

CECILIA CARLOS, PETITIONER, VS. THE COURT OF APPEALS AND EAST ASIA REALTY CORPORATION, RESPONDENTS.

G.R. No. 109887. February 10, 1997

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision, dated March 9, 1993 of the Court of Appeals and its resolution, dated April 26, 1993, affirming the decision of the Regional Trial Court, which reversed the contrary decision of the Metropolitan Trial Court of Parañaque, Branch 78, dismissing the ejectment case filed against petitioner.

The facts are as follows:

Petitioner Cecilia Carlos was the lessee of a portion of a house and lot owned by a certain Mrs. de Santos.[1] The house and lot were subsequently sold by Mrs. de Santos to private respondent East Asia Realty Corporation (EARC).

Sometime in 1990, petitioner, together with Lourdes Villamor, filed a complaint in the Regional Trial Court of Makati for the enforcement of their “right of first refusal” or “redemption rights” against private respondent East Asia Realty Corporation. Petitioner and Villamor alleged that in 1987, Mrs. de Santos offered to sell the house and lot to them but despite demands by them, the offer was not put into writing and instead, they were made to sign a blank piece of paper by Mrs. Santos with assurance that their rights would be protected, and that sometime in 1988, they were made to sign an incomplete contract of lease, a copy of which had never been furnished to them.[2] They claimed that the sale of the house and lot to EARC had been made without their consent and in violation of their right of first refusal.

On June 26, 1991, private respondent EARC filed a complaint for ejectment with the Municipal Trial Court against petitioner Cecilia Carlos. East Asia Realty alleged that it entered into a lease contract with petitioner Cecilia Carlos for a fixed term of two years and three months beginning November 1, 1986 and expiring on January 31, 1991; that by virtue of that contract, petitioner Cecilia Carlos took possession of the leased premises and used the same for business; that twice on September 19, 1990, it informed Cecilia Carlos in writing of its decision not to renew the contract of lease after January 31, 1991; that the ejectment case was filed as a result of Cecilia Carlos’ refusal to vacate the premises and her non-payment of the rentals; that Cecilia Carlos subleased the property without its written consent and in violation of the lease agreement; and that by way of mitigating its damages, EARC continued to accept rental payments from Cecilia Carlos even after the expiration of the lease until May, 1991, when petitioner stopped paying.[3]

In due time, Cecilia Carlos filed her answer. With respect to the allegation that she and EARC had entered into a contract of lease for a period of two years and three months, expiring on January 31, 1991, she claimed that she had “no knowledge or information sufficient to form a belief as to the truth” of the allegation. She admitted that she used the premises for her business and that EARC had informed her of its decision not to renew the lease upon its expiry. She alleged that she refused to vacate the premises because she had a right of first refusal. She

denied EARC's allegation that she had subleased the property, the business carried on in the premises being her family business. She contended that the question raised by her complaint before the Regional Trial Court of Makati was a prejudicial question.[4]

After summary proceedings, the MTC dismissed the ejectment case and ruled in favor of petitioner Cecilia Carlos. It held that an implied new lease was created as a result of EARC's acceptance of rentals even after the expiration of the term of the lease agreement. It also cited the pending action, involving Cecilia Carlos' claim to preference in acquiring the subject premises, as ground for the dismissal of EARC's complaint for ejectment.

Private respondent EARC appealed to the RTC, which reversed the MTC, basing its decision mainly on its finding that petitioner Cecilia Carlos had signed a lease agreement[5] the pertinent parts of which stated:

2. This lease contract shall be for a period of Two (2) years and Three (3) months commencing from November 1, 1988 to January 31, 1991.

....

8. No implied renewal shall be understood under this contract, The LESSEE hereby agrees to vacate the said premises exactly at the expiration of the lease term without notice and demand. (underscoring supplied)

Since the agreement had already expired, the RTC held petitioner's ejectment as proper. The RTC rejected Cecilia Carlos' claim that said lease agreement had not been voluntarily entered into by her. Said the RTC:

After a careful evaluation of the evidence on record, the Court is of the conclusion that the court a quo committed error in dismissing the case at bar in favor of defendant-appellee.

The case at hand is a simple action for Ejectment predicated upon the expiry of the Lease Agreement purportedly entered into between plaintiff-appellant and defendant-appellee (Annex "A" of the Complaint). In her memorandum, it was the vehement contention of defendant-appellee that the subject lease agreement was not voluntarily entered into by her as her signature was procured thru fraud, undue influence or mistake. This is entirely unfounded. In the first place, the foregoing allegation was not invoked as a defense in defendant-appellee's Answer, consequently, the same is deemed waived pursuant to Section 2, Rule 9 of the Revised Rules of Court which provides in part that "Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived x x x." In the second place, there was not even a shred of evidence adduced by defendant-appellee in the court below to buttress her allegation of fraud, undue influence or mistake in the procurement of her signature in the lease agreement. In the third place, the subject lease agreement is deemed to have been admitted by defendant-appellee for failure to specifically deny the same in accordance with Section 1, Rule 9 of the Revised Rules of Court.[6]

Petitioner Cecilia Carlos appealed, but the Court of Appeals affirmed the RTC, in a decision rendered on March 9, 1993. A motion for reconsideration was thereafter filed by petitioner but it was denied on April 26, 1993.

Hence, this petition. Petitioner contends:

1. The COURT OF APPEALS erred when it decided this case in favor of private respondent and brushing aside issues of fraud, undue influence or mistake raised by petitioner in her answer;
2. The COURT OF APPEALS erred in not holding that there was an implied renewal of the lease agreement when private respondent continued collecting the monthly rental even after the expiration of the original period of lease;
3. The COURT OF APPEALS erred in not holding that there is indeed a prejudicial question brought about by the pendency of Civil Case No. 90-3444 entitled Cecilia Carlos and Lourdes Villamor vs. East Asia Realty Corporation etc., for first refusal or redemption right and damages.[7]

The petition has no merit. Petitioner contends that contrary to the Court of Appeals' finding, her answer in the MTC alleged fraud, undue influence and mistake in the execution of the lease agreement. This is not true. All that petitioner alleged, so far as pertinent, was —

10. That the plaintiff has no valid cause of actions (sic) as against (sic) defendant for non-conformity of (sic) Rule 70, Rules of Court, and P.D. #1508; And a “prejudicial question” pending between them;

11. That as between the parties there's an ongoing litigation constituting between them a “prejudicial question” now filed with the Regional Trial Court, Branch 133-Makati. Please refer to Annex “2” (6-pages) parcel hereof.[8]

As can be seen, the above-quoted portion of the answer did not allege fraud, undue influence or mistake but only made reference to the pending case between her and EARC and what it alleged was that there was a prejudicial question involved which should first be resolved before the ejectment case could proceed. As the Court of Appeals correctly observed: Msesm

Nowhere in her answer may such defense of fraud, undue influence or mistake be found. Indeed, reference was made by the petitioner to the case for enforcement of her alleged right of first refusal as against the respondent East Asia Realty Corporation, attaching to her answer a copy of the complaint that she has filed for that purpose in the Regional Trial Court of Makati, Metro Manila where such fraud, undue influence or mistake was averred. Nonetheless, the averment to that effect was not made in her answer to the complaint in this case and if it was at all invoked it was but in her complaint to enforce her alleged right of first refusal. A party's defenses to be pleaded in an answer cannot be made by simple reference to what is contained in a pleading filed in another case. One's answer should set forth the negative and affirmative defenses upon which he relies. (Section 4, Rule 6, Revised Rules of Court)[9]

The reference to the ruling in *Universal Motors Corporation v. Court of Appeals*[10] is inapt because here she not only did not allege the issue of fraud, undue influence and mistake but presented no evidence to prove the allegation, as the RTC said.

Clearly, the Court of Appeals did not err when it affirmed the RTC's decision and rejected claims of petitioner that the appellate court brushed aside the issue of fraud, undue influence or mistake allegedly raised by her.

With respect to petitioner's second contention, it must be stressed that a new lease will be implied if the lessee continues enjoying the thing leased for 15 days after the termination of the original contract, with the acquiescence of the lessor. Conversely if notice of the termination of the lease is given, the fact that the lessee continues to stay for 15 more days is not a ground for inferring new lease.[11]

Petitioner claims, however, that the MTC found that no written notice of termination of the lease and demand to vacate had been made by private respondent EARC prior to its filing of the complaint for ejectment on June 26, 1991.[12] This is not so. The MTC never made such finding.[13] On the other hand, petitioner admitted in paragraph 4 of her answer, the following allegation made in the complaint of EARC:

4. That last September 19, 1990, plaintiff, acting thru counsel, wrote to the defendant, informing her that plaintiff decided not to renew the contract of lease upon its expiry date (Jan. 31, 1991) and to locate another place and followed up the same with another letter dated January 11, 1991 reiterating its non-renewal of the lease agreement (jointly addressed with a co-tenant, Lourdes Villamor) and vacate premises, machine copy of both letters are hereto attached as Annex “B” and “C” respectively, and made part hereof; However, defendant refused and continue to refuse from vacating the premises leased up to the present;[14]

Indeed a notice of termination and non-renewal of the lease agreement and a demand to vacate was unnecessary because the lease agreement expressly provided:

8. No implied renewal shall be understood under this contract, The LESSEE hereby agrees to vacate the said premises exactly at the expiration of the lease term without notice and demand. (emphasis added)

Acceptance by EARC of rental payments after the expiration of the term of the lease did not negate the fact that a notice of termination had been given to petitioner or that the lease agreement stipulated that no notice was in fact necessary because the lease would in any case expire on January 31, 1991. As has been held:

[A]cceptance of tendered payment does not constitute a waiver of the cause of action for ejectment especially when accepted with the written condition that it was “without prejudice to the filing of an ejectment suit.” Indeed, it is illogical or ridiculous not to accept the tender of payment of rentals merely to preserve the right to file an action for unlawful detainer.[15]

Indeed in the case at bar, EARC accepted rental payments only to mitigate losses it would otherwise suffer because of the continued occupation of the premises by petitioner.[16] The receipts issued by it contained a notation that acceptance of such rental payments made by petitioner Cecilia Carlos was without prejudice to the filing of an ejectment suit.[17] It is thus clear that the Court of Appeals committed no error in ruling that there was no implied renewal of lease in this case.

Anent petitioner’s last contention, this Court has already stated that a prejudicial question:

[C]omes into play generally in a situation where a civil action and a criminal action are both pending and there exists in the former an issue which must be preemptively resolved before the criminal action may proceed, because howsoever, the issue raised in the civil action is resolved would be determinative juris et de jure of the guilt or innocence of the accused in the criminal case.

The rationale behind the principle of prejudicial question is to avoid two conflicting decisions. It has two essential elements:

- (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and
- (b) the resolution of such issue determines whether or not the criminal action may proceed.[18]

In the case at bar, aside from the fact that Civil Case No. 90-3444 and the present case are both civil in nature and therefore no prejudicial question can arise from the existence of the two actions, it is apparent that Civil Case No. 90-3444 was filed merely to preempt the filing of the ejectment suit. What was said in *University Physician Services, Inc. v. Court of Appeals*[19] is apropos:

The issue of whether private respondent had the right to occupy subject apartment unit should therefore be properly threshed out in an ejectment suit and not in an action for damages where the question of possession is likewise the primary issue to be resolved.

We cannot simply ignore the fact that private respondent, after her unjustified refusal to vacate the premises, was aware that an ejectment case against her was forthcoming. It is therefore evident that the filing of the complaint for damages and preliminary injunction was but a canny and preemptive maneuver intended to block the action for ejectment which petitioner was to take against private respondent.

The matter raised in the Regional Trial Court of Manila may be properly determined in the ejectment suit before the Metropolitan Trial Court, in consonance with the rule prohibiting multiplicity of suits. And the mere fact that the unlawful detainer suit was filed later than the one for damages does not change the situation of the parties (*Rosales vs. CFI*, 154 SCRA 153 [1987]).

WHEREFORE, the petition is DENIED and the decision of the Court of Appeals, dated March 9, 1993, and its resolution, dated April 26, 1993, are AFFIRMED.
SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

[1] Rollo, p. 8.

[2] Id., pp. 46-51.

[3] Id., pp. 23-24.

[4] Id., pp. 25-26.

[5] Id., p. 128.

[6] Id., pp. 30-31.

[7] Id., p. 88.

[8] Id., p. 26.

[9] Id., p. 38.

[10] 205 SCRA 448 (1992).

[11] See Civil Code, Art. 1670.

[12] Rollo, p. 174.

[13] Id., pp. 23-28.

[14] Id., pp. 23-24.

[15] Cetus Development, Inc. v. Court of Appeals, 176 SCRA 72, 82 (1989).

[16] Rollo, p. 24.

[17] Id., p. 39.

[18] Tuanda v. Sandiganbayan, 249 SCRA 342 (1995).

[19] 233 SCRA 86, 91-92 (1994). Accord Allied Banking Corp. v. Court of Appeals, G.R. No. 95223, July 26, 1996.

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