

AURORA PASCUA, PETITIONER, VS. COURT OF APPEALS, THE HON. JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BR. XXXIII, AND THE HON. JUDGE OF THE METROPOLITAN TRIAL COURT OF MANILA, ...

G.R. NO. 76851. March 19, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

These two cases have been consolidated because they involve the same subject and issues.

The spouses Eduardo and Loreta Cañares are the owners of a two-door apartment building located at Oroquieta, Sta. Cruz, Manila. These apartments have been leased to Aurora Pascua since 1969 and the spouses Noli and Erlinda Astrologio since 1972, respectively, for the initial monthly rental of P300.00. For their part, the spouses Cañares have also been living for the past 20 years in a rented apartment, located in Felix Huertas, likewise in Sta. Cruz, Manila. They pay rentals on this house at the rate of P1,200.00.

On October 15, 1984, the spouses Cañares sent a letter to their lessees informing them of their need to transfer to their own house because they were being asked to vacate the building they were renting.[1] The letter also demanded that the lessees vacate, within six months from notice, the premises they were occupying. This was followed by another letter dated April 18, 1985, to the same effect.[2]

Their demands having been ignored, the Cañareses sent a third and final letter dated August 8, 1985, giving the lessees another 10 days within which to comply.[3] The lessees refused to do so, whereupon the Cañareses brought the matter to the Lupong Barangay. No settlement was reached here. Consequently, the Cañareses filed two separate ejectment complaints against the Astrologios and Aurora Pascua with the Metropolitan Trial Court of Manila on September 12, 1985.[4]

In Civil Case No. 112984, MTC Judge Antonio I. de Castro of Branch 29, found for the plaintiffs and ordered defendant Astrologios to vacate the subject premises and to pay all due monthly rentals at the rate of P300.00 plus P4,000.00 attorney's fees and the costs of the suit.[5]

In Civil Case No. 112983, MTC Judge Alicia G. Decano of Branch 33 also found for the plaintiffs and ordered defendant Pascua to vacate the premises, but no award of rentals was made because of the failure to demand the same in the complaint as required by Rule 70 of the Rules of Court. Pascua was, however, required to also pay P1,500.00 attorney's fees and the costs of the suit.[6]

Both decisions were affirmed by the Regional Trial Court,[7] but on appeal two divisions of the respondent court arrived at different conclusions. Pascua's petition for review was dismissed by the Fourth Division.[8] However, the Special Eleventh Division found in favor of the Astrologios, holding that the spouses Cañares had failed to allege and prove that they were not the owners of any other available residential unit in Manila.[9]

The Cañareses and Pascua are now before this Court to question the judgments against them by the respondent court.

The legal issues are:

1. Was the Cañareses' failure to allege in their complaint that they were not the owners of any other available residential unit in the City of Manila fatal to their cause of action?
2. Could the lessees be ejected under Article 1673 of the Civil Code notwithstanding Section 6 of B.P. Blg. 25, as amended by B.P. Blg. 877?

On the first question, it is not denied that there was no allegation in the complaint that the plaintiffs were not the owners of any other available residential unit to which they could transfer. Strictly speaking, the complaint was deficient on its face. Nevertheless, there was attached to it, as an annex thereof, the demand letter dated October 15, 1984, sent to the lessees by the plaintiffs in which the missing allegation was clearly stated, thus:

We bought the apartment primarily for our occupancy as we do not have a house of our own, but only renting a small apartment located at our present address for many years now. I wish to inform further that my family and I need very badly the place to live in as we are paying a monthly high rental, besides, we have been asked by the owner to vacate the premises for the use of his family.[10]

Was there a substantial compliance with the requirements of the Rules of Court in the preparation of the pleadings? The answer is found in the consistent ruling of this Court that:

No rule is better established than the rule which requires the complaint to contain a statement of all of the facts constituting the plaintiff's cause of action. If it does not, it is subject to demurrer. The rule is also well established that if the defendant permits evidence to be introduced, without objection, which supplies the necessary allegations of a defective complaint, then this evidence has the effect of curing the defects of such a complaint and a demurrer thereafter is inadmissible upon the ground that the complaint does not state facts sufficient to constitute a cause of action. Not only are defective pleadings cured by the admission of evidence without objection, during the trial, but the court is required to render a judgment in any particular case, giving such relief as is consistent with the case made by the pleadings and the evidence.[11]

Applying the above doctrines, not to mention the policy that procedural rules should not be strictly enforced at the cost of substantial justice,[12] we must hold that the initial formal deficiency in the complaint was subsequently repaired.

Significantly, the failure to allege the ground under consideration was not invoked by the Astrologios in their answer to the complaint and indeed up to the time they filed their petition for review with the Court of Appeals.[13] In effect, the issue is being raised for the first time only before this Court. This is another reason why this objection must be dismissed.

On the second question, we also need only to reiterate existing doctrine as expressed in a number of decisions earlier rendered by this Court.

The position of the lessees is that they cannot be ejected under Article 1673 of the Civil Code because this provision has been suspended by Section 6 of B.P. Blg. 25 except as to leases for a definite period. Their claim is that as no definite term has been fixed for their leases, the same cannot come under the exception.

The said section reads as follows:

SECTION 6. Application of the Civil Code and 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.

Article 1673 provides that the lessor may judicially eject the lessee inter alia "when the period agreed upon, or that which is fixed for the duration of the leases under Article 1682 and 1687, has expired." The lessees argue that their leases have no fixed period despite Article 1687, which is likewise not applicable to them because of its suspension by the aforequoted Section 6.

Article 1687 provides:

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 trouble with this posture of the lessees is that it does not conform to the applicable decisions of this Court. Only recently, in the case of *Miranda v. Ortiz*,^[14] we again held categorically:

As aforestated, the issue has already been raised and resolved by this Court. In *Rivera v. Florendo*, promulgated on July 31, 1986, this Court made the following pronouncement, viz.:

"What is suspended under Section 6 of Batas Pambansa 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 ground 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.

"Admittedly, no definite period for the lease was agreed upon by petitioners and private respondent. However, as the rent was paid on a monthly basis, the period of lease is considered to be from month to month in accordance with Article 1687. When petitioners gave private respondent notice to vacate the premises in question, the contract of lease is deemed to have expired as of the end of the month. As we have ruled in *Baens v. Court of Appeals*, supra, 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 any 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)

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"The law x x x, Batas Pambansa Blg. 25, (In its section 5[c]) x x x allows ejectment on the need by the owner/lessor of the leased premises for his own use or that of a member of his immediate family. The inclusion of this ground was obviously intended to correct the inequity and hardship imposed by PD 20 on small landowners/lessors, whose property rights, protected as they are by the fundamental law itself, We upheld even during the effectivity of PD No. 20. To adopt, therefore, the construction given by respondent court is to render Section 5(c) of Batas Pambansa Blg. 25 illusory in cases where the lease agreement is verbal and for an indefinite period, because in this case, the owner/lessor, notwithstanding his pressing and urgent need for the premises could never successfully eject the tenant as the period of lease would never expire during the effectivity of Batas Pambansa Blg. 25."

The law cited, viz., Section 5 of B.P. Blg. 25, reads as follows:

SECTION 5. Grounds for Judicial Ejectment – Ejectment shall be allowed on the following grounds:

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(c) Legitimate 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 within the same city or municipality; Provided, however, That the lease for a definite period has expired: Provided, further, That the lessor has given the lessee formal notice three (3) months in advance of the lessor's intention to repossess the property: and Provided, finally, That the owner/lessor is prohibited from leasing the residential unit or allowing its use by a third party for at least one year. (Emphasis supplied)

To resolve the lessors' claim, we must now proceed to the factual question, which relates to another indispensable condition for ejectment under the aforequoted law. The question is: Are the Cañareses the owners of any other available residential unit within the City of Manila?

It is an established fact that on February 14, 1985 – before the filing of an ejectment complaint on September 12, 1985 – the Cañareses bought a house and lot located also in Oroquieta, Sta. Cruz, Manila.[15] The lessors describe it as "filthy and dilapidated" and not fit for habitation, which is why they want to transfer to the building occupied by the lessees. The lessees, on the other hand, say it was a "big nice residential apartment" until the lessors deliberately converted it into a poultry for the breeding and rearing of fighting cocks. The lessors ridicule this contention, stressing that no person in his right mind would do such a thing to his own house, but the lessees insist this was precisely what was done by the Cañareses to justify their repossession of the leased apartments.

The key to the problem is the word "available." Given the fact that the Cañareses do own this new property, we must decide if it was available to them for residential purposes at that time such as to make it unnecessary for them to eject the lessees. Could the Cañareses conveniently transfer to this building as their new home after vacating the premises they were leasing? The answer to this question is found in the findings of the Metropolitan Trial Courts that tried these cases, as follows:

Evidence also showed that although the owners/lessors have another property located at 1844 Oroquieta St., Sta. Cruz, Manila, the same is dilapidated and filthy and unfit for habitation. It must be noted that plaintiffs bought the premises being occupied by the defendants subject matter of this case way back June 29, 1984 and immediately demanded for the same to be vacated for their own use and occupancy. The second property which defendants claim may be used for plaintiffs as their residence was bought only on February 14, 1985 and, as previously stated, is unfit for habitation. x x x This Court believes that social justice is for all and never for the welfare of the lessees alone at the expense of the lessors.[16]

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On the issue as to whether or not the plaintiffs has another residential unit, this Court would like to point the fact that the law clearly provides: 'Legitimate 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 within the same city or municipality. x x x' (Underlining supplied). It is true that she has another residential unit, but was it available at the time the complaint was filed? The fact is this unit which is 12 by 12 sq. m. in area was previously leased to a lessee Salvador Yanesa by the former owners, which lease will still expire on April 1989, hence, said unit is not available at the moment. The defendant is banking on the poultry space which could be converted into a residential unit but was this poultry available and fit for habitation at the time the action for ejectment was filed?[17]

It would appear then that the property was not available to the Cañareses because of its physical condition and its

legal status at the time the lessors were sought to be ejected.

Relying on these findings, we hold that the lessors owned no other available residential unit in Manila to which they could have transferred after they themselves were asked to vacate the premises they were leasing. While the Special Eleventh Division of the Court of Appeals found otherwise, concluding that the Cañareses stripped their house of "some of its window grills, eaves and walls," we ourselves find it hard to believe that the owners would deliberately destroy their newly-acquired residential apartment just to convert it into a poultry. It is easier to accept the explanation of the Cañareses that these things were done precisely to remove the rotting parts of the building and prevent possible injury.

The Court also finds that if the purpose of the Cañareses was merely to eject the lessees, they would have deferred buying the new property until after they had filed and proved their complaints for ejectment. It seems a rather round-about process, indeed, to buy the property first and then render it uninhabitable to provide an excuse for the ejectment of the lessees.

Our conclusion, therefore, is that at the time the complaints for ejectment were filed by the Cañareses against Aurora Pascua and the spouses Astrologios, the lessors had a genuine need to repossess their property for their own use. The leases thereon of the defendants had already expired following the provision of Article 1687 of the Civil Code. At the same time, the other property owned by the Cañareses in Manila was not available to them because it was not only being used as a poultry but was moreover occupied by another tenant whose lease would expire only in April 1989.[18] The requirements of B.P. Blg. 25, Sec. 5, having been satisfied, the Cañareses were entitled to have their lessees ejected so they could live in their own house.

The acute housing shortage is one of the most serious problems of our society. It has caused a great deal of suffering and misery and, no less lamentable, acrimony and even violence. In the case at bar, the sympathies of the Court are for the lessees, who must now face displacement and relocation with all their attendant inconveniences and expense. But the law is on the side of the lessors and so must be upheld. That law, let it be stressed, is not the less humane because it favors the landlord, for social justice is for fairness to all or it is no justice at all.

WHEREFORE, judgment is hereby rendered as follows:

- In G.R. No. 76851, the petition is DISMISSED and the decision of the respondent court dated December 12, 1986, is AFFIRMED, with costs against the petitioner.
- In G.R. No. 78431, the petition is GRANTED. The decision of the respondent court dated March 18, 1987, is REVERSED, and that of the Regional Trial Court of Manila dated May 20, 1986, is REINSTATED, with costs against the private respondents.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Annex "A," G.R. No. 76851, Rollo, p. 25; Annex "A," G.R. No. 78431, Rollo, p. 64.

[2] Annex "A-1," G.R. No. 76851, Rollo, p. 38; Annex "A-1," G.R. No. 78431, Orig. Records, p. 38.

[3] Annex "A-2," G.R. No. 76851, Rollo, p. 39; Annex "A-2," G.R. No. 78431, Orig. Records, p. 39.

[4] G.R. No. 76851, Rollo, p. 22; G.R. No. 78431, Orig. Records, p. 5.

[5] Orig. Records, p. 104.

[6] Annex "F," G.R. No. 78431, Rollo, p. 73.

[7] Decision penned by Judge Felix Barbers, Annex "L," G.R. No. 76851, Rollo, p. 100; Decision penned by Judge Tomas P. Maddela, Jr., G.R. No. 78431, Orig. Records, p. 147.

[8] Penned by L. Ines Luciano, J., with Coquia and Cui, JJ., concurring, G.R. No. 76851, Rollo, p. 152.

[9] Penned by Lombos-De la Fuente, J., with Paras and Magsino, JJ., concurring, G.R. No. 78431, Rollo, p. 24.

[10] Annex "A," G.R. No. 76851, Rollo, p. 599.

[11] Roces v. Jalandoni, 12 Phil. 599.

[12] Fonseca v. Court of Appeals, 165 SCRA 40; Angel v. Inopiquez, G.R. No. 66712, January 13, 1989.

[13] G.R. No. 78431, Orig. Records, p. 11; G.R. No. 78431, Rollo, p. 4.

[14] 156 SCRA 10.

[15] G.R. No. 76851, Rollo, p. 6.

[16] G.R. No. 78431, Orig. Records, p. 106.

[17] G.R. No. 76851, Rollo, p. 79.

[18] According to the spouses Cañares, Yanesa gave up the house on March 12, 1986 after an ejectment case was filed against him for non-payment of rentals.

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