

**PAZ DE JESUS MESINA AND PETER DE JESUS, PETITIONERS, VS.
COURT OF APPEALS AND CETUS DEVELOPMENT, INC.,
RESPONDENTS.***G.R. No. 100228. July 13, 1994*

Ponente: BELLOSILLO, J.

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Amid the bustling life in old Quiapo lies a parcel of land subject of a verbal lease as far back as the late 1800's. Through the years the lessees, who have been paying a measly rent, have been refusing to give up the property as it can be rented out for more than ten times their rent. Judicial attempts to eject them from the property were resisted successfully until, through an entirely new court action, they were ordered to vacate the premises.

We could have consolidated this case with *Juarez v. Court of Appeals*,^[1] as both cases involve the same issue and a portion of the same parcel of land. But because of certain incidental matters raised herein, this case requires separate adjudication. Nevertheless, in resolving the main issue, we defer to the insightful and discerning ponencia of Senior Associate Justice Isagani A. Cruz in *Juarez v. Court of Appeals*.

The property is designated as No. 502 Quezon Boulevard, Quiapo, Manila. It was originally owned by Gregorio Araneta from whom Clemente de Jesus, petitioners' predecessor-in-interest, leased it way back in the late 1800's. In 1921, Clemente bought the two (2) houses erected on the lot. He died in 1972 survived by petitioners who are his daughter Paz Mesina and his grandchild by his deceased son, Peter de Jesus, both of whom have lived in the property since birth. Paz has transferred residence to Pasay City since then. Peter on the other hand has been staying in one of the two (2) houses while the other house is being leased to different tenants who are paying monthly rentals to petitioners.

Meanwhile, Gregorio Araneta sold the land to Susana Realty, Inc., which in turn sold the same to Cetus Development Corporation (CETUS, for brevity) sometime in 1984. Consequently, on 14 February 1986, CETUS filed a complaint for ejectment against Paz Mesina on the ground that the property was assigned by the original lessor to her who in turn sublet the premises to other persons without the written consent of the lessor.

On 29 July 1986, the Metropolitan Trial Court of Manila, Br. 25, dismissed the complaint on the ground that Paz Mesina "did not occupy the lot in question as an assignee but by operation of law as the successor-in-interest, being the daughter of the registered lessee."^[2] The inferior court also ruled that while B.P. 877 prohibits the assignment of lease or subleasing of the property to third parties, the leasehold right in the instant case was acquired prior to the effectivity of B.P. 877 which has no retroactive application. On 12 January 1987, the Regional Trial Court of Manila, Br. 51, affirmed the dismissal of the ejectment suit.^[3] There being no appeal, the trial court's affirmance became final.

Sometime in 1989, CETUS again initiated ejectment proceedings, this time impleading both Paz Mesina and Peter de Jesus as defendants. On 18 June 1990, the Metropolitan Trial Court of Manila, Br. 10, rendered judgment ordering Paz Mesina and Peter de Jesus to vacate the leased premises.^[4] On appeal, the Regional Trial Court of

Manila, Br. 41, reversed the judgment of the inferior court and ordered the dismissal of the complaint filed by CETUS.[5] On 31 May 1991, the Court of Appeals reversed the Decision of the Regional Trial Court and reinstated the Decision of the Metropolitan Trial Court;[6] hence, this petition filed by Paz Mesina and Peter de Jesus.

Petitioners invoke *res judicata* as a bar to the institution of the present action. They argue that the inclusion of an additional party defendant in the person of Peter de Jesus would not substantially affect the identity of the parties between the first and the present case since Peter de Jesus, like Paz Mesina, is also a forced heir who succeeded into the leasehold rights of the original lessor, Clemente de Jesus. They also contend that the cause of action in the former case, i.e., the subleasing of the property without the consent of the registered owner, is the same cause of action in the instant case.

Petitioners likewise maintain that B.P. 877,[7] which imposes penal sanctions for its violation, cannot apply to the instant contract of lease and the consequent subletting of the premises. The contract has long been in effect. Since there is no express Provision in B.P. 877 that it shall have retroactive effect, the statute should operate prospectively. To give B.P. 877 retroactive application would operate as an impairment of an existing contract and an *ex-post facto* law which are both proscribed by the Constitution.

For *res judicata* to bar the institution of a subsequent action, the requisites are: the judgment must be final; the judgment must have been rendered by a court having jurisdiction over the subject matter and the parties; the judgment must be on the merits; and, there must be between the first and second actions, identity of parties, of subject matter, and of causes of action.[8]

There is no dispute as to the presence of the first three requisites. Hence, the bone of contention is reduced to whether there is identity of parties and of causes of action between the first case and the instant proceedings. For sure, there is identity of parties with respect to petitioner Paz Mesina who was impleaded in the first action and again in the present case. With regard however to petitioner Peter de Jesus, although he is a proper party in the first case, there is no identity of parties between the two actions as he was never impleaded in the first court proceedings. Consequently, he cannot be bound by pronouncements of the court therein. But the question regarding the identity of parties is not the sole issue. In ascertaining whether *res judicata* applies, it also has to be determined whether there is identity of causes of action in both.

There is none. The first case was based on the demand letter to vacate dated 18 November 1985 for subleasing the leased premises, in express violation of B.P. 877, whereas the present case is based on the demand letter dated 12 July 1989 for subleasing the premises after 18 November 1985 and before 12 July 1989. While the first action has already attained finality, it merely refers to the principal lease contract and the act of subleasing the property prior to 18 November 1985. Considering that the existing contract between petitioners and private respondent CETUS is admittedly a verbal month-to-month lease contract which expires at the end of every thirty-day period but which is automatically renewed for the next thirty-day period, repeating the same cycle for the succeeding thirty-day periods until the implied lease is expressly terminated, each thirty-day lease contract is separate and distinct from the other thirty-day leases. Hence, a cause of action based on one thirty-day period is separate and distinct from a cause of action based on another thirty-day period. Accordingly, there can be no identity in the causes of action between the two cases.

The second ground raised by petitioners, as we said, has already been resolved in *Juarez v. Court of Appeals*. [9] There we ruled that when the contract of lease was impliedly renewed after the effectivity of B.P. 877, that renewed lease became subject to the provisions of the statute and any act of subleasing the premises without the consent of the lessor would be invalid under its provisions. In fact, we even went further and said -

The petitioner complains that the retroactive application of the law would violate the impairment clause. The argument does not impress. The impairment clause is now no longer inviolate; in fact, there are many who now believe it is an anachronism in the present-day society. It was quite useful before in protecting the integrity of private agreements from government meddling, but that was when such agreements did not affect the community in general. They were indeed purely private agreements then. Any interference with them at that time was really unwarranted intrusion that could be properly struck down.

But things are different now. More and more, the interests of the public have become involved in what are supposed to be still private agreements, which have as a result been removed from the protection of the impairment clause. These agreements have come within the embrace of police power, that obtrusive protector of the public interest. It is an ubiquitous policeman indeed. As long as the contract affects the public welfare one way or another so as to require the interference of the State, then must the police power be asserted, and prevail, over the impairment clause.

Mr. Justice Cruz could not have said it any better in *Juarez v. Court of Appeals* -

Thus, the lessor is prohibited from arbitrarily increasing the rentals and leaving the lessee no choice except to pay up or vacate the leased premises for the shelterless streets. On the other hand, the lessee is not permitted to insist on paying inordinately low rentals grown absurd and unrealistic in view of rising costs, including the expenses of administering and maintaining the leased premises.

In allowing the ejectment of the lessee who has subleased the leased premises without the consent of the lessor, the law has taken note of one of the unconscionable practices of lessees that have caused much prejudice to the lessor x x x x

The Court is not unaware of the many gambits employed by landlords to eject their incumbent tenants whose rentals may not be increased beyond the statutory maximum and who may even enjoy the right to purchase the rented premises under certain conditions. Thus, lessors may pretend to need the premises themselves or to have to undertake urgent repairs thereon or not to have received rentals on time when their real purpose is to lease the property to new tenants at higher rentals not covered by the rental laws.

On the other hand, there are lessees who have taken undue advantage of the rental laws by holding on to the leased premises although they no longer need them for their own residence or administering them to the prejudice of the landlord by partitioning the apartment or lot and subleasing them to separate families or individuals, or accepting bedspacers and boarders, each paying rentals that in the aggregate are much more than the regulated rentals the original lessee is paying the landlord.

The purpose of the law in interfering with such contracts is to protect both the landlord and the tenant from their mutual impositions that can only cause detriment to society as a whole. The practices above discussed have to be the subject of government regulation and even prohibition and cannot seek legitimate refuge in the impairment clause.

The petitioner's contention that BP 877 is an ex post facto law must also be rejected. It is not penal in nature and the mere fact that it contains penal provisions does not make it so. At any rate, she is not being prosecuted under the said penal provisions. She was sued in the municipal court in a civil complaint to eject her from the lot on the ground that she had unlawfully subleased it.

WHEREFORE, the instant petition for review on certiorari is DISMISSED for lack of merit. The questioned Decision of respondent Court of Appeals dated 31 May 1991 is AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

[1] G.R. No. 93474, 7 October 1992, 214 SCRA 475.

[2] Judge Tirso C. Briones, presiding.

[3] Judge Cesar S. Paguio, presiding.

[4] Judge Ed Vincent Albano, presiding.

[5] Judge Domingo D. Panis, presiding.

[6] Decision penned by Justice Serafin V.C. Guingona, concurred in by Justices Antonio M. Martinez, Chairman, and Asali S. Isnani of the Special Ninth Division.

[7] Sec. 5, par. (a), B.P. 877, provides: "Ejectment shall be allowed on the following grounds: (a) Assignment of lease or subleasing of residential units in whole or in part, including the acceptance of boarders or bedspacers, without the written consent of the owner/lessor." Sec. 8 on the other hand mandates: "A fine of not less than two thousand pesos nor more than five thousand pesos shall be imposed on any person, natural or juridical, violating Section 1 or Section 4 of this Act."

[8] *Meliton v. Court of Appeals*, G.R. No. 101883, 11 December 1992, 216 SCRA 485; *Baguioro v. Basa, Jr.*, G.R. No. 83369, 2 October 1992, 214 SCRA 437; *De Ramos v. Court of Appeals*, G.R. No. 86844, 1 September 1992, 213 SCRA 207; *De la Rosa v. Mercado*, G.R. No. 101703, 3 July 1992, 211 SCRA 236.

[9] See Note 1.

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