

GEORGE LEONARD S. UMALE, PETITIONER, VS. CANOGA PARK DEVELOPMENT CORPORATION, RESPONDENT.*G.R. No. 167246. July 20, 2011*

Ponente: BRION, J.

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Before us is a petition for review on certiorari [1] filed by George Leonard S. Umale (petitioner), challenging the August 20, 2004 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP. No. 78836 and its subsequent February 23, 2005 Resolution [3] that denied his motion for reconsideration. The CA reversed the Decision[4] of the Regional Trial Court (RTC)-Branch 68, Pasig City, that dismissed Canoga Park Development Corporation's complaint for unlawful detainer on the ground of *litis pendentia*.

ANTECEDENTS

On January 4, 2000, the parties entered into a Contract of Lease [5] whereby the petitioner agreed to lease, for a period of two (2) years starting from January 16, 2000, an eight hundred sixty (860)-square-meter prime lot located in Ortigas Center, Pasig City owned by the respondent. The respondent acquired the subject lot from Ortigas & Co. Ltd. Partnership through a Deed of Absolute Sale, subject to the following conditions: (1) that no shopping arcades or retail stores, restaurants, etc. shall be allowed to be established on the property, except with the prior written consent from Ortigas & Co. Ltd. Partnership and (2) that the respondent and/or its successors-in-interest shall become member/s of the Ortigas Center Association, Inc. (Association), and shall abide by its rules and regulations. [6]

On October 10, 2000, before the lease contract expired, the respondent filed an unlawful detainer case against the petitioner before the Metropolitan Trial Court (MTC)-Branch 68, Pasig City, docketed as Civil Case No. 8084. [7] The respondent used as a ground for ejectment the petitioner's violation of stipulations in the lease contract regarding the use of the property. Under this contract, the petitioner shall use the leased lot as a parking space for light vehicles and as a site for a small drivers' canteen, [8] and may not utilize the subject premises for other purposes without the respondent's prior written consent. [9] The petitioner, however, constructed restaurant buildings and other commercial establishments on the lot, without first securing the required written consent from the respondent, and the necessary permits from the Association and the Ortigas & Co. Ltd. Partnership. The petitioner also subleased the property to various merchants-tenants in violation of the lease contract.

The MTC-Branch 68 decided the ejectment case in favor of the respondent. On appeal, the RTC-Branch 155, Pasig City affirmed in toto the MTC-Branch 68 decision. [10] The case, however, was re-raffled to the RTC-Branch 267, Pasig City because the Presiding Judge of the RTC-Branch 155, upon motion, inhibited himself from resolving the petitioner's motion for reconsideration. [11] The RTC-Branch 267 granted the petitioner's motion, thereby reversing and setting aside the MTC-Branch 68 decision. Accordingly, Civil Case No. 8084 was dismissed for being prematurely filed. [12] Thus, the respondent filed a petition for review with the CA on April 10, 2002. [13]

During the pendency of the petition for review, the respondent filed on May 3, 2002 another case for unlawful detainer against the petitioner before the MTC-Branch 71, Pasig City. The case was docketed as Civil Case No. 9210. [14] This time, the respondent used as a ground for ejectment the expiration of the parties' lease contract.

On December 4, 2002, the MTC-Branch 71 rendered a decision [15] in favor of the respondent, the dispositive portion of which read, as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff [referring to the respondent] and against the defendant and all persons claiming rights under him, as follows:

- Defendant and all persons claiming rights under him are ordered to peacefully vacate the premises located at Lot 9, Block 5, San Miguel Avenue, Ortigas Center, Pasig City, covered by Transfer Certificate of Title No. 488797 of the Registry of Deeds of Pasig City and to surrender the possession thereof to the plaintiff;
- Defendant is ordered to pay unto plaintiff the following:
 - Damages for the use of the property after the expiration of the lease contract therefor in the amount of One Hundred Fifty Thousand Pesos (P150,000.00) a month, beginning 16 January 2002 until he and all those claiming rights under him have vacated and peacefully turned over the subject premises to the plaintiff; and
 - One Hundred Thousand Pesos (P100,000.00) as and for attorney's fees together with costs of suit.
- With respect to the commercial units built by [the] defendant on the subject land, he is hereby ordered to remove the same from the subject land and to restore the subject land in the same condition as it was received unto the plaintiff, at his exclusive account, failing which the same shall be removed by the plaintiff, with expenses therefor chargeable to the defendant.

On appeal, the RTC-Branch 68 reversed and set aside the decision of the MTC-Branch 71, and dismissed Civil Case No. 9210 on the ground of *litis pendentia*. [16] The petitioner, however, was still ordered to pay rent in the amount of seventy-one thousand five hundred pesos (P71,500.00) per month beginning January 16, 2002, which amount is the monthly rent stipulated in the lease contract.

Aggrieved by the reversal, the respondent filed a Petition for Review under Rule 42 of the Rules of Court with the CA. The respondent argued that there exists no *litis pendentia* between Civil Case Nos. 8084 and 9210 because the two cases involved different grounds for ejectment, i.e., the first case was filed because of violations of the lease contract, while the second case was filed due to the expiration of the lease contract. The respondent emphasized that the second case was filed based on an event or a cause not yet in existence at the time of the filing of the first case. [17] The lease contract expired on January 15, 2002, [18] while the first case was filed on October 10, 2000.

On August 20, 2004, the CA nullified and set aside the assailed decision of the RTC-Branch 68, and ruled that there was no *litis pendentia* because the two civil cases have different causes of action. The decision of the MTC-Branch 71 was ordered reinstated. Subsequently, the petitioner's motion for reconsideration was denied; hence, the filing of the present petition for review on certiorari.

In presenting his case before this Court, the petitioner insists that *litis pendentia* exists between the two ejectment cases filed against him because of their identity with one another and that any judgment on the first case will amount to *res judicata* on the other. The petitioner argues that the respondent reiterated the ground of violations of the lease contract, with the additional ground of the expiration of the lease contract in the second ejectment case. Also, the petitioner alleges that all of the elements of *litis pendentia* are present in this case, thus, he prays for the reversal and setting aside of the assailed CA decision and resolution, and for the dismissal of the complaint in Civil Case No. 9210 on the ground of *litis pendentia* and/or forum shopping.

THE COURT'S RULING

We disagree with the petitioner and find that there is no *litis pendentia*.

As a ground for the dismissal of a civil action, *litis pendentia* refers to a situation where two actions are pending between the same parties for the same cause of action, so that one of them becomes unnecessary and vexatious. [19]

Litis pendentia exists when the following requisites are present: identity of the parties in the two actions; substantial identity in the causes of action and in the reliefs sought by the parties; and the identity between the two actions should be such that any judgment that may be rendered in one case, regardless of which party is successful, would amount to *res judicata* in the other. [20]

In the present case, the parties' bone of contention is whether Civil Case Nos. 8084 and 9210 involve the same cause of action. The petitioner argues that the causes of action are similar, while the respondent argues otherwise. If an identity, or substantial identity, of the causes of action in both cases exist, then the second complaint for unlawful detainer may be dismissed on the ground of *litis pendentia*.

We rule that Civil Case Nos. 8084 and 9210 involve different causes of action.

Generally, a suit may only be instituted for a single cause of action. [21] If two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment on the merits in any one is ground for the dismissal of the others. [22]

Several tests exist to ascertain whether two suits relate to a single or common cause of action, such as whether the same evidence would support and sustain both the first and second causes of action [23] (also known as the "same evidence" test), [24] or whether the defenses in one case may be used to substantiate the complaint in the other. [25] Also fundamental is the test of determining whether the cause of action in the second case existed at the time of the filing of the first complaint. [26]

Of the three tests cited, the third one is especially applicable to the present case, i.e., whether the cause of action in the second case existed at the time of the filing of the first complaint - and to which we answer in the negative. The facts clearly show that the filing of the first ejectment case was grounded on the petitioner's violation of stipulations in the lease contract, while the filing of the second case was based on the expiration of the lease contract. At the time the respondent filed the first ejectment complaint on October 10, 2000, the lease contract between the parties was still in effect. The lease was fixed for a period of two (2) years, from January 16, 2000, and in the absence of a renewal agreed upon by the parties, the lease remained effective until January 15, 2002. It was only at the expiration of the lease contract that the cause of action in the second ejectment complaint accrued and made available to the respondent as a ground for ejecting the petitioner. Thus, the cause of action in the second case was not yet in existence at the time of filing of the first ejectment case.

In response to the petitioner's contention that the similarity of Civil Case Nos. 8084 and 9210 rests on the reiteration in the second case of the cause of action in the first case, we rule that the restatement does not result in substantial identity between the two cases. Even if the respondent alleged violations of the lease contract as a ground for ejectment in the second complaint, the main basis for ejecting the petitioner in the second case was the expiration of the lease contract. If not for this subsequent development, the respondent could no longer file a second complaint for unlawful detainer because an ejectment complaint may only be filed within one year after the accrual of the cause of action, [27] which, in the second case, was the expiration of the lease contract.

Also, contrary to petitioner's assertion, there can be no conflict between the decisions rendered in Civil Case Nos.

8084 and 9210 because the MTC-Branch 71 decided the latter case on the sole issue of whether the lease contract between the parties had expired. Although alleged by the respondent in its complaint, the MTC-Branch 71 did not rule on the alleged violations of the lease contract committed by the petitioner. We note that the damages awarded by the MTC-Branch 71 in Civil Case No. 9210 were for those incurred after the expiration of the lease contract, [28] not for those incurred prior thereto.

Similarly, we do not find the respondent guilty of forum shopping in filing Civil Case No. 9210, the second civil case. To determine whether a party violated the rule against forum shopping, the test applied is whether the elements of *litis pendentia* are present or whether a final judgment in one case will amount to *res judicata* in another. [29] Considering our pronouncement that not all the requisites of *litis pendentia* are present in this case, the CA did not err in declaring that the respondent committed no forum shopping. Also, a close reading of the Verification and Certification of Non-Forum Shopping [30] (attached to the second ejectment complaint) shows that the respondent did disclose that it had filed a former complaint for unlawful detainer against the petitioner. Thus, the respondent cannot be said to have committed a willful and deliberate forum shopping.

WHEREFORE, the instant petition is DENIED. The assailed Decision dated August 20, 2004 and Resolution dated February 23, 2005 of the Court of Appeals in CA-G.R. SP. No. 78836 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro,[*] Peralta,[*] and Perez, JJ., concur.

[*] Designated as Acting Member of the Second Division per Special Order No. 1006 dated June 10, 2011.

[*] Designated as Acting Member of the Second Division per Special Order No. 1040 dated July 6, 2011.

[1] Rollo, pp. 24-60.

[2] Id. at 9-19.

[3] Id. at 21.

[4] Id. at 332-336.

[5] Id. at 133-138.

[6] Id. at 10.

[7] Id. at 127-131.

[8] Id. at 135-136.

[9] Id. at 136.

[10] Id. at 196-199.

[11] Dated September 19, 2001.

[12] Rollo, pp. 222-227.

[13] Id. at 12.

[14] Id. at 337-342.

[15] Id. at 345-353.

[16] Supra note 4.

[17] Rollo, p. 323.

[18] Id. at 649.

[19] Proton Pilipinas Corporation v. Republic, G.R. No. 165027, October 16, 2006, 504 SCRA 528, 545; and Guaranteed Hotels, Inc. v. Baltao, 489 Phil. 702, 707 (2005).

[20] Dotmatrix Trading v. Legaspi, G.R. No. 155622, October 26, 2009, 604 SCRA 431. See Coca-Cola Bottlers (Phils.), Inc. v. Social Security Commission, G.R. No. 159323, July 31, 2008, 560 SCRA 719, 736; Dayot v. Shell Chemical Company (Phils.), Inc., G.R. No. 156542, June 26, 2007, 525 SCRA 535, 545-546; and Abines v. Bank of the Philippine Islands, G.R. No. 167900, February 13, 2006, 482 SCRA 421, 429.

[21] 1997 RULES OF CIVIL PROCEDURE, Section 3, Rule 2.

[22] 1997 RULES OF CIVIL PROCEDURE, Section 4, Rule 2.

[23] Peñalosa v. Tuason, 22 Phil. 303, 322 (1912); Pagsisihan v. Court of Appeals, 184 Phil. 469, 479 (1980); and Feliciano v. Court of Appeals, 350 Phil. 499, 506-507 (1998).

[24] See Agustin v. Delos Santos, G.R. No. 168139, January 20, 2009, 576 SCRA 576.

[25] Victronics Computers, Inc. v. RTC, Branch 63, Makati, G.R. No. 104019, January 25, 1993, 217 SCRA 517, 530.

[26] Subic Telecommunications Company, Inc. v. Subic Bay Metropolitan Authority, G.R. No. 185159, October 12, 2009, 603 SCRA 470.

[27] 1997 RULES OF CIVIL PROCEDURE, Section 1, Rule 70.

[28] Rollo, p. 352.

[29] Solid Homes, Inc. v. Court of Appeals, 337 Phil. 605, 615 (1997).

[30] Rollo, pp. 343-344.

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