLDING THE PLAINTIFFS-APPELLEES UNDER ESTOPPEL IN CAUSING THE EVICTION OF THE DEFENDANTS-APPELLANTS FROM THE LEASED PREMISES.
- THE HONORABLE MUNICIPAL TRIAL COURT FURTHER COMMITTED GRAVE ERROR IN AWARDING DAMAGES AGAINST THE DEFENDANTS.[6]

On April 28, 2005, the RTC, finding no reversible error, affirmed the MTC.[7]

The petitioner sought reconsideration,[8] but the RTC denied their motion for reconsideration on June 19, 2005.[9]

Hence, this appeal, wherein the petitioners contend:[10]

I

THE HONORABLE LOWER COURT A QUO COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT DECLARING THAT THERE WAS IMPLIED RENEWAL OF LEASE

II

THE HONORABLE LOWER COURT A QUO LIKEWISE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT HOLDING THE PRIVATE RESPONDENTS UNDER ESTOPPEL IN CAUSING THE EVICTION OF THE PETITIONERS FROM THE LEASED PREMISES

III

THE HONORABLE LOWER COURT A QUO FURTHER COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN AWARDING DAMAGES AGAINST THE PETITIONERS.

As we see it, the decisive issue concerns whether an implied new lease (tacita reconduccion) transpired between the parties.

Upon consideration of the submissions of the parties, we find that the appeal has no merit as far as the decisive issue is concerned. We declare that the RTC correctly affirmed the MTC on then absence of an implied new lease.

Art. 1670, Civil Code, which governs implied new lease, states:

Art. 1670. 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.

An implied new lease (*tacita reconduccion*) sets in, therefore, if it is shown that: (a) the term of the original contract of lease has expired; (b) the lessor has not given the lessee a notice to vacate; and (c) the lessee has continued enjoying the thing leased for 15 days with the acquiescence of the lessor.[11] The acquiescence may be inferred from the failure to serve a notice to quit.[12]

When the contract of lease ended on January 6, 2004, the respondents made oral demands to vacate upon the petitioners on January 7, 2004. Due to the petitioners' refusal to comply, the respondents issued them the written notice to vacate (through counsel) on January 8, 2004. Yet, despite the demands, the petitioner did not vacate but continued paying the monthly rentals. Hence, the respondents commenced this action for unlawful detainer.

The petitioners contend that the respondents allowed them to remain in the premises even after the expiration of the contract of lease and received their rental payments, the last being on August 3, 2005; that the respondents thereby recognized the continuation of their lessor-lessee relationship; that the respondents could not now legally eject them by virtue of an implied new lease having arisen; and that the respondents were estopped from demanding their ouster after having made them believe that the contract had been extended by their unconditional acceptance of the monthly rentals.

The petitioners' insistence on an implied new lease is baseless.

Firstly, the lease contract, being for a period of 1 year, from January 1, 2003 to January 1, 2004, was for a determinate time, and, as such, ceased by express provision of the contract on the day fixed, without need of a demand.[13] It is thus futile for the petitioners to argue on an extension of the lease.[14]

Secondly, the respondents issued to the petitioners a written notice to vacate on January 8, 2004. Such notice prevented the rise of an implied new lease between them because a notice to vacate constitutes an express act evincing that the lessor no longer consents to the continued occupation by the lessee of the property.[15] Although Art. 1670, *supra*, recognizes an implied new lease only when "the lessor has not given the lessee a notice to vacate," the notice thus required is given after the expiration of the lease period for the purpose of aborting an implied renewal of the lease.[16] Obviously, Art. 1670, *supra*, does not require that the notice to vacate be given before the lease with a definite period expires.[17]

Thirdly, the fact that the petitioners continued to be in the premises beyond 15 days after the expiration of the contract of lease did not give rise to the implied new lease between the parties. [18] We regard to be correct, as did the RTC, the following holding of the MTC, viz:

In this case, the Court finds that there is no implied renewal of lease for the reason that a notice to vacate was given by the lessor to the lessee. Here, there is a formal notice to vacate. The fact that the lessee continued enjoyment for more than fifteen days did not amount to an implied renewal of the lease where notice to vacate had previously been given. (*Gamboa's Incorporated vs. Court of Appeals*, 72 SCRA 131).[19]

And, fourthly, the receipt of rental payments did not constitute the respondents' continuous recognition of the existence of a lessor-lessee relationship. The petitioners' refusal to heed the demands to vacate upon expiration of the contract rendered them deforciant, that their possession was, in the view of the MTC, merely tolerated. The respondents were not thereby estopped from insisting on their ouster, for, as held in *LL and Company Development and Agro-Industrial Corporation v. Huang Chao Chun*: [20]

The mere subsequent payment of rentals by the lessee and the receipt thereof by the lessor does not, absent any other circumstance that may dictate a contrary conclusion, legitimize the unlawful character of the possession.

After we have firmly established that no implied new lease came about, there is no basis at all for holding the respondents in estoppel. The records sufficiently show, indeed, that the respondents evinced their desire to regain possession from the petitioners by giving the notice to vacate on January 8, 2004, or only 2 days after the contract expired on January 6, 2004. They should not now be held in estoppel.

We do not find any good cause to modify or reverse the award of attorney's fees. Although the RTC passed upon the matter sub rosa, we nonetheless leave the matter untouched considering the failure of the petitioners to advance any persuasive ground to overturn the award. All that the petitioners offered was that it was they, not the respondents, who had been dragged unnecessarily into this litigation and thus should be the ones indemnified for the experience.²¹ That ground is obviously too flimsy for any serious consideration for reversal. Moreover, we discern that the MTC awarded attorney's fees of P10,000.00 because it found that the refusal of the petitioners to vacate despite the expiration of their lease compelled the respondents to incur expenses; and because it considered such award to be just and equitable in the premises. To that extent, the award conformed to Art. 2208, (2) and (11), Civil Code, to wit:

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

xxx

(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;

xxx

(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.

We consider the award of P5,000.00 as expenses of litigation to be devoid of factual basis. The MTC decision rendered no explanation why the court was fixing that amount. Hence, reversal on that point is decreed.

WHEREFORE, the decision dated April 28, 2005 is AFFIRMED, subject to the modification that the award of P5,000.00 for expenses of litigation is deleted.

SO ORDERED.

Villarama, Jr. and Arevalo-Zenarosa, JJ., concur.

[1] Civil Case No. 2004-0378-D; rollo, pp. 55-58.

[2] Civil Case No. 1214; rollo, pp. 35-38.

[3] Annex A (petitioners' position paper) and Annex B (respondents' position paper), petition.

[4] Annex C, petition; rollo, p. 38.

[5] Annex D, petition.

[6] Rollo, p. 42.

[7] Annex F, petition; rollo, pp. 55-58.

[8] Annex G, petition.

[9] Annex H, petition.

[10] Rollo, pp. 10-11

[11] *Bowe v. Court of Appeals*, 220 SCRA 158.

[12] *Arevalo Gomez Corporation v. Lao Hian Llong*, 148 SCRA 372.

[13] Art. 1669, Civil Code.

[14] *Chua v. Court of Appeals*, 242 SCRA 744 (March 27, 1995).

[15] *Tagbilaran Integrated Settlers Association (TISA), Inc. v. Court of Appeals*, 444 SCRA 193.

[16] *Tagbilaran Integrated Settlers Association (TISA), Inc. v. Court of Appeals*, *supra*, at p. 199; citing *Chua v. Court of Appeals*, 242 SCRA 744.

[17] *Chua v. Court of Appeals*, *supra*, at p. 751.

[18] *Carlos v. Court of Appeals*, 268 SCRA 25.

[19] Rollo, p. 37.

[20] 378 SCRA 612; citing *Guzman v. Court of Appeals*, 177 SCRA 604.

[21] Petition, p. 16; rollo, p. 18.

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