

FELIX LIM AND JOSE LEE, PETITIONERS, VS. HON. COURT OF APPEALS, SPOUSES ROY PO LAM AND JOSEFA ONG PO LAM, RESPONDENTS.*G.R. Nos. 84154-55. July 28, 1990*

Ponente: MEDIALDEA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-84154-55/>**MEDIALDEA, J.:**

The instant petitions for review involve the decisions of the Court of Appeals promulgated on February 18, 1988 in AC-G.R. No. 08533-CV entitled "Felix Lim, alias Lim Han Chiong, represented by Jose Lee, Plaintiff-Appellants v. Lim Kok Chiong, Legaspi Avenue Hardware Co., (LAHCO), and Spouses Roy Po Lam and Josefa Ong, Defendants-Appellees;" (p. 25, Rollo) and in CA-G.R. No. 12316-SP entitled "Jose Lee and Felix Lim, Petitioners v. Hon. Presiding Judge of Branch 2 of the Regional Trial Court in Legazpi City; The Hon. Presiding Judge of Branch I of the Municipal Trial Court in the City of Legazpi; and Josefa Ong Po Lam, Respondents" (p. 43, Rollo), as well as the resolution of respondent court denying petitioners' joint motion for reconsideration.

The facts are not disputed.

On December 10, 1964, petitioner Lim filed with the then CFI (now RTC) of Albay Civil Case No. 2953 (p. 136, Rollo) against his brother Lim Kok Chiong and Legaspi Avenue Hardware Co. (LAHCO), to annul two deeds of sale executed by his brother in favor of LAHCO, covering lots No. 1557 and 1558 of the cadastral survey of Albay, on the ground that the sale included the 3/14 pro-indiviso portion of the lots which he inherited by will from his foster parents.

On November 3, 1968, the trial court on motion of petitioner Lim dropped the case against his brother. Trial on the merits proceeded only against defendant LAHCO. During its pendency, specifically on January 27, 1965, petitioner Lim filed with the Registry of Deeds of Albay a notice of lis pendens which was inscribed at the dorsal side of TCT No. 2580 issued to LAHCO after the execution of the sale covering lot 1557. On March 15, 1969, the trial court rendered a decision declaring LAHCO as the absolute owner of Lots 1557 and 1558. Pursuant to the decision, the notice of lis pendens was cancelled on May 26, 1969. On May 28, 1970, LAHCO sold the lots to private respondents. Thereafter, TCT Nos. 8102 and 13711 were issued to private respondents, covering lots 1557 and 1558, respectively. Petitioner Lim appealed to respondent Court which affirmed the decision on April 29, 1980 in CA-G.R. No. 44770-R (p. 146, Rollo). On May 16, 1980, petitioner Lim's counsel received a copy of the judgment of affirmance. By registered mail on May 23, 1980, counsel for petitioner Lim filed a motion for extension of time to file motion for reconsideration (p. 154, Rollo). Respondent court gave petitioner Lim up to June 20, 1980 to file one. On June 17, 1980, petitioner filed his first motion for reconsideration (p. 155, Rollo). On June 25, 1980, respondent Court denied the motion (p. 158, Rollo) for lack of merit. After he received the denial on July 12, 1980, petitioner Lim without leave filed on July 14, 1980 a second motion for reconsideration. On March 11, 1981, respondent court issued a resolution setting aside its April 29, 1980 decision. The dispositive

portion of the resolution reads:

" x x x.

"(3) Declaring plaintiff entitled to exercise the right of redemption of said properties which were sold by Lim Kok Chiong to defendant Legazpi Avenue Hardware by returning to said vendee within thirty (30) days from receipt of notice from the Clerk of Court of the Court of First Instance of Albay of the records of this case from this Court pursuant to Section 11 of Rule 52 of the Rules of Court, the sum of P20,000.00 plus expenses of the contract and other legitimate payments made by defendants by reason of the sale and such necessary and useful expenses that may have been made on the properties by defendant;

"(4) In the event that the parties cannot agree on the amount of the expenses of the contract and other legitimate payments made by reason of the sale and the necessary and useful expenses made by defendant on the properties, the Court a quo shall receive the evidence of the parties solely for the purpose of determining said accounts to be paid by plaintiff in addition to the P20,000.00. Pending determination of said amount and upon payment by plaintiff of the sum of P20,000.00 to defendant within the aforesaid period of thirty (30) days above-mentioned, defendants shall execute an appropriate deed of conveyance in favor of plaintiff of the properties in question without prejudice to the determination of the additional amounts to be paid by plaintiff to defendant. Should defendant refuse or fail to execute said deed of conveyance within thirty (30) days, the Court a quo shall order its clerk of Court to execute said deed of conveyance. No pronouncement as to costs." (p. 205, Rollo)

LAHCO came to this Court asking for extension of time to file a petition for review but it never filed one (G.R. No. 57369). Accordingly, the Court remanded the case to the trial court for execution.

Meanwhile, in June, 1970, private respondents and petitioner Lee entered into a written contract of lease for one (1) year over the commercial building erected on Lot No. 1557. After the contract expired, petitioner Lee continued to occupy the premises paying the monthly rental. However, he refused to pay the rentals after September 15, 1981 and he informed private respondents that he will deposit the same in court as petitioner Lim had promised to sell the property to him. This prompted private respondents to notify him to vacate the premises for failure to comply with their demand. Then private respondents, on September 2, 1981, filed with the City Court of Legaspi City a complaint for unlawful detainer docketed as Civil Case No. 2687. On November 12, 1981, petitioner Lim filed therein an answer in intervention questioning the right of private respondents to collect the rentals using as basis the March 11, 1981 resolution of respondent court in AC G.R. No. 44770-R. After trial on the merits, the MTC of Legaspi City rendered a decision on December 19, 1983, the decretal part of which states:

"WHEREFORE, judgment is hereby rendered; (1) declaring the plaintiffs (now respondent?spouses) as lawful owners of and rightfully entitled to the immediate possession of the leased commercial building and lot 1557 covered by TCT No. 8102 (formerly TCT 2580) as described in paragraph 2 of the complaint; (2) directing the defendant (now petitioner Jose Lee), his agent, or anyone acting in his behalf, to vacate said leased building and lot and to restore the actual possession thereof, to the plaintiffs; (3) ordering the defendant to pay directly the plaintiffs the whole rentals which accrued, from October, 1981 up to the time he shall have vacated the leased premises, at the rate of P2,500.00 a month, minus the amounts already deposited with the City Treasurer's Office of Legaspi, which amounts are hereby allowed to be withdrawn by the plaintiff, their counsel or representative; (4) directing the defendant to also pay the plaintiffs the amounts of (a) P2,500.00 and P1,200.00 as exemplary damages and attorney's fee, respectively; and (b) the costs of the suit.

"The intervenor's (now co-petitioner Felix Lim's) claim and prayer are denied for lack of merit.

"x x x x x x x x

"IT IS SO ORDERED." (p. 78, Rollo)

The MTC of Legaspi City in passing upon the issue of the validity of respondent court's resolution of March 11, 1981 in AC-G.R. No. 44770-R reasoned out:

"Therefore, the inescapable conclusion is that, on June 21, 1980, the first day after the last day (June 20, 1980) for filing Felix Lim's first and second motions for reconsideration of the CA decision (promulgated on April 29, 1980), said CA decision has already become final and executory, beyond the CA jurisdiction to either alter, modify, set aside or reconsider (*Pfleider v. Victoriano*, 98 SCRA 491, 497), x x x, Corollarily, the CA had then no jurisdiction to entertain intervenor Felix Lim's late second motion for reconsideration, filed without prior leave of court; neither had the CA then jurisdiction to thereafter issue its Resolutions promulgated March 11, 1981 (exhs. K & I), setting aside its final decision of April 29, 1980, and June 25, 1981 (exh. O), (pp. 6-7, Annex A, petition, July 6, 1987).

From this decision, petitioners appealed to respondent court which affirmed the same. After denial of his motion for reconsideration, petitioners challenged the affirmance by filing with this Court a petition for certiorari and mandamus docketed as G.R. No. 68789. On November 10, 1986, the Court remanded the case to the proper appellate court which is the Regional Trial Court of Legaspi City. On June 24, 1987, the RTC affirmed the decision of the lower court. It said among others:

"On the issue of possession, it is undisputed and admitted by the appellant Jose Lee in his Memorandum that he had entered into a contract of lease with the plaintiffs-appellees over the questioned premises and paid the agreed rentals on the premises. He cannot now deny the title of the appellees based on the doctrine of estoppel in pais. (Sec. 3 [b], Rule 135, Rules of Court).

"And the fact that the contract of lease had already expired, the action for ejectment is the most appropriate, and prior physical possession of the plaintiffs is not an indispensable requirement in an unlawful detainer case brought by a vendee or other person against whom the possession of any land is unlawfully withheld after the expiration or termination of a right to hold possession, (*Roxas v. Alcantara*, 113 SCRA 21, 26 [1982]). After a lease contract expires, the lessee becomes a usurper (*Republic v. Diaz*, 92 SCRA 535). And after demand from the lessee to vacate, the possession becomes illegal (*PNB v. Animas*, 117 SCRA 735). Hence, appellant Lee is not entitled to continue in his lease and possession of the premises.

"Appellant Lee also invoked the provisions of P.D. No. 20 which is unavailing to him, for this law was already repealed by Batas Blg. 25; and the subject matter herein is a commercial lot and building, and both said laws cover only residential units rented at not more than P300.00 a month.

"x x x x x x x x

"The Court further sustains the view of the Court of origin that the 'reliance of the appellant-intervenor on the Court of Appeals' Resolutions of March 11, 1981 (exhs. K & I) and June 25, 1981 (Exhs. 0 & II), called by them as 'final decision' in CA No. 44770-R, is misplaced. The subject Resolutions are neither persuasive nor conclusive in this case." (pp. 6-7, Annex G, Petition, July 6, 1987) (pp. 82-83, Rollo).

This decision was the subject of petitioners' appeal to respondent court docketed as AC-G.R. No. 12316-SP.

In the meantime, petitioner Lim on November 12, 1981, filed in Civil Case No. 2953 a motion to annotate the resolution of March 11, 1981 issued in AC G.R. No. 44770-R on the certificates of title of private respondents covering the lots in question. He likewise moved for the issuance of a writ of execution to enforce the resolution but the writ initially granted was met with a third party claim filed by respondents. He also filed a motion praying that the Clerk of Court be ordered to execute in his favor a deed of conveyance of the disputed lots. All the motions were denied in one order issued by the trial court on February 4, 1982. It disposed of the motions as

follows:

"WHEREFORE, reserving to the party-plaintiff the right to institute an action on whether or not the acquisition of the properties in question by spouses Roy Po Lam and Josefa Ong were made in good faith or bad faith; or whether in the process the cooperation of the Register of Deeds paved the way for such transfer, the writ of execution issued under and by virtue of the Order dated October 20, 1981 is hereby ordered quashed.

"Consequently, likewise, the motion filed by the party-plaintiff to have the Court of Appeals' (Resolution of March 11, 1981) annotated on T.C.T. Nos. 8102 and 13711) of the Register of Deeds of Legazpi, registered in the names of Roy Po Lam and Josefa Ong are hereby denied for being premature sans a finding of bad faith on the part of the latter.

"And the motion to require the party-plaintiff to execute the deed of conveyance or in his stead, the Clerk of Court are hereby denied for the ground of impossibility of performance." (p. 32, Rollo) (Underscoring Supplied)

Instead of an appeal from this order, petitioner Lim on February 9, 1982, filed Civil Case No. 6767 for reconveyance and annulment of the sale and titles of the lots. On September 19, 1985, he again filed in Civil Case No. 2953 a motion to include private respondents as party-defendants therein and a motion to execute the March 11, 1981 resolution of respondent court in AC-G.R. No. 44770-R. These motions were also denied by the trial court on October 16, 1985. From the order of denial petitioner Lim appealed to respondent court. His appeal was docketed as AC-G.R. No. 08533-CV. Respondent court, on February 18, 1988, affirmed the questioned order. On the same date, respondent court in AC-G.R. No. 12316-SP also affirmed the decision of the RTC which sustained the decision of the MTC in the ejectment case (Civil Case No. 2687) against petitioner Lee.

In agreement with the trial courts' order of dismissal of petitioner Lim's motion for execution of the March 11, 1981 resolution in AC-G.R. No. 44770-R, as well as his motion to include private respondents as defendants in Civil Case No. 2953, respondent court in AC-G.R. No. 08533-CV ruled that its decision of April 29, 1980 has become final and executory, hence beyond its power to reverse. It further ruled that since petitioner Lim thru counsel received on May 16, 1980 a copy of the notice of judgment and a copy of the April 29, 1980 decision, under Rule 45, he had 15 days to perfect his appeal by certiorari to this Court or to file within that period a motion for reconsideration but instead of so doing, he improperly filed a motion for extension of time to file motion for reconsideration which was erroneously granted. It concluded that the extension granted to petitioner Lim did not arrest the running of the 15 day period; and considering that the motion for extension of time to file motion for reconsideration is not sanctioned under the rule laid down in *Habaluyas v. Japson* (G.R. No. 70895, August 5, 1985, 138 SCRA 46) later reiterated in *Lacsamana v. IAC*, G.R. Nos. 73146-47, August 26, 1986, the resolution of March 11, 1981 is tainted with jurisdictional infirmity. It likewise disregarded the issue of whether or not private respondent are transferees of the lots pendente lite by invoking Section 79 of Act No. 496 as amended by Section 76 of P.D. 1529 and, also, the absence of a notice of lis pendens at the time the lots were sold to private respondents. It declared that for failure of petitioner Lim to appeal from the order of February 4, 1982 in Civil Case No. 2953, the same become final and executory and his admission that he filed Civil Case No. 6767 pursuant to said order imply his conformity thereto. It justified the order denying the motion to include private respondents as defendants in Civil Case No. 2953 stating that private respondent's third party claim is sanctioned by Sec. 14, Rule 39 and such claim cannot be basis for their inclusion in the case so as to bring them within the operation of the March 11, 1981 resolution for they were never impleaded as parties?litigants therein or in AC-G.R. No. 44770-R.

In AC-G.R. No. 12316-SP, it ruled that Lee's unjustified refusal to pay rent and his failure to vacate are grounds for ejectment; that he cannot deny or question the ownership of private respondents over the lease premises. It

also found out that the leased premises is a commercial building and therefore excluded from the operation of P.D. No. 20 as amended by B.P. Blg. 25; that the original written lease contract had expired so that his occupation of the premises was on a month-to-month basis hence the lease was with a specific and definite period which expires at the end of each month and therefore outside the suspension imposed in Section 4 of PD 20 as amended by PD 25. It also affirmed the denial of petitioner Lim's intervention in the ejectment case (Civil Case No. 2687) by adopting its own ratiocination in A.C. G.R. No. 08533-CV regarding the applicability of the rule laid down in *Habaluyas v. Japson* (supra). In both cases, petitioners filed a joint motion for reconsideration which was denied by respondent court on June 15, 1988. Hence the petitions.

Petitioners fault respondent court for concluding that its resolution of March 11, 1981 in AC G.R. No. 44770-R is null and void. They claim that said resolution could not have been assailed collaterally but only by a direct proceeding for its annulment; that the reliance placed by respondent court in the cases of *Roque v. Gunigundo* (A.M. Case No. 1664, March 30, 1979) and *Habaluyas v. Japson* (supra) is unwarranted because the Court, on May 30, 1986 clarified that the ruling laid down in the latter case should be complied with strictly effective June 30, 1986 (*Ipapo v. Suarez* and CA, G.R. No. 72740, January 27, 1987, 147 SCRA 208) and therefore said rulings cannot be applied retroactively to the March 11, 1981 resolution in G.R. No. 44770-R which has become final and executory and beyond re-examination; and that the pronouncements made in said resolution became the law of the case which may no longer be modified or disturbed. Taking exception to the pronouncement of respondent court that the said resolution cannot be executed by reason of the cancellation of the notice of *lis pendens* after the dismissal of Civil Case No. 2953, petitioners argue that said pronouncement contravenes the basic principle that the actual registration of documents affecting land constitutes the operative act which makes the instrument evidencing the transaction valid as against third persons and binding on the land itself. They allege that the cancellation was contrary to law because the decision in Civil Case No. 2953 did not attain finality as it was in fact reversed by respondent court in CA G.R. No. 44770-R by its resolution of March 11, 1981; that without such final decision and since petitioner (Lim) did not cause the cancellation, the only recognized means to cancel the *lis pendens* was the issuance of a special order from a competent court to that effect as provided for under Sec. 77, of P.D. 1529.

They assail the conclusion reached by respondent court that respondents were buyers in good faith as contrary to the evidence presented. They claim that private respondents cannot be considered as having bought Lot No. 1558 in good faith because it was only on May 20, 1974 that a similar annotation on TCT No. 2581 was cancelled and the sale of the lots took place on May 28, 1970; that the non-inclusion of private respondents as parties in Civil Case No. 2953 and in CA G.R. No. 44770-R has no procedural significance as they are transferees *pendente lite*. They assert that respondent court erred in sustaining the erroneous decision of the trial courts which ruled on the issue of ownership of lot no. 1557 and the building standing thereon contrary to the principle that in ejectment cases only the issue of possession is determined.

Petitioners added that private respondents did not notify petitioner Lee to vacate by reason of expiration of the lease contract but for the reason that they are allegedly going to use the premises and that the notice was not presented as evidence during the trial. According to them, there was no lawful demand to vacate. They further assert that after the lease contract expired, the relationship of petitioner Lee and private respondents is governed by Article 1670 of the Civil Code and therefore the period of the lease should have been fixed by the trial courts in accordance with Article 1687 of the same Code.

We find the petitions to be impressed with merit.

The Court in a subsequent resolution in *Habaluyas v. Japson* (G.R. No. 70895, dated May 30, 1986, 142 SCRA 208), declared that the filing of a motion for extension of time to file motion for new trial or reconsideration of a

final order or judgment of a Metropolitan or Municipal Trial Court, Regional Trial Court and the Court of Appeals, is not expressly prohibited by law or the rules. The Court clarified therein that in *Gibbs v. CFI of Manila* (80 Phil 160) it was not held that a motion for extension of time to file motion for new trial or reconsideration could not be granted and that the *Gibbs* decision was cited by a division of the Court in *Roque v. Gunigundo* (Adm. Case No. 1664, March 30, 1979, 89 SCRA 178) merely to support a statement that such kind of motion is not in order. The Court further stated that "the interest of justice would be better served if the original decision were applied prospectively" beginning June 30, 1986. With the aforesaid pronouncement, all previous rulings on the matter were deemed abandoned or at least superseded. So that when petitioner Lim filed thru registered mail on May 23, 1980 his motion for extension of time to file a motion for reconsideration, the motion was deemed properly filed contrary to respondent court's ruling that it was a prohibited pleading. The motion therefore suspended the running of the period for him to appeal from the April 29, 1980 decision in AC-G.R. No. 44770-R. However, it must be noted that petitioner Lim was granted by respondent court a new period (20 days) to file a motion for reconsideration. The motion which he filed barely 3 days before the expiration of the period given him was denied. Instead of taking an appeal after receipt of the denial, he filed a second motion for reconsideration which was the basis of the March 11, 1981 resolution. The filing of the second motion is clearly contrary to Rule 52 of the Rules of Court because it was made without leave and after the lapse of the extension granted him and also contrary to Sec. 4 of the Interim Rules which prohibits the filing of a second motion for reconsideration of a final order or judgment. But one does not have any vested right in technicalities. In meritorious cases, a liberal not literal interpretation of the rules becomes imperative and technicalities should not be resorted to in derogation of the intent of the rules which is the proper and just determination of litigations. Litigations should, as much as possible be decided on their merits and not on technicality. x x x. As has been the constant ruling of this Court, every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause free from the constraints of technicalities (*Fonseca v. CA*, G.R. No. L-36035, 30 August 1988; *Hernandez v. Quirtan*, G.R. No. L-48457, 29 November 1988, 168 SCRA 99). Furthermore, private respondents failed to raise the issue of failure to comply with the rules. Their failure has the effect of a waiver (*Republic v. Judge Villanueva*, G.R. No. 83333, February 2, 1989, En Banc, Minute Resolution).

The reversal made by respondent Court of its April 29, 1980 decision in AC-G.R. No. 44770-R thru its March 11, 1981 resolution was the result of a thorough deliberation and evaluation of the evidence of the parties. The Court takes cognizance of the fact that private respondents were directed to comment on the second motion for reconsideration and after they filed one, the motion was calendared for hearing (Resolution in AC-G.R. No. 44770-R dated September 10, 1980), after which respondent court, taking a hard look at the evidence, found out that one of the partners of LAHCO (Francisco Uy Cheng Co) used to live with the family of petitioner Lim and after the death of his foster parents said partner became the encargado of the lots in question so that in such capacity he knew of the heirs of the lots as petitioner usually demanded from him his share from the rentals. It properly ruled that LAHCO was not a buyer in good faith and since petitioner never executed in favor of his brother, any deed of conveyance waiving his 3/14 interest in the properties in question, the document he signed entrusting to his brother his two (2) children with his common law wife and also the monthly income he was receiving from him for his children's support, cannot be considered as renunciation of his interest but merely an assignment of the income earned by him. Respondent court also doubted the testimony of Cherry Lim that petitioner Lim knew of the sale as she heard them talking about it. Respondent court noting that, although said witness understood Chinese language, she did not know how to speak the same so that when the petitioner Lim and his brother were conversing, they could have spoken purely in Chinese and it is doubtful if said witness fully understood what they were talking about.

The Court agrees with the contention of petitioners that the resolution of March 11, 1981 in AC-G.R. No.

44770-R could not be collaterally attacked both in Civil Case No. 2687 and in the appeal from the decision in Civil Case 2953. The nature of the resolution is such that it is entirely regular in form as the defect was procedural which is not apparent on its face. Therefore, the only cognizable remedy against it is the filing of an independent action or proceeding to vacate or have it set aside (*Banco Espanol Filipino v. Palanca*, 37 Phil. 921; *Ramos v. Manalac*, 89 Phil 270).

From the foregoing, it was error for respondent court to have reversed its March 11, 1981 resolution in AC-G.R. No. 44770-R. And for failure of LAHCO to appeal from said resolution, the same became final. Once a decision becomes final, the issues therein raised should be laid to rest (*Zansibarian Residents Asso. v. Municipality of Makati*, G.R. No. 62136, February 28, 1985, 135 SCRA 235). The resolution, however, does not constitute the law of the case which should govern all subsequent proceedings thereon. This doctrine which is necessary to end repeated appeals simply states that: "x x x where there have been two (2) appeals in the same case between the same parties and the facts are the same, nothing decided on the first appeal can be re-examined on a second appeal. Right or wrong, it is binding on both the trial court and the appellate court and it is not subject to re-examination by the other. For the purpose of that case, though only for that case, the decision of the first appeal is the law x x x" (*Steirman v. Clinchfield Coal Corp.*, 121 Vol. 611, 620, 93 SE 684, cited in *Francisco*, Section 49, Rule 39, Rules of Court, Volume II, p. 849). It is quite apparent that the parties involved in these cases and those in AC-G.R. No. 44770-R are different aside from the fact that they have dissimilar factual backgrounds.

Thus, there was no reversible error committed by respondent court in affirming the denial of petitioner Lim's motion to include respondents as party-defendants in Civil Case No. 2953 as well as his motion to annotate the resolution of March 11, 1981 on private respondents title to the lots. Respondents were never parties-litigants in Civil Case No. 2953 and CA-G.R. No. 44770-R. They could not be affected by the proceedings held thereon because they were strangers thereto (*Polaris Marketing v. Plan*, 69 SCRA 36, 390. The motion to annotate is likewise not sanctioned under the rules. That is why the trial court reserved for petitioner Lim, thru its order dated February 4, 1982, the right to file an action to determine once and for all the validity of the acquisition of the lots by respondents and he exercised it by filing Civil Case No. 6767 which is still pending. The pendency of the latter case which was aimed primarily to reconvey to petitioner Lim his 3/14 pro indiviso share over the lots by reason of the alleged questionable sale thereof by LAHCO to private respondents, should have restrained respondent court from resolving the issue of the correctness of the cancellation of his pendens on Certificate of Title No. 1557 as well as the factual issue that the private respondents were buyers in bad faith. It was error therefore for respondent court to have passed upon these issues.

There was, however, no error committed by respondent court in sustaining the ejectment of petitioner Lee. First, petitioner Lee had no right to question or deny the title of private respondents over the leased premises (Art. 1436, Civil Code). There is no dispute that the one year period of the original lease expired but he continued to stay in the leased premises by paying the monthly rentals. Thus, an implied new lease or *tacita reconduccion* was created between him and private respondents (Art. 1670, Civil Code). The period of the new lease is established by Article 1687 of the Civil Code under which the new lease must be deemed from month to month, the rental being payable on a monthly basis. There being a period, the second paragraph of the same article is not applicable. Private respondents have the right to terminate the lease after each month with due notice which was given him. After the notice, his right to continue in possession ceases and his possession becomes one of detainer (*Balucanag v. Francisco*, G.R. No. L-33422, May 30, 1983, 122 SCRA 498). In addition, he cannot seek protection under BP 125. The premises in question being a commercial building said law is not applicable.

The alleged illegality of the notice to vacate is untenable. Such notice is sufficient under BP 25 provided one of the grounds under Section 5 thereof is present (*Zablan v. CA*, 57844, September 30, 1987, 154 SCRA 487). There

is no doubt that petitioner was given a notice to vacate the premises because private respondents wanted to use the same. The conditions imposed by law having been complied with, petitioner Lee's ejectment is proper.

As to the imputed lack of jurisdiction of the MTCC of Legaspi City to decide the issue of ownership in an ejectment case, the same has been passed upon in G.R. No. 68789 entitled "Jose Lee and Felix Lim v. Presiding Judge, Br. I-MTC, Legaspi City, et al." (145 SCRA 408, 415), where it was held that respondent trial court had jurisdiction to rule upon such issue.

ACCORDINGLY, the decisions appealed from are modified. The portions of the appealed decisions dealing with the March 11, 1981 resolution in AC-G.R. No. 44770-R are reversed and set aside and the said resolution is ordered reinstated. The decisions are affirmed in all other respects. Costs against private respondents.

SO ORDERED.

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

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.