

**LORENZO VALDELLON, PETITIONER, VS. HON. ERNESTO S. TENGCO,
AMBROSIO M. GERALDEZ AND HERMINIA Y. GERALDEZ,
RESPONDENTS.**

G.R. No. 52326. February 12, 1986

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

The petition for review by way of certiorari is directed against the decision of Respondent Judge, then presiding over Branch VI of the Court of First Instance of Manila, promulgated on November 19, 1979 in Civil Case No. 126610, entitled, Ambrosio Geraldez, et al., plaintiffs-appellees versus Lorenzo Valdellon, defendant-appellant. Said decision affirmed in toto, the judgment rendered by the City Court of Manila in an unlawful detainer case, Civil Case No. 045819-CV, therein ordering defendant Lorenzo Valdellon to vacate the land in question and for the latter to pay all his rentals in arrears from March 1979 at the rate of P200.00 a month until possession thereof shall have been surrendered to the plaintiffs-spouses Geraldez and to pay said plaintiffs the amount of P1,000.00 as attorney's fees, as well as costs of suit.

After comment to the petition was filed by private respondents, and with petitioner thereafter submitting his rejoinder to petitioner's Reply, there was filed with this Court by the private respondents' on February 25, 1981 a motion for a special order of execution, stating therein the following:

"That private respondent Ambrosio Geraldez on January 27, 1981, went to the Court of Appeals and to the Court of First Instance of Manila to withdraw the monthly rentals deposited by petitioner Valdellon and discovered that Petitioner Valdellon failed to comply with the required monthly payments of his rentals.

"A careful perusal of the record of his payment to the Court, a certified copy of which is herewith attached as Annex A, shows that Petitioner has not been consistent or regular in his payment of rentals. Record shows that he paid his rental for the months of July and August on September 29, 1980 or a delay of three months; again he paid his rental for September on November 11, 1980 or a delay of two and a half months; then for his October rental, he paid on January 13, 1981 or a delay of three and a half months; and finally as of January 27, 1981 when private respondent took the attached record, petitioner has not paid his rentals for the months of November, December, 1980 and January 1981.

"This clearly shows how often the Petitioner herein has violated the provisions of Batas Pambansa 25, Sec. 5-b as he did violate the same when he failed to pay for four consecutive months from March to June, 1979, the reason for the filing of this ejectment case in the first place, a certified copy from the Court of Appeals Accounting Division is herein attached as Annex B.

"WHEREFORE, premises considered, it is respectfully prayed of this Honorable Court that a special order of execution be issued pursuant to Sec. 8, Rule 70 of the Rules of Court.

"Makati, Metro Manila, February 25, 1981."

Under the resolution of this Court dated April 1, 1981, petitioner Valdellon was required to comment on the

aforestated motion, and in his Comment opposing the same, he simply contends that, "Without going into the question of whether or not petitioner is in fact arrears for the period of four months as stated by respondents in their motion, the fact is that Batas Pambansa Bilang 25, specially Section 5 thereof, refers to rentals of residential units and not to leased residential lots on which a tenant has built his house and occupied for a period of more than ten (10) years." Petitioner further claims that the entire Metropolitan Manila area has been declared as an Urban Land Reform Zone, and as he has resided in the lot in question for more than ten (10) years, he may not, therefore, be dispossessed as he has the right of first refusal to purchase the same under section 6 of Presidential Decree No. 1517 promulgated on June 1, 1978.

In his rejoinder or Reply to petitioner's Comment, private respondents, however, pointed out that petitioner had avoided answering and, therefore, impliedly admitted respondents' submission that petitioner indeed was in arrears in his rentals for four months; that under Sec. 2-B of Batas Pambansa Blg. 25 a residential unit "refers to an apartment, house and/or land on which another's dwelling is located used for residential purposes ...", and such definition would thus include within its scope the land in question' that Batas Pambansa Blg. 25 which is the governing law allows the ejection of tenants who should be in arrears in the payment of rents for three (3) months at any one time; that Proclamation No. 1893 invoked by petitioner has no application in this case as respondents having no intention to sell their land in question, respondents are not bound, much less required to register the property with the proper governmental agencies.

In the rejoinder of petitioner, he insists that if he cannot purchase the land, he can institute a move to have the lot expropriated by the government as indicated in section 7 of P.D. No. 1517 or if he has means to purchase the land, he then may commence judicial proceedings for the acquisition of the land.

Without any action taken on the private respondents' motion for a special order of execution, this Court in its resolution of December 9, 1981 gave due course to the petition and required both parties to submit simultaneous memoranda within thirty (30) days from notice. Compliance with said resolution was made by herein petitioner and private respondents.

The appeal in this case by petitioner appears to have been submitted directly to this Court, rather than to the then defunct Court of Appeals, upon petitioner's submission "that the parties agreed on the pertinent facts and circumstances attending the instant case. They disagree, however, on the legal consequences arising from such facts." (Rollo, p. 6).

The facts of the case as summarized in the decision rendered in the court below should thus be accepted as undisputed and these are as follows:

"The record reveals that sometime in 1956, on a verbal agreement to pay a monthly rental to the original owner, defendant constructed his house on the lot in question located at No. 1331 Antonio Street, Sta. Cruz, Manila. After buying the lot in 1968, plaintiffs notified the defendant to remove his house and to vacate the premises because they want to build a three-storey building thereon. They also demanded the payment of P200.00 a month from August 15, 1968 until defendant shall have actually vacated the land. Defendant refused to vacate the premises and this compelled plaintiffs to file the first ejectment case on September 28, 1968 docketed as Civil Case No. 174400 of the City Court of Manila.

"Civil Case No. 174400 was decided by the City Court in favor of plaintiffs and defendant appealed to this Court where the case was docketed as Civil Case No. 74828. This Court, however, upheld the decision of the City Court and defendant appealed to the Court of appeals where his appeal was docketed as CA-G.R. No. 44536-R. In a judgment dated March 8, 1976, the Court of Appeals affirmed with modification the decision of this Court as follows:

"xxx Consequently, the duration of the lease of the land in dispute is hereby fixed for one (1) year from the

time the suspension of the provisions of paragraph (1) of Article 1673 of the Civil Code of the Philippines (by Sec. 4 of PD 20) is lifted.

"WHEREFORE, as modified, the judgment appealed from is AFFIRMED and the defendant is ordered to pay plaintiffs a monthly rental of P200.00 beginning July 1, 1968."

"From this judgment, defendant appealed to the Supreme Court by way of certiorari. The petition was, however, denied for lack of merit by resolution of July 11, 1977. This resolution became final.

"Meanwhile, defendant had been depositing his monthly rentals of P200.00 with the Court of Appeals during the pendency of the case in that Court and in the Supreme Court.

"By reason of the finality of the decision of the Court of Appeals and the remand of the record of the case to this Court, plaintiffs wrote on February 19, 1979 a letter to defendant requesting that the monthly rentals starting March, 1979 be paid to them directly at their residence at No. 20 Apo Street, Quezon City (Exhibit A). This letter was sent by registered mail and appeared to have been received by defendant (Exhibits A-1 to A-4). The Court of Appeals was also furnished a copy of this letter.

"On March 19, 1979, defendant deposited his rent for the month of March, 1979 with the court of Appeals (Exhibit 1).

"On June 11, 1979, plaintiffs, through counsel, wrote another letter to defendant demanding payment of all accrued rentals and to vacate the premises within ten (10) days from notice, otherwise, an ejectment suit will be filed against him (Exhibit B). This letter was received by defendant's daughter (Exhibit B).

"On June 12, 1979, defendant's son, Isagani Valdellon, went to plaintiffs' residence and offered to pay the rentals for April, May and June, 1979 but the latter refused to accept payment because on June 13, 1979, defendant deposited the rentals for April, May and June, 1979 with the Court of Appeals who accepted the same under O.R. No. 8611676, dated June 13 1979 (Exhibit 2).

"On June 22, 1979, plaintiffs instituted the present action in the City Court where, after trial on the merits, the judgment appealed from was rendered."

We sustain the ruling of the court below that the deposits made by the petitioner in the Court of Appeals, the defendant in the unlawful detainer case, on March 19, 1979 and on June 13, 1979, without notice thereof to the private respondents and despite petitioner's receipt of said respondents' letter of February 19, 1979, cannot be considered as valid consignment as required and contemplated by law.

Under Art. 1257 of our Civil Code, in order that consignment of the thing due may release the obligor, it must first be announced to the persons interested in the fulfillment of the obligation. The consignment 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 consignment having been made, the interested party shall also be notified thereof.

In the case of *Soco vs. Militante*, 123 SCRA 160, it was even stated that without the notice first announced to the persons interested in the fulfillment of the obligation, the consignment as a payment is void. (Citing *Limkako vs. Teodoro*, 74 Phil. 313; See also *Jose Ponce de Leon vs. Santiago Syjuco, Inc.*, 90 Phil. 311).

It is pertinent to further consider that the petitioner's deposit made in the Court of Appeals on June 13, 1979 was for his arrears in rentals for four (4) months - March, April, May and June, 1979, and that said appellate court at that time was no longer the proper entity which should receive such deposits inasmuch as the case which was appealed to that court (CA-G.R. No. 44536-R) had already been long decided by a judgment decreed as final and executory on January 17, 1977. As a matter of fact, the case records appears to have been already remanded by

the Court of Appeals to the Court of First Instance of Manila since September 19, 1978. Patently, the consignment alleged by the petitioner under these circumstances would be legally ineffectual.

The claim of petitioner that the deposits he made in the Court of Appeals were mere continuations of the procedure practised by him for over ten years can serve him no benefit. Petitioner was undoubtedly aware of the fact that the case pending between him and respondents in said appellate court had already been terminated and, therefore, there was no justifiable cause for him to continue making said deposits in that court as private respondents had in fact so advised petitioner by letter on February 19, 1970. The insistence of petitioner to continue making the belated deposit of his arrears in rentals in the Court of Appeals was not only unjustified. Here his deliberate intransigence was all the more compounded by petitioner's intentional non-compliance with what the governing law on the matter, Batas Pambansa Blg. 25, specifically directs, which is that notice of the deposit so made should thereafter be given to the person in whose favor such deposits are made. Petitioner can, therefore, obtain no gain from such improper deposits made by him. His stubbornness in making said deposits, belated as these already are, and contrary to the proper advice received by him from the private respondents, is illustrative of petitioner's apparent bad faith.

The Court fails to see any reason to consider applicable the provisions of Presidential Decree No. 1517 which petitioner invokes. There is no showing that the land in question leased by petitioner from the private respondents has been proclaimed to be within a specific Urban Land Reform Zone. Neither would petitioner's pretension to exercise his alleged right of first refusal to purchase the leased property merit any favor as private respondents categorically manifest that the subject property is not being sold by them to anyone nor do they have any intent to do so.

In closing, it may not be amiss to take note that from the records it is disclosed that petitioner appears to be a retired employee of the city government of Manila since September 1977 and was, thereafter, employed as Manager of the Mabitac Rural Bank of Laguna. He is not the helpless individual that he pictures himself to be in court. For a considerable number of years he has already retained possession of the lot in question to his obvious advantage. Then, as manifested by him in his filed petition dated February 1, 1980, "xxx the herein petitioner has the right to stay in the lot up to April 10, 1985, unless of course he incurs rental arrearages of 'three months at any one time' within the contemplation of section 5(b) of Batas Pambansa Blg. 25." (Rollo, p. 8). The petitioner appears indeed to have defaulted in his arrears in rentals for three (3) months (March, April and May, 1979) which is the factual finding of the municipal trial court and which the court below also affirmed in toto. Further to this, as indicated in the motion for special order of execution submitted to this Court by private respondents during the pendency of this case, herein petitioner again defaulted in his payment of rentals for three (3) consecutive months covering the period from November, 1980 up to January, 1981, which significantly, is a matter that petitioner has not elected to controvert. Even on these considerations alone, the petitioner has already forfeited any right whatsoever to remain in the lot in question.

WHEREFORE, the petition in this case is hereby dismissed for lack of merit, with costs against petitioner herein.

The motions for a special order of execution submitted by private respondents need not be acted upon by the Court as the writ of execution sought for by them may be obtained in the court below after the finality of and on the basis of this decision.

SO ORDERED.

Concepcion, Jr., (Chairman), Abad Santos, Escolin, and Cuevas, JJ., concur.

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