

SPS. ARTURO LIPATA AND LUZMINDA LIPATA & SPS. ALFONSO TIQUIA AND MONSERRAT TIQUIA, PETITIONERS, VS. HONORABLE COURT OF APPEALS, HON. RAFAEL DECLARO, RTC JUDGE BRANCH 13, MANILA ...

G.R. No. 79670. February 19, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari seeking to reverse and set aside the decision[*] rendered by the Court of Appeals on 29 July 1987 in CA-G.R. SP No. 11420 entitled "Arturo Lipata, et al. v. Hon. Rafael M. Declaro, et al." which dismissed herein petitioners' petition for review for lack of merit, and the resolution of the Court of Appeals dated 24 August 1987, denying petitioners' motion for reconsideration.

The facts[1] are as follows:

1. Arcadio Yupangco and Priscilla Gregorio were the owners of certain leased premises located at 2133 and 2134 Old Balagtas St., Pandacan, Manila, the lessees being herein petitioners, the spouses Arturo and Luzminda Lipata, and Alfonso and Monserrat Tiquia. On 30 August 1978, the leased premises were acquired and bought by private respondent Estrada and his spouse from the owners Yupangcos
2. On 7 October 1978, a demand to vacate was made by private respondent Estrada against both petitioners-spouses, in view of the fact that the former would occupy the said property, as the ground floor or "silong" of his parents' house where he and his family were then staying, was so small and was not sufficient for his growing family. Since then, private respondent no longer collected the monthly rentals due on the property and neither did petitioners pay the rentals due to private respondent until 28 November 1979 when the former filed with the court a case for consignation of their rental payments. On 18 April 1979, a final demand to vacate was given by private respondent to petitioners.
3. On 8 December 1980, private respondent filed with the Metropolitan Trial Court (Manila) a case for ejectment against herein petitioners. On 24 March 1986, judgment[2] was rendered by the said metropolitan court in favor of herein private respondent. On appeal (docketed Civil Case Nos. 86-37194 and 37195)[3] to the Regional Trial Court (Manila, Branch 13),[4] the latter, on 30 January 1987, rendered judgment affirming the decision of the metropolitan court. A petition for review (docketed CA-G.R. SP No. 11420) was filed by herein petitioners with the Court of Appeals which, in its now assailed decision dated 29 July 1987, dismissed the same for lack of merit. A motion for reconsideration of the said decision was likewise denied for lack of merit by respondent appellate court in its resolution dated 24 August 1987.

Hence, this petition.

The issue is whether or not a buyer of property burdened with a lease is entitled to eject the lessees thereof, based on his (new owner's) personal need of the premises.

We find no merit in this petition.

Under Section 5, BP 25,[5] one of the recognized grounds for judicial ejectment is the following:

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

x x x

c. 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: Provided, however, That the period of lease has expired: Provided, further, That the lessor has given the lessee notice three months in advance of the lessor's intention to repossess the property and Provided, finally, That the owner/lessor or immediate member stays in the residential unit for at least one year, except for justifiable cause.

x x x."

As held in *Roxas vs. IAC*,[6] to allow ejectment of a lessee on the ground of need for personal use of the owner or an immediate member of his family, the following requisites should be present:

"(1) The owner or lessor needs the property for his own use or for the use of any immediate member of the family;

(2) that such owner or immediate member of the family is not the owner of any available residential unit;

(3) that period or lease has expired; and

(4) that lessor has given the lessee notice three months in advance of lessor's intention to repossess the property."

As to requisites 1, 2, and 4, above-mentioned, which are factual in character, we are bound by the findings, of the respondent appellate court that private respondent Estrada had complied with them. The Court of Appeals stated in its questioned decision that there "is evidence that the Estrada spouses purchased the premises from the spouses Arcadio Yupangco and Priscilla Gregorio on August 1978 because they badly needed a residential unit in which to stay, in as much as they and their children are merely staying in the groundfloor ("silong") of the house of their parents and are even paying rentals therefore."[7]

The three (3) months' notice was, for all intents and purposes, complied with by private respondent -- considering that the first and the last demands to vacate were made on 7 October 1978, and 18 April 1979 while the complaint for ejectment was filed only on 8 December 1980 or more than two (2) years after the first demand. This gave petitioners more than ample time, as contemplated in requisite 4, within which to find another dwelling unit.[8]

As to requisite 3, the real question in the case at bar is whether or not the period of the petitioners' lease had already expired. In this regard, petitioners admit that the lease in question was without a definite period, and that they had been paying the rentals on a quarterly, basis, not month-to-month and that private respondent at the time he acquired the property had prior knowledge of the existence of the lease thereon between the former owners and petitioners.

We hold that, under the facts of the case, the lease had already expired, hence, requisite 3 has been complied with.

It is the finding of the respondent appellate court that private respondent Estrada did not anymore collect from petitioners the monthly rental from the time private respondent gave petitioners the notice to vacate dated 7 October 1978. It may, therefore, be assumed that the rental agreed upon between the parties was a month-to-month rental. With a rental paid monthly, under a lease without a definite period, the term of the lease is deemed to be from month--to-month pursuant to Article 1687[9] of the Civil Code.

It should be noted that in fixing the term of the lease in question, as from month-to-month, this Court has applied Article 1687 notwithstanding Section 6 of BP 25 which provides:

"SEC. 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, paragraph 1 referred to in Sec. 6, BP 25 as suspended, reads:

"Art. 1673. The lessor may judicially eject the lessee for any of the following causes:

(1) When the period agreed upon, or that which is fixed for the duration of leases under articles 1682 and 1687, has expired;

x x x."

But the application of Article 1687 to the present case is justified by the doctrine in *Rivera vs. Florendo* (G.R. No. 60066, July 31, 1986, 143 SCRA 278) where this Court ruled thus -

"What is suspended under the aforequoted provision of law (Section 6, BP 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 grounds 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.

Therefore, what should be stressed here is that the petitioners' ejectment is not predicated or justified on the basis of the expiration of the period under Article 1687 but on the need of the premises by the private respondent (lessor) for his own personal use.

The period of the lease in the present case, being from month-to-month, private respondent acted properly when he gave petitioners the demand to vacate dated 7 October 1978, which was a manifestation of his option to terminate the lease. On 30 August 1978, private respondent became the owner of the leased premises and therefore acquired all the rights (including the right to collect rentals) and assumed all the obligations appended to whatever lease agreement might have been entered into between the former owners and the petitioners. But after exercising his right to collect from petitioners the monthly rentals, on 7 October 1978, he (private respondent) opted to terminate the lease. On that said date, he decided to end the lease on the ground of his personal need of the leased premises as owner thereof, and he stopped collecting further monthly rentals therefrom.

The Court is aware that at the time the notice to vacate dated 7 October 1978 was sent by private respondent, Presidential Decree No. 20[10] (not BP 25) was the law enforced and that Section 4[11] of said decree provided:

"SEC. 4. 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 dwelling unit or land on which another's dwelling is located shall be suspended until otherwise provided; but other provisions of the Civil Code and the Rules of Court of the Philippines on lease contracts, insofar as they are not in conflict with the provisions of this Act, shall apply."

Clearly, the suspension imposed under said Section 4 operated on leases for which no definite period (like the one at bar) had been stipulated by the parties, and because of which, Article 1687 of the Civil Code stepped in to prescribe the period.[12] At the time the notice to vacate was sent (7 October 1978), BP Blg 25 (approved only on

10 April 1979), which would have given private respondent the right to terminate the lease on the ground of need for personal use of owner, was still six (6) months away from approval. It would appear, therefore, that under the provisions of PD 20, private respondent still had no right to terminate the lease on the ground of need for personal use as the lease, being without a definite period, was included in the suspensive effects of Section 4 of PD 20.

And yet, an exemption from the provisions of PD 20 was carved by this Court for humanitarian reasons. In *Sinclair vs. Court of Appeals*,^[13] it was held that a "strict and rigid compliance with PD 20 is therefore not in order, for an exemption from its provisions is warranted for humanitarian reasons as has been explicitly announced by this Court in the case of *Onchengco vs. City Court of Zamboanga*,^[14] speaking through Justice Teehankee who said that extreme necessity for personal use of the property entitles the owner to exemption from the operation of PD 20 which suspends the provision of Art. 1673 of the Civil Code on judicial ejectment."

In the present case, it is really for humanitarian reason that private respondent should be allowed to exercise his right to eject petitioners from the leased premises, given the extreme necessity for him to occupy the same for his own personal use. The records of this case show that private respondent, with his family, was then staying in the ground floor or "silong" of his parent's house, which was so small and for which he was still paying rentals.

Moreover, we cannot overlook the fact that when the last notice to vacate dated 18 April 1979 was sent to petitioners, and when the complaint for ejectment was filed on 8 December 1980, BP 25 was already enforced. At the time he said notice was given by private respondent, his right to terminate the lease on the ground of need for personal use of owner was expressly given to him by Section 5 of BP 25. Hence, the period of lease in the present case being from month-to-month, pursuant to Article 1687 of the Civil Code, private respondent acted properly when on 18 April 1979 particularly, he exercised his right to terminate the lease, in his capacity as the new owner of the leased premises as of 30 August 1978, upon the ground of need for personal use.

Indeed, the respondent Court of Appeals and the other courts that took cognizance of the case, cited Section 5, paragraph (c) of Batas Pambansa (BP) 25 as the legal basis for ordering herein petitioners to vacate the subject premises,^[15] Batas Pambansa 25 being the law enforced (a) at the time private respondent exercised his right to terminate the lease (by notifying petitioners on 18 April 1979 to vacate the premises) on the ground of "need for personal use of the owner," and (b) at the time private respondent filed the complaint for ejectment, there can be no valid objection to applying the provisions of BP 25 as the basis of the judgment of the respondent court in affirming the decision of the lower court. The evidence on record, as found by the respondent court, shows that private respondent complied with all the requirements set forth in said Section 5, paragraph (c) Batas Pambansa 25.^[16]

It is worthy to note that the records of this case do not show that the sale transacted between private respondent and the previous owners was tainted with fraud or any badge of bad faith. In truth, respondent Court of Appeals found that said previous owners first offered to sell the subject property to the Lipata spouses (herein petitioners) before offering the same to the private respondent Estrada and his wife, but the Lipatas could not afford its price.^[17]

Petitioners aver that since private respondent, at the time the leased premises were sold to him by the former owners, had knowledge of the existence of the lease, private respondent must respect the lease, his knowledge thereof being equivalent to registration.

We do not agree.

Considering the admission of petitioners that the lease at bar is not recorded, and is without a definite period, it is clear that the termination of the lease by private respondent was properly made, for as held in *Bernabe vs.*

Luna,[18] when the lease is not recorded and although private respondent had knowledge of its existence, the lease is generally terminable at the will of the buyer-private respondent, so long as a demand for its termination is made and subject to the provisions of Article 1687 of the Civil Code.

We also find no merit in the contention[19] of the petitioners that private respondent did not comply with the requirements under Presidential Decree No. 1508 (known as Katarungang Pambarangay Law), considering the factual finding[20] of respondent appellate court to the contrary.

WHEREFORE, the questioned decision of the respondent Court of Appeals, dated 29 July 1987, rendered in CA-G.R. SP No. 11420 is AFFIRMED and the present petition is DENIED.

SO ORDERED.

Melencio-Herrera, (Chairman), Sarmiento and Regalado, JJ., concur.
Paras, J., no part, wife concurred in CA decision.

[*] Penned by Justice Jose C. Campos, Jr. and concurred in by Justices Gloria C. Paras and Conrado T. Limcaoco.

[1] Rollo, pp. 13-15

[2] Dispositive portion of said judgment reads:

"WHEREFORE, judgment is hereby rendered ordering defendants, spouses Tiquia and spouses Lipata, and all persons claiming rights under them to vacate the premises located at Nos. 2134 and 2133 Old Balagtas Street, Pandacan, Manila and to surrender possession thereof to plaintiffs.

Each defendant-spouses, that is the Tiquias and the Lipatas, are ordered further to pay plaintiff:

A) all rentals due up to March 1986, less payments made in the meantime, and the further sum of P130.00 every month, thereafter until their respective premises are vacated;

B) the sum of P2,000.00 as and for attorney's fees; and

C) the costs of suit." (Rollo, p. 9.) (Rollo, pp. 13-14)

[3] Rollo, p. 13

[4] Ibid, p. 13

[5] An act regulating rentals of dwelling units or of land on which another's dwelling is located and for other purposes.

[6] G.R. Nos. 74279 and 74801-03, January 20, 1988, 157 SCRA 166

[7] Rollo, p. 15

[8] Ibid., pp. 15-16

[9] 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. 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 lease 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.

[10] Amending certain provisions of Republic Act No. 6359 entitled "An act to regulate rentals for two years of dwelling units or of land on which another's dwelling is located and penalizing violations thereof, and for other purposes."

[11] Re-enacted almost verbatim in Section 6, BP Blg. 25

[12] Dionio vs. IAC, G.R. No. 63698, January 12, 1987 147 SCRA 243

[13] G.R. No. 52435, July 20, 1982, 115 SCRA 318

[14] G.R. No. L-44657, January 22, 1980, 95 SCRA 313

[15] Rollo, p. 15

[16] Noted is the fact that during the pendency of the case at bar, Batas Pambansa Blg. 877 (entitled "An Act Providing For The Stabilization And Regulation of Rentals of Certain Residential Units And For Other Purposes," was approved on 12 June 1985. Section 5(c) thereof substantially adopted the provisions in Section 5(c) of BP 25.

[17] Ibid., p. 15

[18] G.R. No. 57645, February 27, 1987, 148 SCRA 113

[19] Rollo, p. 44

[20] Ibid., p. 16

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