DAVID G. DULA, PETITIONER, VS. DR. RESTITUTO MARAVILLA AND TERESITA MARAVILLA, RESPONDENTS.

G.R. NO. 134267. May 09, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Under consideration is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the following issuances of the Court of Appeals in CA-G.R. SP No. 46736, to wit:

> 1) Decision[1] dated May 14, 1998, affirming, with modification, an earlier decision of the Regional Trial Court at Makati City in an appealed ejectment case commenced by the herein respondents against the petitioner before the Metropolitan Trial Court (MeTC) of Makati City; and
>
> 2) Resolution[2] dated June 29, 1998, denying petitioner's motion for reconsideration.

The factual milieu.

Sometime in November, 1993, herein respondents – the spouses Restituto Maravilla and Teresita Maravilla – purchased a 5-door apartment building at No. 1849 Eureka Street, Makati City, Unit A of which is occupied by herein petitioner, David G. Dula, since 1968 at a monthly rental of P2,112.00 under an oral month-to-month contract of lease with the former owner.

On January 10, 1994, respondents addressed a notice to petitioner formally informing the latter of the termination of his lease and giving him three (3) months from January 31, 1994 within which to vacate the unit occupied by him and to surrender the possession thereof. Petitioner refused. Hence, on September 29, 1994 in the Metropolitan Trial Court (MeTC) of Makati City, a complaint for ejectment was filed against him by the respondents.

Resolving the case under the Rules on Summary Procedure, the MeTC, in a decision dated May 24, 1995,[3] rendered judgment for the respondents, thus:

> There having been a substantial compliance with the requirements provided by law, judgment is hereby rendered in favor of the plaintiff and against the defendant as follows:
>
> (a)
>
> Ordering the defendant DAVID DULA and all persons claiming right or interest under him to vacate the leased premises in question and to turn over the peaceful possession thereof to plaintiff or to its duly authorized representative;
>
> (b)
>
> Ordering the defendant to pay plaintiff the sum of P2,112.00 a month from September 1994 and every month thereafter until possession thereof should have been peacefully surrendered to plaintiff;

(c)

Ordering defendant to pay plaintiff the sum of TWENTY THOUSAND PESOS (P20,000.00) as and for attorney's fees; and,

(d)

to pay the costs of suit.

SO ORDERED

.

In time, petitioner went on appeal to the Regional Trial Court (RTC) at Makati City, contending, in the main, that the complaint filed against him failed to state a cause of action, and, therefore, should have been dismissed outright by the MeTC.

After the parties have submitted their respective memoranda, the RTC came out with its decision of August 27, 1997,[4] affirming in toto the appealed decision of the MeTC.

With his motion for reconsideration having been denied by the same court in its order of January 26, 1998,[5] petitioner elevated the case to the Court of Appeals whereat his recourse was docketed as CA-G.R. SP No. 46736, therein raising the following arguments: (1) the ejectment complaint is fatally flawed as it failed to state a cause of action because while it is based on the need of the leased premises for the personal use of the respondents, the same complaint failed to allege that respondents do not own any other residential unit in the same municipality, as required by Section 5 (c) of Batas Pambansa (B.P.) Blg. 877; (2) both the MeTC and the RTC erred in ordering petitioner's ejectment on ground of expiration of the lease despite the fact that such a ground is not pleaded in the complaint; and (3) even if alleged, the expiration of petitioner's month-to-month contract of lease cannot be a basis for ejectment because Section 6 of B.P. Blg. 877 suspended the application of Article 1687 of the Civil Code.

In the herein assailed decision dated May 14, 1998, the Court of Appeals affirmed the appealed May 24, 1995 decision of the RTC minus the award of attorney's fees, thus:

WHEREFORE, with the exception of the deletion of the award for attorney's fees, the decision herein appealed from is hereby AFFIRMED, without pronouncement as to costs.

SO ORDERED.

Undaunted, petitioner is now with us via the instant recourse raising the same issues already passed upon by the three (3) courts below.

We DENY.

In the complaint[6] they filed against petitioner before the MeTC of Makati City, respondents, as plaintiffs therein, alleged, inter alia, thus:

- That on January 10, 1994 plaintiffs through counsel made a written notice and demand that the former is terminating the lease over the premises effective January 31, 1994 for the reason of personal use and to pay rentals with three (3) months to vacate and surrender premises;

As may be gleaned from the foregoing allegations, two (2) grounds are relied upon by the respondents in seeking petitioner's ejectment from the premises in question, namely:

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(a)

respondents' need of the leased premises for their own personal use; and

(b)

expiration of the lease contract with the termination of the month-to-month lease effective January 31, 1994.

Section 5. Grounds for Judicial Ejectment. – Ejectment shall be allowed on the following grounds:

xxx xxx xxx

(c) Legitimate need of owner/lessor to repossess his property for his own use or for the use of any immediate member of his family as a residential unit, such owner or immediate member not being the owner of any other available residential unit within the same city or municipality: Provided, however, That the lease for a definite period has expired: Provided, further, That the lessor has given the lessee formal notice three (3) months in advance of lessor's intention to repossess the property: and Provided, finally, That the owner/lessor is prohibited from leasing the residential unit or allowing its use by a third party for at least one year.

xxx xxx xxx

(f) Expiration of the period of the lease contract.

xxx xxx xxx

Anent the first ground under Section 5(c) above, which is the respondents' need of the property for their own use, petitioner contends that the complaint should be dismissed for lack of cause of action because it failed to allege that the respondents had no other available residential unit within the same city or municipality.

We agree with the Court of Appeals that there was here a substantial compliance with the requirement of Section 5 (c) of B.P. Blg. 877 when respondents specifically averred in their Supplemental to Position Paper that "plaintiffs has (sic) no other property in Makati except that property located at Eureka St., Makati, Metro Manila"[7]. In much the same way that a complaint, which fails to state a cause of action, may be cured by evidence presented during the trial in regular procedure, a defective complaint in summary procedure may likewise be cured by the allegations in the position paper. Thus, the MeTC cannot be faulted for not dismissing the case for lack of cause of action.

The ground for judicial ejectment stated in Section 5 (c) of B.P. Blg. 877 may be reduced to the following essential requisites:

(1)

the owner's/lessor's legitimate need to repossess the leased property for his own personal use or for the use of any of his immediate family;

(2)

the owner/lessor does not own any other available residential unit within the same city or municipality;

(3)

the lease for a definite period has expired;

(4)

there was formal notice at least three (3) months prior to the intended date to repossess the property; and

(5)

the owner must not lease or allow the use of the property to a third party for at least one year.

Thus far, we have noted and discussed the first and second requisites. The fact that there was formal notice and that it was given at least three (3) months from intended date to repossess the property, which is the fourth requisite, is not disputed.

Our discussion now brings us to the third element, which is the alleged expiration of the period of lease.

It is acknowledged that there was neither any written nor verbal agreement as to a fixed period of lease between the respondents and the petitioner. There was, however, a verbal agreement for the payment of rental at P2,112.00 on a monthly basis. By express provision of Article 1687[8] of the Civil Code, the term of the lease in the case at bar is from month-to-month. Admittedly, there was a written notice served by the respondents on January 10, 1994 upon petitioner for the termination of the lease effective January 31, 1994. Citing this Court's ruling in De Vera vs. Court of Appeals,[9] the Court of Appeals held that the period of lease thereby expired by the end of the month of January, 1994.

Petitioner, however, contends otherwise. He argues that the operation of Article 1687 was suspended with the suspension of Article 1673 by Section 6 of B.P. Blg. 877, which states:

> Section 6. Application of the Civil Code and Rules of Court of the Philippines. – Except when the lease is for a definite period, the provisions of paragraph (1) of Article 1673[10] of the Civil Code of the Philippines, insofar as they refer to residential units covered by this Act, shall be suspended during the effectivity of this Act, but other provisions of the Civil Code and the Rules of Court on lease contracts, insofar as they are not in conflict with the provisions of this Act shall apply.

The Court disagrees.

The Court's pronouncement in De Vera vs. Court of Appeals,[11] is enlightening:

> x x x The issue in this case is whether the oral contract of lease was on a month-to-month basis which is terminated at the end of every month. We hold that it is. We have already ruled in a number of cases that a lease on a month-to-month basis is, under Art. 1687, a lease with a definite period, upon the expiration of which upon demand made by the lessor on the lessee to vacate, the ejectment of the lessee may be ordered.
> Art. 1687 of the Civil Code provides:
>
> Art. 1687. If the period for the lease has not been fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is monthly; from week to week, if the rent is weekly; and from day to day, if the rent is to be paid daily. However, even though a monthly rent is paid, and no period for the lease has been set, the Courts may fix a longer term for the lease after the lessee has occupied the premises for over one year. If the rent is weekly, the Courts may likewise determine a longer period after the lessee has been in possession for over six months. In case of daily rent, the courts may also fix a longer period after the lessee has stayed in the place for over one month.

This provision has not been affected by the suspension in §6 of B.P. Blg. 877 which provides:

> §6. Application of the Civil Code and Rules of Court of the Philippines. - Except when the lease is for a definite period, the provisions of paragraph (1) of Article 1673 of the Civil Code of the Philippines, in so far as they refer to residential units covered by this Act, shall be suspended during the effectivity of this Act, but other provisions of the Civil Code and the Rules of Court on lease contracts, in so far as they are not in conflict with the provisions of this Act shall apply.

Thus, what has been suspended by the Rent Control Law (§6 of B.P. Blg. 877, formerly §6 of B.P. Blg. 25) is Art.

1673 and not Art. 1687 of the Civil Code. The effect of the suspension [of Art. 1673] on Art. 1687 is only that the lessor cannot eject the tenant by reason alone of the expiration of the period of lease as provided in said Art. 1687. Otherwise, Art. 1687 itself has not been suspended. Hence, it can be used to determine the period of a lease agreement.

As petitioner was notified of the expiration of the lease effective December 30, 1990, her right to stay in the premises came to an end. (Emphasis supplied.)

As early as 1986, in Rivera vs. Florendo,[12] the Court settled this issue on Section 6 of B.P. 877 (formerly Section 6, of B.P. 25) when it explained:

> What is suspended under the aforequoted provision of law is Article 1673 of the Civil Code of the Philippines and not Article 1687 of the same Code. The effect of said suspension is that independently of the grounds for ejectment enumerated in Batas Pambansa Blg. 25, the owner/lessor cannot eject the tenant by reason of the expiration of the period of lease as fixed or determined under Article 1687. It does not mean that the provisions of Article 1687 itself had been suspended. Thus, the determination of the period of a lease agreement can still be made in accordance with said Article 1687.

Similar to the case at bar, in Rivera, there was admittedly no definite period of lease agreed upon by the parties. However, it was established that the rent was paid on a monthly basis. The Court's conclusion in Rivera that the period of lease is considered to be from month to month in accordance with Article 1687 is, therefore, applicable to the present case as well.

When the respondent spouses gave petitioner notice on January 10, 1994 of their personal need to use the property, demanding that petitioner vacate the same, the contract of lease is deemed to have expired as of the end of that month or on January 31, 1994 as indicated in the said notice to vacate.

In Baens vs. Court of Appeals,[13] we held:

> x x x even if the month to month arrangement is on a verbal basis, if it is shown that the lessor needs the property for his own use or for the use of an immediate member of the family or any other statutory grounds to eject under Section 5 of Batas Pambansa Blg. 25 (later also Section 5 of B.P. Blg. 877), which happens to be applicable, then the lease is considered terminated as of the end of the month, after proper notice or demand to vacate has been given. (See Crisostomo v. Court of Appeals, 116 SCRA 199). (Emphasis supplied.)

The third element required in Section 5(c) of B.P. Blg. 877 which is the expiration of the lease contract is definitely present in the instant case.

The fifth element, being in the nature of a condition, simply entails an undertaking by the owner/lessor not to lease or allow a third party to use the property for at least one year.

All the elements required by Section 5(c) of B.P. Blg. 877 are extant in the present case. There is, then, no other logical conclusion but to uphold the uniform ruling of the three (3) lower courts mandating petitioner's ejectment from the subject premises.

Anent the second ground for judicial ejectment under Section 5(f) of B.P. Blg. 877 which is the expiration of the lease contract, this Court for the first time, through Justice Teodoro Padilla in Uy Hoo and Sons Realty Development Corp. vs. Court of Appeals,[14] applied Article 1687 of the Civil Code resulting in the expiration of the lease contract therein involved, so much so that even if the lessor does not need the leased property for personal use under Section 5(c) of B.P. Blg. 877, such expiration of the lease term may be equally be used by the lessor to eject the tenant based on Section 5(f) of B.P. 877, ratiocinating thus:

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> While it is true that the factual situations in the Miranda case and in the Rivera case it cites involved a need by the lessor of the leased premises for his own use or that of an immediate member of his family, yet, the thrust of the decisions in said cases appears to be that "the determination of the period of a lease agreement can still be made in accordance with said Article 1687" and that, in a month to month lease situation, "when petitioners (lessor) gave private respondent (lessee) notice to vacate the premises in question, the contract of lease is deemed to have expired as of the end of the month."
>
> Besides, while Sec. 5(f) of BP Blg. 25 originally stated that "expiration of the period of a written lease contract" is one of the grounds for judicial ejectment (like need of the leased premises by the lessor under Sec. 5[c]). BP Blg. 877 amended Sec. 5(f) of BP Blg. 25 into stating that "expiration of the period of the lease contract" is a ground for judicial ejectment: thus further bolstering petitioner's contention that a month to month lease under Art. 1687 is lease with a definite period, the expiration of which, upon previous demand to vacate, can justify judicial ejectment.

The ruling in Uy Hoo was applied by the Court in the succeeding cases of Palanca vs. Intermediate Appellate Court,[15] Legar Management & Realty Corp. vs. Court of Appeals,[16] and once again, in De Vera vs. Court of Appeals[17], where the Court ruled:

> Second. Petitioner claims that none of the grounds enumerated in §5 of B. P. Blg. 877 is present in this case for which reason, she could not be judicially ejected from the property by reason alone of the expiration of the lease. The contention has no basis. The expiration of a period of lease as a ground for ejectment is expressly provided in §5(f). Petitioner is in error in relying on §5 of the original law, B.P. Blg. 25, which speaks of the expiration of "written lease contract" as ground for ejectment implying that an oral lease contract like the one at bar is a lease contract without a definite period. B.P. Blg. 877 §5(f) now says "expiration of the period of the lease contract," thus removing the distinction between a written and oral contract of lease. Hence, the ejectment of petitioner is justified. (Emphasis supplied.)

Recapitulating, the Court stresses that Article 1687 of the Civil Code has not been suspended by Section 6 of Blg. 877, such that the period of the lease contract may be made deemed to expire in accordance with Article 1687.[18] Accordingly, a lease agreement though not having a fixed period, but rentals are paid monthly, is deemed to be from month to month, thereby considered to be for a definite period, nonetheless. Such a lease contract expires after the last day of any given 30-day period repeating the same cycle of the 30-day period until either party expresses his intention to terminate the month-to-month lease agreement.[19]

All told, petitioner failed to show why the actions of the three courts which have passed upon the same issue should be reversed. Likewise, he failed to show that said courts' factual findings are not based on substantial evidence or that their decisions are contrary to applicable law and jurisprudence.

Finally, with this case having been unnecessarily prolonged from the time it was filed in 1994, petitioner's lease has in effect been extended long enough for him to find another place to stay in. As in Rivera, supra, per then Justice (later Chief Justice) Marcelo Fernan, where the Court said:

> The instant case, which is summary in nature, had dragged on for over five (5) years. To obviate further delay, the decision rendered herein is final and executory (Emphasis supplied.),

this case which has dragged on not only for five (5) years but more than ten (10) years, will more than justify this Court in suspending the Rules in the greater interest of substantial justice.

WHEREFORE, petition is DENIED. This judgment is immediately executory.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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[1] Penned by Associate Justice Hector L. Hofileña and concurred in by Associate Justices Jesus M. Elbinias and Mariano Umali, all retired; Rollo, pp. 14-21.

[2] Rollo, pp. 22-23.

[3] Rollo, pp. 42-43.

[4] Rollo, pp. 54-57.

[5] Rollo, p. 58.

[6] Rollo, p. 25.

[7] Rollo, p. 16.

[8] Art. 1687. If the period for the lease has not been fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is monthly; from week to week, if the rent is weekly; and from day to day, if the rent is to be paid daily. However, even though a monthly rent is paid, and no period for the lease has been set, the courts may fix a longer period for the lease after the lessee has occupied the premises for over one year. If the rent is weekly, the courts may likewise determine a longer period after the lessee has been in possession for over six months. In case of daily rent, the courts may also fix a longer term after the lessee has stayed in the place for over one month.

[9] 260 SCRA 396, or 329 Phil. 175 [1996].

[10] Art. 1673. The lessor may judicially eject the lessee for any of the following causes:

(1) When the period agreed upon, or that which is fixed for the duration of leases under articles 1682 and 1687, has expired.

x x x.

[11] 329 Phil. 175 [1996].

[12] 227 Phil 258 [1986].

[13] 210 Phil. 535 [1983].

[14] 174 SCRA 100 [1989].

[15] Per ponencia of Justice Hugo Gutierrez, Jr.; 180 SCRA 119 [1989]

[16] Per ponencia of Senior Associate Justice Reynato Puno; 322 Phil. 366 [1996].

[17] Per ponencia of Justice Vicente Mendoza; see footnote 11, supra.

[18] Rivera v. Florendo, supra.

[19] United Realty Corporation vs. Court of Appeals, 183 SCRA 725 [1990].

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