

SECOND DIVISION

[G.R. No. 119872, July 07, 1997]

REMEDIOS NAVOA RAMOS, PETITIONER, VS. COURT OF APPEALS, HON. PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 93, QUEZON CITY, AND SPS. MANUEL AND ESMERALDA MALAPIT, RESPONDENTS.

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* of the resolution of the Court of Appeals, dismissing the appeal of petitioner from the decision of the Regional Trial Court, Branch 93, of Quezon City.

The facts of the case are as follows:

Petitioner is the owner of factory space No. 5 at the corner of Scout Madrinan and Scout Torillo Streets, Quezon City. On September 30, 1988, she entered into a contract of lease with private respondents respecting the property in question.

The contract of lease contained, among other things, the following stipulations:

1(2) The Lessee agrees that on the 5th year, the Lessee shall change the principal Yakal posts into reinforced concrete posts, all the way from the base on the ground up to the roofing holding or supporting the main trusses of the galvanized roofing at the expense of the Lessee and no expense whatsoever to the Owner-Lessor. Failure of the Lessee to comply with this term will automatically terminate or cancel this contract.

1(3) . . . In case of inflation or devaluation of the Philippine Peso, the monthly rental will automatically increase or decrease depending on the devaluation or inflation rate of the pesos to a dollar.

12. The monthly rental shall be paid every first week of the month. In case of delay in the payment of monthly rental, the Lessee will pay a penalty of 20% per annum for every month of delay; this contract is terminated if the delay reaches 3 months.

20. The Lessee agrees that on the 5th year, the Lessee shall change the roofing and the three posts located at the back part of the lease premises into reinforced concrete post all the way from the base on the ground up to the roofing holding or supporting the main trusses of the galvanized roofing at the expense of the Lessee and no expense whatsoever to the Lessor.

On May 24, 1994, petitioner filed a complaint for ejectment before the Metropolitan Trial Court of Quezon City, alleging failure by respondents to comply with their

undertakings under the contract of lease without any valid or justifiable reason.

The MeTC gave judgment for petitioner, describing private respondents' defenses as "utterly flimsy." It rejected private respondents' defense that they were not able to comply with the requirement to replace wooden posts with concrete ones because petitioner's son forbade them to do so. The MeTC held that since petitioner's son was not a party to the contract, only petitioner's waiver could excuse private respondents from complying with their obligation under the lease contract. As regards the failure of private respondents to pay the rents for more than three months, the MeTC also rejected private respondents' claim that the petitioner's son refused to accept payment because even if this was true, private respondents had a remedy of consigning the rentals in court. For these reasons, the MeTC upheld petitioner's right to rescind the contract even in the absence of judicial pronouncement. It quoted the ruling in *University of the Philippines v. De los Angeles*,^[1] reiterated in *Lim v. Court of Appeals*,^[2] that a party who deems the contract violated may consider it resolved and rescinded and act accordingly without previous court action, although it acts at its own risk as only the final judgment of a court can finally determine his right.

On appeal, the RTC reversed the decision and dismissed the case. First, with respect to the failure of private respondents to replace the yakal posts with reinforced concrete ones, the RTC said that, as private respondents alleged, it was not only petitioner's son but petitioner as well who prevented private respondents from replacing the wooden posts. In fact, private respondents had already engaged the services of a contractor to undertake the work.

With respect to the alleged failure of private respondents to pay increased rent because of inflation or devaluation of the Philippine peso, the RTC held that there had been no official declaration of inflation or devaluation of the Philippine peso. The RTC added that since the contract between the parties already provided for an annual increase in the rent over a period of ten years and for penalty of twenty (20) per cent per annum for every month of delay in the payment of the monthly rental, the imposition of additional rent due to inflation or devaluation of the Philippine peso would be exceedingly unconscionable.

On the claim that because private respondents had been in arrears for three months, the contract was terminated, the RTC ruled that there was no delay in the payment of rent because the case was brought on May 20, 1994, eleven (11) days before the end of three (3) months since the arrears started, so that petitioner had no cause of action against private respondents.

The dispositive portion of the decision of the RTC reads:

Wherefore, finding reversible errors in appealed decision of the lower court, this Court hereby reverses the aforesaid decision of the lower court and finds judgment in favor of the defendant and that the aforesaid decision is hereby dismissed and the plaintiff is ordered to:

1. pay the defendant exemplary damages in the amount of P50,000.00;
2. pay the defendant the amount of P100,000.00 for and as attorney's fees and expenses of litigation;