

THE INSULAR LIFE ASSURANCE COMPANY, LTD., PETITIONER, VS. COURT OF APPEALS AND SUN BROTHERS & COMPANY, RESPONDENTS.

G.R. No. 126850. April 28, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks the reversal of the Decision,[1] dated May 20, 1996, of the Court of Appeals (CA for brevity) in CA-G.R. CV No. 46987 affirming the Decision,[2] dated April 25, 1994, rendered by the Regional Trial Court (Branch 150), Makati City (RTC for brevity) in Civil Case No. 92-27754 extending the lease contract subject of the petition for declaratory relief and ordering petitioner to pay attorney's fees and costs.

The factual antecedents are as follows:

On September 24, 1992, Sun Brothers & Company (Sun Brothers for brevity) filed a petition for declaratory relief with the RTC seeking judicial interpretation of the "option to renew" clause under a Contract of Lease dated September 20, 1988.[3]

Under the contract, Sun Brothers leased for a period of five years from December 1, 1987 until November 30, 1992, a parcel of land, with an approximate area of 4,215 square meters, and the building constructed thereon, located in Makati (then a Municipality). The contract stipulated that the lease was renewable at the option of the tenant, Sun Brothers, for an additional five years, provided the exercise of the option to renew the lease shall be made by the tenant in writing to The Insular Life Assurance Company, Ltd. (Insular for brevity) at least ninety days before the expiration of the period. The contract further provided for monthly rental of P50,000.00 for the first year and an increase of 10% per annum for the succeeding years, exclusive of real estate taxes and insurance premiums which are for the account of Sun Brothers.[4]

Sun Brothers alleged that since the lease contract does not contain any provision as to the rental or any provision for any new or additional terms or conditions in case of renewal, the terms and conditions of the renewal of lease should be the same and the monthly rental should remain at P73,205.00. It prayed that judgment be rendered: (a) declaring that renewal under the contract of lease be for an additional period of five years under the same terms and conditions and the monthly rental should be P73,205.00; and, (b) ordering Insular to pay Sun Brothers P20,000.00 as attorney's fees and to pay the costs of suit.[5]

On November 6, 1992, Insular filed its Answer[6] claiming that while the lease contract grants Sun Brothers the option to renew the lease by giving notice thereof to Insular at least ninety days before the expiration of the period, it has always been the agreement of the parties that Sun Brothers does not have the right to impose, on its sole will, a renewal of the lease as to the period or the rentals;[7] that despite the presence of the renewal clause in the previous contracts of lease, the parties still negotiated, as a matter of course, for the renewal of the lease in 1977 and 1987; that negotiation was the usual norm between the parties, clearing up as it did vague portions of the

previous contracts.

After trial on the merits, the RTC rendered its decision, dated April 25, 1994, ruling as follows:

The wording of the xxx provisions of the contract is clear, unambiguous and need no further interpretation. The tenant, herein petitioner, is vested solely with the option to renew the said contract of lease on the only condition that the same be made known to respondent in writing at least 90 days before its expiration.

Petitioner, in its letter to respondent dated May 22, 1993 (Exh. "D"), expressed its desire to exercise the option granted in the contract, since there is no mention of any change or increase in the amount of monthly rental, petitioner understood it to mean that the renewal will be under the same terms and conditions.

Respondent's claim that the lease contract (Exh. "C") does not contain the true intent of the parties deserves scant consideration. It must be noted, as correctly pointed out by the petitioner, that all the contracts of lease between the parties and the repeated renewals thereof were entirely drafted, finalized and notarized by respondent and is, thus, a contract of adhesion. Being a contract of adhesion, petitioner's only role was for its general manager, Amancio L. Sun to sign the same. The respondent could have easily deleted this questioned renewal clause in the contract if, indeed, such was not the intention of the parties. It could have provided therein that any renewal of the lease would be by mutual agreement of the parties or had specifically limited the period of the lease.[8]

The dispositive portion of the assailed decision reads:

WHEREFORE, considering all the foregoing, judgment is hereby rendered as follows:

- a) declaring that the contract of lease dated 30 September 1988 be renewed for another 5 years starting from 30 November 1992 and up to 1 December 1997;
- b) declaring that the monthly rental on the leased premises be P100,000.00 exclusive of real estate taxes and insurance premiums, less any amounts that petitioner may have paid respondent in the meantime;
- c) ordering the respondent to pay herein petitioner the amount of P20,000.00 as attorney's fees; and
- d) to pay the cost.

SO ORDERED.[9]

On June 1, 1994, Insular filed a motion for reconsideration[10] which the RTC denied in its Order dated July 18, 1994.[11]

Dissatisfied, Insular appealed to the CA.[12] In a Decision dated May 20, 1996, the CA affirmed the decision of the trial court.[13] It reasoned that since the renewal clause in the latest contract of Insular and Sun Brothers is silent as to the terms and conditions of the subsequent contract, such subsequent contract should follow the terms and conditions of the original contract, applying the doctrine laid down in the cases of *Ledesma vs. Javellana*,[14] *Millare vs. Hernando*, [15] and *Fernandez vs. Court of Appeals*. [16]

As regards the monthly rental, the CA held that there was no merit to Insular's allegation that the trial court acted arbitrarily in fixing the amount of the rent at P100,000.00 a month since it considered the testimony of Insular's witness that improvements introduced by Sun Brothers still have an appraised value, which value is considered by the CA in favor of Sun Brothers in the determination of the terms of the extended lease. The CA added that the trial court arrived at the amount of P100,000.00 after considering that Sun Brothers had shouldered the maintenance expenses on the building and paid real estate taxes as well as insurance premiums thereon.[17]

Insular filed a motion for reconsideration[18] which was denied by the CA in its Resolution dated October 10,

1996.[19]

Hence, the present petition for review anchored on the following grounds:

- THE EXERCISE OF JUDICIAL POWER ENTAILS THE DUTY TO SETTLE ACTUAL CONTROVERSIES OF LEGALLY DEMANDABLE RIGHTS AND TO DECIDE UPON ISSUES SUBMITTED BY THE PARTIES.
- WHERE A PARTY PUTS IN ISSUE IN HIS PLEADING THAT THE CONTRACT FAILS TO EXPRESS THE TRUE INTENT OF THE PARTIES, THE LOWER COURT IS MANDATED TO CONSIDER THE EXTRINSIC EVIDENCE PRESENTED AND THEN DECIDE WHAT THE TRUE INTENT IS; BY THE VERY NATURE OF THIS CHALLENGE, IT IS A JUDICIAL ABDICATION OF DUTY TO SIMPLY AND MERELY RULE THAT THE CONTRACT IS CLEAR AND MUST BE INTERPRETED AS SUCH.
- THE AMOUNT OF REASONABLE RENT IS DETERMINED ON THE BASIS OF EVIDENCE PRESENTED.
- PETITIONER IS ENTITLED TO AN AWARD OF MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.[20]

Succinctly, the issue herein is the real nature of the option to renew the lease under the contractual agreement of the parties. Insular insists that the option to renew is a bilateral agreement subject to the terms and conditions the parties may agree upon. Sun Brothers, on the other hand, posits that the option to renew is its unilateral right effectively exercised by mere notice to Insular of the intention to extend the lease, at least ninety days before the expiration of the period, without qualification as to monthly rental or term of the lease.

It is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court.[21] However, the Court had recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[22] Exceptions (4), (10) and (11) are present in this case.

It is a cardinal rule in contract interpretation that the ascertainment of the intention of the contracting parties is to be discharged by looking to the words they used to project that intention in their contract, that is, all the words, not just a particular word or two, and words in context, not words standing alone.[23] Furthermore, Article 1374 of the Civil Code requires that the various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly. Conformably, to ascertain the true meaning or import of the disputed "option to renew" clause in the contract of lease, the entirety of the contract must be considered; not merely the clause relating to the "option to renew."

After a careful examination of the records of the case, the Court finds it significant that the disputed contract of lease is not the first contract between the parties but, in fact, the third contract or the second renewal contract. The

parties' lessor-lessee relationship all started on January 29, 1958, with the original contract of lease,[24] portions of which provide:

I

INSULAR does hereby lease the abovementioned land and building unto the TENANT and the TENANT does hereby accept in lease from INSULAR the said land and building, for a period of TEN (10) YEARS from the date provided for in Clause IX hereof, renewable at the option of the TENANT for an additional period of TEN (10) YEARS; PROVIDED, HOWEVER, that the exercise of the options to renew the lease as herein stated shall be made by the TENANT in writing to INSULAR at least NINETY (90) DAYS before the expiration of the periods herein mentioned. All renewals shall be under the same terms and conditions hereinstated.

.....

III

INSULAR expressly covenants that if on or before the expiration of the period of TWENTY (20) YEARS (covered by the original TEN (10) years period of the lease and the renewal period of TEN (10) years hereinabove stipulated) TENANT still desires to occupy the building, INSULAR shall give the TENANT first priority to lease the building at the monthly rental and under such other terms and conditions as may be agreed upon by the parties at that time.[25] (Emphasis supplied)

The first renewal of the lease contract was made on January 20, 1978 for a period of another 10 years, from December 1, 1977 until November 30, 1987, which by that time had added up to twenty years of lease. The parties agreed that the lease was renewable at the option of the Sun Brothers for an additional period of five years with the proviso that the exercise of the option to renew the lease shall be made by the tenant in writing to Insular at least ninety days before the expiration of the period provided.[26] The contract further provided that:

2)

For the use and occupancy of the leased premises TENANT shall, during the first (5) years of the above 10-year period, pay in advance at the office of INSULAR, within the first five (5) days of every month a monthly rental of P24,325.00 exclusive of real estate taxes and insurance premiums. (All real estate taxes, other assessments and insurance premiums of the leased properties shall be for the account of the TENANT).

Thereafter, the rental shall be adjusted beginning on the sixth year of this lease with an effective increase equivalent to 6.5% per annum of the imputed value increment on the land compounded at 5% annually for a period of five (5) years using the current value of the leased property as base, which current value is hereby agreed upon by the parties as follows:

Land -----

P 3,793,500.00

Improvements -----

697,100.00

Total Current Value -----

P 4,490,600.00

On the basis of the above current value, the monthly rental for the 2nd Five (5) years of the said 10-year period is estimated to be P30,002.00 exclusive of real estate taxes, other assessments and insurance premiums for the leased properties.

3)

Except for the foregoing modification/amendment, all the other terms and conditions of the Contract of Lease dated 29 January 1958 remain in full force and effect.[27] (Emphasis supplied)

Thereafter, prior to the expiration of the foregoing contract in November 1987, an exchange of letters ensued between the contracting parties, as follows:

- SUN BROTHERS, in a letter dated July 15, 1987, expressed its intention to renew the lease for a period of five years.[28]

- On July 31, 1987, INSULAR informed SUN BROTHERS that it was agreeable to the renewal of the lease subject to the following terms: (a) lease period from 01 December 1987 to 30 November 1992; (b) basic monthly rental of P60,000.00; (c) annual escalation rate of 10%; and, (d) insurance premiums, realty taxes, other government assessments if any, shall be for the account of SUN BROTHERS.[29]

- SUN BROTHERS acceded to the terms of INSULAR[30] but subsequently found the said terms to be “quite heavy”, hence in a letter dated October 5, 1987, it offered the following “compromise” term: (a) basic monthly rental increase of 50% over the present monthly rental of P30,000.00, thereby making the new monthly rental to P45,000.00; and, (b) annual escalation rate of 5% which is a new condition not in the old contract, in addition to the insurance premiums, realty taxes, other government assessments if any, which shall be for the account of SUN BROTHERS.[31]

- On November 20, 1987 INSULAR informed SUN BROTHERS that it was not amenable to the foregoing “compromise” terms. It reasoned that the new basic rental rate of P60,000.00 is fair and reasonable considering the present market value rates of other properties in the immediate vicinity.[32]

- On November 27, 1987, SUN BROTHERS requested reconsideration and accept its new offer of P50,000.00 monthly rental and yearly increase of 5%.[33]

- On December 10, 1987, INSULAR informed SUN BROTHERS that it was agreeable to renewal of the lease subject to the following terms: (a) lease period from 01 December 1987 to 30 November 1992; (b) basic monthly rental of P50,000.00; (c) annual escalation rate of 10%; and, (d) insurance premiums, realty taxes, other government assessments if any, shall be for the account of SUN BROTHERS.[34]

The foregoing exchange of communications ultimately led to the Contract of Lease dated September 20, 1988, which is the second renewed Contract of Lease or third contract of lease between the parties. The contract again stipulated that the lease was renewable at the option of the tenant for an additional five years provided the exercise of the option to renew the lease shall be made by the tenant in writing to Insular at least ninety days before the expiration of the period. The lease was for a period of five years, from December 1, 1987 until November 30, 1992, with a monthly rental of P50,000.00 for the first year, and an increase of 10% per annum for the succeeding years, exclusive of real estate taxes and insurance premiums which are for the account of Sun Brothers.[35] Again, the contract provided that “except for the foregoing modification/amendment, all the other terms and conditions of the Contract of Lease dated 29 January 1958 remain in full force and effect.”[36]

Prior to the expiration of the second renewal Contract of Lease in 1992, an exchange of letters once more transpired between the parties, thus:

- On May 22, 1992, SUN BROTHERS communicated to INSULAR its intention to renew the lease contract, quoting P100,000.00 as monthly rental.[37]
- In response thereto in a letter dated June 10, 1992, INSULAR offered a lease period of one year at a monthly rental of P500,000.00.[38]
- More than a month later, SUN BROTHERS, in a letter dated August 5, 1992, expressed that, under the provisions of the contract of lease, SUN BROTHERS has the right to renew the lease for another period of five (5) years without any condition for the exercise of the option, except the giving of written notice at least ninety (90) days before November 30, 1992 and that the rental due INSULAR is the current rental. Thus, SUN BROTHERS insisted that INSULAR's consent is not necessary to the renewal of the lease and the monthly rental due is the current rental paid by it.[39]
- On September 1, 1992, INSULAR replied to the foregoing letter, explaining that the contract of lease granted SUN BROTHERS only the option to renew the lease contract and not the right to dictate the terms and conditions of the renewed contract, especially on the amount of rentals to be paid.[40]
- On September 5, 1992, SUN BROTHERS reiterated its position that it has the validly exercised the option to renew the lease contract under the same terms and conditions by giving notice to INSULAR as provided in the lease contract.[41]

which apparently brought about an impasse by reason of which Sun Brothers filed the petition for declaratory relief with the RTC.

Clearly, in this case, the original contract of lease dictates the interpretation of the renewal clause. Under the original contract of lease, the "option to renew" clause means simply that after the 20-year period of lease, or after the second contract of lease which was to expire November 30, 1987, the lessee, Sun Brothers, is given "first priority to lease the building at the monthly rental and under such other terms and conditions as may be agreed upon by the parties at that time." The renewal contracts of 1978 and 1987 each contained the stipulation that except for the modification or amendment relating to the monthly rental and term of the lease, "all the other terms and conditions of the Contract of Lease dated 29 January 1958 remain in full force and effect,"[42] and, therefore, in pursuance thereof, the monthly rentals and other terms and conditions of the proposed renewal contract were agreed upon by the parties in said 1978 and 1987 renewed contracts of lease.

Consequently, Sun Brothers' interpretation based solely on the renewal clause under scrutiny completely ignoring the original contract of lease, is not plausible. The contracting parties' intent as can be gleaned from the original contract of lease and confirmed by their subsequent acts in the 1977 and 1987 renewal contracts, was to constitute the renewal of the lease subject to terms and conditions to be agreed upon by the parties at the time of each renewal.

Furthermore, the subsequent acts of the parties, evidenced by the exchange of letters between the two contenders, clearly show that their understanding and interpretation of the "option to renew" clause is that which is explicitly provided in the original contract of lease. Thus, after Sun Brothers signified its intention to renew the lease in 1977 and in 1987, a series of offers and counter-offers on the monthly rental and the term of lease followed until the parties reached an agreement thereon. Sun Brothers complied with the terms of the original contract of lease on the option to renew until 1992 when, midway through the negotiations, in the face of a P500,000.00 monthly rental pegged by Insular, Sun Brothers did a volte face and suddenly insisted that it had a unilateral right to renew.

The cases of *Ledesma vs. Javellana*, *Millare vs. Hernando* and *Fernandez vs. Court of Appeals*, relied upon by the lower courts, find no application in the present case since the 1977 and 1987 renewal contracts explicitly adopted all the other provisions of the original contract of lease dated January 29, 1958, including the provision on

contract renewals, except those that relate to the monthly rental and the term of the lease.

When the language of the contract is explicit leaving no doubt as to the intention of the drafters thereof, the courts may not read into it any other intention that would contradict its plain import.[43] The Court would be rewriting the contract of lease between Insular and Sun Brothers under the guise of construction were we to interpret the “option to renew” clause as Sun Brothers propounds it, despite the express provision in the original contract of lease and the contracting parties’ subsequent acts. As the Court has held in *Riviera Filipina, Inc. vs. Court of Appeals*,[44] a court, even the Supreme Court, has no right to make new contracts for the parties or ignore those already made by them, simply to avoid seeming hardships. Neither abstract justice nor the rule of liberal construction justifies the creation of a contract for the parties which they did not make themselves or the imposition upon one party to a contract of an obligation not assumed.”[45]

The Court will now discuss the merit of Insular’s claim for monthly rental and damages.

Insular pleads that the Court should fix the monthly rental at P500,000.00. Sun Brothers alleges that the said amount is unreasonable, if not, unconscionable. However, no evidence, other than its self-serving assertion, was offered by Sun Brothers to substantiate its contention. On the other hand, Insular submitted in evidence the Appraisal Report which estimated the fair rental value of the subject leased property at P700,000.00 as of October 30, 1991.[46] The testimony of the appraiser, Executive Vice President, Engr. Oliver Morales, of the Cuervo Appraisers, Inc.[47] was not proven by Sun Brothers to be biased and partial on their estimation of the fair rental value of the subject leased property.

In addition, Insular presented the Contract of Lease it entered into with Winsome Development Corporation dated March 30, 1993 involving an 8,200 square meter property which is almost twice the size of the subject leased property and likewise located in Makati, where the monthly rental for the first year, starting December 1992, was fixed at P600,000.00.[48] Sun Brothers failed to demonstrate that this contract has been assailed in court or that the agreed monthly rental was found to be unconscionable. Suffice it to state that courts may take judicial notice of the general increase in rentals of lease contract renewals much more with business establishments,[49] especially in this case where the subject leased property covers a 4,215 square meter prime property centrally located in a well-developed commercial district of the City of Makati.[50] Based thereon, the Court finds the amount of P500,000.00 as reasonable monthly rental.

However, the Court cannot validly impose said amount on Sun Brothers as monthly rental since it was not agreed upon by the parties. It is not the province of the Court to make a contract for the parties or bind parties to one when no consensual agreement was entered into.[51] But the amount of P500,000.00 a month since 1992 or P6 Million a year, can be considered actual or compensatory damages representing reasonable rental value or unrealized monthly income for Sun Brothers’ continued occupation and enjoyment of the leased property. This is in consonance with *Producers Bank of the Philippines vs. Court of Appeals*[52] wherein the Court had enunciated the kinds of actual damages, thus:

... There are two kinds of actual or compensatory damages: one is the loss of what a person already possesses, and the other is the failure to receive as a benefit that which would have pertained to him x x x. In the latter instance, the familiar rule is that damages consisting of unrealized profits, frequently referred as “*ganacias frustradas*” or “*lucrum cessans*,” are not to be granted on the basis of mere speculation, conjecture, or surmise, but rather by reference to some reasonably definite standard such as market value, established experience, or direct inference from known circumstances.[53]

In addition, records disclose that in an Order dated April 30, 1993 the trial court authorized Sun Brothers to make a consignment of its monthly rentals of P69,544.75 starting the month of December 1992 while the case pends in

the trial court.[54] The amount of monthly rentals consigned[55] should be deducted from the total amount of actual or compensatory damages herein granted to Insular. Furthermore, such actual or compensatory damages due shall earn interest at the legal rate of 12% per annum computed from the date of finality of this decision until full payment would have actually been made, in accordance with the ruling of this Court in *Eastern Shipping Lines, Inc. vs. Court of Appeals*,[56] to wit:

- When an obligation, regardless of its source, i.e., law, contracts, quasi-contracts, delicts or quasi-delicts is breached, the contravenor can be held liable for damages. The provisions under Title XVIII on “Damages” of the Civil Code govern in determining the measure of recoverable damages.
- With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:
 - When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, i.e., from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.
 - When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.
 - When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit. (Emphasis supplied)[57]

Moreover, the Court takes exception from the CA’s opinion that the improvements introduced by Sun Brothers should be considered in the latter’s favor in considering the terms of the rent. The fact that Sun Brothers had shouldered maintenance expenses on the building and paid real estate taxes as well as insurance premiums is inconsequential and immaterial in fixing the rent. The improvements introduced and the payment of expenses, taxes and premiums have always been excluded in the determination of the monthly rental in the contracts of lease between the parties. The Court cannot disregard this fact simply because it later becomes disadvantageous to one party, especially when Sun Brothers voluntarily assumed the obligation in the original contract.

As to moral damages, Insular’s prayer that moral damages not less than P5 Million be awarded because its name and reputation has been defamed by Sun Brothers, is not tenable. The rule is that moral damages can not be granted in favor of a corporation. Being an artificial person and having existence only in legal contemplation, a corporation has no feelings, no emotions, no senses; it cannot, therefore, experience physical suffering, mental anguish, fright, serious anxiety, wounded feelings or moral shock or social humiliation, which can be suffered only by one having a nervous system.[58]

As to Insular’s plea for exemplary damages, the Court finds the same meritorious. In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless,

oppressive, or malevolent manner.[59] Sun Brothers was in evident bad faith when in the course of negotiations for the third renewal of the lease contract in 1992, it wantonly and oppressively insisted that it had a unilateral right to renew to lease thereby resulting in an impasse between the parties and which Sun Brothers took advantage of and used as a basis for instituting the proceedings for declaratory relief, although its prior actions since January 29, 1958 when the original contract of lease was executed, spanning more than three decades, indicated that it was well-aware of the contractual stipulation that after a twenty-year period of lease, the right to renew the lease was subject to such terms and conditions that the parties may mutually agree upon at the time, as expressly provided for in the original contract of lease. Consequently, an award of exemplary damages in the amount of P500,000.00 is in order by way of example and correction for the public good and also to serve as a deterrent to the commission of similar misdeeds by others.

Under Article 2208 of the Civil Code, attorney's fees may be awarded not only when exemplary damages is awarded but also when a party is compelled to litigate or to incur expenses to protect its interest by reason of an unjustified act of the other party.[60] In the present case, Insular was constrained to engage the services of counsel and to incur expenses of litigation in order to protect its interest to the subject property against Sun Brothers' utterly unfounded insistence on an alleged unilateral right to renew the lease. The award of P250,000.00 is reasonable in view of the time it has taken this case to be resolved.[61]

WHEREFORE, the assailed Decision, dated May 20, 1996, of the Court of Appeals in CA-G.R. CV No. 46987 is REVERSED and SET ASIDE. In lieu thereof, judgment is rendered ordering respondent Sun Brothers and Company to pay petitioner Insular Life Assurance Company, Ltd. actual damages in the amount of Five Hundred Thousand Pesos (P500,000.00) monthly, representing the unrealized monthly income of petitioner or P6 Million a year from December 1, 1992 until respondent vacates the leased premises. The amount of monthly rentals consigned with the trial court shall be deducted from the total amount of actual or compensatory damages due. Furthermore, such actual or compensatory damages due shall earn interest at the legal rate of 12% per annum computed from the date of finality of this decision until full payment thereof. In addition, private respondent Sun Brothers and Company is ordered to pay petitioner exemplary damages in the amount of Five Hundred Thousand Pesos (P500,000.00); and attorney's fees in the sum of Two Hundred Fifty Thousand Pesos (P250,000.00).

Double costs against private respondent.

SO ORDERED.

Puno, (Chairman), Quisumbing, Callejo, Sr., and Tinga, JJ., concur.

[1] Penned by Justice Antonio M. Martinez and concurred in by Justices Ricardo P. Galvez and Portia A. Hormachuelos.

[2] Penned by Judge Erna Falloran Aliposa.

[3] Original Record, p. 1.

[4] Id., pp. 198-199.

[5] Id., p. 1.

[6] Id., p. 15.

[7] Id., pp. 16-17.

[8] Rollo, pp. 63-64.

[9] Id., p. 65.

[10] Original Record, p. 397.

[11] Id., p. 445.

[12] Court of Appeals (CA), Rollo, p. 19.

[13] Rollo, p. 108.

[14] 121 SCRA 794 (1983).

[15] 151 SCRA 484 (151).

[16] 166 SCRA 577 (1988).

[17] Rollo, pp. 113-114.

[18] CA Rollo, p. 118.

[19] Id., p. 159.

[20] Rollo, pp. 22-23.

[21] Pestaño vs. Sumayang, 346 SCRA 870, 879 (2000); Bañas, Jr. vs. Court of Appeals, 325 SCRA 259, 271 (2000); Borromeo vs. Sun, 317 SCRA 176, 182 (1999); Lagrosa vs. Court of Appeals, 312 SCRA 298, 310 (1999); Security Bank and Trust Company vs. Triumph Lumber and Construction Corporation, 301 SCRA 537, 548 (1999).

[22] Langkaan Realty Development, Inc. vs. United Coconut Planters Bank, 347 SCRA 542, 549 (2000); Nokom vs. National Labor Relations Commission, 336 SCRA 97, 110 (2000); Commissioner of Internal Revenue vs. Embroidery and Garments Industries (Phil.), Inc., 305 SCRA 70, 74 (1999); Sta. Maria vs. Court of Appeals, 285 SCRA 351, 357 (1998).

[23] Limson vs. Court of Appeals, 357 SCRA 209, 216 (2001); China Banking Corporation vs. Court of Appeals, 265 SCRA 327, 338 (1996); Heirs of Severo Legaspi, Sr. vs. Vda. de Dayot, 188 SCRA 508, 514 (1990); Fernandez vs. Court of Appeals, 166 SCRA 577, 587 (1988).

[24] Original Record, p. 188.

[25] Id., pp. 188-189.

[26] Id., p. 195.

[27] Id., p. 196.

[28] Id., p. 258.

[29] Id., p. 259.

[30] Ibid.

[31] Id., p. 260.

[32] Id., p. 261.

[33] Id., p. 262.

[34] Id., p. 263.

[35] Id., pp. 198-199.

[36] Id., p. 199.

[37] Id., p. 200.

[38] Id., p. 265.

[39] Id., p. 266.

[40] Id., p. 168.

[41] Id., p. 202

[42] Id., pp. 196, 199.

[43] German Marine Agencies, Inc. vs. National Labor Relations Commission, 350 SCRA 629, 641 (2001); Cruz vs. Court of Appeals, 293 SCRA 239, 252 (1998).

[44] 380 SCRA 245 (2002).

[45] Id., p. 263, citing Collins vs. Northwest Casualty Co., 180 Wash 347, 39 P2d 986, 97 ALR 1235.

[46] Original Record, p. 287.

[47] TSN, October 6, 1992.

[48] The contract of Winsome Development Corporation provided for the following monthly rental scheme:

P600,000.00 – 01 Dec. 1992 to 30 Nov. 1993

P660,000.00 – 01 Dec. 1993 to 30 Nov. 1997

P759,000.00 – 01 Dec. 1997 to 30 Nov. 1998

P853,875.00 – 01 Dec. 1998 to 30 Nov. 2000

P939,263.00 – 01 Dec. 2000 to 30 Nov. 2002 (Original Record, p. 303).

[49] Catungal vs. Hao, 355 SCRA 29, 41 (2001).

[50] The Municipality of Makati was converted into the City of Makati by virtue of Republic Act No. 7854, otherwise known as “The Charter of the City of Makati”, which was approved on July 19, 1994.

[51] Barrera vs. Lorenzo, 389 SCRA 329, 333 (2002); Pascual vs. Ramos, 384 SCRA 105, 115 (2002); LL and Company Development and Agro-Industrial Corporation vs. Huang Chao Chun, 378 SCRA 612, 622 (2002); Sabio vs. International Corporate Book, Inc., 364 SCRA 385, 404 (2001); Ramnani vs. Court of Appeals, 360 SCRA 645, 656 (2001); Chua vs. Court of Appeals, 301 SCRA 356, 364 (1999); Cuizon vs. Court of Appeals, 260 SCRA 645, 667 (1996).

[52] 365 SCRA 326 (2001).

[53] Id., p. 337, citing Talisay-Silay Milling Co., Inc. vs. Asociacion de Agricultores de Talisay-Silay, Inc., 247 SCRA 361, 381 (1995).

[54] Original Record, p. 107.

[55] As of May 13, 1993, Sun Brothers has consigned P417,268.50 for monthly rentals from December 1992 to May 1993, *id.*, pp. 115-118.

[56] 234 SCRA 78 (1994).

[57] *Id.*, pp. 95-97.

[58] *National Power Corporation vs. Philipp Brothers Oceanic, Inc.*, 369 SCRA 629, 649 (2001); *Hanil Development Co., Ltd. vs. Court of Appeals*, 362 SCRA 1, 14 (2001); *Acme Shoe, Rubber and Plastic Corp. vs. Court of Appeals*, 260 SCRA 714, 722 (1996); *LBC Express, Inc. vs. Court of Appeals*, 236 SCRA 602, 607 (1994).

[59] Article 2232, Civil Code.

[60] ART. 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 actions 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.

[61] *United Coconut Planters Bank vs. Teofilo C. Ramos*, G.R. No. 147800, November 11, 2003, p. 20; *Ching Sen Ben vs. Court of Appeals*, 314 SCRA 762, 773 (1999).

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