

**NIMFA MITRE REYES, BEATRIZ FELICIANO, DOLORES
“BABY” ALVAREZ, BABY JAVIER, FERNANDO FRIAS,
REMEDIOS MAYMIERO, ROMULO MARCA, SALVADOR NEBRES,
VIVIAN SAZON AND ERLINDA CORONADO, P...**

G.R. No. 155553. August 26, 2008

Ponente: AZCUNA, J.

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AZCUNA, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court challenges the July 23, 2002 Decision[2] as well as the September 27, 2002 Resolution[3] of the Court of Appeals sustaining the September 28, 2001 Decision[4] of the Regional Trial Court (RTC), Branch 122, Caloocan City, which affirmed in toto the September 30, 1999 Decision[5] of the Metropolitan Trial Court (MeTC), Branch 49, Caloocan City, in Civil Case No. 23664 for Ejectment, ordering petitioners to vacate the leased premises.

On September 23, 1997, Cecilia D. Daez filed an Ejectment case against Nimfa Mitre Reyes, Pamela Tabon, Allen Pascual, Erlinda Coronado, Beatriz Feliciano, Dolores Alvarez, Virginia Ocampo, Federico Mateo, Fernando Frias, Baby Javier, Romulo Marca, Remedios Maymiero, Flor Masmela, Vivian Sazon, and Salvador Nebres. The complaint alleged that:

x x x

- Plaintiffs are the heirs of the deceased EUDOSIA D. DAEZ. Part of the estate left by said deceased is a certain property consisting of a lot and apartment units situated at 654 McArthur Highway, Bonifacio, Caloocan City[,] and covered by TCT No. 21852 still in the name of deceased EUDOSIA D. DAEZ. Copy of TCT No. 21852 is hereto attached as Annex "B";
- Defendants are the tenants and actual occupants of the aforesaid apartment units on a verbal lease agreement on a [month-to-month] basis. The apartment units consisting of two (2) buildings were erected way back in [1950s];
- Sometime in 1996, plaintiffs observed that the buildings are already getting old and dilapidated. Thinking of the safety of its tenants/occupants, plaintiffs requested the City Engineer's Office to inspect the building. After inspection, the City Engineer's Building Inspector rendered a report recommending the immediate restructuring or general repair of the building to avoid accident and hazard to lives and properties of the tenants. Copy of the report dated December 12, 1996 is hereto attached as Annex "C";
- [On] January 21, 1997[,] plaintiffs through DAN DAEZ received a letter from the City Engineer's Office requiring plaintiffs to comply with the recommendation of the Building Inspector by restructuring the buildings;
- Pursuant to said letter dated January 21, 1997 sent to plaintiffs by the City Engineer, plaintiffs sent formal notice to vacate upon defendants terminating the verbal lease contract on a [month-to-month] basis for the purpose of effecting the necessary restructuring of the buildings;

- Defendants despite receipt of the letter failed [and] refused to vacate thereby endangering not only their lives and properties but that of the public as well. [Copies] of the individual letters are hereto attached as Annexes "D" to "R";
- Under Sec. 5(e) of the B.P. 877[,] otherwise known as [the] Rent Control Law, need of the lessor to make the necessary repairs of the leased premises which is the subject of an existing order of condemnation by proper authorities concerned to make said premises safe and habitable is a ground for ejectment, hence this case;
- Defendants should be held liable for [plaintiffs'] litigation expenses and costs in the amount [not] less than P20,000;
- This dispute is exempted from the barangay conciliatory proceedings as the parties are residents of different cities.[6]

Except for Virginia Ocampo, all defendants filed their jointly executed Answer with Counterclaims, averring that:

x x x

- Defendants are bonafide tenants/lessees of [the] [Daez] apartment located at 654 McArthur Highway, Bonifacio, Caloocan City for the past many years, as follows: Nimfa Mitre Reyes, 29 yrs[.]; Pamela Tabon, 32 yrs[.]; Allen Pascual, 35 yrs[.]; Linda Coronado, 24 yrs[.]; Betty Feliciano, 31 yrs[.]; Baby Alvarez, 25 yrs[.]; Virginia Ocampo, 10 yrs[.]; Federico Mateo, 20 yrs[.]; Fernando Frias, 19 yrs[.]; Baby Javier, 21 yrs[.]; Romulo Marca, 28 yrs[.]; Remedios [Maymiero], 22 yrs[.]; Flor Masmela, 22 yrs[.]; Vivian [Sazon], 20 yrs[.]; and Salvador Nebres, 27 yrs[.];
- The lease agreement of defendants is with the lessors, Sps. Lope [Daez] and Eudisia Diaz Daez and were and still are originally covered by the Rent Control Law, BP 877 and its extending laws, Republic Act 7644, hence within [their] mantle and ambit of [their] coverage;
- That during all the years that herein defendants had occupied their respective apartments at the agreed monthly rentals, and as subsequently provided under the Rent Control Law, defendants had religiously paid their monthly rentals and had not violated any of the terms and conditions of their lease agreement with the said Sps. Lope [Daez] and Eudisia Diaz Daez;
- That during all the years that herein defendants had occupied their respective apartments, the [lessors-owners] thereof, had refused and failed to adequately maintain the two building apartments, so that for the past many years, defendants had maintained the same, spending for themselves the necessary repairs of the said apartments to maintain the same to be a safe and sound dwelling place, as evidenced by the pictures hereto attached x x x;
- That contrary to the allegations of the plaintiff that the building apartments subject of this case are dilapidated and no longer safe as dwelling houses, Annexes ["1" to "33"] will readily show that the said apartments are in good, sound, and safe conditions in view of the fact that[,] as already alleged herein[,] defendants had taken [care] of the proper repairs and maintenance of their respective apartments and readily contributed to the general repairs and maintenance of the two (2) building apartments except those which were recently damaged by the typhoon which is the responsibility of the [lessors-owners] thereof;
- That the alleged findings of the City Engineer of Caloocan City x x x in fact will readily show that the alleged [damage/s] to the apartments are superficial and mere ordinary wear and tear[;] and that while it recommended re-structuring, it did not specify, much less gave any plans and specifications [on] what is meant by re-structuring of the building[,] so that the report of the said City Engineer and/or Inspecting Engineer is merely to undertake general repairs of the exterior portions of the apartments in question;
- That whatever exterior repairs which might be undertaken by the [lessors-owners] thereof could be

accomplished without ejecting herein defendants except if plaintiff in this case has other motive in filing this instant case other than [what is] alleged in the complaint[;] hence[,] Sec. 5(e) of BP 877 will not necessarily apply and/or be operative as against the defendants;

- That the claim of plaintiff for all the defendants to pay monthly rentals of P2,000.00 from the day defendants should vacate per notice sent by plaintiff is without just and valid basis both as to facts and law considering that [defendants'] lease agreement with the [lessors-owners], SPS. LOPE AND [EUDOSIA] DAEZ are within the coverage of the Rent Control Law;

- That TCT No. [21852] x x x show that the land and the two (2) apartment buildings occupied by the defendants [are] still registered in the name of [EUDOSIA] DIAZ DAEZ, married to LOPE DAEZ[,] and[,] therefore[,] the plaintiff, more particularly CECILIA D. DAEZ had no right much less any legal personality to file this instant case, being that the mere allegations that the [complainants] are the heirs of [EUDOSIA] D. DAEZ represented by CECILIA D. DAEZ [as] Attorney-in-Fact is insufficient to clothe CECILIA D. DAEZ that power to file this instant case[,] exercising power of dominion over the said real property covered by TCT No. [21852];

- That plaintiff has no cause of action as against herein defendants and that there was failure on the part of the plaintiff to comply with the provisions of PD 1508[,] as amended by the provisions of [the] Local Government Code with reference to the [arbitration] powers and functions of the Katarungang Pambarangay where the real property in question is located;[7]

Ocampo briefly added in her separately filed Answer that the Heirs of Daez have no cause of action inasmuch as their perceived motive in requesting for the inspection of the building was only to obtain a legal basis to eject defendants, and that she must be reimbursed in the amount of P100,000 for the expenses she incurred in the repair of the toilet and water drainage, repainting of the walls and ceiling, and other improvements in her unit.

In the preliminary conference held on March 25, 1999, the parties agreed on the following issues for resolution:

- 1) Whether there is a real need to renovate the subject premises[;] [and]
- 2) Whether there is a need to vacate the premises during the renovation.[8]

On the bases of the foregoing issues, the parties were ordered to submit the affidavits of their witnesses and other evidence, together with their respective position papers.

The Position Paper of respondents advanced substantially the same allegations stated in their complaint. In addition to the documents attached thereto, they submitted in evidence the tax declaration of the subject property, the 12 November 1996 letter of Dan Daez to the City Engineer requesting the building inspection and the 21 January 1997 advisory of the latter to the former regarding compliance to the recommendation of the Building Inspector, the yet to be approved Building Permit as well as the Specifications and Plans on the proposed establishment of Sacred Heart Memorial Chapel,[9] and the pictures of the façade of the apartment buildings.

For their part, however, it appears on record that none of the defendants submitted a position paper or evidence, documentary or otherwise, to support their allegations.

On September 30, 1999, the MeTC rendered its Decision in favor of respondents, the dispositive portion of which stated:

Wherefore, [judgment] is hereby rendered in favor of the plaintiffs ordering the [afore-named] defendants and all persons claiming right under them:

- To vacate the premises in question and restore possession thereof to the plaintiffs;

- To pay plaintiffs thru their attorney-in-fact, Cecilia D. Daez, the reasonable compensation for their use of the premises at the rate of P500.00 per month per unit from April 1997 until the premises is fully vacated;
- To reimburse to plaintiff the amount of P10,000.00 as and for attorney's fees and for costs and litigation expenses.

SO ORDERED.[10]

Defendants appealed to the RTC. In their Appeal Memorandum,[11] they contended that an examination of the complaint would reveal that key jurisdictional allegations supporting an action for ejectment were lacking. In particular, they claimed that neither was there an allegation of prior material possession by respondents (in case of forcible entry) or a showing that the Heirs gave them the right to occupy the premises (in case of unlawful detainer). Defendants posited that the proper legal recourse should have been an accion publiciana or accion reivindicatoria, either of which is within the jurisdiction of the RTC.

This time, the appealed case was submitted for resolution without respondents' Memorandum.[12]

On September 28, 2001, the RTC affirmed in toto the challenged Decision. The RTC ruled that the allegation in Paragraph 4 of the Complaint points out the fact that defendants' possession of the subject property is by virtue of a verbal lease contract they entered into with the late Eudisia Daez, and that upon her death, respondents, as heirs, merely step into the shoes of their predecessor-in-interest.

The case was elevated to the Court of Appeals. Aside from reiterating their allegations in Paragraphs 13 to 16 of their Answer before the MTC, petitioners[13] argued, for the first time, that the Position Paper submitted by respondents in the MTC was not verified and that they failed to submit direct testimony, in violation of the Revised Rule on Summary Procedure; thereby, making the decisions of the MTC and RTC based on hearsay evidence.

In their Comment,[14] respondents countered that the order of condemnation issued by the City Engineer was never seasonably appealed by petitioners before the Secretary of Public Works and Highways pursuant to the provisions of Presidential Decree No. 1096 (or the National Building Code); thus, the said order stands and remains valid and could not be refuted by mere self-serving allegations that there is no need to effect the restructuring being required. They also invoked the legal presumption that official duty has been regularly performed.[15] Further, respondents asserted that the issue on their failure to sign the verification in the Position Paper was never raised before the RTC; hence, could not be assigned as an error before the appellate court. And even if the Position Paper was not verified, they contended that the documentary evidence adduced was of public nature which may be presented and admitted without reference to any affidavit. Moreover, the omission is not fatal because all the allegations in the Position Paper were mere reiterations of those stated in the Complaint, which was verified. Respondents averred that petitioners had the opportunity to contradict their allegations by submitting and marking countervailing evidence but they did not. Lastly, they noted that petitioners' pleadings before the lower and appellate courts were not also verified by all the original defendants yet these were still considered. The principle of *in pari delicto* and estoppel should, therefore, operate against them.

On July 23, 2002, the CA rendered its Decision affirming the RTC ruling. It held that petitioners never contested the ocular inspection of the Building Inspector, who is presumed to have regularly performed her official duty. Likewise, they failed to raise the omission of respondents at the earliest opportune time by moving that the unverified Position Paper be expunged from the records.

Petitioners moved to reconsider[16] the Decision but it was denied; hence, this petition.[17]

For petitioners, the Court of Appeals committed grave and serious error of law and facts amounting to grave

abuse of discretion resulting to lack of jurisdiction when:

- It failed to consider the constitutional mandate that all decisions of the court shall be supported with evidence, such that the CA erred to have affirmed the appealed Decision despite respondents' failure to submit their affidavit of direct testimony and their Position Paper was unverified;
- It concluded that the assigned error regarding the absence of affidavits and failure on the part of respondents to verify their Position Paper was not raised at the earliest possible opportunity; and
- It failed to consider the substantial evidence rule.

Petitioners argue that Sec. 9 in relation to Sec. 3 (B) of the Revised Rule on Summary Procedure absolutely requires the submission of affidavit/s of witnesses and verified Position Paper. Compliance is mandatory since the Summary Procedure is a departure from the Rules on Trial Order under Rule 30 and the Rules on Evidence under Rules 128 to 130 of the Revised Rules of Court. Moreover, as provided for in Sec. 10 of the Summary Procedure, the affidavits and the verified Position Paper are the bases upon which the court shall rely on in determining the law and the facts applicable to the case. Thus, with the non-observance of the Rules, the lower courts did not render decisions pursuant to the constitutional proscription that "[no] decision shall be rendered x x x without expressing therein clearly and distinctly the facts and the law on which it is based,"[18] and the Decision of the MTC, as affirmed by the RTC and Court of Appeals, was founded on hearsay evidence. According to petitioners, the absence of substantial evidence upon which the lower courts' decisions must have been based deprived them of their right to due process.

The petition has no merit.

Considering the allegations, issues and arguments adduced, this Court resolves to deny this petition for failure of petitioners to sufficiently show that the Court of Appeals committed any reversible error in the assailed decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction.

Moreover, a careful consideration of this petition indicates the failure of petitioners to show any cogent reason why the actions of the three (3) courts which have passed upon the same issues should be reversed. They failed to show that the courts' factual findings are not based on substantial evidence or that their decisions are contrary to applicable law and jurisprudence.

WHEREFORE, the petition is DENIED. The July 23, 2002 Decision as well as the September 27, 2002 Resolution of the Court of Appeals in CA-G.R. SP No. 67300 are hereby AFFIRMED.

Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Leonardo-De Castro, JJ., concur.

[1] Included in this case are Concordia D. Daez, Lope D. Daez, Jr., Petronilo D. Daez (in his behalf and as attorney-in-fact of Cresenciana D. Jurey), Adriano D. Daez, Leonora D. Mendoza, Gertrudes D. Evangelista, and Mariano D. Daez.

[2] Penned by Associate Justice Eliezer R. De los Santos, with Associate Justices Cancio C. Garcia (now retired Supreme Court Justice) and Marina L. Buzon, concurring; CA rollo, pp. 249-253.

[3] Id. at 276.

[4] Penned by Judge Remigio E. Zari; records, pp. 193-197.

[5] Penned by Judge Belen B. Ortiz; id. at 139-144.

[6] Id. at 3-4.

[7] Id. at 49-52.

[8] Id. at 87-88.

[9] Respondents alleged that they plan to convert the apartment building into a memorial chapel if defendants would not avail of their right to lease or could no longer afford to rent the newly renovated premises.

[10] Records, pp. 143-144.

[11] Only one of the original defendants, Romulo Marca, signed the verification of the Appeal Memorandum.; id. at 177-181.

[12] Id. at 193.

[13] Per CA Resolution dated December 21, 2001, the case was initially dismissed since only Beatriz Feliciano signed the verification and certification of non-forum shopping without showing that she was duly authorized by the other defendants to sign for and in their behalf. Subsequently, in their Motion for Reconsideration with Prayer to Admit Amended Petition for Review, only Reyes, Tabon, Coronado, Feliciano, Alvarez, Mateo, Frias, Javier, Marca, and Maymiero signed the verification and certification. On February 7, 2002, the CA resolved to order the filing of another amended petition and advised petitioners who are interested to proceed with the case to drop the names of other parties who are not willing to sign the petition. Eventually, a Second Amended Petition for Review was filed with Reyes, Tabon, Coronado, Feliciano, Alvarez, Mateo, Frias, Javier, Marca, Maymiero, Sazon, and Nebres as signatories.

[14] CA rollo, pp. 242-246.

[15] REVISED RULES OF COURT, Rule 131, Sec. 3 (m).

[16] CA rollo, pp. 257-267.

[17] Notably, the signatories of the verification and certification of non-forum shopping of the petition before this Court were only Reyes, Coronado, Feliciano, Alvarez, Frias, Javier, Marca, Maymiero, Sazon, and Nebres.

[18] 1987 CONSTITUTION, Art. VIII, Sec. 14.

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