

MANUEL CO KENG KIAN, PETITIONER, VS. HONORABLE INTERMEDIATE APPELLATE COURT (FOURTH SPECIAL CASES DIVISION) AND PLAZA ARCADE, INC., RESPONDENTS.

G.R. No. 75676. August 29, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

The legal issue raised in this petition is whether the notice to vacate required to be served on the lessee under Section 2, Rule 70 of the Revised Rules of Court in order to confer jurisdiction on the Metropolitan Trial Court in an action for ejectment, may be served by registered mail.

On February 23, 1982, a complaint for ejectment against petitioner Manuel Co Keng Kian was filed by private respondent Plaza Arcade, Inc., alleging that despite the expiration of the written contract of lease over a portion of the ground floor of the former Manila Times Building, petitioner refused to vacate the premises and to pay the monthly rentals notwithstanding receipt of several letters of demand, the last of which was sent to petitioner by registered mail.

During the pendency of the trial before the Metropolitan Trial Court of Manila or on August 27, 1982, petitioner voluntarily vacated the disputed premises, turning over the key to the clerk of court but without paying the accrued rent.

On May 17, 1984, the inferior court rendered its judgment dismissing the ejectment case for lack of jurisdiction. It refused to give probative value to the three letters of demand to vacate which were all sent to petitioner and which he refused to receive. The court held that since none of the demand letters was served (1) personally, or (2) by written notice of such demand upon a person found on the premises, or (3) by posting such notice on the premises if no person can be found thereon pursuant to the provisions of Section 2, Rule 70 of the Rules of Court, there was no valid demand. If none was made, the case came within the jurisdiction of the Regional Trial Court and not the Metropolitan Trial Court. Whereupon, it ordered Plaza Arcade, Inc. to pay petitioner P5,000.00 as attorney's fees and another P5,000.00 as moral and exemplary damages.

Plaza Arcade, Inc. appealed to the Regional Trial Court which initially reversed the decision of the Metropolitan Trial Court, but on motion for reconsideration by petitioner, affirmed the dismissal of the ejectment case in its order of October 9, 1985.[1]

A petition for review was filed with the then Intermediate Appellate Court. In its decision dated July 3, 1986 the Appellate Court overturned the appealed order of the trial court which had earlier sustained the dismissal of the ejectment case. Motion for reconsideration having been denied, the aforesaid decision of the Appellate Court was elevated to this Court on a petition for review on certiorari.

In reversing the dismissal order, the Appellate Court took the lower courts to task for taking a rather constricted view of Section 2, Rule 70, and declaring that the service of demand letters to vacate on the lessee is strictly

limited to the three (3) modes enumerated therein. They failed to note the common practice of serving said notices on the tenant by registered mail with return card so that the registry receipt and the receipt thereof by the addressee through the return card could be presented in evidence to prove the fact of delivery, in the event of a litigation.

We agree and in our opinion the facts in the instant case indicate personal service on the lessee. In arriving at this conclusion, we have been greatly aided by respondent's citation of American cases which, by and large, represents a practical, if not realistic, approach to the problem.

In the cases of *Nunlist vs. Motter*,^[2] and *Gehring vs. Swoll*,^[3] the Court held that where the notice to leave the premises is transmitted by registered mail with a return card and thereafter the receipt bearing the signature of the defendant was returned, a prima facie case is established of the fact of delivery of said notice to the defendant personally by the Postal Office Department although he refused to accept the same.^[4]

Indeed, notice by registered mail is considered an effective service on the person concerned. It cannot be avoided by the mere expediency of declining to accept delivery after notification thereof. The service is deemed complete regardless of such refusal to accept if the addressee fails to claim his mail from the postal office after the lapse of five (5) days from the date of the first notice of the postmaster.^[5]

In conclusion, we stress that the notice to vacate the leased premises, required by the Rules to be served on the tenant before a forcible entry or unlawful detainer action can be commenced against him, may be served by registered mail. This is a substantial compliance with the modes of service enumerated under Section 2, Rule 70 of the Revised Rules of Court.

At this juncture it bears repeating that actions for forcible entry and unlawful detainer are summary in nature because they involve a disturbance of social order which must be abated as promptly as possible without any undue reliance on technical and procedural rules which only cause delays. In the ultimate analysis, it matters not how the notice to vacate was conveyed, so long as the lessee or his agent has personally received the written demand, whether handed to him by the lessor, his attorney, a messenger or even a postman. The undisputed facts in the instant case show that the Manila Times Publishing Company, through its manager, had informed petitioner that Plaza Arcade Inc. was the new owner of the subject building; that on October 18, 1979, a demand letter was sent to petitioner advising him to leave the premises but petitioner refused to receive the letter; that a second demand on January 12, 1981 elicited the same reaction; that a final demand dated November 16, 1981 was sent to petitioner by registered mail which he again refused. And even on the supposition that there was no personal service as claimed by petitioner, this could only be due to petitioner's blatant attempts at evasion which compelled the new landlord to resort to registered mail. The Court cannot countenance an unfair situation where the plaintiff in an eviction case suffers further injustice by the unwarranted delay resulting from the obstinate refusal of the defendant to acknowledge the existence of a valid demand.

WHEREFORE, the petition is denied for lack of merit and the assailed decision of the Court of Appeals reversing the dismissal order of the trial court is affirmed. Civil Case No. 071279-CV is hereby ordered reinstated in the Metropolitan Trial Court of Manila, Branch 7. This decision is immediately executory. Costs against petitioner.

So ordered.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 49.

[2] 77 N.E. 2d 369 (1947)

[3] 79 N.E. 2d 913 (1947)

[4] See also *Alexander vs. Bates*, 206 So. 2d 763, 765 (1968)

[5] Rule 13, Section 8. See *Isaac vs. Mendoza*, 89 Phil. 279 (1951)

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