

**AGUSTIN T. DIOQUINO, CONSUELO VDA. DE GIBAGA, LILIA GIBAGA,
ACCOMPANIED BY HER HUSBAND, JOSE CUESTA AND RODOLFO
GIBAGA, PETITIONERS, VS. THE HONORABLE INTERMEDIATE
APPELLATE COUR...**

G.R. Nos. 68580-81. November 07, 1989

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari of the decision of the then Intermediate Appellate Court[1] (now Court of Appeals) in AC-G.R. SP. Nos. 02113-14, which reversed the decision of the Regional Trial Court of Iloilo, Sixth Judicial Region, Branch XXX111 in Civil Cases Nos. 14948 and 14949, the latter decision affirming the decision of the Third Municipal Circuit Trial Court, Province of Iloilo in Civil Cases Nos. 282-A and 283-A.

The antecedent facts are as follows:

Miguel Gibaga, married to Maria Depositatio and their children, herein petitioners Rodolfo Gibaga, Lilia Gibaga Cuesta and Consuelo Vda. de Gibaga (the "Gibagas") leased to herein private respondents Spouses Prudencio Dofeliz and LolitaDenilaDofeliz (Dofeliz spouses) certain parcels of land (fishponds) for a period of fifteen (15) years, renewable at the option of the lessees (private respondents), for another five years. The contract of lease contains, among others, the following provisions:

"1. That the PARTIES OF THE FIRST PART hereby lease the aforesaid fishponds to the PARTIES OF THE SECOND PART, for a period of FIFTEEN (15) YEARS, to take effect on July 1, 1966, provided, however, that the PARTIES OF THE SECOND PART, shall have the option to renew or extend the lease for another FIVE (5) YEARS after the expiration of the period above agreed upon, subject to the terms and conditions hereunder stated;

"2. That the PARTIES OF THE SECOND PART bind themselves to pay as rentals, the amount of EIGHTY (P80.00) PESOS, PHILIPPINE CURRENCY, per hectare of the aforesaid fishponds, for the first EIGHT (8) years of this Lease Agreement, and ONE HUNDRED (P1 00.00) PESOS per hectare, for the succeeding seven (7) years; that in case of renewal of the lease, the PARTIES OF THE SECOND PART shall pay a rental of P100.00 per hectare"; (p. 37, Rollo).

Subsequent to the execution of the lease contract, on February 19, 1969, the leased properties were sold by Miguel Gibaga to the Dofeliz spouses excluding an area of fifty-six thousand and nine hundred ninety (56,990) square meters thereof which was segregated and given to petitioner Consuelo Gibaga (declared under Tax Declaration No. 01-016-0056) and her children and another area of thirty-five thousand eight hundred and one (35,801) square meter portion which was conveyed to herein petitioner Agustin Dioquino in payment of his attorney's fees (declared in Dioquino's name under Tax Declaration No. 01-016-0101, p. 33, Rollo).

The original term of the contract expired on June 30, 1981. However, the Dofeliz spouses continued in possession of the portion segregated as the share of Miguel Gibaga's heirs and the portion conveyed to Atty. Agustin

Dioquino.

Petitioners demanded the surrender of the possession of the fishponds from the Dofeliz spouses but the latter refused. On January 29, 1982, the Gibagas filed a complaint for unlawful detainer against the Dofeliz spouses with the Municipal Circuit Trial Court for the unlawful withholding of the 56,990 square meters. The complaint was docketed as Civil Case No. 283-A. A similar complaint docketed as Civil Case No. 282-A was filed earlier, on January 20, 1982 by petitioner Agustin Dioquino for the 35,801 square meter portion owned by him.

In separate answers to the above complaints, the Dofeliz spouses alleged that they are entitled to the possession of the fishponds as lessees by virtue of the lease contract giving them the option to renew said contract for another period of five (5) years.

The two cases were consolidated (p. 27, Rollo). After the issues were joined, the cases were submitted for decision without presentation of evidence since the parties considered the question involved therein to be purely legal.

On February 9, 1983, judgment was rendered by the Municipal Circuit Trial Court in favor of the herein petitioners, the dispositive portion of which reads:

"PREMISES CONSIDERED, judgment is hereby rendered in favor of the plaintiffs in both cases, and dismissing the counter claims, defendants in the above-entitled cases are hereby ordered:

"1. To vacate the premises and restore possession thereof to their respective owners, or to plaintiffs in the above-entitled cases;

"2. To pay the plaintiffs IN EACH CASE, jointly and severally, the unpaid rental for the period of one year and a half, at the rate of One Thousand (P1,000.00) Pesos, per hectare for one year;

"3. To pay the plaintiffs IN EACH CASE, jointly and severally the sum of P5,000.00 as moral damages; and P3,000.00 as attorneys fees in EACH CASE; and

"4. To pay the plaintiffs IN EACH CASE, jointly and severally the sum of P1,000.00 as expenses for litigation and to pay the costs." (p. 27, Rollo)

Aggrieved, the Dofeliz spouses appealed the decision to the Regional Trial Court of Iloilo which affirmed the decision of the Municipal Trial Court. The dispositive portion of the decision reads:

"WHEREFORE, the decision of the lower court is hereby affirmed and judgment is hereby rendered for the plaintiffs and the defendants are hereby ordered:

"1. To vacate the premises and restore possession thereof to the plaintiffs in the above entitled cases;

"2. To pay the plaintiffs in this case jointly and severally the unpaid rentals for the period of one year and/or at the rate of P1,000.00 per hectare;

"3. To pay the plaintiffs jointly and severally, the sum of P5,000.00 as moral damages;

"4. To pay the plaintiffs the sum of P3,000.00 as attorney's fees in each case; and

"5. To pay the plaintiffs in each case, jointly and severally, the sum of P1,000.00 as expenses for litigation.

"SO ORDERED." (p. 42, Rollo)

The Dofeliz spouses filed a motion for reconsideration of the decision of the Regional Trial Court. It pointed out that actually petitioner Agustin Dioquino received from the Dofeliz spouses the sum of Three Hundred Fifty (P3

50.00) Pesos on July 15, 1981 and that petitioners Gibagas also received Five Hundred Sixty-Nine (P569.00) Pesos, as advance payment for the year 1981-82. Private respondents contended that the payment of the said rentals, and the fact that they remained in possession of the premises after the expiration of the original term of the lease were clear indications that they opted to renew the lease. The motion for reconsideration was, however, denied by the Regional Trial Court on July 14, 1983.

Not satisfied with the denial, the Dofeliz spouses went on petition for review to respondent appellate court. In a decision promulgated on August 6, 1984, the respondent appellate court reversed the decision of the Regional Trial Court. It ruled that a new lease contract need not be executed between the parties. Further, it gave credit to the allegation in private respondent's

motion for reconsideration of the Regional Trial Court's decision that the mere fact that they remained in possession of the premises leased coupled with the fact that they paid what corresponded to rentals in advance, were sufficient indications that petitioners opted to renew the lease contract. The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered REVERSING and SETTING ASIDE the decision of the Regional Trial Court and judgment is hereby rendered, in favor of petitioners, the defendants in Civil Cases Nos. 282-A and 283-A of the Third Municipal Circuit Trial Court of Iloilo (Civil Cases Nos. 14948 and 14949 of the Regional Trial Court of Iloilo), dismissing the complaints filed against them and declaring that they had exercised their option to renew said lease for another period of five (5) years from July 1, 1981 to June 30, 1986.

"It appearing that they had been deprived of the possession of the fishpond leased to them since March 25, 1983 by virtue of the writ of execution issued by the Municipal Circuit Trial Court, private respondents, the plaintiffs in said Civil Cases Nos. 282-A and 283-A, are ordered to restore possession of said leased premises to petitioners.

"The case is hereby REMANDED to the Metropolitan Trial Court for further proceedings for the purpose of determining the amount of damages that petitioners had sustained from the time that they had been deprived of possession of the leased premises to the time that possession thereof is restored to them.

"The amount of rentals deposited with the Regional Trial Court and/or Provincial Treasurer of Iloilo by petitioners during the pendency of the case which may have been collected by plaintiffs, the herein private respondents, should be REFUNDED to petitioners, minus the amount of rentals due on the leased premises that have already accrued, computed at One Hundred (1M 00.00) Pesos per hectare.

"With costs against private respondents." (pp. 30-31, Rollo).

No motion for reconsideration was filed by Agustin Dioquino and the Gibagas of the decision of the Intermediate Appellate Court. On September 12, 1984, they filed the instant petition for review on certiorari. After respondents' Comment dated October 12, 1984 (pp. 49-54, Rollo), petitioners' Reply dated November 22, 1984 (pp. 70-79, Rollo), and respondents'

Rejoinder (pp. 60-67, Rollo) were filed, We gave due course to the petition on January 14, 1985 and required the parties to submit simultaneous memoranda (p. 93, Rollo).

The only issue involved in this case is whether or not the original term of the lease contract between the parties was renewed for another five (5) years pursuant to their agreement.

Private respondents herein argue that the matter of whether or not the contract of lease between the parties was renewed is a question of fact and the findings of the Court of Appeals in matters of fact is binding upon this Court.

As a rule, this Court is bound by the findings of the Court of Appeals in matters of fact, but the rule is subject to well-settled exceptions, amongst them: (1) when the same are grounded entirely on speculation, surmise, and conjecture; (2) the inference made is manifestly mistaken; (3) the Court of Appeals committed a grave abuse of discretion; (4) its judgment is based on misapprehension of facts; (5) it went beyond the issues of the case and its findings contravene admissions of the parties; (6) its findings of fact are contrary to those of the trial court; (7) the same are conclusions without citation of specific evidence; (8) the facts set forth in the appellant's brief are disputed by the appellee; and (9) when the findings of fact of the Court of Appeals are not supported by the evidence or contradicted in fact by the evidence on record (*Teodoro v. CA*, No. L-31471, November 12, 1987). In this petition, the respondent Court of Appeals' factual findings and conclusions are totally different from that of the Municipal Circuit Trial Court and the Regional Trial Court.

In affirming the decision of the Municipal Trial Court, the Regional Trial Court agreed with the Municipal Trial Court in its conclusion that the lessees failed to expressly exercise the option to renew by notifying the lessors or manifesting to them that they are exercising the option. It said:

"The plaintiffs contend that the defendants having failed to exercise their right of option, the lease contract between the parties expired on July 1, 1981. On the other hand, the defendants maintained that having been granted an option to extend the term of the contract for another five (5) years from July 1, 1981 under the terms and conditions which are clearly spelled out in the contract of lease, the defendants can continue the lease after the expiration of the original of fifteen (15) years on July 1, 1981 without the need of any notice and/or manifestation to the plaintiffs that they are exercising the option granted them under the Contract of Lease. The defendants cited the case of *Cruz vs. Alberto*, (39 Phil. 991); (In which the Supreme Court ruled that there was no need for the execution of a new contract of lease after the original term had expired. While it is true that it was not necessary that a new contract of lease be entered into by the parties after the expiration of the original contract, a careful reading of the *Cruz v. Alberto* case, *supra*, shows that the lessees in this case notified the lessors prior to the expiration of the original term of the contract of lease, that the lessee is exercising the option to extend the contract of lease for the period stipulated in the original contract. The Supreme Court said in this case, 'it appears in evidence (that, prior to the expiration of the original term, the defendant notified the plaintiff that the desire to take advantage of the clauses providing for the extension of the contract of six (6) years more . . . ' The option granted to the defendants in the contract of lease merely means that the term of the lease may be extended and is equivalent to a promise to extend made by the lessor and a unilateral stipulation obliges the lessor to fulfill the promise (*Legarda Koh vs. Ongsiako*, 36 Phil. 185). While the contract of lease may have imposed upon the lessor a unilateral stipulation to extend the contract of lease, it at the same time obliges the lessees to expressly exercise the option by notifying or manifesting to the lessors that the lessees (to) exercise the option and extend the term of the contract (sic). Notwithstanding that the right of election is conceded solely to the lessee, at the same time imposes upon them the obligation to notify the lessors, of their desire to exercise the option granted to them in the contract of lease. This is clearly spelled out by the Supreme Court in the case of *Mercy's Inc. versus Verde* (18 SCRA 171) in which, the Supreme Court ruled that: 'there is no question that thereunder the lessees were given the privilege to renew the contract for another period equivalent, it may be pointed out that (before) the contract may be renewed, the option must first be exercised . . . and after the lessees failed to exercise the option or to express their choice where the contract may be renewed or not the contract expired (pp. 38-46, *Rollo*).'"

In reversing the decision of the Regional Trial Court, respondent appellate court expressed its view that:

"x x x a new lease contract for five (5) years does not have to be executed between the parties. The exercise of the option can be made known to plaintiffs not necessarily by any formal notice to extend the lease. The mere fact that petitioners remained in possession of the leased premises and paid what corresponded to the rentals for one (1) year corresponding to the first year of the renewed lease, that is, from July 1, 1981 to June 30, 1982 which they did when they paid plaintiff Gibagas Five Hundred Sixty-Nine (P569.00) Pesos on July 12, 1981

and plaintiff Agustin Dioquino Three Hundred Fifty (P350.00) Pesos on July 15, 1981, was sufficient clear indication of the manifestation of petitioners' exercise of the option to renew the lease contract. This can be further inferred when petitioners ignored the demands of plaintiffs to vacate the lease premises because if they had exercised the option to renew the lease, they were entitled to continue in possession of the leased premises. That is the logical implication of their ignoring the demand to vacate the leased premises.

"In their answer to the complaint filed on February 16, 1982, they categorically stated that the right to remain in possession of the leased premises was by virtue of their exercise of the option to renew the lease for another five (5) years. It would be too technical a position to require that for petitioners to exercise the option to renew the lease, they must demand from plaintiffs the execution of a new lease contract for another five (5) years. There was no need for that since the terms and conditions for the renewal of the lease contract are already stipulated in the original lease contract." (pp. 29-30, Rollo)

It is petitioners' contention that the reasoning and grounds of respondent appellate court giving rise to the reversal of the decision of the Municipal Circuit Trial Court and the Regional Trial Court of Iloilo are baseless in fact and in law.

Petitioners' contention is impressed with merit.

A clause found in an agreement relative to the renewal of the lease agreement at the option of the lessee gives the latter an enforceable right to renew the contract in which the clause is found for such time as provided for (*Hicks v. Manila Hotel Co.*, 28 Phil. 325). The agreement is understood as being in favor of the lessee, and the latter is authorized to renew the contract and to continue to occupy the leased property after notifying the lessor to that effect (*Vda. de Murga v. Chan*, L-24680, October 7, 1968; *italics supplied*). A lessor's covenant or agreement to renew gives a privilege to the tenant, but is nevertheless an executory contract, and until the tenant has exercised the privilege by way of some affirmative act, he cannot be held for the additional term (50 Am. Jur., 2d, Sec. 1181, p. 67). In the absence of a stipulation in the lease requiring notice of the exercise of an option or an election to renew to be given within a certain time before the expiration of the lease, which of course, the lessee must comply with, the general rule is that a lessee must exercise an option or election to renew his lease and notify the lessor thereof before, or at least at the time of the expiration of his original term, unless there is a waiver or special circumstances warranting equitable relief (50 Am. Jur., 2d, Sec. 1182, pp. 68-69, *italics supplied*).

There is no dispute that in the instant case, the lessees (private respondents) were granted the option to renew the lease for another five (5) years after the termination of the original period of fifteen years. Yet, there was never any positive act on the part of private respondents before or after the termination of the original period to show their exercise of such option. The silence of the lessees after the termination of the original period cannot be taken to mean that they opted to renew the contract by virtue of the promise by the lessor, as stated in the original contract of lease, to allow them to renew. Neither can the exercise of the option to renew be inferred from their persistence to remain in the premises despite petitioners' demand for them to vacate. This rule was clearly stated in the case of *Mercy's Inc. v. Verde*, L-21571, September 29, 1966, 18 SCRA 175-176, where We held that:

"x x x. There is no question that thereunder, the lessees were given the privilege to renew the contract for another period. However, it may be pointed out that for the contract to be renewed, the option must first be exercised. The lessees should ask for the execution of a new agreement, otherwise, the contract of November 1, 1951 would lapse one year from the execution thereof, as it actually happened. For, the stipulation involved here is actually just another way of saying that the lease was for a period of one year, unless renewed by the lessees. And, as the lessees failed to exercise the option or to express their choice whether the contract would be renewed or not, the contract expired on November 1, 1952. Their occupancy of the premises thereafter, therefore, was only upon the acquiescence of the lessor and this produced, under Article 1670 of the New Civil Code, merely an implied new lease, not for the period of the original contract, but from month-to-month, the

rent being paid monthly, was validly terminated when the lessor notified the lessees to vacate the premises."

It should be noted that no evidence was presented by the parties in both the Municipal Circuit Trial Court and the Regional Trial Court tending to prove that the private respondents actually signified their intention to renew or to avail of the option to renew the lease contract. Nonetheless, respondent appellate court considered the evidence presented by private respondents only in their Motion for Reconsideration of the decision of the Regional Trial Court consisting of two receipts allegedly showing that private respondents had already paid the advance rental for the first year of the renewed period, i.e., from July 1, 1981 -June 30, 1982. It is error on the part of respondent appellate court to favorably consider these receipts as evidence. While it is true that the Court of Appeals is vested with the "power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised x x x" (Sec. 9(3), B.P. 129), there was not even a request for evidentiary hearing filed in this case. The Court of Appeals therefore should not have admitted said evidence without giving the adverse party opportunity to present counter evidence, if any. Besides, "(e)vidence necessary in regards to factual issues raised in cases falling within the Appellate Court's original and appellate jurisdiction contemplates incidental facts which were not touched upon, or fully heard by the trial or respondent Court. The law could not have intended that the Appellate Court would hold an original and full trial of a main factual issue in a case, which properly pertains to trial courts." (Lingner & Fisher GMBHv. IAC, G.R. 63557, October 28, 1983, 125 SCRA 522). Moreover, private respondents in their separate answers in Civil Case 282-A and Civil Case 283 did not allege any fact of their having exercised their option to renew the contract nor that they have paid petitioners advance rentals for the year 1981-1982. Their answers only alleged that the petitioners granted them an option to renew the lease after the termination of the original fifteen (15) year period but they did not allege that they exercised such option. There was no categorical statement in private respondents' answers that their right to remain in possession of the leased premises was by virtue of their exercise of the option to renew the lease for another five (5) years, contrary to the statement of the appellate court.

In its memorandum submitted to this Court (pp. 116-127, Rollo), the herein petitioners do not deny having issued the receipts pointed out by private respondents in their motion for reconsideration filed with the Regional Trial Court. They, however, take exception to the fact that these receipts evidenced payment in advance of the rentals for the year 1981-1982. They argued that these receipts were late payments for the year 1980-1981 and that in fact there has never been an occasion where respondents paid their rentals in advance. On the contrary, they claimed that payments were made by them on installments and were always delayed as illustrated by a receipt issued on January 28, 1981 which corresponded to the rental for the year up to June 30, 1979 in the amount of P350.00 for the 35,801 sq. meters lot. Moreover, petitioners argued that the alleged payments were made on July 12, 1981 to the Gibagas and July 15, 1981 to Dioquino yet demands to vacate were made on private respondents by the Gibagas as early as July 16, 1981 and by Dioquino on August 5, 1981 (p. 4, MCTC decision; p. 35, Rollo). It is inconceivable that the Gibagas and that Dioquino would each give a notice to vacate soon after the receipt of the rentals if the same were advance rentals. Besides, the alleged receipts do not show that the payment covered therein was for the year 1981-82. In fact, the Municipal Trial Court of Iloilo found that no advance rentals were paid by private respondents and hence, ordered them, "to pay plaintiffs IN EACH CASE, jointly and severally, the unpaid rentals for the period of one year and a half at the rate of One Thousand (P1,000.00) Pesos, per hectare for one year" (see MTC decision, p. 36, Rollo). This order was affirmed by the Regional Trial Court. The Court of Appeals, therefore, gravely erred in concluding otherwise based on receipts which were not even properly presented in evidence.

ACCORDINGLY, the respondents appellate court's decision is REVERSED and the decision of the Regional Trial Court is REINSTATED.

SO ORDERED.

Narvasa (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

[1] Penned by Justice Lino M. Patajo and concurred in by Justice Simeon M. Gopengo and Justice Jose F. Racela, Jr., promulgated on August 6, 1984.

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