

DANIEL T. SO, PETITIONER, VS. FOOD FEST LAND, INC. RESPONDENT*G.R. No. 183628, April 07, 2010*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-183628-2/>

Food Fest Land Inc. (Food Fest) entered into a September 14, 1999 Contract of Lease [1] with Daniel T. So (So) over a commercial space in San Antonio Village, Makati City for a period of three years (1999-2002) on which Food Fest intended to operate a Kentucky Fried Chicken carry out branch.

Before forging the lease contract, the parties entered into a preliminary agreement dated July 1, 1999, the pertinent portion of which stated:

The lease shall not become binding upon us unless and until the government agencies concerned shall authorize, permit or license us to open and maintain our business at the proposed Lease Premises. We shall promptly make an application for permits, licenses and authority for our business and shall exercise due diligence to obtain it, provided, however, that you shall assist us by submitting such documents and papers and comply with such other requirements as the governmental agencies may impose. We shall give notice to you when the permits, license and authorities have been obtained. We shall also notify you if any of the required permits, licenses and authorities shall not be (sic) given or granted within fifteen days (15) from your conform (sic) hereto. In such case, the agreement may be cancelled and all rights and obligations hereunder shall cease. [2] (underscoring supplied)

While Food Fest was able to secure the necessary licenses and permits for the year 1999, it failed to commence business operations. For the year 2000, Food Fest's application for renewal of barangay business clearance was "held in abeyance until further study of [its] kitchen facilities." [3]

As the barangay business clearance is a prerequisite to the processing of other permits, licenses and authority by the city government, Food Fest was unable to operate. Fearing further business losses, Food Fest, by its claim, communicated its intent to terminate the lease contract to So who, however, did not accede and instead offered to help Food Fest secure authorization from the barangay. On So's advice, Food Fest wrote requests addressed to city officials for assistance to facilitate renewal.

In August 2000, Food Fest, for the second time, purportedly informed So of its intent to terminate the lease, and it in fact stopped paying rent.

So later sent a November 22, 2000 demand letter to Food Fest for the payment of rental arrearages and reiterated his offer to help it secure clearance from the barangay. Thus So wrote: "With regard to securing permits from the barangay & the City Hall, [with] which I am trying to help you, some form of representation, maybe not in cash, would definitely help in forging a longer term relationship." [4] Food Fest demurred to the offer.

By letter of March 26, 2001,[5] So again demanded payment of rentals from Food Fest from September 2000 to March 2001 amounting to P123,200.00. Food Fest denied any liability, however, and started to remove its fixtures and equipment from the premises.

On April 2, 2001, So sent Food Fest a Final Notice of Termination with demand to pay and to vacate.[6]

On April 26, 2001, So filed a complaint for ejectment and damages against Food Fest before the Metropolitan

Trial Court (MeTC) of Makati City.

Branch 64 of the MeTC, by Decision of July 4, 2005,[7] rendered judgment in favor of So, disposing as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against defendant, Food Fest Land, Inc., as follows:

- Ordering the defendant to pay the unpaid rentals from August 2000 until March 2001 with penalties accrued thereon. The security deposit in the sum of Sixty Four Thousand Pesos (Php64,000.00) is forfeited in favor of the plaintiff;
- Ordering the defendant to pay liquidated damages in a sum equivalent to 25% of the total sum due and demandable;
- Ordering the defendant to pay the plaintiff a sum equivalent to 25% of the total claim as and for attorney's fees; and
- The costs of suit.

SO ORDERED.[8]

On appeal, Branch 143 of the Regional Trial Court (RTC), by Decision of November 30, 2006,[9] reversed the MeTC Decision, disposing as follows:

WHEREFORE, premises considered, the judgment of the lower court dated 04 July 2005 is hereby REVERSED and SET ASIDE, ordering plaintiff Daniel T. So to pay defendant Food Fest the amount of Thirty Two Thousand Pesos (P32,000.00) as reimbursement for rentals paid for the months of July and August 2000; Twenty Thousand Pesos (P20,000.00) as exemplary damages; Twenty Thousand Pesos (P20,000.00) as attorney's fees and costs of suit.

SO ORDERED.[10]

In reversing the MeTC, the RTC found that Food Fest already vacated the leased premises before So filed the complaint for ejectment; and whereas possession is the only issue for resolution in an ejectment case, So's cause of action only pertained to collection of the rental arrears.

As to So's claim for payment of arrears, the RTC noted that since the claim exceeded the jurisdictional amount over which it can cognize, the RTC, applying Sec. 8, Rule 40 of the Rules of Court,[11] treated the case as if it was originally filed with it.

On the merits, the RTC held that Food Fest's failure to secure the authority to commence business operations resulted in the termination of its contractual obligations to So, including the obligation to pay rent.

On petition for review, the Court of Appeals, by Decision of April 18, 2008,[12] upheld the RTC's jurisdiction over the complaint. It, however, declared that Food Fest's obligation to pay rent was not extinguished upon its failure to secure permits to operate. Thus, it disposed:

WHEREFORE, premises considered, the assailed decision dated November 30, 2006 of the RTC, Branch 143, Makati City is hereby REVERSED and SET ASIDE, ordering respondent FFLI to pay petitioner Daniel T. So the following:

- Unpaid rentals from August 2000 until March 31, 2001 with penalties accrued thereon. The security deposit is forfeited in favor of petitioner So;
- Temperate damages in the amount of P50,000.00;

- P20,000.00 as attorney's fees; and
- Costs of suit.

SO ORDERED.[13]

The parties' respective motions for reconsideration having been denied, they filed their respective petitions before this Court which, by Resolution of October 6, 2008, resolved to consolidate G.R. No. 183628 (Daniel T. So vs. Food Fest Land, Inc.) with G.R. No. 183670 (Food Fest Land, Inc. vs. Daniel T. So).

So maintains that the MeTC had jurisdiction over his complaint for ejectment. For, So contends, Food Fest did not vacate the leased premises before his filing (on April 26, 2001) of the complaint.

So admitted in his Complaint, however, that Food Fest started pulling out equipment and other machineries from the premises even before the final notice was received by it on April 2, 2001.

13. In or the last few days of March 2001, defendant FOOD FEST LAND, INC. started to remove and pull out its equipment, appliances, fittings, furnishings, movable articles and other accessories and facilities that it had earlier placed and installed in the leased premises, but due to its wanton lack of care in doing so, so much damage and destruction was caused to the leased premises, resulting in the breakage of and damage to the concrete walls and partition in the building as well as the steel gate leading to the leased premises and other parts of the building and its premises.[14] (emphasis and underscoring supplied)

Two elements are paramount in possession - there must be occupancy, apprehension or taking, and there must be intent to possess.[15] In the present case, given the immediately quoted allegation-admission of So, intent to possess was not present on Food Fest's part.

In another vein, So claims that Food Fest did not exercise care in removing the installations and fixtures, thereby causing destruction to the premises to thus entitle him to damages, as well as to damages corresponding to unrealized profits (*lucrum cessans*) to answer for the period during which the unit was not rented out.

Unrealized profits fall under the category of actual or compensatory damages. If there exists a basis for a reasonable expectation that profits would have continued to be generated had there been no breach of contract, indemnification for damages based on such expected profits is proper. This is, however, subject to the rule that a party is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved.[16]

Other than the photographs evincing damage to the premises, no evidence was proffered to show So's entitlement to unrealized profits. That the leased unit was not subsequently leased is not solely attributable to Food Fest. As borne by the records, no renovation was undertaken by So for almost three years following Food Fest's vacation of the premises in 2001. The quotations issued by construction companies for purposes of renovation were issued only in 2004.

So is not without recourse under the lease contract, however. Thus the pertinent provisions of the lease contract provide:

7. LIABILITY OF LESSEE FOR DAMAGES- LESSEE hereby agrees that any damage to the leased premises or its appurtenances caused by said LESSEE or its agents, employees, customers, guests or any other person without the fault of LESSOR shall be LESSEE's sole responsibility and liability, which damage shall, upon demand by LESSOR be repaired promptly at its expense.

16. TERMINATION OF THE LEASE- LESSEE agrees to return and surrender the leased premises at the expiration of the term of this lease in as good condition as reasonable wear and tear will permit and without

delay whatsoever, devoid of all occupants, furniture, machinery, equipment and signages, articles and effects of any kind, other than such alterations or improvements which cannot be removed without damaging the leased premises.

23. PENALTY CLAUSE - Any and all accounts payable by LESSEE under this Contract of Lease and other charges which may be claimed against LESSEE, but not paid by LESSEE to LESSOR within fifteen (15) days from due date shall be subject to penalty charges of ONE PERCENT (1%) per month from due date until the account is paid in full.

23.1. Should LESSOR be compelled to seek judicial relief against LESSEE the latter shall, in addition to any other claim for damages pay as liquidated damages to LESSOR an amount equivalent to twenty-five percent (25%) of the amount due, but in no case less than P500.00: and an attorney's fee in the amount equivalent to 25% of the amount claimed but in no case less than P3,000.00 as well as all expenses of litigation.[17]

Respecting So's claim for renovation expenses, the same must be denied absent proof as to the actual cost of renovation. Only firm offers or quotations from construction companies are in the records. Following Article 2224 of the Civil Code,[18] however, the appellate court's award of temperate damages is in order.

This Court notes that the appellate court did not award liquidated damages in contravention of the contract. As for the appellate court's award of P20,000.00 as attorney's fees, the contractual stipulation should prevail.

As for Food Fest's invocation of the principle of *rebus sic stantibus* as enunciated in Article 1267 of the Civil Code to render the lease contract *functus officio*, and consequently release it from responsibility to pay rentals, the Court is not persuaded. Article 1267 provides:

Article 1267. When the service has become so difficult as to be manifestly beyond the contemplation of the parties, the obligor may also be released therefrom, in whole or in part.

This article, which enunciates the doctrine of unforeseen events, is not, however, an absolute application of the principle of *rebus sic stantibus*, which would endanger the security of contractual relations. The parties to the contract must be presumed to have assumed the risks of unfavorable developments. It is, therefore, only in absolutely exceptional changes of circumstances that equity demands assistance for the debtor.[19]

Food Fest claims that its failure to secure the necessary business permits and licenses rendered the impossibility and non-materialization of its purpose in entering into the contract of lease, in support of which it cites the earlier-quoted portion of the preliminary agreement dated July 1, 1999 of the parties.[20]

The cause or essential purpose in a contract of lease is the use or enjoyment of a thing.[21] A party's motive or particular purpose in entering into a contract does not affect the validity or existence of the contract; an exception is when the realization of such motive or particular purpose has been made a condition upon which the contract is made to depend. The exception does not apply here.

It is clear that the condition set forth in the preliminary agreement pertains to the initial application of Food Fest for the permits, licenses and authority to operate. It should not be construed to apply to Food Fest's subsequent applications. Consider the following qualification in the preliminary agreement:

xxx We shall also notify you if any of the required permits, licenses and authorities shall not be (sic) given or granted within fifteen days (15) from your conform (sic) hereto. In such case, the agreement may be canceled and all rights and obligations hereunder shall cease.[22] (underscoring supplied)

Food Fest was able to secure the permits, licenses and authority to operate when the lease contract was executed. Its failure to renew these permits, licenses and authority for the succeeding year, does not, however, suffice to declare the lease *functus officio*, nor can it be construed as an unforeseen event to warrant the application of

Article 1267.

Contracts, once perfected, are binding between the contracting parties. Obligations arising therefrom have the force of law and should be complied with in good faith. Food Fest cannot renege from the obligations it has freely assumed when it signed the lease contract.

WHEREFORE, the Court of Appeals Decision of April 18, 2008 is AFFIRMED with MODIFICATION.

Food Fest is ORDERED to pay So liquidated damages in the amount equivalent to 25% of the total sum due and demandable. Further, So is ORDERED to pay attorney's fees in the amount equivalent to 25% of the total sum due and demandable. In all other respects, the decision is AFFIRMED.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] CA rollo, pp. 34-42

[2] Id. at. 33

[3] Rollo, Vol. II, p. 85.

[4] Id. at 89.

[5] CA rollo, p. 49.

[6] Id. at 50.

[7] Id. at.27-30.

[8] Id. at 30

[9] Id. at 19-26

[10] Id. at 26.

[11] Sec. 8. Appeal from orders dismissing case without trial; lack of jurisdiction. - x x x

If the case was tried on the merits by the lower court without jurisdiction over the subject matter, the Regional Trial Court on appeal shall not dismiss the case if it has original jurisdiction thereof, but shall decide the case in accordance with the preceding section, without prejudice to the admission of amended pleadings and additional evidence in the interest of justice.

[12] Penned by Associate Justice Remedios A. Salazar-Fernando with the concurrences of Associate Justices Rosalinda Asuncion-Vicente and Sesinando E. Villon, rollo, Vol. II, pp. 42-56.

[13] Id. at 55.

[14] Records, Vol. I, pp. 3-4.

[15] Yu v. Pacleb, G.R. No. 130316, Janaury 24, 2007, 512 SCRA 402, 407.

[16] Civil Code, Art. 2199.

[17] CA rollo, pp. 34-42.

[18] CIVIL CODE, Art. 2224. Temperate or moderate damages, which are more than nominal but less than

compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be proved with certainty.

[19] PNCC v. Court of Appeals, G.R. No. 116896. May 5, 1997, 272 SCRA 183, 192.

[20] Vide note 2.

[21] Supra Note 19.

[22] CA rollo, p. 33

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.