

**MARLENE MADRIAGA, PETITIONER, VS. HON. COURT OF APPEALS
AND MILA HATANAKA, RESPONDENTS.***G.R. No. 76294. July 14, 1988*

Ponente: GANCAYCO, J.

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In the herein petition for review of the judgment of the Court of Appeals dated October 8, 1986,[*] the undisputed facts are as follows: The petitioner leased a two-storey commercial building situated at the corner of San Andres and Leveriza Streets, Manila from the Rodriguezes and Chicos beginning 1973 up to July 1978. Her principal purpose was to use the building to house her pharmaceutical business. As her business was still small, she decided to sublease a portion of the upper floor of the building to Dr. Rogelio Sangalang in August 1973 at a monthly rental of P300.00. She leased the other portion thereof to private respondent Mila Hatanaka in 1974 also at P300.00 monthly rental.

Sangalang occupied his portion as a dental clinic while private respondent Hatanaka used her portion as a place of residence. Their agreement was that the lease shall only be temporary and that should petitioner ever need the premises for her business, then upon notice to them, said lessees shall turn over to petitioner the possession of the same.

In 1978, the business of petitioner prospered so she renewed her lease contract of the commercial building and decided to terminate the sublease of Sangalang and Hatanaka. Petitioner notified them accordingly of the termination of the sublease agreement and requested them to vacate the premises as she needs the same for her business.

Sangalang ultimately vacated his premises but Hatanaka refused to do so. Thus, petitioner filed an action for ejectment in the City Court of Manila against Hatanaka on the ground of the termination of the lease contract. In due course, a decision dismissing the complaint was rendered by the Metropolitan Trial Court of Manila. On appeal to the Regional Trial Court of Manila, judgment was rendered reversing the decision of the Metropolitan Trial Court and ordering the eviction of Hatanaka.[1]

Hatanaka then filed a petition for review in the Court of Appeals wherein a judgment was rendered on October 8, 1986 reversing the judgment of the Regional Trial Court and dismissing the complaint with costs against herein petitioner.

Hence, the herein petition for review.

The main thrust of the petition is that the complaint for ejectment is predicated on the ground of the termination of the lease agreement and not on the petitioner's need to use the premises as found by the respondent Court.

The respondent Court, in ruling for the private respondent, held as follows:

"The question in this case is whether, despite the fact that the building in question is a commercial one, BP

Blg. 25 nevertheless applies because the premises from which the petitioner is ordered evicted are used by her for residential purposes. We hold that BP Big. 25 covers the premises in question and that since the sublessor does not need the premises for her personal use or for that of her family but only for her business, the ejectment of the petitioner cannot be ordered. (Sec. 5(c).) For purposes of that statute, the premises occupied by the petitioner are considered a residential unit since there is no question that she used them for residential purposes.

"The petitioner is right that it is the purpose to which a building or a part of it is destined which ultimately determines its character. Thus, section 2(b) defines a residential unit as referring to 'an apartment house and/or land on which another's dwelling is located used for residential purposes and shall include not only buildings, parts or units thereof used solely as dwelling places . . . but also those used for home industries, retail stores or other business purposes if the owner thereof and his family actually live therein and use it principally for dwelling purposes.'

"In the case at bar, there is no claim that when the premises were sublet to the petitioner the private respondent did not know they would be used for dwelling. Consequently, the application of the Rent Control Law to this case cannot be objected to as unfair simply because the building, of which the premises are a part, is commercial."

While it is true that the purpose of the ejectment of the private respondent is the petitioner's need to use the portion occupied by said private respondent for petitioner's expanding business, however, it is equally true that it was the agreement between the petitioner and private respondent that the lease shall only be temporary and may be terminated in case petitioner should ever need the premises for her business. Hence, when petitioner notified said respondent accordingly, the lease agreement was thereby terminated which is the very ground on which the ejectment suit is predicated.

The termination of the lease agreement is one of the grounds for ejectment.[2] In case of a lease contract on a month to month basis, the same may be terminated at the end of any month.[3]

WHEREFORE, the petition is GRANTED and the decision of the respondent Court dated October 8, 1986 is hereby REVERSED and SET ASIDE and another judgment is hereby rendered ordering private respondent to vacate the premises in question and turn over its possession to the petitioner, with costs against private respondent. This decision is immediately executory and no motion for extension of time to file a motion for reconsideration shall be entertained.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[*] Penned by Justice Vicente V. Mendoza and concurred into by Justices Josue N. Bellosillo and Hector Fule.

[1] Annex "G."

[2] Art. 1673 of the Civil Code in relation with Section 6 of B.P. Blg 25; See also B.P. Blg. 877, Sections 5(f) and 6.

[3] Lesaca v. Cuevas, 125 SCRA 384.

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