

REPUBLIC OF THE PHILIPPINES AND NATIONAL POWER CORPORATION, BOTH REPRESENTED BY THE PRIVATIZATION MANAGEMENT OFFICE, PETITIONERS, VS. SUNVAR REALTY DEVELOPMENT CORPORATION, RESP...

G.R. No. 194880. June 20, 2012

Ponente: SERENO, J.

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SERENO, J.:

This is a Rule 45 Petition questioning the Decision of the Regional Trial Court (RTC) of Makati City, which ordered the dismissal of the Complaint for unlawful detainer filed by petitioners herein with the Metropolitan Trial Court.

Petitioners Republic of the Philippines (Republic) and National Power Corporation (NPC) are registered co-owners of several parcels of land located along Pasong Tamo Extension and Vito Cruz in Makati City, and covered by four Transfer Certificates of Title (TCTs).[1] The main subject matter of the instant Petition is one of these four parcels of land covered by TCT No. 458365, with an area of approximately 22,294 square meters (hereinafter, the subject property). Eighty percent (80%) of the subject property is owned by petitioner Republic, while the remaining twenty percent (20%) belongs to petitioner NPC.[2] Petitioners are being represented in this case by the Privatization Management Office (PMO), which is the agency tasked with the administration and disposal of government assets.[3] Meanwhile, respondent Sunvar Realty Development Corporation (Sunvar) occupied the subject property by virtue of sublease agreements, which had in the meantime expired.

The factual antecedents of the case are straightforward. On 26 December 1977,[4] petitioners leased the four parcels of land, including the subject property, to the Technology Resource Center Foundation, Inc., (TRCFI) for a period of 25 years beginning 01 January 1978 and ending on 31 December 2002.[5] Under the Contract of Lease (the main lease contract), petitioners granted TRCFI the right to sublease any portion of the four parcels of land.[6]

Exercising its right, TRCFI consequently subleased a majority of the subject property to respondent Sunvar through several sublease agreements (the sublease agreements).[7] Although these agreements commenced on different dates, all of them contained common provisions on the terms of the sublease and were altogether set to expire on 31 December 2002, the expiration date of TRCFI's main lease contract with petitioners, but subject to renewal at the option of respondent:[8]

The term of the sublease shall be for an initial period of [variable] years and [variable] months commencing on [variable], renewable for another twenty-five (25) years at SUNVAR's exclusive option.[9]

According to petitioners, in all the sublease agreements, respondent Sunvar agreed "to return or surrender the subleased land, without any delay whatsoever upon the termination or expiration of the sublease contract or any renewal or extension thereof." [10]

During the period of its sublease, respondent Sunvar introduced useful improvements, consisting of several commercial buildings, and leased out the spaces therein.[11] It also profitably utilized the other open spaces on the subject property as parking areas for customers and guests.[12]

In 1987, following a reorganization of the government, TRCFI was dissolved. In its stead, the Philippine Development Alternatives Foundation (PDAF) was created, assuming the functions previously performed by TRCFI.[13]

On 26 April 2002, less than a year before the expiration of the main lease contract and the sublease agreements, respondent Sunvar wrote to PDAF as successor of TRCFI. Respondent expressed its desire to exercise the option to renew the sublease over the subject property and proposed an increased rental rate and a renewal period of another 25 years.[14] On even date, it also wrote to the Office of the President, Department of Environment and Natural Resources and petitioner NPC. The letters expressed the same desire to renew the lease over the subject property under the new rental rate and renewal period.[15]

On 10 May 2002, PDAF informed respondent that the notice of renewal of the lease had already been sent to petitioners, but that it had yet to receive a response.[16] It further explained that the proposal of respondent for the renewal of the sublease could not yet be acted upon, and neither could the proposed rental payments be accepted.[17] Respondent acknowledged receipt of the letter and requested PDAF to apprise the former of any specific actions undertaken with respect to the said lease arrangement over the subject property.[18]

On 03 June 2002, six months before the main contract of lease was to expire, petitioner NPC – through Atty. Rainer B. Butalid, Vice-President and General Counsel – notified PDAF of the former's decision not to renew the contract of lease.[19] In turn, PDAF notified respondent of NPC's decision.[20]

On the other hand, petitioner Republic through then Senior Deputy Executive Secretary Waldo Q. Flores likewise notified PDAF of the former's decision not to renew the lease contract.[21] The Republic reasoned that the parties had earlier agreed to shorten the corporate life of PDAF and to transfer the latter's assets to the former for the purpose of selling them to raise funds.[22] On 25 June 2002, PDAF duly informed respondent Sunvar of petitioner Republic's decision not to renew the lease and quoted the Memorandum of Senior Deputy Executive Secretary Flores.[23]

On 31 December 2002, the main lease contract with PDAF, as well as its sublease agreements with respondent Sunvar, all expired. Hence, petitioners recovered from PDAF all the rights over the subject property and the three other parcels of land. Thereafter, petitioner Republic transferred the subject property to the PMO for disposition. Nevertheless, respondent Sunvar continued to occupy the property.

On 22 February 2008, or six years after the main lease contract expired, petitioner Republic, through the Office of the Solicitor General (OSG), advised respondent Sunvar to completely vacate the subject property within thirty (30) days.[24] The latter duly received the Notice from the OSG through registered mail,[25] but failed to vacate and remained on the property.[26]

On 03 February 2009, respondent Sunvar received from respondent OSG a final notice to vacate within 15 days.[27] When the period lapsed, respondent Sunvar again refused to vacate the property and continued to occupy it.

On 02 April 2009, the PMO issued an Inspection and Appraisal Report to determine the fair rental value of the subject property and petitioners' lost income – a loss arising from the refusal of respondent Sunvar to vacate the property after the expiration of the main lease contract and sublease agreements.[28] Using the market comparison approach, the PMO determined that the fair rental value of the subject property was ₱10,364,000 per

month, and that respondent Sunvar owed petitioners a total of ₱630,123,700 from 01 January 2002 to 31 March 2009.[29]

On 23 July 2009, petitioners filed the Complaint dated 26 May 2009 for unlawful detainer with the Metropolitan Trial Court (MeTC) of Makati City. Petitioners prayed that respondent Sunvar be ordered to vacate the subject property and to pay damages for the illegal use and lost income owing to them:

WHEREFORE, PREMISES CONSIDERED, it is most respectfully prayed that after proper proceedings, judgment be rendered:

1. Ordering defendant SUNVAR REALTY DEVELOPMENT CORPORATION and all persons, natural and juridical, claiming rights under it, to vacate the subject property and peacefully surrender the same, with the useful improvements therein, to the plaintiffs or to their authorized representative; and
2. Ordering defendant SUNVAR REALTY DEVELOPMENT CORPORATION to pay plaintiffs damages in the amount of SIX HUNDRED THIRTY MILLION ONE HUNDRED TWENTY THREE THOUSAND SEVEN HUNDRED PESOS (P630,123,700.00) for the illegal and unauthorized use and occupation of the subject property from January 1, 2003 to March 31, 2009, and the amount of TEN MILLION THREE HUNDRED SIXTY-FOUR THOUSAND PESOS (P10,364,000.00) per month from April 1, 2008 until the subject property, together with its improvements, are completely vacated and peacefully surrendered to the plaintiffs or to their authorized representative.[30]

Respondent Sunvar moved to dismiss the Complaint and argued that the allegations of petitioners in the Complaint did not constitute an action for unlawful detainer, since no privity of contract existed between them.[31] In the alternative, it also argued that petitioners' cause of action was more properly an accion publiciana, which fell within the jurisdiction of the RTC, and not the MeTC, considering that the petitioners' supposed dispossession of the subject property by respondent had already lasted for more than one year.

In its Order dated 16 September 2009, the MeTC denied the Motion to Dismiss and directed respondent Sunvar to file an answer to petitioners' Complaint.[32] The lower court likewise denied the Motion for Reconsideration[33] filed by respondent.[34] Respondent later on filed its Answer[35] to the Complaint.[36]

Despite the filing of its Answer in the summary proceedings for ejectment, respondent Sunvar filed a Rule 65 Petition for Certiorari with the RTC of Makati City to assail the denial by the MeTC of respondent's Motion to Dismiss.[37]

In answer to the Rule 65 Petition of respondent, petitioners placed in issue the jurisdiction of the RTC and reasoned that the Rules on Summary Procedure expressly prohibited the filing of a petition for certiorari against the interlocutory orders of the MeTC.[38] Hence, they prayed for the outright dismissal of the certiorari Petition of respondent Sunvar.

The RTC denied the motion for dismissal and ruled that extraordinary circumstances called for an exception to the general rule on summary proceedings.[39] Petitioners filed a Motion for Reconsideration,[40] which was subsequently denied by the RTC.[41] Hence, the hearing on the certiorari Petition of respondent proceeded, and the parties filed their respective Memoranda.[42]

In the assailed Order dated 01 December 2010, which discussed the merits of the certiorari Petition, the RTC granted the Rule 65 Petition and directed the MeTC to dismiss the Complaint for unlawful detainer for lack of jurisdiction.[43] The RTC reasoned that the one-year period for the filing of an unlawful detainer case was reckoned from the expiration of the main lease contract and the sublease agreements on 31 December 2002. Petitioners should have then filed an accion publiciana with the RTC in 2009, instead of an unlawful detainer suit.

Hence, the instant Rule 45 Petition filed by petitioners.[44]

I

Petitioners' Resort to a Rule 45 Petition

Before the Court proceeds with the legal questions in this case, there are procedural issues that merit preliminary attention.

Respondent Sunvar argued that petitioners' resort to a Rule 45 Petition for Review on Certiorari before this Court is an improper mode of review of the assailed RTC Decision. Allegedly, petitioners should have availed themselves of a Rule 65 Petition instead, since the RTC Decision was an order of dismissal of the Complaint, from which no appeal can be taken except by a certiorari petition.

The Court is unconvinced of the arguments of respondent Sunvar and holds that the resort by petitioners to the present Rule 45 Petition is perfectly within the bounds of our procedural rules.

As respondent Sunvar explained, no appeal may be taken from an order of the RTC dismissing an action without prejudice,[45] but the aggrieved party may file a certiorari petition under Rule 65.[46] Nevertheless, the Rules do not prohibit any of the parties from filing a Rule 45 Petition with this Court, in case only questions of law are raised or involved.[47] This latter situation was one that petitioners found themselves in when they filed the instant Petition to raise only questions of law.

In *Republic v. Malabanan*,[48] the Court clarified the three modes of appeal from decisions of the RTC, to wit: (1) by ordinary appeal or appeal by writ of error under Rule 41, whereby judgment was rendered in a civil or criminal action by the RTC in the exercise of its original jurisdiction; (2) by a petition for review under Rule 42, whereby judgment was rendered by the RTC in the exercise of its appellate jurisdiction; and (3) by a petition for review on certiorari before the Supreme Court under Rule 45. "The first mode of appeal is taken to the [Court of Appeals] on questions of fact or mixed questions of fact and law. The second mode of appeal is brought to the CA on questions of fact, of law, or mixed questions of fact and law. The third mode of appeal is elevated to the Supreme Court only on questions of law." [49] (Emphasis supplied.)

There is a question of law when the issue does not call for an examination of the probative value of the evidence presented or of the truth or falsehood of the facts being admitted, and the doubt concerns the correct application of law and jurisprudence on the matter.[50] The resolution of the issue must rest solely on what the law provides on the given set of circumstances.[51]

In the instant case, petitioners raise only questions of law with respect to the jurisdiction of the RTC to entertain a certiorari petition filed against the interlocutory order of the MeTC in an unlawful detainer suit. At issue in the present case is the correct application of the Rules on Summary Procedure; or, more specifically, whether the RTC violated the Rules when it took cognizance and granted the certiorari petition against the denial by the MeTC of the Motion to Dismiss filed by respondent Sunvar. This is clearly a question of law that involves the proper interpretation of the Rules on Summary Procedure. Therefore, the instant Rule 45 Petition has been properly lodged with this Court.

II

Propriety of a Rule 65 Petition in Summary Proceedings

Proceeding now to determine that very question of law, the Court finds that it was erroneous for the RTC to have taken cognizance of the Rule 65 Petition of respondent Sunvar, since the Rules on Summary Procedure expressly prohibit this relief for unfavorable interlocutory orders of the MeTC. Consequently, the assailed RTC Decision is annulled.

Under the Rules on Summary Procedure, a certiorari petition under Rule 65 against an interlocutory order issued by the court in a summary proceeding is a prohibited pleading.[52] The prohibition is plain enough, and its further exposition is unnecessary verbiage.[53] The RTC should have dismissed outright respondent Sunvar's Rule 65 Petition, considering that it is a prohibited pleading. Petitioners have already alerted the RTC of this legal bar and immediately prayed for the dismissal of the certiorari Petition.[54] Yet, the RTC not only refused to dismiss the certiorari Petition,[55] but even proceeded to hear the Rule 65 Petition on the merits.

Respondent Sunvar's reliance on *Bayog v. Natino*[56] and *Go v. Court of Appeals*[57] to justify a certiorari review by the RTC owing to "extraordinary circumstances" is misplaced. In both cases, there were peculiar and specific circumstances that justified the filing of the mentioned prohibited pleadings under the Revised Rules on Summary Procedure – conditions that are not availing in the case of respondent Sunvar.

In *Bayog*, Alejandro Bayog filed with the Municipal Circuit Trial Court (MCTC) of Patnongon-Bugasong-Valderama, Antique an ejectment case against Alberto Magdato, an agricultural tenant-lessee who had built a house over his property. When Magdato, an illiterate farmer, received the Summons from the MCTC to file his answer within 10 days, he was stricken with pulmonary tuberculosis and was able to consult a lawyer in San Jose, Antique only after the reglementary period. Hence, when the Answer of Magdato was filed three days after the lapse of the 10-day period, the MCTC ruled that it could no longer take cognizance of his Answer and, hence, ordered his ejectment from Bayog's land. When his house was demolished in January 1994, Magdato filed a Petition for Relief with the RTC-San Jose, Antique, claiming that he was a duly instituted tenant in the agricultural property, and that he was deprived of due process. Bayog, the landowner, moved to dismiss the Petition on the ground of lack of jurisdiction on the part of the RTC, since a petition for relief from judgment covering a summary proceeding was a prohibited pleading. The RTC, however, denied his Motion to Dismiss and remanded the case to the MCTC for proper disposal.

In resolving the Rule 65 Petition, we ruled that although a petition for relief from judgment was a prohibited pleading under the Revised Rules on Summary Procedure, the Court nevertheless allowed the filing of the Petition *pro hac vice*, since Magdato would otherwise suffer grave injustice and irreparable injury:

We disagree with the RTC's holding that a petition for relief from judgment (Civil Case No. 2708) is not prohibited under the Revised Rule on Summary Procedure, in light of the *Jakihaca* ruling. When Section 19 of the Revised Rule on Summary Procedure bars a petition for relief from judgment, or a petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court, it has in mind no other than Section 1, Rule 38 regarding petitions for relief from judgment, and Rule 65 regarding petitions for certiorari, mandamus, or prohibition, of the Rules of Court, respectively. These petitions are cognizable by Regional Trial Courts, and not by Metropolitan Trial Courts, Municipal Trial Courts, or Municipal Circuit Trial Courts. If Section 19 of the Revised Rule on Summary Procedure and Rules 38 and 65 of the Rules of Court are juxtaposed, the conclusion is inevitable that no petition for relief from judgment nor a special civil action of certiorari, prohibition, or mandamus arising from cases covered by the Revised Rule on Summary Procedure may be filed with a superior court. This is but consistent with the mandate of Section 36 of B.P. Blg. 129 to achieve an expeditious and inexpensive determination of the cases subject of summary procedure.

Nevertheless, in view of the unusual and peculiar circumstances of this case, unless some form of relief is made available to MAGDATO, the grave injustice and irreparable injury that visited him through no fault or negligence on his part will only be perpetuated. Thus, the petition for relief from judgment which he filed may be allowed or treated, *pro hac vice*, either as an exception to the rule, or a regular appeal to the RTC, or even an action to annul the order (decision) of the MCTC of 20 September 1993. As an exception, the RTC correctly held that the circumstances alleged therein and the justification pleaded worked in favor of MAGDATO, and that the motion to dismiss Civil Case No. 2708 was without merit. xxx [58] (Emphasis supplied.)

On the other hand, in *Go v. Court of Appeals*, the Court was confronted with a procedural void in the Revised Rules of Summary Procedure that justified the resort to a Rule 65 Petition in the RTC. In that case, the preliminary conference in the subject ejectment suit was held in abeyance by the Municipal Trial Court in Cities (MTCC) of Iloilo City until after the case for specific performance involving the same parties shall have been finally decided by the RTC. The affected party appealed the suspension order to the RTC. In response, the adverse party moved to dismiss the appeal on the ground that it concerned an interlocutory order in a summary proceeding that was not the subject of an appeal. The RTC denied the Motion to Dismiss and subsequently directed the MTCC to proceed with the hearing of the ejectment suit, a ruling that was upheld by the appellate court.

In affirming the Decisions of the RTC and CA, the Supreme Court allowed the filing of a petition for certiorari against an interlocutory order in an ejectment suit, considering that the affected party was deprived of any recourse to the MTCC's erroneous suspension of a summary proceeding. Retired Chief Justice Artemio V. Panganiban eloquently explained the procedural void in this wise:

Indisputably, the appealed [suspension] order is interlocutory, for "it does not dispose of the case but leaves something else to be done by the trial court on the merits of the case." It is axiomatic that an interlocutory order cannot be challenged by an appeal. Thus, it has been held that "the proper remedy in such cases is an ordinary appeal from an adverse judgment on the merits incorporating in said appeal the grounds for assailing the interlocutory order. Allowing appeals from interlocutory orders would result in the 'sorry spectacle' of a case being subject of a counterproductive ping-pong to and from the appellate court as often as a trial court is perceived to have made an error in any of its interlocutory rulings. However, where the assailed interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief, the Court may allow certiorari as a mode of redress."

Clearly, private respondent cannot appeal the order, being interlocutory. But neither can it file a petition for certiorari, because ejectment suits fall under the Revised Rules on Summary Procedure, Section 19(g) of which considers petitions for certiorari prohibited pleadings:

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Based on the foregoing, private respondent was literally caught "between Scylla and Charybdis" in the procedural void observed by the Court of Appeals and the RTC. Under these extraordinary circumstances, the Court is constrained to provide it with a remedy consistent with the objective of speedy resolution of cases.

As correctly held by Respondent Court of Appeals, "the purpose of the Rules on Summary Procedure is 'to achieve an expeditious and inexpensive determination of cases without regard to technical rules.' (Section 36, Chapter III, BP Blg. 129)" Pursuant to this objective, the Rules prohibit petitions for certiorari, like a number of other pleadings, in order to prevent unnecessary delays and to expedite the disposition of cases. In this case, however, private respondent challenged the MTCC order delaying the ejectment suit, precisely to avoid the mischief envisioned by the Rules.

Thus, this Court holds that in situations wherein a summary proceeding is suspended indefinitely, a petition for certiorari alleging grave abuse of discretion may be allowed. Because of the extraordinary circumstances in this case, a petition for certiorari, in fact, gives spirit and life to the Rules on Summary Procedure. A contrary ruling would unduly delay the disposition of the case and negate the rationale of the said Rules.[59] (Emphasis supplied.)

Contrary to the assertion of respondent Sunvar, the factual circumstances in these two cases are not comparable with respondents' situation, and our rulings therein are inapplicable to its cause of action in the present suit. As this Court explained in *Bayog*, the general rule is that no special civil action for certiorari may be filed with a superior court from cases covered by the Revised Rules on Summary Procedure. Respondent Sunvar filed a

certiorari Petition in an ejectment suit pending before the MeTC. Worse, the subject matter of the Petition was the denial of respondent's Motion to Dismiss, which was necessarily an interlocutory order, which is generally not the subject of an appeal. No circumstances similar to the situation of the agricultural tenant-lessee in Bayog are present to support the relaxation of the general rule in the instant case. Respondent cannot claim to have been deprived of reasonable opportunities to argue its case before a summary judicial proceeding.

Moreover, there exists no procedural void akin to that in *Go v. Court of Appeals* that would justify respondent's resort to a certiorari Petition before the RTC. When confronted with the MeTC's adverse denial of its Motion to Dismiss in the ejectment case, the expeditious and proper remedy for respondent should have been to proceed with the summary hearings and to file its answer. Indeed, its resort to a certiorari Petition in the RTC over an interlocutory order in a summary ejectment proceeding was not only prohibited. The certiorari Petition was already a superfluity on account of respondent's having already taken advantage of a speedy and available remedy by filing an Answer with the MeTC.

Respondent Sunvar failed to substantiate its claim of extraordinary circumstances that would constrain this Court to apply the exceptions obtaining in Bayog and Go. The Court hesitates to liberally dispense the benefits of these two judicial precedents to litigants in summary proceedings, lest these exceptions be regularly abused and freely availed of to defeat the very goal of an expeditious and inexpensive determination of an unlawful detainer suit. If the Court were to relax the interpretation of the prohibition against the filing of certiorari petitions under the Revised Rules on Summary Procedure, the RTCs may be inundated with similar prayers from adversely affected parties questioning every order of the lower court and completely dispensing with the goal of summary proceedings in forcible entry or unlawful detainer suits.

III

Reckoning the One-Year Period in Unlawful Detainer Cases

We now come to another legal issue underlying the present Petition – whether the Complaint filed by petitioners is properly an action for unlawful detainer within the jurisdiction of the MeTC or an *accion publiciana* lodged with the RTC. At the heart of the controversy is the reckoning period of the one-year requirement for unlawful detainer suits.

Whether or not petitioners' action for unlawful detainer was brought within one year after the unlawful withholding of possession will determine whether it was properly filed with the MeTC. If, as petitioners argue, the one-year period should be counted from respondent Sunvar's receipt on 03 February 2009 of the Final Notice to Vacate, then their Complaint was timely filed within the one-year period and appropriately taken cognizance of by the MeTC. However, if the reckoning period is pegged from the expiration of the main lease contract and/or sublease agreement, then petitioners' proper remedy should have been an *accion publiciana* to be filed with the RTC.

The Court finds that petitioners correctly availed themselves of an action for unlawful detainer and, hence, reverses the ruling of the RTC.

Under the Rules of Court, lessors against whom possession of any land is unlawfully withheld after the expiration of the right to hold possession may – by virtue of any express or implied contract, and within one year after the unlawful deprivation – bring an action in the municipal trial court against the person unlawfully withholding possession, for restitution of possession with damages and costs.[60] Unless otherwise stipulated, the action of the lessor shall commence only after a demand to pay or to comply with the conditions of the lease and to vacate is made upon the lessee; or after a written notice of that demand is served upon the person found on the premises, and the lessee fails to comply therewith within 15 days in the case of land or 5 days in the case of buildings.[61]

In *Delos Reyes v. Spouses Odenes*,^[62] the Court recently defined the nature and scope of an unlawful detainer suit, as follows:

Unlawful detainer is an action to recover possession of real property from one who illegally withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied. The possession by the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess. The proceeding is summary in nature, jurisdiction over which lies with the proper MTC or metropolitan trial court. The action must be brought up within one year from the date of last demand, and the issue in the case must be the right to physical possession. (Emphasis supplied.)

Hence, a complaint sufficiently alleges a cause of action for unlawful detainer if it states the following elements:

1. Initially, the possession of the property by the defendant was by contract with or by tolerance of the plaintiff.
2. Eventually, the possession became illegal upon the plaintiff's notice to the defendant of the termination of the latter's right of possession.
3. Thereafter, the defendant remained in possession of the property and deprived the plaintiff of the latter's enjoyment.
4. Within one year from the making of the last demand on the defendant to vacate the property, the plaintiff instituted the Complaint for ejectment.^[63]

“On the other hand, *accion publiciana* is the plenary action to recover the right of possession which should be brought in the proper regional trial court when dispossession has lasted for more than one year. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title. In other words, if at the time of the filing of the complaint, more than one year had elapsed since defendant had turned plaintiff out of possession or defendant's possession had become illegal, the action will be, not one of forcible entry or illegal detainer, but an *accion publiciana*.”^[64]

There are no substantial disagreements with respect to the first three requisites for an action for unlawful detainer. Respondent Sunvar initially derived its right to possess the subject property from its sublease agreements with TRCFI and later on with PDAF. However, with the expiration of the lease agreements on 31 December 2002, respondent lost possessory rights over the subject property. Nevertheless, it continued occupying the property for almost seven years thereafter. It was only on 03 February 2009 that petitioners made a final demand upon respondent Sunvar to turn over the property. What is disputed, however, is the fourth requisite of an unlawful detainer suit.

The Court rules that the final requisite is likewise availing in this case, and that the one-year period should be counted from the final demand made on 03 February 2009.

Contrary to the reasoning of the RTC,^[65] the one-year period to file an unlawful detainer case is not counted from the expiration of the lease contract on 31 December 2002. Indeed, the last demand for petitioners to vacate is the reckoning period for determining the one-year period in an action for unlawful detainer. “Such one year period should be counted from the date of plaintiff's last demand on defendant to vacate the real property, because only upon the lapse of that period does the possession become unlawful.”^[66]

In case several demands to vacate are made, the period is reckoned from the date of the last demand.^[67] In *Leonin v. Court of Appeals*,^[68] the Court, speaking through Justice Conchita Carpio Morales, reckoned the one-year period to file the unlawful detainer Complaint – filed on 25 February 1997 – from the latest demand letter dated 24 October 1996, and not from the earlier demand letter dated 03 July 1995:

Prospero Leonin (Prospero) and five others were co-owners of a 400-square meter property located at K-J Street, East Kamias, Quezon City whereon was constructed a two-storey house and a three-door apartment identified as No. 1-A, B, and C.

Prospero and his co-owners allowed his siblings, herein petitioners, to occupy Apartment C without paying any rentals.

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Petitioners further contend that respondent's remedy is accion publiciana because their possession is not de facto, they having been authorized by the true and lawful owners of the property; and that one year had elapsed from respondent's demand given on "July 3, 1995" when the unlawful detainer complaint was filed.

The petition fails.

Contrary to petitioners' contention, the allegations in the complaint make out a case for unlawful detainer. Thus, respondent alleged, inter alia, that she is the registered owner of the property and that petitioners, who are tenants by tolerance, refused to vacate the premises despite the notice to vacate sent to them.

Likewise, contrary to petitioners' contention, the one-year period for filing a complaint for unlawful detainer is reckoned from the date of the last demand, in this case October 24, 1996, the reason being that the lessor has the right to waive his right of action based on previous demands and let the lessee remain meanwhile in the premises. Thus, the filing of the complaint on February 25, 1997 was well within the one year reglementary period.[69] (Emphasis supplied.)

From the time that the main lease contract and sublease agreements expired (01 January 2003), respondent Sunvar no longer had any possessory right over the subject property. Absent any express contractual renewal of the sublease agreement or any separate lease contract, it illegally occupied the land or, at best, was allowed to do so by mere tolerance of the registered owners – petitioners herein. Thus, respondent Sunvar's possession became unlawful upon service of the final notice on 03 February 2009. Hence, as an unlawful occupant of the land of petitioners, and without any contract between them, respondent is "necessarily bound by an implied promise" that it "will vacate upon demand, failing which a summary action for ejectment is the proper remedy against them." [70] Upon service of the final notice of demand, respondent Sunvar should have vacated the property and, consequently, petitioners had one year or until 02 February 2010 in which to resort to the summary action for unlawful detainer. In the instant case, their Complaint was filed with the MeTC on 23 July 2009, which was well within the one-year period.

The Court is aware that petitioners had earlier served a Notice to Vacate on 22 February 2008, which could have possibly tolled the one-year period for filing an unlawful detainer suit. Nevertheless, they can be deemed to have waived their right of action against respondent Sunvar and continued to tolerate its occupation of the subject property. That they sent a final Notice to Vacate almost a year later gave respondent another opportunity to comply with their implied promise as occupants by mere tolerance. Consequently, the one-year period for filing a summary action for unlawful detainer with the MeTC must be reckoned from the latest demand to vacate.

In the past, the Court ruled that subsequent demands that are merely in the nature of reminders of the original demand do not operate to renew the one-year period within which to commence an ejectment suit, considering that the period will still be reckoned from the date of the original demand.[71] If the subsequent demands were merely in the nature of reminders of the original demand, the one-year period to commence an ejectment suit would be counted from the first demand.[72] However, respondent failed to raise in any of the proceedings below this question of fact as to the nature of the second demand issued by the OSG. It is now too late in the proceedings for them to argue that the 2009 Notice to Vacate was a mere reiteration or reminder of the 2008 Notice to Vacate. In any event, this factual determination is beyond the scope of the present Rule 45 Petition, which is limited to

resolving questions of law.

The Court notes that respondent Sunvar has continued to occupy the subject property since the expiration of its sublease on 31 December 2002. The factual issue of whether respondent has paid rentals to petitioners from the expiration of the sublease to the present was never raised or sufficiently argued before this Court. Nevertheless, it has not escaped the Court's attention that almost a decade has passed without any resolution of this controversy regarding respondent's possession of the subject property, contrary to the aim of expeditious proceedings under the Revised Rules on Summary Procedure. With the grant of the instant Petition and the remand of the case to the MeTC for continued hearing, the Court emphasizes the duty of the lower court to speedily resolve this matter once and for all, especially since this case involves a prime property of the government located in the country's business district and the various opportunities for petitioners to gain public revenues from the property.

WHEREFORE, the Court GRANTS the Petition for Review on Certiorari dated 14 February 2011, filed by petitioners Republic and National Power Corporation, which are represented here by the Privatization Management Office. The assailed Decision dated 01 December 2010 of the Regional Trial Court of Makati City, Branch 134, is hereby REVERSED and SET ASIDE. The Metropolitan Trial Court of Makati City, Branch 63, is DIRECTED to proceed with the summary proceedings for the unlawful detainer case in Civil Case No. 98708.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] TCT Nos. 458364, 458365, 458366 and 458367.

[2] Petitioner Republic owns approximately 17,574 square meters of the subject property, while petitioner NPC owns 5,350 square meters. (NPC Resolution No. 2009-13 dated 09 March 2009; rollo, p. 73)

[3] Executive Order No. 323 dated 06 December 2000, Art. III, Sec. 2.

[4] Complaint dated 26 May 2009, pp. 3-4, para. 4; rollo, pp. 77-78.

[5] Contract of Lease between petitioners Republic and NPC with TRCFI; rollo, pp. 492-502.

[6] "The LESSEE [TRCFI] shall have the right, upon notice to the LESSORS [petitioners Republic and NPC], to sublease the whole or part of the leased land." (Contract of Lease, Sec. VI, p. 6; rollo, p. 497)

[7] The entire subject property was subleased by TRCFI to respondent Sunvar in five agreements: (a) Agreement dated 18 August 1980 (rollo, pp. 503-519); (b) Sub-Lease Agreement dated 28 February 1982 (rollo, pp. 523-536); (c) 1983 Sub-Lease Agreement with illegible exact date (rollo, pp. 537-545); (d) Sub Lease Agreement dated 28 August 1983 (rollo, pp. 546-554); and (e) the remaining portions were also subleased by Sunvar, according to petitioners (Complaint dated 26 May 2009, p. 6, para. 9; rollo, p. 80)

[8] Complaint dated 26 May 2009, p. 6, para. 10; rollo, p. 80.

[9] (a) Agreement dated 18 August 1980, p. 9; rollo, p. 511 (22 years and 5 months from 31 July 1980); (b) Sub-Lease Agreement dated 28 February 1982, p. 3; rollo, p. 526 (20 years and 10 months from 28 February 1982); (c) 1983 Sub-Lease Agreement with illegible exact date, p. 2; rollo, p. 538 (19 years and 9 months from March 1983); and (d) Sub Lease Agreement dated 28 August 1983, p. 2; rollo, p. 547 (19 years and 3 months from September 1984).

[10] Complaint dated 26 May 2009, p. 6, para. 11; rollo, p. 80.

[11] Among these commercial buildings are what are known today as Premier Cinema, Mile Long Arcade, Makati Creekside Building, The Gallery Building and Sunvar Plaza. (Complaint dated 26 May 2009, pp. 6-7, para. 12; rollo, pp. 80-81)

[12] Complaint dated 26 May 2009, pp. 6-7, para. 12; rollo, pp. 80-81.

[13] Complaint dated 26 May 2009, p. 7, para. 13; rollo, p. 81.

[14] Respondent Sunvar's Letter dated 26 April 2002 to PDAF; rollo, pp. 714-715.

[15] Respondent Sunvar's Letter dated 26 April 2002 to the Office of the President, the Department of Environment and Natural Resources, and petitioner NPC; rollo, pp. 712-713.

[16] PDAF's letter dated 10 May 2002; rollo, p. 716.

[17] "We wish to inform you that as of this date, our office has not received any response from the NG [petitioner Republic] nor the NPC. Consequently, since the renewal of our Sublease Contract is dependent on our Foundation's own renewal of our Contract of Lease with the NG and the NPC, we cannot yet act on your letter or give favorable consideration on your desire to renew our Sublease Contract, notwithstanding the provisions thereof.

"In view hereof, we likewise cannot accept any proposed rental payments from your office for the renewal term until such time that we already have an indication of the terms and conditions of any renewal acceptable to the NG and the NPC and, hence, our decision to return the check you sent to us." (PDAF's letter dated 10 May 2002; rollo, p. 716)

[18] Respondent Sunvar's Letter dated 27 May 2002; rollo, p. 717.

[19] "We wish to inform you that in its last meeting on May 29, 2002, the NPC Board of Directors decided not to renew the contract of lease which is set to expire on December 31, 2002 ..." (NPC Letter dated 03 June 2010 [rollo, p. 555]; see also Complaint dated 26 May 2009, p. 7, para. 14 [rollo, p. 81])

[20] PDAF's Letter dated 14 June 2002; rollo, p. 718.

[21] "You are hereby given by this Office notice that subject lease should no longer be renewed/extended.

The Lease should end by January 2003, so that Notice of Non Renewal/ Non Extension should be given to Lessor not less than 6 months from said date given PDAF is now in the process of dissolution." (Memorandum dated 13 June 2002; rollo, p. 556)

[22] Complaint dated 26 May 2009, p. 7, para. 15; rollo, p. 81.

[23] PDAF Letter dated 25 June 2002; rollo, p. 557.

[24] "As you very well know, this property is owned by the National Government of the Republic of the Philippines and the National Power Corporation, both of which has not extended or renewed, either expressly or impliedly, any lease [contract] involving the same in favor of any party, private or public. This being the case, your sublease agreement with the Philippine Development Alternative Foundation (PDAF) which expired on December 31, 2002 could not possibly have been renewed or extended. We hereby advise you to completely vacate said property within THIRTY (30) DAYS from receipt of this letter." (OSG Letter dated 22 February 2008; rollo, p. 558)

[25] Registry Receipt No. 2826; rollo, p. 559.

[26] Complaint dated 26 May 2009, p. 9, para. 20; rollo, p. 83.

[27] “This is in reiteration of our first letter dated February 22, 2008 demanding that you vacate the property covered by your sublease agreements with the Philippine Development Alternative Foundation (PDAF) which expired on December 31, 2002, or more specifically, the parcel of land covered by TCT No. (458365) S-77242 located between De la Rosa and Arnaiz streets and parallel to Amorsolo street in Legaspi Village, Makati City.”

“Once again, we demand that you completely vacate said property within FIFTEEN (15) days from receipt of this letter, or we will be constrained to file the necessary legal action against you before the proper court.” (OSG Final Notice to Vacate dated 26 January 2009; rollo, p. 560)

[28] Inspection and Appraisal Report dated 02 April 2009; rollo, pp. 563-566.

[29] “As per instruction, please see attached copy of Inspection and Appraisal Report dated April 2, 2009 indicating a Fair Rental Value of Php 10,364,000 per month and an Income Loss of Php 630,123,700, respectively.” (PMO letter dated 02 April 2009; rollo, p. 562)

[30] Complaint dated 26 May 2009, p. 11; rollo, p. 85.

[31] Motion to Dismiss (for Lack of Jurisdiction over the Subject Matter) dated 07 August 2009; rollo, pp. 90-102.

[32] MeTC Order dated 16 September 2009, docketed as Civil Case No. 98708; rollo, pp. 116-117.

[33] Respondent Sunvar’s Omnibus Motion: (1) for Reconsideration (of the Order dated 16 September 2009); and (2) to Hold in Abeyance the Period to File an Answer dated 02 October 2009; rollo, pp. 118-141.

[34] MeTC Order dated 08 December 2009; rollo, pp. 162-163.

[35] Respondent Sunvar’s Verified Answer ad Cautelam dated 18 December 2009; rollo, pp. 678-711.

[36] Thereafter, MeTC Judge Rico Sebastian D. Liwanag voluntarily inhibited himself, and petitioners’ unlawful detainer suit was re-raffled to Judge Roberto P. Buenaventura.

[37] Petition for Certiorari dated 22 January 2010; rollo, pp. 164-208.

[38] Petitioners’ Comment (In Compliance with the Honorable Court’s Order Issued in Open Court on February 12, 2010) dated 18 February 2010; rollo, pp. 255-272.

[39] “Thus, in view of the extraordinary circumstances prevailing in the present petition, the Court resolves to relax the application of the rules and to proceed with the hearing on the petitioners’ application for TRO/Injunction on March 12, 2010 at 2:00 in the afternoon.” (RTC Order dated 08 March 2010; rollo, pp. 273-275)

[40] Petitioners’ Motion for Reconsideration dated 16 March 2010; rollo, pp. 276-295.

[41] RTC Order dated 29 April 2010; rollo, pp. 296-297.

[42] Respondent Sunvar’s Memorandum dated 10 June 2010 (rollo, pp. 805-843); Petitioners’ Memorandum dated 11 June 2010 (rollo, pp. 844-868).

[43] RTC Decision dated 01 December 2010; rollo, pp. 62-72.

[44] Petition for Review on Certiorari dated 14 February 2011; rollo, pp. 25-61.

[45] Rules of Court, Rule 41, Sec. 1 (g).

[46] “In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65.” (Rules of Court, Rule 41, Sec. 1)

[47] “Appeal by Certiorari – In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45.’ (Rules of Court, Rule 41, Sec. 2 [c]).

[48] G.R. No. 169067, 06 October 2010, 632 SCRA 338.

[49] Id. at 344-345.

[50] Heirs of Nicolas S. Cabigas v. Limbaco, G.R. No. 175291, 27 July 2011, 654 SCRA 643, citing Roman Catholic Archbishop of Manila v. CA, 327 Phil. 810, 825-826 (1996), citing Arroyo v. El Beaterio del Santissimo Rosario de Molo, 132 Phil. 9 (1968).

[51] Five Star Marketing Co., Inc., v. Booc, G.R. No. 143331, 05 October 2007, 535 SCRA 28.

[52] 1991 Revised Rules on Summary Procedure, Sec. 19 (g).

[53] Muñoz v. Yabut, Jr., G.R. No. 142676 & 146718, 06 June 2011, 650 SCRA 344.

[54] Petitioners’ Comment (In Compliance with the Honorable Court’s Order Issued in Open Court on February 12, 2010) dated 18 February 2010; rollo, pp. 255-272.

[55] RTC Order dated 08 March 2010; rollo, pp. 273-275.

[56] 327 Phil. 1019 (1996).

[57] 358 Phil. 214 (1998).

[58] 327 Phil. 1019, 1040-1041 (1996).

[59] 358 Phil. 214, 223-225 (1998).

[60] Rules of Court, Rule 70, Sec. 1.

[61] Rules of Court, Rule 70, Sec. 2.

[62] G.R. No. 178096, 23 March 2011, 646 SCRA 328, 334, citing Valdez, Jr. v. CA, 523 Phil. 39, 46 (2006).

[63] Macaslang v. Spouses Zamora, G.R. No. 156375, 30 May 2011, 649 SCRA 92, 104, citing Cabrera v. Getaruela, 586 SCRA 129, 136-137 (2009); see also Corpuz v. Spouses Agustin, G.R. No. 183822, 18 January 2012 and Delos Reyes v. Spouses Odone, G.R. No. 178096, 23 March 2011, 646 SCRA 328, 334-335, Iglesia Evangelica Metodista en Las Islas Filipinas (IEMELIF), Inc. v. Juane, G.R. No. 172447 & 179404, 18 September 2009, 600 SCRA 555, 562-563; Parsicha, v. Don Luis Disson Realty, Inc., G.R. No. 136409, 14 March 2008, 548 SCRA 273, 288; Fernando v. Spouses Lim, G.R. No. 176282, 22 August 2008, 563 SCRA 147, 159-160.

[64] Canlas v. Tubil, G.R. No. 184285, 25 September 2009, 601 SCRA 147, 157.

[65] “Hence, in the present petition, upon the expiration of the term of the sublease on December 31, 2002, the private respondents (petitioners Republic and NPC) have one year to file an unlawful detainer case. The complaint having been filed beyond the prescribed one year period it cannot properly qualify as an action for unlawful detainer over which the lower court can exercise jurisdiction as it is an accion publiciana.” (RTC Decision dated 01 December 2010, p. 10; rollo, p. 71)

[66] Estate of Soledad Manantan v. Somera, G.R. No. 145867, 07 April 2009, 584 SCRA 81, 90, citing Sarmiento

v. Court of Appeals, 320 Phil. 146, 154 (1995); Lopez v. David, Jr., G.R. No. 152145, 30 March 2004, 426 SCRA 535, 542; Varona v. Court of Appeals, G.R. No. 124148, 20 May 2004, 428 SCRA 577, 583-584.

[67] Labastida v. Court of Appeals, 351 Phil. 162 (1998), citing Sy Oh v. Garcia, 28 SCRA 735 (1969) and Calubayan v. Pascual, 128 Phil. 160 (1967).

[68] G.R. No. 141418, 27 September 2006, 503 SCRA 423.

[69] Id, at 424-428.

[70] Spouses Beltran v. Nieves, G.R. No. 175561, 20 October 2010, 634 SCRA 242, 249, citing Calubayan v. Pascual, 128 Phil. 160, 163 (1967).

[71] Racaza v. Gozum, 523 Phil. 694 (2006), citing Desbarats v. Laureano, 124 Phil. 704 (1966).

[72] Spouses Cruz v. Spouses Torres, 374 Phil. 529 (1999), citing Pacis v. Court of Appeals, G.R. No. 102676, 03 February 1992, min. res., cited in Summary of 1992 Supreme Court Rulings, Part III, by Atty. Daniel T. Martinez, p. 1847; Desbarats v. de Laureano, supra.

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