

SOLEDAD DALTON, PETITIONER, VS. FGR REALTY AND DEVELOPMENT CORPORATION, FELIX NG, NENITA NG, AND FLORA R. DAYRIT OR FLORA REGNER, RESPONDENTS.

G.R. No. 172577. January 19, 2011

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-172577/>

CARPIO, J.:

The Case

This is a petition^[1] for review on certiorari under Rule 45 of the Rules of Court. The petition challenges the 9 November 2005 Decision^[2] and 10 April 2006 Resolution^[3] of the Court of Appeals in CA-G.R. CV No. 76536. The Court of Appeals affirmed the 26 February 2002 Decision^[4] of the Regional Trial Court (RTC), Judicial Region 7, Branch 13, Cebu City, in Civil Case No. CEB 4218.

The Facts

Flora R. Dayrit (Dayrit) owned a 1,811-square meter parcel of land located at the corner of Rama Avenue and Velez Street in Cebu City. Petitioner Soledad Dalton (Dalton), Clemente Sasam, Romulo Villalonga, Miguela Villarente, Aniceta Fuentes, Perla Pormento, Bonifacio Cabajar, Carmencita Yuson, Angel Ponce, Pedro Regudo, Pedro Quebedo, Mary Cabanlit, Marciana Encabo and Dolores Lim (Sasam, et al.) leased portions of the property.

In June 1985, Dayrit sold the property to respondent FGR Realty and Development Corporation (FGR). In August 1985, Dayrit and FGR stopped accepting rental payments because they wanted to terminate the lease agreements with Dalton and Sasam, et al.

In a complaint^[5] dated 11 September 1985, Dalton and Sasam, et al. consigned the rental payments with the RTC. They failed to notify Dayrit and FGR about the consignment. In motions dated 27 March 1987,^[6] 10 November 1987,^[7] 8 July 1988,^[8] and 28 November 1994,^[9] Dayrit and FGR withdrew the rental payments. In their motions, Dayrit and FGR reserved the right to question the validity of the consignment.

Dayrit, FGR and Sasam, et al. entered into compromise agreements dated 25 March 1997^[10] and 20 June 1997.^[11] In the compromise agreements, they agreed to abandon all claims against each other. Dalton did not enter into a compromise agreement with Dayrit and FGR.

The RTC's Ruling

In its 26 February 2002 Decision, the RTC dismissed the 11 September 1985 complaint and ordered Dalton to vacate the property. The RTC held that:

Soledad Dalton built a house which she initially used as a dwelling and store space. She vacated the premises when her children got married. She transferred her residence near F. Ramos Public Market, Cebu City.

She constructed the 20 feet by 20 feet floor area house sometime in 1973. The last monthly rental was P69.00. When defendants refused to accept rental and demanded vacation of the premises, she consigned [sic] her monthly rentals in court.

x x x x

It is very clear from the facts that there was no valid consignment made.

The requisites of consignment are as follows:

- The existence of a valid debt.
- Valid prior tender, unless tender is excuse [sic];
- Prior notice of consignment (before deposit)
- Actual consignment (deposit);
- Subsequent notice of consignment;

Requisite Nos. 3 and 5 are absent or were not complied with. It is very clear that there were no prior notices of consignment (before deposit) and subsequent notices of consignment (after deposit)

Besides, the last deposit was made on December 21, 1988. At the time Dalton testified on December 22, 1999, she did not present evidence of payment in 1999. She had not, therefore, religiously paid her monthly obligation.

By clear preponderance of evidence, defendants have established that plaintiff was no longer residing at Eskina Banawa at the time she testified in court. She vacated her house and converted it into a store or business establishment. This is buttressed by the testimony of Rogelio Capacio, the court's appointed commissioner, who submitted a report, the full text of which reads as follows:

REPORT AND/OR OBSERVATION

"The store and/or dwelling subject to ocular inspection is situated [sic] on the left portion of the road which is about fifty-five (55) meters from the corner of Banawa-Guadalupe Streets, when turning right heading towards the direction of Guadalupe Church, if travelling from the Capitol Building.

I observed that when we arrived at the ocular inspection site, Mrs. Soledad Dalton with the use of a key opened the lock of a closed door. She claimed that it was a part of the dwelling which she occupies and was utilized as a store. There were few saleable items inside said space."

Soledad Dalton did not take exception to the said report.

Two witnesses who were former sub-lessees testified and clearly established that Mrs. Dalton use the house for business purposes and not for dwelling.[12]

Dalton appealed to the Court of Appeals.

The Court of Appeals' Ruling

In its 9 November 2005 Decision, the Court of Appeals affirmed the RTC's 26 February 2002 Decision. The Court of Appeals held that:

After a careful review of the facts and evidence in this case, we find no basis for overturning the decision of the lower court dismissing plaintiffs-appellants' complaint, as we find that no valid consignment was made by the plaintiff-appellant.

Consignation is the act of depositing the thing due with the court or judicial authorities whenever the creditor cannot accept or refuses to accept payment and generally requires a prior tender of payment. In order that consignation may be effective, the debtor must show that: (1) there was a debt due; (2) the consignation of the obligation had been made because the creditor to whom tender of payment was made refused to accept it, or because he was absent or incapacitated, or because several persons claimed to be entitled to receive the amount due or because the title to the obligation has been lost; (3) previous notice of the consignation had been given to the person interested in the performance of the obligation; (4) the amount due was placed at the disposal of the court; and (5) after the consignation had been made the person interested was notified thereof. Failure in any of these requirements is enough ground to render a consignation ineffective.

Consignation is made by depositing the proper amount to the judicial authority, before whom the tender of payment and the announcement of the consignation shall be proved. All interested parties are to be notified of the consignation. It had been consistently held that compliance with these requisites is mandatory.

No error, therefore, can be attributed to the lower court when it held that the consignation made by the plaintiff-appellant was invalid for failure to meet requisites 3 and 5 of a valid consignation (i.e., previous notice of the consignation given to the person interested in the performance of the obligation and, after the consignation had been made, the person interested was notified thereof).

Plaintiff-appellant failed to notify defendants-appellees of her intention to consign the amount due to them as rentals. She, however, justifies such failure by claiming that there had been substantial compliance with the said requirement of notice upon the service of the complaint on the defendants-appellees together with the summons.

We do not agree with such contention.

The prevailing rule is that substantial compliance with the requisites of a valid consignation is not enough. In *Licuanan vs. Diaz*, reiterating the ruling in *Soco vs. Militante*, the Supreme Court had the occasion to rule thus:

"In addition, it must be stated that in the case of *Soco v. Militante* (123 SCRA 160, 166-167 [1983]), this Court ruled that the codal provisions of the Civil Code dealing with consignation (Articles 1252-1261) should be accorded mandatory construction --

We do not agree with the questioned decision. We hold that the essential requisites of a valid consignation must be complied with fully and strictly in accordance with the law. Articles 1256-1261, New Civil Code. That these Articles must be accorded a mandatory construction is clearly evident and plain from the very language of the codal provisions themselves which require absolute compliance with the essential requisites therein provided. Substantial compliance is not enough for that would render only directory construction of the law. The use of the words "shall" and "must [sic]" which are imperative, operating to impose a duty which may be enforced, positively indicated that all the essential requisites of a valid consignation must be complied with. The Civil Code Articles expressly and explicitly direct what must be essentially done in order that consignation shall be valid and effectual..."

Clearly then, no valid consignation was made by the plaintiff-appellant for she did not give notice to the defendants-appellees of her intention to so consign her rental payments. Without any announcement of the intention to resort to consignation first having been made to persons interested in the fulfillment of the obligation, the consignation as a means of payment is void.

As to the other issues raised by the plaintiff-appellant in her second and third assigned errors, we hold that the ruling of the lower court on such issues is supported by the evidence adduced in this case.

That plaintiff-appellant is not residing at the leased premises in Eskina Banawa and that she is using the same for business purposes, not as dwelling place, is amply supported by the testimony of two of plaintiff-appellant's

sub-lessees. The Commissioner's Report submitted by Rogelio Capacio, who was commissioned by the lower court to conduct an ocular inspection of the leased premises, further lends support to the lower court's findings. On the other hand, plaintiff-appellant only has her self-serving claims that she is residing at the leased premises in Eskina Banawa to prove her continued use of the leased premises as dwelling place.

There is thus no merit to plaintiff-appellant's fourth assigned error. The lower court acted within its authority in ordering the plaintiff-appellant to vacate the leased premises. The evidence shows that plaintiff-appellant had failed to continuously pay the rentals due to the defendants-appellees. It was therefore within the powers of the lower court to grant such other relief and remedies equitable under the circumstances.

In sum, there having been no valid consignment and with the plaintiff-appellant having failed to pay the rentals due to the defendants-appellees, no error can be attributed to the lower court in rendering its assailed decision.[13]

Hence, the present petition. Dalton raises as issues that the Court of Appeals erred in ruling that (1) the consignment was void, and (2) Dalton failed to pay rent.

The Court's Ruling

The petition is unmeritorious.

Dalton claims that, "the issue as to whether the consignment made by the petitioner is valid or not for lack of notice has already been rendered moot and academic with the withdrawal by the private respondents of the amounts consigned and deposited by the petitioner as rental of the subject premises." [14]

The Court is not impressed. First, in withdrawing the amounts consigned, Dayrit and FGR expressly reserved the right to question the validity of the consignment. In *Riesenbeck v. Court of Appeals*, [15] the Court held that:

A sensu contrario, when the creditor's acceptance of the money consigned is conditional and with reservations, he is not deemed to have waived the claims he reserved against his debtor. Thus, when the amount consigned does not cover the entire obligation, the creditor may accept it, reserving his right to the balance (*Tolentino*, Civil Code of the Phil., Vol. IV, 1973 Ed., p. 317, citing 3 *Llerena* 263). The same factual milieu obtains here because the respondent creditor accepted with reservation the amount consigned in court by the petitioner-debtor. Therefore, the creditor is not barred from raising his other claims, as he did in his answer with special defenses and counterclaim against petitioner-debtor.

As respondent-creditor's acceptance of the amount consigned was with reservations, it did not completely extinguish the entire indebtedness of the petitioner-debtor. It is apposite to note here that consignment is completed at the time the creditor accepts the same without objections, or, if he objects, at the time the court declares that it has been validly made in accordance with law. [16] (Emphasis supplied)

Second, compliance with the requisites of a valid consignment is mandatory. Failure to comply strictly with any of the requisites will render the consignment void. Substantial compliance is not enough.

In *Insular Life Assurance Company, Ltd. v. Toyota Bel-Air, Inc.*, [17] the Court enumerated the requisites of a valid consignment: (1) a debt due; (2) the creditor to whom tender of payment was made refused without just cause to accept the payment, or the creditor was absent, unknown or incapacitated, or several persons claimed the same right to collect, or the title of the obligation was lost; (3) the person interested in the performance of the obligation was given notice before consignment was made; (4) the amount was placed at the disposal of the court; and (5) the person interested in the performance of the obligation was given notice after the consignment was made.

Articles 1257 and 1258 of the Civil Code state, respectively:

Art. 1257. In order that the consignation of the thing due may release the obligor, it must first be announced to the persons interested in the fulfillment of the obligation.

The consignation shall be ineffectual if it is not made strictly in consonance with the provisions which regulate payment.

Art. 1258. Consignation shall be made by depositing the things due at the disposal of judicial authority, before whom the tender of payment shall be proved, in a proper case, and the announcement of the consignation in other cases.

The consignation having been made, the interested parties shall also be notified thereof. (Emphasis supplied)

The giving of notice to the persons interested in the performance of the obligation is mandatory. Failure to notify the persons interested in the performance of the obligation will render the consignation void. In *Ramos v. Sarao*,^[18] the Court held that, "All interested parties are to be notified of the consignation. Compliance with [this requisite] is mandatory."^[19] In *Valdellon v. Tengco*,^[20] the Court held that:

Under Art. 1257 of our Civil Code, in order that consignation of the thing due may release the obligor, it must first be announced to the persons interested in the fulfillment of the obligation. The consignation shall be ineffectual if it is not made strictly in consonance with the provisions which regulate payment. In said Article 1258, it is further stated that the consignation having been made, the interested party shall also be notified thereof.^[21] (Emphasis supplied)

In *Soco v. Militante, et al.*,^[22] the Court held that:

We hold that the essential requisites of a valid consignation must be complied with fully and strictly in accordance with the law, Articles 1256 to 1261, New Civil Code. That these Articles must be accorded a mandatory construction is clearly evident and plain from the very language of the codal provisions themselves which require absolute compliance with the essential requisites therein provided. Substantial compliance is not enough for that would render only a directory construction to the law. The use of the words "shall" and "must" which are imperative, operating to impose a duty which may be enforced, positively indicate that all the essential requisites of a valid consignation must be complied with. The Civil Code Articles expressly and explicitly direct what must be essentially done in order that consignation shall be valid and effectual.^[23] (Emphasis supplied)

Dalton claims that the Court of Appeals erred in ruling that she failed to pay rent. The Court is not impressed. Section 1, Rule 45 of the Rules of Court states that petitions for review on certiorari "shall raise only questions of law which must be distinctly set forth." In *Pagsibigan v. People*,^[24] the Court held that:

A petition for review under Rule 45 of the Rules of Court should cover only questions of law. Questions of fact are not reviewable. A question of law exists when the doubt centers on what the law is on a certain set of facts. A question of fact exists when the doubt centers on the truth or falsity of the alleged facts.

There is a question of law if the issue raised is capable of being resolved without need of reviewing the probative value of the evidence. The issue to be resolved must be limited to determining what the law is on a certain set of facts. Once the issue invites a review of the evidence, the question posed is one of fact.^[25]

Whether Dalton failed to pay rent is a question of fact. It is not reviewable.

The factual findings of the lower courts are binding on the Court. The exceptions to this rule are (1) when there is grave abuse of discretion; (2) when the findings are grounded on speculation; (3) when the inference made is manifestly mistaken; (4) when the judgment of the Court of Appeals is based on a misapprehension of facts; (5) when the factual findings are conflicting; (6) when the Court of Appeals went beyond the issues of the case and its

findings are contrary to the admissions of the parties; (7) when the Court of Appeals overlooked undisputed facts which, if properly considered, would justify a different conclusion; (8) when the facts set forth by the petitioner are not disputed by the respondent; and (9) when the findings of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.[26] Dalton did not show that any of these circumstances is present.

WHEREFORE, the Court DENIES the petition. The Court AFFIRMS the 9 November 2005 Decision and 10 April 2006 Resolution of the Court of Appeals in CA-G.R. CV No. 76536.

SO ORDERED.

Nachura, Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 11-22.

[2] Id. at 24-31. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Ramon M. Bato, Jr. and Apolinario D. Bruselas, Jr. concurring.

[3] Id. at 39-40.

[4] CA rollo, pp. 23-30. Penned by Judge Meinrado P. Paredes.

[5] Records, pp. 1-5.

[6] Rollo, pp. 47-48.

[7] Id. at 49-50.

[8] Id. at 51-52.

[9] Id. at 53-54.

[10] Id. at 57-58.

[11] Id. at 59-60.

[12] CA rollo, pp. 28-30.

[13] Rollo, pp. 27-30.

[14] Id. at 18.

[15] G.R. No. 90359, 9 June 1992, 209 SCRA 656.

[16] Id. at 659.

[17] G.R. No. 137884, 28 March 2008, 550 SCRA 70, 89.

[18] 491 Phil. 288 (2005).

[19] Id. at 305.

[20] 225 Phil. 279 (1986).

[21] Id. at 327.

[22] 208 Phil. 151 (1983).

[23] Id. at 153-154.

[24] G.R. No. 163868, 4 June 2009, 588 SCRA 249.

[25] Id. at 256.

[26] Id. at 257.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.