

UY HOO AND SONS REALTY DEVELOPMENT CORPORATION, PETITIONER, VS. COURT OF APPEALS AND THOMAS KUAN, RESPONDENTS.

G.R. No. 83263. June 14, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the decision* of the Court of Appeals in CA-G.R. Sp. No. 13654, promulgated on 9 May 1988.

The antecedent facts are as follows:

Private respondent Thomas Kuan is the lessee of a residential apartment situated at Room 301, 938 Murillo St. Quiapo, Manila, owned by petitioner Uy Hoo and Sons Realty Development Corporation. Earlier, respondent and herein petitioner's predecessor-in-interest, Dy Siat, had executed a written contract of lease, with respondent as lessee and Dy Siat as lessor, for a period of one (1) year commencing on 1 July 1966 and ending on 1 July 1967, over the same premises. The contract expressly provided that it was binding on the parties, their heirs, successors and assigns.[1] Upon the expiration of the period (1 July 1967), herein respondent continued to occupy the premises. In 1974 Dy Siat died, but respondent remained in the premises with the acquiescence of the petitioner. As of January 1986, the monthly rental for the use of the premises remained at P187.00 as originally agreed upon.

On 11 July 1986, private respondent was informed by petitioner that his month to month occupancy was to terminate effective 31 July 1986. In the same letter, demand was made for payment of back rentals from January 1982 to June 1986, amounting to P10,098.00. Earlier, or on 2 May 1979, the MTC of Manila, Branch V in Civil Case No. 031792-CV initiated by herein respondent himself, ordered him to deposit in court the rentals for the premises in dispute. Respondent had been depositing said rentals.[2]

Due to respondent's refusal to vacate and alleged failure to pay back rentals, a complaint for unlawful detainer was filed by petitioner before the MTC of Manila on 22 October 1986. In due course, the MTC ruled in favor of therein plaintiff (herein petitioner) ordering therein defendant (herein respondent) to vacate the premises and pay plaintiff (herein petitioner) the sum of P2,244.00 representing back rentals from January to December 1984, and to pay subsequent and current rentals at P187.00 monthly until he vacates, plus attorney's fees of P1,000.00.** The dispositive part of said MTC judgment reads -

"WHEREFORE, judgment is hereby rendered:

1. ordering the defendant and all persons claiming right and title under him to vacate the premises known as Room 301 Uy Hoo Building, 938 Murillo Street, Quiapo, Manila and peacefully surrender possession thereof to plaintiff;
2. ordering the defendant to pay plaintiff the amount of P2,244.00 representing back rentals covering the period from January to December, 1984 and to pay the current monthly rentals at P187.00 onward until he

shall have vacated the premises;

3. ordering the defendant to pay attorney's fees in the amount of P1,000.00, and, the costs of suit.

The counterclaim is accordingly dismissed."[3]

On appeal by respondent to the RTC,*** the decision of the MTC was affirmed with the modification that the lessee (respondent herein) was not obliged to pay plaintiff (petitioner herein) the amount of P2,244.00 as back rentals for January to December 1984.[4] The dispositive part of the RTC judgment dated 3 November 1987, reads?

"WHEREFORE, the decision appealed from is hereby affirmed with the modification that the defendant is not obliged to pay plaintiff the amount of P2,244.08 representing back rentals covering the period from January to December, 1984. With costs against defendant-appellant."[5]

Private respondent filed a petition for review with the Court of Appeals attributing two (2) errors to the RTC of Manila -

"I THE COURT A QUO ERRED IN RULING THAT THE LEASE IS WITH A FIXED OR DEFINITE TERM

II THE COURT A QUO ERRED IN NOT EXTENDING TO THE PETITIONER (DEFENDANT) THE BENEFIT AND PROTECTION OF THE RENT CONTROL LAWS."[6]

As aforesaid, in a decision promulgated on 9 May 1988, the Court of Appeals reversed and set aside the decision of the RTC for failure to apply the provisions of the rent control law, but the Court of Appeals ordered payment of back rentals, holding that the lessor was entitled thereto.

Petitioner thereupon filed this petition for review alleging that the Court of Appeals committed an error of law in applying the general rule, and not the exception, in Sec. 6 of BP Blg. 877 (now RA 6643 - The Rent Control Law).

Petitioner contends that despite the absence of a written contract between lessor and lessee, the lease in dispute is for a definite period, expiring at the end of every month: hence, it comes within the exception and not to general rule in Sec. 6 of BP Blg. 877, 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 provision of this Act shall apply." (emphasis supplied)

Paragraph (1), Article 1673 of the Civil Code which Sec. 6 BP Blg. 877 suspends (unless the lease is for a definite period) provides:

"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."

Petitioner submits that the effectivity of par. 1, Art. 1673 of the Civil Code is not suspended insofar as the lease in question is concerned because the lease is for a definite period of one month, and that petitioner, as lessor, can upon prior demand or notice terminate the lease at the end of every month, contrary to the CA's ruling that, even if the implied lease expires every month, this fact cannot be a ground for judicial ejectment.

On the other hand, lessee-respondent Thomas Kuan's stand is: that the month to month lease here involved is not for a definite period and, therefore, the general rule in Section 6 of BP 877 applies. In effect, under B.P. 877, judicial ejectment cannot, according to respondent, be enforced- as the same has been expressly suspended-in case of leases for which no definite period has been stipulated.

Private respondent further claims that petitioner wrongly assumed that in the absence of any formal or written contract, the lease would be on a month to month basis, expiring at the end of every month. It is, according to respondent, unavoidable that the present controversy is governed by Art. 1670 on tacita reconduccion: and that the period which governs the lease is that provided in Art. 1687 of the Civil Code, the expiration of which as a ground for ejectment has, been suspended by Section 6 of BP 877.

Art. 1670 of the Civil Code states:

"Art. 1670. If at the end of the contract the lessee should continue enjoying the thing leased for fifteen days with the acquiescence of the lessor, and unless a notice to the contrary by either party has previously been given, it is understood that there is an implied new lease, not for the period of the original contract, but for the time established in articles 1682 and 1687. The other terms of the original contract shall be revived."

Art. 1687 of the Civil Code, in turn, provides:

"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 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."

According to respondent, to construe the lease in dispute as one with a definite period would completely close the door for the application of Section 6 of BP 25 (now BP 877 and RA 6643).

The issue raised in this petition has been resolved in *Miranda v. Ortiz*[7] where the Court held:

"x x x. 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 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 a 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 *Baen 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 Appeals, 116 SCRA 199).

'x x x x.

'The law x x, Batas Pambansa Blg. 25, (in its Section 5[c]) x x allows ejectment on the ground of 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 P.D. 20 on small landowners/lessors, whose property rights, protected as they are by the fundamental law itself, We upheld even during the effectivity of P.D. 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 ruling was reiterated in Zablan v. C.A., et al., G.R. No. 57844, September 30, 1987, in which it was further pointed out that (1) if the verbal lease agreement on a month-to-month basis were held to be for an indefinite period and not terminable at the end of any given month, 'the law would be rendered illu-sory' in the sense that 'the owner/lessor, notwithstanding his pressing need for the premises, could never successfully eject the tenant because the period of lease would never expire during the effectivity of Batas Pambansa Blg. 25,' and (2) that (i)n view of subsequent cases x x there no longer appears to be any need nor reason to rely solely on our ruling in Rantael v. Court of Appeals x x.' (emphasis supplied).

While it is true that the factual situations in the Miranda case and in the Rivera case it cites involved a need by the lessor of the leased premises for his own use or that of an immediate member of his family, yet, the thrust of the decisions in said cases appears to be that "the determination of the period of a lease agreement can still be made in accordance with said Article 1687" and that, in a month to month lease situation, "when petitioners (lessor) gave private respondent (lessee) notice to vacate the premises in question, the contract of lease is deemed to have expired as of the end of the month."

Besides, while Sec. 5 (f) of BP Blg. 25 originally stated that "expiration of the period of a written lease contract" is one of the grounds for judicial ejectment (like need of the leased premises by the lessor under Sec. 5 [c]), BP Blg. 877 amended Sec. 5 (f) of BP Blg. 25 into stating that "expiration of the period of the lease contract" is a ground for judicial ejectment: thus further bolstering peti-tioner's contention that a month to month lease under Art. 1687 is a lease with definite period, the expiration of which, upon previous demand to vacate, can justify judicial ejectment.

WHEREFORE, the petition is GRANTED. The Court of Appeals decision appealed from is REVERSED and SET ASIDE. The decision of the Regional Trial Court of Manila, Branch X, dated 3 November 1987, in Civil Case No. 87-40109 is reinstated, with cost against private respondent.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, and Regalado, JJ., concur.
Sarmiento, J., on leave.

* Eighth Division J. Bonifacio A. Cacdac, Jr. ponente, JJ. Floreliana Castro-Bartolome and Ricardo L. Pronove, Jr., concurring

[1] Rollo, at p.12

[2] Rollo, at p. 10

** Judgment of 28 January 1987. Metropolitan Trial Court of Manila, Br. XII

[3] Rollo, at p. 11

*** Hon. Josefina C. Rodil - Presiding, Regional Trial Court of Manila, Br. X - docketed as Civil Case No. 87-40109

[4] Evidently because respondent had deposited said rentals in court in Civil Case No. 031792-CV

[5] Rollo, at p. 11

[6] Rollo, at p. 12

[7] G.R. No. L-59783, December 1, 1987, 156 SCRA 10

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