

RICARDO CRUZ, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT AND ROMAN LEGARDA SO, RESPONDENTS.

G.R. No. 72313. December 29, 1989

Ponente: REGALADO, J.

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REGALADO, J.:

Before us are two separate petitions filed by Ricardo Cruz (G.R. No. 72313) and Roman Legarda So (G.R. No. 72326) to review on certiorari the decision of the Court of Appeals in AC-G.R. CV No. 03291 entitled "Ricardo Cruz vs. Roman Legarda So," dated May 28, 1985,[1] the dispositive portion of which provides:

"WHEREFORE, the decision appealed from is hereby MODIFIED as follows:

1. The lease contract is extended for a period of 57 months to be reckoned from March 31, 1982.
2. The compensatory damages and actual damages awarded to the petitioner are eliminated.
3. The writ of preliminary injunction is granted only for a period of the extension of the lease.
4. The counterclaim of the respondent is hereby dismissed.

No costs."[2]

Culled from the decision of respondent Court of Appeals are the following factual findings:

"It is not disputed in the record that the Padre Rada market consisted of six parcels of land belonging to different persons, one parcel of which with an area of 651.80 square meters is owned by Roman Legarda So.

"The petitioner's evidence shows that the Padre Rada Market Operators Association, an unregistered partnership, constructed the market with leasehold right from the owners of the lots (Exhs. L & L-1). The lease with respondent So was of an indefinite duration at a monthly rent of P3,500 (Exhs. E to E-14 & G).

"Petitioner has been the manager of said association supervising the market, assigning market inspectors and collectors, and collecting from stallholders and merchants (biyaheros) doing business in the market. He also takes charge of rental payments of the market so that rental receipts issued by So were all made out in his name. (Exhibits 'E' to 'E-14'). Communications intended for the association are also addressed by So to him. And when So demanded the liquidation of the alleged rental arrearages of the association, a letter to this effect was sent to Cruz by the lawyer of So (Exhibit 'A'), and other letters by So himself (Exhibits 'B', 'G', 'G-1' and 'H').

"On April 18, 1977 Cruz received a letter from respondent advising him to pay the rentals in arrears and to vacate the premises on or before April 30, 1977 (Exh. B). The petitioner, nevertheless, continued operating the market and paid the monthly rental to respondent for May 1977 without any protest.

"Sometime in June, the petitioner was suddenly served a copy of a temporary restraining order issued by the then Court of First Instance of Manila, Branch XXII, in its Civil Case No. 109218, which was an action commenced against Cruz by So and one Antonio Barredo, Jr. to prohibit his market operation and collection of

rentals (t.s.n., March 1, 1983, p. 4).

"It turned out that respondent So leased out a portion of the Padre Rada market to Antonio Barredo, Jr. for a period of five years. So also entered into a lease agreement with Antonio Gonzales, Jr. and Milagros de Leon for a three year period ending March 31, 1982." [3]

By virtue of said injunction proceeding commenced by So and Barredo, Ricardo Cruz was compelled to stop his market operations and collection of market fees from June, 1977 to March, 1982 or a period of fifty-seven (57) months.

After the expiration of the lease contract between Roman So and Milagros de Leon, Ricardo Cruz immediately filed Civil Case No. 82-8098 in the Regional Trial Court of Manila [4] on March 31, 1982 to enjoin Roman So from leasing out the market to third parties. Upon application of Ricardo Cruz, a writ of preliminary injunction was issued on May 4, 1982, enjoining Roman So from leasing the market to third parties, renewing his contract with Antonio Gonzales, Jr. and/or Milagros de Leon and from collecting rentals from stallholders thereat during the existence of the lease agreement with Cruz and his association.

On May 13, 1983, the trial court rendered a decision the dispositive portion of which decrees:

"WHEREFORE, judgment is hereby rendered as follows:

- 1) Declaring petitioner as the lawful representative of the Padre Rada Market Association or as one of the members thereof;
- 2) Declaring the lease contract over the Padre Rada Market entered into by the petitioner's association with the respondent as having lawfully expired on March 31, 1982;
- 3) Declaring petitioner as no longer without any right to continue occupying, possessing and enjoying the MARKET starting April 1, 1982, and ordering said petitioner to forthwith vacate the premises and surrender possession to the respondent;
- 4) Ordering the petitioner to make an accounting of all the collections and expenses made for the administration of the property from April 1, 1982 until petitioner shall have surrendered possession thereof to respondent;
- 5) Ordering petitioner to pay a monthly rental of P3,500.00 to the respondent up to March 31, 1982;
- 6) Ordering respondent in turn to make an immediate accounting of receipts from stallholders paid to him during the present controversy without the knowledge of the petitioner, and to credit the petitioner for such collections. If the collections exceed P3,500 monthly, the excess thereof shall be paid the petitioner;
- 7) The writ of preliminary injunction issued in this case is hereby lifted and set aside;
- 8) The claim for other damages by one party against the other, including respondent's counterclaim, are both dismissed.

Petitioner shall pay the costs of suit." [5]

This decision was, however, reconsidered upon motion of Ricardo Cruz, as a consequence of which the court a quo rendered a new decision on February 6, 1984, the decretal portion of which reads:

"WHEREFORE, judgment is hereby rendered as follows:

1. The Decision of May 13, 1983 is reiterated insofar as it is not inconsistent with the following dispositions;
2. It is declared that the lease contract of the parties is still good and subsisting, and with an extended term of

fifteen (15) years, reckoned from the date this New Decision shall have become final, under the same terms and conditions of their agreement, including the amount of rental which is P3,500 per month, unless the parties mutually agree on other terms, conditions and stipulations;

3. Making permanent the writ of preliminary injunction previously granted therein;

4. Ordering respondent to pay the petitioner the sum of P285,000 (P5,000 x 57 months) as compensatory and actual damages in the form of losses suffered and/or loss of profit; and

5. Respondent's counterclaim is denied and dismissed.

Respondent is ordered to pay the costs."^[6]

On appeal, respondent court rendered the decision hereinbefore mentioned, hence, the instant petitions which were consolidated by the resolution of this Court on October 6, 1986.

In G.R. No. 72313, Ricardo Cruz avers that respondent Court of Appeals erred in reducing the lease period fixed by the trial court, and in eliminating the compensation award to him for losses arising from his unlawful dispossession of the Padre Rada Market. On the other hand, Roman Legarda So alleges, in G.R. No. 72326, that respondent court erred: (1) in not declaring the lease to have been validly terminated for non-payment of rentals; (2) in not holding that the lease, being on a month-to-month basis, could be terminated at the end of every month; (3) in applying Article 1687 of the Civil Code to extend the lease of Cruz to December, 1986; and (4) in not ordering Cruz to pay rentals up to the time of actual relinquishment of the premises.

The main issue for resolution in this case is whether or not Roman Legarda So could validly terminate his contract of lease with Ricardo Cruz and enter into a new contract with third persons. A corollary issue is whether Ricardo Cruz is entitled to have the term of his lease fixed for another and longer period of time.

We hold that there was a valid termination of the lease contract executed between Ricardo Cruz and Roman Legarda So for several reasons.

Firstly, the applicable provision of the Civil Code states:

"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. x x x"

In the case at bar, there is no debate that Ricardo Cruz pays his rent monthly which thus makes his lease contract terminable at the end of every month without need of any special notice to vacate.^[7] Roman Legarda So may exercise his right to terminate the contract at the end of any month even if any of the conditions of the contract had not been violated,^[8] and such right cannot be defeated by the lessee's timely payment of the rent or by his willingness to continue doing so.^[9] Furthermore, the contract of lease being on a month-to-month basis, Ricardo Cruz cannot validly claim that the lease is for an indefinite period. Article 1687 specifically provides that the term is month to month if the rent is paid monthly, hence it is a lease with a definite term. Such lease contract expires at the end of every month unless there is an implied or tacit renewal thereof as when the lessee is allowed to continue enjoying the leased premises for fifteen (15) days at the end of every month with the acquiescence of the lessor. Such exception, however, cannot be invoked when notice to vacate is given to the lessee in which case the contract of lease expires at the end of the month.

In the case at bar, Ricardo Cruz does not refute, and in fact he even admits, that a notice to vacate was issued to him on April 18, 1977 by Roman Legarda So informing him that their lease contract would expire on April 30, 1977. Although payment of rental was made for the month of May, 1977 and accepted by Roman Legarda So, this

does not by itself curtail the latter's right to terminate the lease contract at the end of every succeeding month. Besides, the lessor is entitled to payment for the occupancy of his premises even after the contract has expired.

Secondly, without explicitly admitting the breach, Cruz offers the flimsy and unsubstantiated excuse that there is a pre-existing remittance arrangement between the parties over the settlement of his rental arrearages and erroneously postulates that, by virtue of said arrangement, he cannot now be considered as in default.[10] For all intents and purposes, the fact remains that the failure of Cruz to pay the rents when due constitutes a breach of the contract of lease which gives rise to So's right of rescission under Article 1191 of the Civil Code which states:

"Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period."

We are convinced that So acted well within his rights in terminating his contract with Cruz and in entering into a new one with third persons, without need of resorting to judicial action. This finds support in our ruling in the case of *University of the Philippines vs. De los Angeles, etc., et al.*[11] which involved the question of whether the injured party may consider the contract as rescinded even before any judicial pronouncement has been made to that effect. This Court, in holding in the affirmative, ruled that:

"Of course, it must be understood that the act of a party in treating a contract as cancelled or resolved on account of infractions by the other contracting party must be made known to the other and is always provisional, being ever subject to scrutiny and review by the proper court. If the other party denies that rescission is justified, it is free to resort to judicial action in its own behalf, and bring the matter to court. Then, should the court, after due hearing, decide that the resolution of the contract was not warranted, the responsible party will be sentenced to damages; in the contrary case, the resolution will be affirmed, and the consequent indemnity awarded to the party prejudiced.

"In other words, the party who deems the contract violated may consider it resolved or rescinded, and act accordingly, without previous court action, but it proceeds at its own risk. For it is only the final judgment of the corresponding court that will conclusively and finally settle whether the action taken was or was not correct in law. But the law definitely does not require that the contracting party who believes itself injured must first file suit and wait for a judgment before taking extrajudicial steps to protect its interest. Otherwise, the party injured by the other's breach will have to passively sit and watch its damages accumulate during the pendency of the suit until the final judgment of rescission is rendered when the law itself requires that he should exercise due diligence to minimize its own damages (Civil Code, Article 2203).

"We see no conflict between this ruling and the previous jurisprudence of this Court invoked by respondent declaring that judicial action is necessary for the resolution of a reciprocal obligation, since in every case where the extrajudicial resolution is contested only the final award of the court of competent jurisdiction can conclusively settle whether the resolution was proper or not. It is in this sense that judicial action will be necessary, as without it, the extrajudicial resolution will remain contestable and subject to judicial invalidation, unless attack thereon should become barred by acquiescence, estoppel or prescription." (Emphasis supplied)

Ricardo Cruz further maintains that the lease contract with Roman Legarda So is one with an indefinite period, no specific term having been agreed upon by the parties, hence the court can legally fix a longer term. He invokes the second sentence of Article 1687 of the Civil Code which states that even though a monthly rental 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.

We reject such proposition.

As earlier stated, the contract of Ricardo Cruz, being on a month-to-month basis, is a lease with a definite period. Since the contract of lease is for a definite term, the lessee cannot avail of the benefits under Article 1687 which applies only if there is no definite term. And, even assuming *arguendo* that Article 1687 applies, Ricardo Cruz would still not be entitled to have the term fixed for a longer period since his action was filed only after the contract had expired.

As held in *Vda. de Prieto vs. Santos, et al.*:^[12]

"Under this provision, if the period of a lease contract has not been specified by the parties therein, it is understood to be from month to month, if the rent agreed upon is monthly, as in the cases at bar. Consequently, the contract expires at the end of such month, unless, prior thereto, the extension of said term has been sought by appropriate action and judgment is, eventually, rendered therein granting said relief.

Defendants herein maintain that their lease contracts did not, and could not, come to an end until after the court has fixed its lifetime and the term thus fixed has expired. This view, is, to our mind, untenable. To begin with, defendants assume that their contracts are without term, prior to the judicial action authorized in said Article 1687, whereas the same provides that the duration of lease contracts shall be yearly, monthly, weekly, or daily depending upon whether the rental agreed upon is annual, monthly, weekly, or daily. In other words, said contracts have a term fixed by law, and are not indefinite in duration, before said judicial intervention. Secondly, said Article 1687 merely gives the court discretion to extend the period of the lease. The court is not bound to extend said term. It may legally refuse to do so, if the circumstances surrounding the case warrants such action. x x x" (Emphasis reproduced)

Additionally, under the factual features of this case, there is nothing in the law which confers upon the lessee the preferential right to occupy the premises over other prospective lessees when his lease contract has been terminated. To require otherwise will unduly deprive the lessor of his ownership rights without due process of law.

Lastly, if Ricardo Cruz actually believed that he had every right to continue with the lease of the subject premises, we find no plausible reason for his inscrutable silence on and apparent acquiescence to the lease contract executed by Roman Legarda So with third persons in 1977. His inexplicable inaction when ordinary reason and prudence dictate that he should have done something about it operates as an admission that his lease contract had been validly terminated.

While we are inclined, on equitable considerations, to allow the period of extension provided for by the Court of Appeals, the grant thereof has been rendered moot by the fact that Ricardo Cruz had recovered and has been in possession of the premises since May 4, 1982 when a writ of preliminary injunction was issued by the trial court. In fact, it appears that he continues to do so up to the present, which is clearly beyond the 57-month period fixed by the Court of Appeals, without paying the corresponding rentals for his occupancy. Under the circumstances, the legal imperative is that Ricardo Cruz should pay Roman Legarda So a monthly rent of P3,500.00 starting May 4, 1982 until Cruz surrenders possession of the leased premises to So. Correlatively, Ricardo Cruz should immediately desist from operating the market and from collecting rentals from stallholders occupying the premises of Roman Legarda So and to peaceably surrender the said premises to So or the latter's authorized representatives.

WHEREFORE, the judgment of the Court of Appeals is hereby MODIFIED as follows:

1. Ricardo Cruz is hereby ordered to forthwith desist from operating the market and from collecting rentals from

stallholders occupying the premises of Roman Legarda So;

2. Ricardo Cruz is further ordered to pay a monthly rental of P3,500.00 to Roman Legarda So from May 4, 1982 until he fully surrenders possession of the entire leased premises to Roman Legarda So.

3. The writ of preliminary injunction issued by the court a quo is hereby dissolved.

SO ORDERED.

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

[1] Justice Jorge R. Coquia, ponente, Justices Mariano A. Zosa, Floreliana Castro-Bartolome and Bienvenido C. Ejercito, concurring.

[2] Rollo, G.R. No. 72313, 55-56.

[3] Ibid., id., 50.

[4] Branch II, presided over by Judge Rosalio A. de Leon.

[5] Rollo, G.R. No. 72313, 31-32.

[6] Ibid., id., 43-44.

[7] Buhay vs. Cobarrubias, 76 Phil. 213 (1946).

[8] Fernando vs. Aragon, et al., 76 Phil. 609 (1946).

[9] Ramirez vs. Reyes, 77 Phil. 1030 (1947).

[10] Memorandum for Ricardo Cruz, 15.

[11] 35 SCRA 102 (1970).

[12] 98 Phil. 509 (1956).

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