

STELLA ZABLAN, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, AND SPOUSES AUGUSTO & REMEDIOS LEONARDO, PRIVATE RESPONDENTS.

G.R. No. 57844. September 30, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The very crux of the instant petition for review is the determination of whether or not the period of the verbal lease agreement between the petitioner and the private respondents has expired within the meaning of Section 5(c) of Batas Pambansa Bilang 25. In line with our pronouncements in *Baens vs. Court of Appeals*[1] and in *Rivera vs. Florendo*,[2] we rule in the affirmative.

The private respondents-spouses are owners of a five- door residential apartment bearing numbers 317-A to 317-E, inclusive, located at Mayon Street, Quezon City. Since 1969 and up to the present, the petitioner has been leasing apartment unit 317-B on a month-to-month basis at the rate of P200.00 a month.

On February 19, 1979, the private respondents wrote the petitioner asking her to vacate, on or before May 31, 1979, the premises occupied by her for the reason that their son would be getting married and would need the said premises for his family's residential use.

The petitioner replied in a letter dated April 2, 1979 stating that she was not in a position to vacate the subject apartment unit for lack of some other place to transfer to.

Subsequently, the private respondents' son did get married so that on May 22, 1979, the private respondents again demanded in writing that the petitioner vacate the subject apartment unit on or before May 31, 1979. The continued refusal of the petitioner to comply with the demand compelled the private respondents to institute an action for unlawful detainer against her in the City Court of Quezon City on June 18, 1979. The said court decided against the plaintiffs-lessors, private respondents herein. The dispositive portion of the Decision reads:

WHEREFORE, premises above considered, the complaint is hereby DISMISSED for lack of evidence.

As to the defendants' counterclaim, the bad faith of plaintiffs proven by evidence under the above premises, judgment is hereby rendered in the counterclaim in favor of the defendant and against plaintiffs who are hereby ordered to pay the defendant the amount of P3,000.00 as moral damages; the amount of P1,000.00 as attorney's fees, and to pay the cost.[3]

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Whereupon, the petitioner appealed to the Court of First Instance of Rizal (Quezon City), which, in a decision dated April 27, 1981, reversed the decision of the city court. The dispositive portion of the decision of the Court of First Instance states:

WHEREFORE, all the foregoing premises considered, and finding that Plaintiffs have adduced competent

evidence in support of their complaint by a clear preponderance, the decision appealed from is hereby set aside, and judgment is accordingly rendered in favor of plaintiffs and against defendant, as follows:

- (a) Defendant and all persons claiming under her are ordered to vacate that apartment unit designated as 317-B Mayon Street, Quezon City forthwith, and surrender possession thereof to plaintiffs and/or the proposed occupant thereof in the person of Jose Basilio Leonardo conformably with the recitals of Batas Pambansa Bilang 25;
- (b) Defendant is ordered to pay plaintiffs the sum of P200.00 a month as may have accrued or shall hereafter accrue as and by way of reasonable compensation for continued occupancy of the subject premises, until she shall have vacated the same;
- (c) Defendant is ordered to pay plaintiffs the sum of P1,000.00 as and for attorney's fees, and to pay the costs of suit.[4]

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The defendant-lessee then filed a Petition for Review in the respondent Court of Appeals and in a decision dated July 21, 1981 that court affirmed the decision of the Court of First Instance.[5] Hence, this petition for review on certiorari.

The private respondents anchor their right to eject the petitioner on Section 5(c) of Batas Pambansa Blg. 25 which states:

SEC. 5. Grounds for Judicial Ejectment. - Ejectment shall be allowed on the following grounds:

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c. Need of owner/lessor to repossess his property for his own use or for the use of any immediate member of his family as a residential unit, such owner or immediate member not being the owner of any other available residential unit: Provided, however, That the period of lease has expired: Provided, further, That the lessor has given the lessee notice three months in advance of the lessor's intention to repossess the property; and Provided, finally, That the owner/lessor or immediate member stays in the residential unit for at least one year, except for justifiable cause.

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The sole issue in this case is whether or not the abovequoted proviso: "Provided, however, That the period of lease has expired," applies to a verbal contract of lease on a month-to-month basis. The respondent Court of Appeals, affirmed the ruling of the Court of First Instance. It held that pursuant to Article 1687 of the Civil Code, a contract of lease on a month-to-month basis is terminable at the end of any month. Applying this to the instant case, therefore, the verbal contract between the petitioner and the private respondents had expired upon the lapse of the three-month notice to vacate the subject premises. We agree.

Article 1687, under which the lease period in the case at bar finds its basis, reads:

ART. 1687. If the period for the lease has not been fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is monthly; from week to week, if the rent is weekly; and from day to day, if the rent is to be paid daily. However, even though a monthly rent is paid, and no period for the lease has been set, the courts may fix a longer term for the lease after the lessee has occupied the premises for over one year. If the rent is weekly, the courts may likewise determine a longer period after the lessee has been in possession for over six months. In case of daily rent, the courts may also fix a longer period after the lessee has stayed in the place for over one month.

The petitioner, on the other hand, argues that the said contract could not have expired for the reason that Section 6 of Batas Pambansa Blg. 25 has suspended the provisions of Article 1673, paragraph 1, of the Civil Code and as a direct consequence thereof, Art. 1687 is likewise suspended.

Section 6 of Batas Pambansa Blg. 25 states:

Sec. 6. Application of the Civil Code and the Rules of Court of the Philippines. - Except when the lease is for a definite period, the provisions of paragraph (1) of Article 1673 of the Civil Code of the Philippines insofar as they refer to residential units covered by this Act shall be suspended during the effectivity of this Act, but other provisions of the Civil Code and the Rules of Court on lease contracts, insofar as they are not in conflict with the provisions of this Act, shall apply.

while Article 1673, par. 1 provides, as follows:

ART. 1673. The lessor may judicially eject the lessee for any of the following causes:

(1) When the period agreed upon, or that which is fixed for the duration of leases under articles 1682 and 1687, has expired.

We have already settled this matter in *Rivera vs. Florendo*,^[6] where we ruled that:

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What is suspended under the aforequoted provision of law (Sec. 6, BP Blg. 25) is Article 1673 of the Civil Code of the Philippines and not Article 1687 of the same Code. The effect of said suspension is that independently of the grounds for ejectment enumerated in Batas Pambansa Blg. 25, the owner/lessor cannot eject the tenant by reason of the expiration of the period of lease as fixed or determined under Article 1687. It does not mean that the provisions of Article 1687 itself had been suspended. Thus, the determination of the period of a lease agreement can still be made in accordance with said Article 1687.

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As in *Rivera*, admittedly no definite period for the lease was agreed upon between the petitioner and the private respondents. However, as the rent was paid monthly, so the period of lease is considered to be from month to month in accordance with Article 1687. Thus when the private respondents gave the petitioner notice to vacate the premises on or before May 31, 1979, the contract of lease was deemed to have expired as of the end of the said month. As we have ruled in *Baens vs. Court of Appeals*,^[7] "even if the month to month arrangement is on a verbal basis, if it is shown that the lessor needs the property for his own use or for the use of an immediate member of the family or for any of the other statutory grounds to eject under Section 5 of Batas Pambansa Blg. 25, which happens to be applicable, then the lease is considered terminated as of the end of the month, after proper notice or demand to vacate has been given. [See *Crisostomo v. Court of Appeals*, 116 SCRA 199]."

Therefore, the private respondents are correct in asserting their right under Section 5(c) of Batas Pambansa Blg. 25. If we were to accept the construction given by the petitioner, then the above law would be rendered illusory in cases where the lease agreement is verbal and for an indefinite period. In such a case, the owner/lessor, notwithstanding his pressing need for the premises, could never successfully eject the tenant because the period of lease would never expire during the effectivity of Batas Pambansa Blg. 25.^[8]

In view of subsequent cases^[9] with facts more analogous to the instant case, there no longer appears to be any need nor reason to rely solely on our ruling in *Rantael v. Court of Appeals*,^[10] which the petitioner argued very extensively in her brief as inapplicable.

With respect to the other assignments of error discussed by the petitioner in her brief, we find them to be

untenable. Thus, the petitioner's allegation that the private respondents have not complied with the other requirements necessary for judicial ejectment under Section 5(c) of Batas Pambansa Blg. 25 involves questions of fact which cannot be raised, much less reviewed, in the instant petition. The findings of the respondent Court of Appeals on this matter are therefore final and conclusive.

The question of whether or not the Court of Appeals erred in ruling that the petitioner's failure to file a notice of appeal was fatal to her cause is deemed irrelevant considering that the respondent Court of Appeals rendered its decision on the basis of the evidence on record and not solely on technical rules of procedure.

The instant case, which is summary in nature, had dragged on for over eight years. To obviate further delay, the decision rendered herein is immediately executory.

WHEREFORE, the petition for review is hereby DENIED for lack of merit, with costs against the petitioner. This Decision is IMMEDIATELY EXECUTORY.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] No. L-57091, November 23, 1983; 125 SCRA 634 (1983).

[2] No. L-60066, July 31, 1986; 143 SCRA 278.

[3] Civil Case No. 35586, City Court of Quezon City, Branch VIII; Rollo, 71.

[4] Penned by Judge Ricardo P. Tensuan, CFI of Rizal, Branch IV-Quezon City; Decision, 5; Rollo, 75.

[5] Penned by J. Villaluz, with the concurrence of J. De la Fuente & J. Coquia, Fifth Division; Decision, 5; Rollo, 33.

[6] Supra.

[7] Supra.

[8] Rivera vs. Florendo, supra.

[9] Baens vs. Court of Appeals, supra; Santos vs. Court of Appeals, No. L-60210, March 27, 1984, 128 SCRA 428; Rivera vs. Florendo, supra; Velez vs. Avelino, No. L-48448, February 20, 1984; 127 SCRA 602; Dionio vs. Intermediate Appellate Court, No. L-63698, January 12, 1987, 147 SCRA 243.

[10] Rantael vs. Court of Appeals, No. L-47519, April 30, 1980; 97 SCRA 453.

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