

TALA REALTY SERVICES CORP., PETITIONER, VS. BANCO FILIPINO SAVINGS AND MORTGAGE BANK, RESPONDENT.

G.R. No. 137980. November 15, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Before us is respondent's Motion for Reconsideration of our Decision dated June 20, 2000.

Respondent argues that the complaint for ejectment below was not based on non-payment of rentals but on the alleged expiration of respondent's lease contract with petitioner and the former's refusal to accept and comply with the new rental rates and conditions. According to respondent, there was no allegation in the complaint of any failure on its part to pay any of the monthly rentals stipulated in the contract of lease and the same, not having been raised as an issue, should not have been passed upon by this Court.

The records, however, show that the issue of non-payment of rentals was, in fact, consistently raised from the Municipal Trial Court all the way to this Court. Indeed, petitioner's Position Paper before the Municipal Trial Court dedicates an entire portion to respondent's "Violation of Terms and Conditions", inclusive of its unpaid rentals. There, petitioner argued as follows -

"Assuming for the sake of argument that the original lease contract subsists, still the ground for ejectment of non-payment of rental holds. It should be borne in mind that since April, 1994, defendant has not paid plaintiff a single cent. If, according to defendant, the original lease contract subsists then, it should have continued to pay the amount of P20,500.00 per month stipulated thereon." [1] (underscored in the original)

This allegation of non-payment of rentals was in petitioner's petition for review filed with the Court of Appeals,[2] as well as in the instant petition for review[3] before us.

Next, respondent assails the application of its security deposit of P1,020,000.00 to rentals for the period of August, 1985 to November, 1989 as erroneous, since the same period only covers 52 months, while the amount of P1,020,000.00 would only account for 49.76 months. A cursory study of Annexes "K" and "L" of the Affidavit of Elizabeth Palma,[4] referred to in our Decision,[5] readily reveals that the rentals due on the leased property for the period of August, 1985 to November, 1989 was P1,066,000.00. Hence, the whole amount of P1,020,000.00 given by respondent as security deposit was sufficient to cover the rentals, still leaving a balance of P46,000.00. This amount, together with outstanding rentals on other properties likewise leased by respondent from petitioner, was paid for by respondent's liquidator as part of its payment of P5,232,325.00.

Respondent also contends that the application of its security deposit was improper since it was not authorized under the provisions of the lease contract, and thus amounted to a unilateral amendment of the same. This is untenable. The stipulation in the lease contract that the security deposit shall be applied to the rentals due from the 11th to the 20th years of the lease presupposes that rental payments up to the 10th year are up to date. But this was not the case here. In fact, respondent had an outstanding account of P1,066,000.00 representing unpaid rent for the period of August, 1985 to November, 1989, or from 5th to the 8th years of the lease term. Had the security deposit

not been applied for that period, respondent would have been subject to immediate ejectment. Precisely, the security deposit was applied for the said period to cover for the unpaid rentals and to avoid immediate ejectment for non-payment of rentals. Respondent's insistence that the security deposit be applied to the 11th to 20th years of the lease as stipulated should thus fail.

In demanding that its security deposit be applied to the rentals for the 11th to the 20th years, respondent conveniently overlooks its unpaid obligations for the earlier period for which the said security deposit was actually applied. Does it expect to have such unpaid rentals merely written off? Evidently, that is exactly what respondent intended. Respondent also argues in its present Motion for Reconsideration that, inasmuch as it was closed and under receivership, it should not be answerable for its unpaid rentals over the leased premises during such time, passing the responsibility instead to the Central Bank. Respondent relies on the argument that its closure and consequent lack of access to its funds to pay off its obligations, including the rentals on the leased premises, was a fortuitous event which should excuse it from liability. Granting, without conceding, that liability should not lie with respondent for unpaid rentals on the leased premises while it was under control of the Central Bank, this matter is not an issue in the instant case, where the subject matter is merely ejectment. As the lessee of the premises, respondent had the exclusive obligation to settle any unpaid rentals. Petitioner dealt directly with respondent, and therefore had the right to enforce the lease contract against respondent only. Any right of action that respondent may have against the Central Bank is a matter that can be best ventilated in the proper forum.

The fact that the application of respondent's security deposit was effected by and between petitioner and respondent's liquidator does not have any bearing on its validity, as the basic premise for its operation remains the same.

Finally, we reject respondent's argument that the principle of *res judicata* should equally apply to the issue of rent payment. As we have already clearly set out in the challenged Decision, "respondent's failure to pay any rentals beginning April 1994, which provided ground for its ejectment from the premises, justifies our departure from the outcome of G.R. No. 129887." [6]

WHEREFORE, premises considered, the Motion for Reconsideration is DENIED WITH FINALITY for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Position Paper for Plaintiff, Civil Case No. 2109-B-95, p. 8; Rollo, p. 67.

[2] Petition for Review, CA-G.R. SP No. 48667, p. 12; Rollo, p. 241.

[3] Petition for Review, p. 15; Rollo, p. 22.

[4] Records, pp. 152-154.

[5] See note 14.

[6] Decision, p. 9.

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