

TRISTAN LOPEZ AS ATTORNEY-IN-FACT OF LETICIA AND CECILIA LOPEZ, PETITIONER, VS. LETICIA R. FAJARDO, RESPONDENT.

G.R. NO. 157971. August 31, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Leonor Sobrepena and her kins (the Sobrepenas) were the owners of a 2-door apartment at 1326 and 1328 Tomas Mapua St., Sta. Cruz, Manila. The apartment at No. 1328 has for so many years been occupied under a verbal contract of lease by respondent, Leticia Fajardo.

On April 30, 1999, the Sobrepenas sold their property to Leticia and Cecilia Lopez (the Lopez sisters) who were thereafter issued Transfer Certificate of Title No. 245120[1] in their names.

On March 31, 2000, the Lopez sisters' attorney-in-fact, herein petitioner Tristan Lopez, filed before the Metropolitan Trial Court of Manila (MeTC) a complaint[2] for ejectment with damages, docketed as Civil Case No. 166806-CV (first ejectment complaint), against respondent on the ground of failure to pay her monthly rentals from May 1999 to February 2000.

The parties amicably settled the case after respondent paid P35,000.00 representing rental in arrears and current rental for June 2000. The case was thus closed and terminated on June 28, 2000 and petitioner allowed respondent to remain in the leased premises.[3]

The following month or in July 2000, petitioner got wind of the filing by respondent of a complaint[4] against him, his aunts and the Sobrepenas before the Regional Trial Court (RTC) of Manila, docketed as Civil Case No. 00-97105, for the nullification of the deed of sale between the Lopez sisters and the Sobrepenas and for the grant to respondent of the right of first refusal over the leased premises. Respondent in fact again failed and refused to pay her July and August 2000 rentals, drawing petitioner to send her a letter[5] dated August 18, 2000 reading:

Please be informed that my aunts (Leticia and Cecilia Lopez) have already decided to terminate our monthly lease contract effective midnight of August 31, 2000, the very time our oral lease contract shall expire. Hence, there shall be no more renewal of our lease contract on a month-to-month basis upon its expiration by said date. Thus, we expect you to eventually vacate said leased premises by that time.

Considering however, time constraint, my aunts thought of giving you a grace period of one (1) month, or until 30 September 2000 within which to vacate the premises conditioned of course on your immediate payment of the July and August 2000 rentals of P2,500.00 each, or a total sum of P5,000.00. Should this total unpaid rental of P5,000.00 be not paid immediately, then the grace period of until September 30, 2000 shall no longer be offered in which case you shall be considered (as) an interloper to the property by September 1, 2000. In such an event, you should immediately vacate the same because of the expiration of the lease contract and your non-payment of rentals for two (2) months.

Please be guided accordingly. (Emphasis supplied; underscoring in the original)

On September 21, 2000, respondent remitted to petitioner Security Bank Check No. 0121467 dated September 20, 2000 in the amount of P30,000.00 representing payment of the rentals in arrears for July 2000, August 2000 and September 2000, and advance rentals for October 2000 up to July 2001, without prejudice to the outcome of Civil Case No. 00-97105.[6]

By letter[7] dated September 21, 2000, petitioner thru counsel advised respondent that he could not accept the above-said check as the rental payments due to his aunts were only for July, August and September 2000, and that she was expected to vacate the leased premises by October 1, 2000.

While the dispute between the parties was brought to the barangay, no settlement or conciliation was reached,[8] drawing petitioner to file on October 25, 2000 before the MeTC Manila a complaint[9] for ejectment with damages against respondent, docketed as Civil Case No. 168809-CV (second complaint), praying that judgment be rendered:

- Ordering [respondent] Fajardo and all persons claiming rights under her to immediately vacate the leased premises, and return possession thereof to herein [petitioner]; and
- Ordering [respondent] Fajardo to pay herein [petitioner] the following:
 - P7,500.00 as her rental arrears/back rentals from July 2000 up to September 2000 plus the present monthly rental of P2,500.00 from October 2000 (or the corresponding yearly rental increase thereof, if any) until herein [respondent] shall have actually vacated the leased premises;
 - P50,000.00 as moral damages;
 - P50,000.00 as exemplary damages;
 - P30,000.00 as attorney's fees; and
 - Costs of suit.

x x x

Respondent, in her Answer with Counterclaim for damages,[10] alleged that the complaint for ejectment (second) stated no valid cause of action, she contending that petitioner's claim of expiration of the verbal monthly lease was misplaced as she never recognized the Lopez sisters as her true lessors and that her payment of the amount of P35,000.00 in connection with the first ejectment complaint was meant to be under protest and without prejudice to the outcome of Civil Case No. 00-97105.

Respondent likewise alleged that even assuming that an implied verbal lease exists between her and the Lopez sisters, petitioner's claim of termination is baseless in fact and in law as the latest payment she made to the Sobrepnas on April 16, 1999 was for a period covering 4 months or from January 1999 to April 1999 while the previous payment she made on November 16, 1998 was for a period covering 11 months or from January 1998 to November 16, 1998, thus indicating that payment of the rent was not on a monthly basis.

Branch 11 of the Manila MeTC to which the second ejectment case was raffled issued a Pre-trial Order[11] defining the issues as follows:

- Whether or not the [respondent] can be lawfully evicted from the subject premises.
- Whether or not the [respondent] is entitled to the counterclaim she interposed.

After the parties had filed their respective position papers together with their documentary evidence and their comments thereon, Branch 11 of the MeTC, by Decision[12] dated April 9, 2001, finding that petitioner had

sufficiently established his cause of action arising from the expiration of the lease contract, the lease being terminable at the end of any month after due notice, and failure of respondent to pay the stipulated rental - grounds for ejectment under Article 1673 of the Civil Code, rendered judgment in favor of petitioner the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the [petitioner] and against the [respondent] ordering the latter and all persons claiming rights under her:

- To immediately vacate the subject premises describe[d] as No. 1328 Tomas Mapua St., Sta. Cruz, Manila and surrender its peaceful possession to the [petitioner];
- To pay [petitioner] the amount of P7,500.00 as back rentals covering the period from July 2000 to September 2000; and to pay [petitioner] the amount of P2,500.00 monthly as reasonable compensation for the use and occupation of the subject premises known as No. 1328 Tomas Mapua St., Sta. Cruz, Manila, beginning October 2000 and every month thereafter until [respondent] shall have actually vacated the same;
- To pay [petitioner] the sum of P5,000.00 as and by way of attorney's fees, and to pay the costs of the suit.

Respondent appealed the MeTC decision to the Regional Trial Court of Manila (RTC) which, by Decision[13] dated June 7, 2002, affirmed in toto that of the trial court, it holding as follows:

x x x

From the aforesaid facts, it is clear then that [petitioner] allowed [respondent] to continue to occupy the subject premises on a month-to-month rental terminable at the end of each month, until the [petitioner] sent [respondent] a notice to vacate the subject premises on August 18, 2000. There is no dispute that there was a landlord-tenant relationship between the [petitioner] and the [respondent] that ended on August 31, 2000, as evidenced by [petitioner's] letter dated August 18, 2000. As the rent was paid on a monthly basis, the period of the lease was considered as on a month-to-month basis in accordance with Article 1687 of the New Civil Code.

It is a lease with a definite period. In the case at bar, since the [respondent] stopped payment of her monthly rentals since July 2000 up to September 2000, then the lease on said property immediately expired and terminated upon the letter of demand made by the [petitioner] on the [respondent] to vacate the subject premises as of August 2000. Hence, [respondent's] right to stay in the premises came to an end as of August 2000.

x x x (Underscoring supplied).

Before the Court of Appeals (CA), respondent appealed via Petition for Review with Prayer for the Issuance of Temporary Restraining Order, Writ of Preliminary Injunction and/or Status Quo Ante Order,[14] assigning to the RTC the following errors:

- THE REGIONAL TRIAL COURT PALPABLY ERRED ON A MATTER OF LAW IN FAILING, IF NOT REFUSING, TO CONSIDER THE FACT THAT: (1) AT THE TIME OF DEMAND, APPELLANT ONLY HAD AN ALLEGED TOTAL RENTALS IN ARREARS OF TWO MONTHS AND THAT (2) AT THE TIME OF THE FILING OF THE SUBJECT COMPLAINT FOR EJECTMENT, APPELLANT HAD ALREADY CONSIGNED HER RENTALS IN COURT. HENCE THE SUBJECT EJECTMENT SUIT SHOULD HAVE BEEN DISMISSED OUTRIGHT PURSUANT TO SECTION 5 (b) OF BATAS PAMBANSA BLG. 877.

- IN THE SAME VEIN, THE REGIONAL TRIAL COURT LIKEWISE PALPABLY ERRED ON A MATTER OF LAW IN FAILING, IF NOT REFUSING TO CONSIDER THE FACT THAT THE REAL PURPOSE OF RESPONDENT IN FILING THE SUBJECT EJECTMENT SUIT WAS FOR HIM TO TAKE OVER THE SUBJECT PREMISES, WHICH HE SURREPTITIOUSLY BOUGHT FROM THE HEIRS OF PERLA

SOBREPENA, IN CIRCUMVENTION OF SECTION 5(f), BATAS PAMBANSA BLG. 877. (Emphasis and italics omitted; underscoring supplied).

The CA, citing Batas Pambansa Blg. 877 which provides that a minimum of 3-month arrearages is required to justify a lessor to eject a lessee, held that respondent had incurred back rentals of only two (2) months when petitioner sent her the letter of demand dated August 18, 1999, hence, "the filing of the ejectment case was premature." It accordingly reversed the decision of the RTC and dismissed the complaint of petitioner.

In the present petition, petitioner attributes to the appellate court the following errors for this Court's consideration:

- THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT GRANTED THE PETITION OF HEREIN RESPONDENT BASED ON PREMATURETY OF THE EJECTMENT CASE DUE TO THE FACT THAT THE LESSEE INCURRED BACKRENTALS FOR ONLY TWO (2) MONTHS CONSIDERING THE FACT THAT THE LETTERS ISSUED BY HEREIN PETITIONERS NOT ONLY RAISED THE ARREARAGES OF THREE MONTHS AS THE SOLE GROUND FOR EJECTMENT BUT AS WELL AS RAISED THE GROUND THAT THE LEASE WAS ALREADY TERMINATED DUE TO THE EXPIRATION OF THE PERIOD OF THE LEASE.

- THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT DENIED THE MOTION FOR RECONSIDERATION FILED BY HEREIN PETITIONER.[15] (Emphasis and underscoring supplied)

As reflected in his above-quoted assigned errors, petitioner draws attention to the fact that he raised two grounds-bases for respondent's ejectment, failure to pay rentals for 3 months and expiration of the lease contract.

The issue then is whether petitioner has established a valid ground for the ejectment of respondent.

This Court rules in the affirmative.

Section 5[16] of Batas Pambansa Blg. 877 otherwise known as the "Rent Control Law" provides for the grounds for judicial ejectment, to wit:

SECTION 5. Grounds for Judicial Ejectment. - Ejectment shall be allowed on the following grounds:

(a) Assignment of lease or subleasing of residential units in whole or in part, including the acceptance of boarders or bedspacers, without the written consent of the owner/ lessor.

(b) Arrears in payment of rent for a total of three (3) months: Provided, That in case of refusal by the lessor to accept payment of the rental agreed upon, the lessee may either deposit, by way of consignment, the amount in court, or with the city or municipal treasurer, as the case may be, or in a bank in the name of and with notice to the lessor, within one month after the refusal of the lessor to accept payment.

The lessee shall thereafter deposit the rental within ten days of every current month. Failure to deposit rentals for three months shall constitute a ground for ejectment. If an ejectment case is already pending, the court upon proper motion may order the lessee or any person or persons claiming under him to immediately vacate the leased premises without prejudice to the continuation of ejectment proceedings. At any time, the lessor may upon authority of the court, withdraw the rentals deposited.

The lessor, upon authority of the court in case of consignment and upon joint affidavit by him and the lessee to be submitted to the city or municipal treasurer and to the bank where deposit was made, shall be allowed to withdraw the deposits.

(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

available residential units 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 the 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.

(d) Absolute ownership by the lessee of another dwelling unit in the same city or municipality which he may lawfully use as his residence: Provided, That the lessee shall have been formally notified by the lessor of the intended ejectment three months in advance.

(e) Need of the lessor to make necessary repairs of the leased premises which is the subject of an existing order of condemnation by appropriate authorities concerned in order to make the said premises safe and habitable: Provided, That after said repair, the lessee ejected shall have the first preference to lease the same premises: Provided, however, That the new rental shall be reasonable commensurate with the expenses incurred for the repair of the said residential unit; and Provided, finally, That if the residential unit is condemned or completely demolished, the lease of the new building will no longer subject to the provisions of this Act.

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

No lessor or his successor-in-interest shall be entitled to eject the lessee upon the ground that the leased premises has been sold or mortgaged to a third person regardless of whether the lease or mortgage is registered or not. (Emphasis and underscoring supplied)

The first emphasized-underscored ground for judicial ejectment - failure to pay rental arrearages for a total of three months - was established by petitioner.

For while respondent issued a check dated September 20, 2000 in the amount of P30,000.00 representing rentals for July, August and September 2000 and advance rentals for October 2000 up to July 2001, petitioner declined to accept the check as rentals due were only for July, August and September 2000, which was communicated by petitioner's counsel's letter of September 21, 2000 to respondent's counsel whose office received it on even date.[17] By said letter of September 21, 2000, petitioner was notifying respondent that aside from the rentals for July and August 2000, she had not paid the rental for September 2000. Despite the receipt by her counsel of the September 21, 2000 letter of petitioner's counsel, there is no showing that respondent did pay the rentals in arrears for July, August, September 2000 to thus draw petitioner to file on October 25, 2000 the second ejectment complaint subject of the present petition.

In point of fact, respondent never questioned, either before the MeTC or the RTC, the claim that she failed to pay rentals for July, August and September before petitioner filed his complaint on October 25, 2000.

At all events and this brings this Court to the other above-emphasized-underscored ground for judicial ejectment, there being no fixed period agreed upon by the parties and as the rent agreed upon was monthly, it is understood to be from month-to-month. So Article 1687 of the Civil Code provides:

ARTICLE 1687. If the period of 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. (Emphasis and underscoring supplied)

A month-to-month lease under Article 1687 is a lease with a definite period and expires after the last day of any given thirty-day period, upon proper demand and notice by the lessor to vacate.[18]

Under the Rent Control Law, the prohibition against the ejectment of a lessee by his lessor is not absolute. There are exceptions expressly provided by law, which include the expiration of a lease for a definite period. In the instant case, it was noted that the rentals were paid on a month-to-month basis. Thus, the lease could be validly terminated at the end of any given month upon prior notice to that effect on the lessee. After all, when the rentals are paid monthly, the lease is deemed to be for a definite period, i.e., it expires at the end of every month. (Emphasis and underscoring supplied)[19]

When petitioner then sent the August 18, 2000 letter to respondent informing her that the lease would be terminated effective at the end of the same month, it was well within his rights.

In fine, it was error for the appellate court to ignore the fact that by the earlier-quoted August 18, 2000 letter of petitioner[20] which was annexed as Annex "F" to the complaint, petitioner had notified respondent of the expiration of the lease contract, another legal ground for judicial ejectment.

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals dated January 13, 2003 in CA-G.R. SP No. 72547 is hereby SET ASIDE and the decision of Branch 6 of the Manila MeTC, which was affirmed in toto by Branch 6 of the Manila RTC, is hereby REINSTATED.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and Corona, JJ., concur.
Garcia, J., no part.

[1] Records at 11.

[2] Id. at 12-17.

[3] Id. at 18.

[4] Id. at 20-28.

[5] Id. at 30.

[6] Id. at 31-32.

[7] Id. at 33.

[8] Id. at 34.

[9] Id. at 2-8.

[10] Id. at 37-48.

[11] Id. at 70.

[12] Id. at 114-117.

[13] Id. at 304-309.

[14] Court of Appeals (CA) Rollo at 2-14.

[15] Rollo at 17-18.

[16] Substantially reproduced in Section 7 of Rental Reform Act of 2002 (Republic Act 9161).

[17] Id. at 33.

[18] *La Jolla, Inc. v. Court of Appeals*, 359 SCRA 102, 110 (2001); *Arqueleda v. Philippine Veterans Bank*, 329 SCRA 536, 553-554 (2000); *Palanca v. Intermediate Appellate Court*, 180 SCRA 119, 129 (1989).

[19] *Amarante v. Court of Appeals*, 232 SCRA 104, 108-109 (1994).

[20] *Supra*, note 5.

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