

AREVALO GOMEZ CORPORATION, PETITIONER, VS. ANDRES LAO HIAN LIONG, DOING BUSINESS IN THE NAME AND STYLE OF TIONGSON BAZAAR; AND THE HONORABLE SALVADOR J. VALDEZ, JR., RESPONDENTS.

G.R. No. 70360. March 11, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

Some agreements deteriorate into misunderstandings, turning close friends into irreconcilable adversaries and sweet harmony into bitter discord. This is one of them.

On December 1, 1964, the petitioner through its Vice-President, Renato Arevalo, and respondent Andres Lao Hian Liong, executed a "Contract of Lease" covering the petitioner's property at Magsaysay Avenue, Baguio City, for a term of fifteen years, effective September 1, 1964. The monthly rental was fixed at P2,450.00 but in addition to this the respondent agreed to construct on the interior portion of the land leased a three-storey building of strong materials without right to reimbursement from the petitioner. The cost of the building was to be not less than P150,000.00, of which the sum of P45,000.00 would be contributed by petitioner.[1]

Prior to the expiration of the lease on August 31, 1979, and for some time thereafter, the parties entered into negotiations to fix a new rental but could not come to any agreement. In the end, on October 2, 1979, the petitioner served on the respondent a written notice to vacate the leased premises in view of the termination of their contract.[2] When the respondent refused to comply, the petitioner filed a complaint for ejectment against him in the City Court of Baguio City.

Applying Article 1670 of Civil Code, the trial court held in favor of the defendant as follows:

"In the case on hand, it is admitted that the 15-year lease contract between the parties expired on August 31, 1979. However, the defendant has continued occupying the leased premises thereafter and even to this day. And it was only on October 2, 1979, or after more than 15 days after the expiration of the original contract of lease, that he was given the requisite notice to vacate. It is, therefore, abundantly clear that under the law, an implied new lease had already set in when the plaintiff commenced its action for ejectment on November 19, 1979. x x x."[3]

The trial court also extended the period of the lease by five years from October 1, 1979, pursuant to Article 1670 in relation to Article 1687 of the Civil Code, and fixed the new rentals at P10,406.00 a month.[4]

Both parties appealed. The petitioner contended that the original lease had not been impliedly renewed but automatically expired on August 31, 1979. The respondent, for his part, prayed for a longer extension of fifteen years, considering the nature of his business (a bazaar) and his investment therein. He also claimed that, prior to the execution of the contract, the petitioner had assured him he could stay indefinitely in the disputed premises.[5]

The Regional Trial Court of Baguio City affirmed the implied renewal of the lease but modified the appealed

judgment by extending the lease for ten years from September 1, 1979, or until August 31, 1989. The respondent judge also increased the new rentals to P18,600.00 per month, effective September 1, 1979.[6] A motion for reconsideration and for new trial was filed by petitioner but the same was denied. The petition then came to us with the following assignment of errors:

"1) Respondent Judge, as well as the trial judge, erred in deciding the case at bar in a way not in accordance with law or with the applicable decisions of this Honorable Court, particularly its decision in *Roxas vs. Alcantara*, 113 SCRA 21.

2) Respondent judge, as well as the trial judge, erred in holding that there was implied renewal or tacita reconduccion despite the refusal of respondent Liong to agree to the increased rental demanded by petitioner prior to the expiration of the contract of lease.

3) Respondent judge, as well as the trial judge, erred in holding that there was implied renewal or tacita reconduccion despite the refusal of petitioner to accept payment of rentals from respondent Liong after the expiration of the Contract of Lease.

4) Assuming for the sake of argument that Article 1687 of the New Civil Code is applicable, the trial judge erred and gravely abused his discretion by extending the lease for five (5) years and respondent judge erred and compounded the grave abuse of discretion by extending the lease for ten (10) years.

5) Respondent judge, as well as the trial judge, erred in admitting parol evidence with respect to the term of the lease.

6) Respondent judge erred in not granting a new trial for the admission in evidence of the building permit of the new building of respondent Liong which was issued after the decision of the trial court.

7) Respondent judge erred in not admitting in evidence or taking judicial notice of the Central Bank Certification dated August 21, 1984 showing the three successive devaluations or depreciation of the Philippine peso after the decision of the trial court."[7]

We address ourselves first to the submission of the respondent that the factual findings of the court a quo cannot be reviewed in these proceedings which have been filed under Rule 65 of the Rules of Court. That is not exactly correct. We note that, as the caption of the petition indicates, it was filed not only under the said rule but also as an appeal by certiorari under Rule 45, which, while generally limited to questions of law, nevertheless allows review of the judgment a quo when it is based on a misapprehension of facts.[8] We shall apply this exception and treat this petition as solely filed under the latter rule.[9]

It is not disputed that the original lease contract between the parties was only for fifteen years expiring on August 31, 1979. The private respondent nonetheless continued occupying the leased premises beyond that date and it was only on October 2, 1979, that he was formally served with notice to vacate. What is in issue then is whether such continued occupancy was with or without the implied acquiescence of the petitioner.

The applicable provisions of Civil Code are the following:

"Article 1669. If the lease was made for a determinate time, it ceases upon the day fixed, without the need of a demand."

"Article 1670. If at the end of the contract the lessee should continue enjoying the thing leased for fifteen days with the acquiescence of the lessor, and unless a notice to the contrary by either party has previously been given, it is understood that there is an implied new lease, not for the period of the original contract, but for the time established in Article 1682 and 1687. The other terms of the original contract shall be revived."

Under the second article, an implied new lease or tacita reconduccion will set in if it is shown that: (a) the term of

the original contract of lease has expired; (b) the lessor has not given the lessee a notice to vacate; and (c) the lessee continued enjoying the thing leased for fifteen days with the acquiescence of the lessor.[10] This acquiescence may be inferred from his failure to serve a notice to quit.[11]

The petitioner contends that the service of an express notice to quit is not the only way to prevent the implied renewal of the lease. Demanding a higher rental is also a manifestation of non-acquiescence if the lessee does not accept the rate demanded. In other words, failure of agreement on the new conditions of the lease results in an automatic notice to vacate upon the expiration of the original lease.

In support of this position, the petitioner relies on the case of *Roxas vs. Alcantara*,[12] where this Court declared:

"x x x. Petitioner's letter of August 11, 1977 was a reminder to private respondent of the impending expiration of the lease contract. Exh. 'A', with a statement that was in effect an offer or proposal to renew the contract on the terms and conditions, namely: (1) that the rental would be P4,000.00 a month; (2) that three years advance rental should be paid by private respondent; and (3) that a 15% yearly increase in rental would be imposed. In other words, petitioner laid down the foregoing stipulations as conditions sine qua non for any subsequent contract that might be negotiated with private respondent. Thus clear from the letter, Exh. 'C', is that if private respondent were not agreeable to any or all of the new stipulations, there would be no renewal of the lease. Private respondent was to communicate his reply within fifteen days from receipt of Exh. 'C', absent which petitioner would take it to mean that his conditions were acceptable to private respondent and their contract renewed on the specified terms. However, private respondent's letter, Exh. 'F', evidently posted before the expiration of the period allowed within which to decide, did not give a categorical affirmative or negative answer to petitioner's proposition, and merely manifested the said lessee's desire to study the matter until end of the following month of September, 1977, or up to the termination of the then existing contract of lease, Exh. 'A'. Petitioner's failure to reply to the letter, Exh. 'F', can only be taken to mean that he acceded to the request for additional time. For the obvious reason that the lease contract (Exh. 'A') was expiring, it became more imperative for private respondent to make a final decision within and not later than the extended period which he asked for. Thus, when petitioner did not hear from private respondent at the end of the aforesaid month of September, private respondent ceased to have any legal right to possess and occupy the premises in question commencing the first day of the following month of October."

As we see it, Article 1670 applies only where, before the expiration of the lease, no negotiations are held between the lessor and the lessee resulting in its renewal. Where no such talks take place and the lessee is not asked to vacate before the lapse of fifteen days from the end of the lease, the implication is that the lessor is amenable to its renewal.

Where the lessor is unwilling in any event to renew the lease for whatever reason, it will be necessary for him to serve on the lessee a formal notice to vacate. As no talks have been held between the lessor and the lessee concerning the renewal of the lease, there can be no inference that the former, by his inaction, intends to discontinue it. In such a case, no less than an express notice to vacate must be made within the statutory 15-day period.

Applying these principles, the Court holds that the lease was not impliedly renewed in the instant case.

It is a matter of record that weeks before the deadline for the notice to vacate, the petitioner had already communicated to the respondent its intention to increase the rental. This increase had to be accepted by the respondent if he wanted the lease to be renewed. Significantly, in its letter to the respondent on September 18, 1979,[13] the petitioner once again rejected the latter's counter-proposal and categorically declared that the increased rental of P35,000.00 was "no longer negotiable." Since this was a reply to the respondent's letter of September 14, 1979,[14] it is obvious that the increase in rental was notified to the respondent on an earlier date, and before the expiration of the original lease.

As of that date, the respondent was already being informed that he would have to vacate the leased premises on August 31, 1979, unless he was willing to pay the increased rental demanded by the lessor. Stated otherwise, the respondent was on that date — which was clearly before the statutory deadline — being served a conditional notice to vacate.

The formal notice to vacate sent by the petitioner to the respondent on October 2, 1984, was thus merely a reiteration of the implied demand made to him in its previous communications. The demand was that he vacate the leased premises if he could not accept the non-negotiable increased rental of P35,000.00 a month. If the petitioner saw fit to write that letter on the said date, which admittedly was beyond the 15-day statutory period, it was merely to repeat its insistence on the new rate as an indispensable condition to the renewal of the lease. The legal consequence of its rejection by the respondent was its obligation to vacate the leased premises because of the expiration of the lease.

Even if, as urged by the respondent, we should disregard the petitioner's letter of August 31, 1979, because it was not submitted at the trial, there nevertheless are the other letters which were formally offered in evidence by the respondent himself. These are Exhibit "5" and Exhibit "6", dated September 5 and 14, 1979, respectively, in which he rejected the petitioner's demand for the increased rental of P35,000.00. This could mean only that the demand was made earlier as the said letters were merely a reaction to such demand. These demands, as conditional notices to vacate if the petitioner's new rental was rejected, satisfied the requirement of Article 1670.

It should be noted that, after August 1979, the petitioner refused to accept the respondent's payments of the old rentals, demanding, as it had the right to do, the increased rate of P35,000.00. Such a stance negates the conclusion that it was willing to renew the lease under the original conditions and had, by its silence, impliedly agreed to the retention of all its provisions. In fact, far from being silent, the petitioner repeatedly insisted on the new rentals, and, to suit its actions to its words, flatly refused the tender of the old rentals by the respondent.[15]

No less worthy of attention is the circumstance that in its letter of September 18, 1979, the respondent counter-proposed a monthly rental of P27,000.00, which the petitioner rejected.[16] It could be illogical to suppose that, having done this, the petitioner would later agree to the implied renewal of the lease for the original rental of only P2,450.00, thereby forfeiting the amount of P24,550.00 every month.

As the original lease contract expired on August 31, 1979, and was not legally renewed, it follows that the respondent has since then been in illegal possession of the leased premises. That unlawful detainer, which has lasted more than seven years now, during which he has retained all the rights he originally enjoyed as if the lease had been validly renewed, must be terminated immediately.

Coming finally to the monthly rentals to be paid by the respondent, it appears that between the rate of P35,000.00 demanded by the petitioner and the respondent's counter-proposal of P27,000.00, there is a difference of only P8,000.00. It is unfortunate that the disagreement could not be ironed out in the spirit of friendship that used to characterize the relations of the parties.[17] The respondent judge, for his part, using as basis a fair monthly rental value of P50.00 for every square meter of the 372 square meter floor area of the property leased, fixed the monthly rental at P18,600.00.[18]

Considering all the above circumstances, and by way of effecting a reasonable compromise between the parties, we hereby rule that the rentals to be paid for the use and occupancy of the leased premises beginning September 1, 1979, and until it is vacated by the respondent, shall be P30,000.00 per month, with interest at the legal rate. From the total amount due shall be deducted the sums judicially deposited by the respondent. We shall also fix the attorney's fee in the sum of P30,000.00, taking into account the efforts exerted by counsel in prosecuting this case, from the city court of Baguio and up to this Court. It is hoped that, being an experienced businessman, and with

this pending litigation and its possible consequences in mind, he has taken the necessary measures to minimize the other expenses of his relocation if, as it is now, ordered by this Court.

WHEREFORE, the decision of the respondent judge dated August 8, 1984, is set aside and a new decision is hereby rendered ordering respondent Andres Lao Hian Liong to: a) vacate the leased premises immediately; b) pay the petitioner monthly rentals in the amount of P30,000.00 plus legal interest, from September 1, 1979, until the leased premises are surrendered to the petitioner; and c) pay an attorney's fee in the sum of P30,000.00 and the costs of this suit. The deposits made by the respondent in court shall be deducted from the total amount due from him. This decision shall be immediately executory and no motion for reconsideration shall stay its execution.

SO ORDERED.

Yap, (Chairman), Narvasa, Feliciano, Gancayco, and Sarmiento, JJ., concur.

Melencio-Herrera, J., on official leave.

[1] Rollo, pp. 30-31.

[2] Ibid., p. 86.

[3] Id., pp. 43-44.

[4] Id., p. 38.

[5] Id., p. 47.

[6] Id., p. 52.

[7] Id., pp. 106-107.

[8] De la Cruz v. Sosing, 94 Phil. 26, cited in II Moran 475 (1979).

[9] Elks Club v. Rovira, 80 Phil. 272; Lianga Lumber Co. v. Lianga Timber Co., 76 SCRA 197.

[10] Civil Code Annotated, Vol. V, 1974 Ed., p. 711, Ambrocio Padilla.

[11] Go Tiamco v. Diaz, 75 Phil. 672.

[12] 113 SCRA 21.

[13] Rollo, p. 11.

[14] Ibid.

[15] Exhibit "B".

[16] Id.

[17] Id., p. 22.

[18] Id.

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