

## SECOND DIVISION

[ G.R. No. 197722, August 14, 2019 ]

**JOCELYN MODOMO AND DR. ROMY MODOMO, PETITIONERS, VS. SPOUSES MOISES P. LAYUG, JR. AND FELISARIN \* E. LAYUG; MOISES P. LAYUG, JR., SUBSTITUTED BY HIS HEIRS, NAMELY: HIS WIFE, FELISARIN E. LAYUG, AND CHILDREN, MA. CELESTE LAYUG CO, EUGENE ESPINOSA LAYUG, FRANCIS ESPINOSA LAYUG AND SHERYL ESPINOSA LAYUG, RESPONDENTS.**

### D E C I S I O N

**CAGUIOA, J.:<sup>[\*\*]</sup>**

#### *The Case*

This is a petition for review on *certiorari*<sup>[1]</sup> (Petition) filed under Rule 45 of the Rules of Court against the Decision<sup>[2]</sup> dated March 22, 2011 (assailed Decision) and Resolution<sup>[3]</sup> dated July 20, 2011 (assailed Resolution) in CA-G.R. SP No. 113807 rendered by the Court of Appeals (CA).

The assailed Decision and Resolution affirm the lower courts' uniform rulings which ordered petitioners Dr. Romy Modomo and Jocelyn Modomo (collectively, Spouses Modomo) to immediately surrender possession of a certain parcel of land covered by Transfer Certificate of Title (TCT) No. 208683 registered in the name of respondents Moises P. Layug, Jr. and Felisarin E. Layug (collectively, Spouses Layug).<sup>[4]</sup>

#### *The Facts*

The facts, as narrated by the Metropolitan Trial Court (MeTC) of Makati City, Branch 64, and subsequently adopted by the CA, are as follows:

[Spouses Layug filed] a complaint for [e]jectment x x x before the [MeTC], Branch 65 of Makati on July 23, 2008 which was raffled off to [Branch 64] after a failed Mediation and Judicial Dispute Resolution (JDR) x x x.

x x x x

[Spouses Layug] alleged among others that[:] they are the registered owner[s] and legal possessors of a parcel of land located at No. 1038 A.P. Reyes Street corner Cristobal Street, Barangay Tejeros, Makati City covered by [Transfer Certificate of Title (TCT)] No. 208683. Aforesaid property was leased to [Spouses Modomo] for a period of seven (7) years. Pursuant to the [Contract of Lease<sup>[5]</sup> dated February 11, 2005 (Contract of Lease), Spouses Modomo agreed to] pay the amount of **Php170,000.00** as monthly rentals subject to an escalation of 10% for the second and third year, 15% on the fourth and fifth year and 20% on

the sixth and seventh year. **It was also agreed by the parties that real estate taxes on the property shall be paid by [Spouses Modomo].** In view of [these] stipulation[s], an Addendum to the Contract was executed by the parties [also] on February 11, 2005 regarding the terms and conditions of payment of rentals. **Subsequently, [Spouses Modomo] defaulted in the payment of the escalation of [rental fees] commencing from the year 2006 up to [the filing of the complaint for ejectment on July 23, 2008].** [Spouses Modomo] also failed to pay their rentals for the year 2008 which would have been paid in advance. [Spouses Layug] also alleged, that [Spouses Modomo] failed to pay the real estate taxes due on the property x x x which [Spouses Layug] paid in [Spouses Modomo's] behalf. [Spouses Layug sent a] letter x x x to [Spouses Modomo] [demanding that they] settle their unpaid monthly rentals x x x but to no avail. **Ultimately, [a] letter dated March 24, 2008 was sent to [Spouses Modomo] terminating the [C]ontract [of Lease] and containing therein a demand for [Spouses Modomo] to vacate the premises.** To thresh out the matter, the case was referred to the Barangay of Tejeros for conciliation but to no avail. Hence, a certification to file action was issued. **To protect [their] interest, [Spouses Layug] instituted the present suit claiming that [Spouses Modomo] should vacate the premises, x x x pay [Spouses Layug] rental arrearages, attorney's fees and costs of suit.**

On the contrary[, Spouses Modomo] argued that[: the] parties originally agreed that [Spouses Modomo w]ould pay the amount of Php170,000.00 subject to an escalation of 10% for the second and third year, 15% on the fourth and fifth year and 20% on the sixth and seventh year. However, considering that [Jocelyn] Modomo [had] introduce[d] improvements thereon[,], she [asked] [Spouses Layug] to change certain provisions in the Contract of Lease. **Based on their conversation[,]** **[Spouses Layug] agreed to reduce the monthly rentals to Php150,000.00 and the non-imposition of the escalation clause and the real estate tax provision.** [Spouses Modomo] religiously paid the rentals strictly in accordance with their subsequent agreements. **[Spouses Layug], on the second year of the [C]ontract [of Lease], imposed the 10% escalation x x x. [Spouses Modomo] however, reminded [Spouses Layug] of their previous agreement regarding the non-imposition of the escalation clause and the real estate tax provision.** Thereafter, [Spouses Modomo] alleged that [Spouses Layug agreed not to] impose the escalation clause [in] the [C]ontract of [L]ease in view of the introduction of the improvements in the premises amounting to approximately Two Million pesos [Php2,000,000.00]. Again [i]n 2008[, Spouses Layug] [purportedly] renege[d] on their agreements by imposing the escalation clause. Therefore, [Spouses Modomo] pray[ed] that the case be dismissed because the [C]ontract of [L]ease dated February 11, 2005 ha[d] been amended by the subsequent oral agreements between the parties. [Spouses Modomo further claimed that Spouses Layug] are in estoppel *in pais*, [due to] their unconditional acceptance of the reduced x x x monthly [rental] x x x of Php150,000.00 instead of Php170,000.00. [Spouses Modomo] also alleged that the [C]ontract of [L]ease has been novated in view of the subsequent oral

agreements of the parties. Hence, [Spouses Modomo] pray[ed] for the dismissal of the case and [that] they be [declared] entitled to their counterclaim.<sup>[6]</sup> (Emphasis supplied)

#### *MeTC Ruling*

On July 20, 2009, the MeTC issued a Decision<sup>[7]</sup> in favor of Spouses Layug, the dispositive portion of which reads:

**WHEREFORE**, the [MeTC] renders judgment ordering [Spouses Modomo] to immediately surrender the peaceful possession of the leased property with improvements thereon located at No. 1038 A.P. Reyes Street corner Cristobal Street, Barangay Tejeros, Makati City.

**[Spouses Modomo] are likewise ordered to pay [Spouses Layug] the amount of Php3,119,200.00 as rental arrearages. The amount of Php208,725.00 per month as payment for the reasonable use and occupation of the property [is also imposed], computed from July 23, 2008 until [Spouses Modomo] actually [vacate] the premises.**

[Spouses Modomo] are also ordered to pay [Spouses Layug] Php10,000.00 as attorney's fees. Costs against [Spouses Modomo].

The [MeTC] **DISMISSES** the counterclaim filed by [Spouses Modomo].

So Ordered.<sup>[8]</sup> (Emphasis supplied)

#### *RTC Proceedings*

Spouses Modomo filed an appeal before the RTC<sup>[9]</sup> *via* Rule 40 of the Rules of Court.

Therein, Spouses Modomo insisted that Spouses Layug failed to refute the existence of their subsequent oral agreement which caused the novation of the Contract of Lease, particularly the provisions: (i) fixing the rental fee at Php170,000.00; (ii) imposing annual escalation on rental fees; and (iii) requiring Spouses Layug to pay real estate tax during the lease term.<sup>[10]</sup> Spouses Modomo further argued that Spouses Layug are estopped from denying the existence of such oral agreement, considering that they accepted their monthly rental payments at the reduced amount of Php150,000.00 without protest.<sup>[11]</sup>

In its Decision<sup>[12]</sup> dated January 28, 2010, the RTC affirmed the findings of the MeTC *in toto*, disposing the case in these words:

After a careful consideration of the pleadings and the evidence on record, this Court finds that the court-a-quo did not commit an error in rendering judgment in favor of [Spouses Layug].

WHEREFORE, premises considered, the appealed decision is hereby **AFFIRMED** with costs against [Spouses Modomo].

SO ORDERED.<sup>[13]</sup>

Like the MeTC, the RTC also harped on the Parole Evidence Rule set forth in Rule 130 of the Rules of Court<sup>[14]</sup> and held that if the parties' real intention was to "cancel" the original Contract of Lease, they should have executed a new Contract of Lease expressing "their intention to eliminate the stipulation[s] regarding the escalation clause and the provision on real estate tax."<sup>[15]</sup>

The RTC also noted that while Spouses Layug accepted Spouses Modomo's monthly rental payments in the reduced amount of Php150,000.00 without escalation, they did not do so unconditionally. As basis, the RTC cited Spouses Layug's letters dated December 7, 2006, February 6, 2007 and January 9, 2008 objecting to Spouses Modomo's deficient payments.<sup>[16]</sup>

Spouses Modomo filed a motion for reconsideration, which the RTC denied on April 6, 2010.<sup>[17]</sup>

#### *CA Proceedings*

Aggrieved, Spouses Modomo filed a petition for review before the CA, reiterating the arguments they raised before the RTC.

The CA denied said petition through the assailed Decision,<sup>[18]</sup> the dispositive portion of which reads:

**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED DUE COURSE** and accordingly, **DISMISSED** for lack of merit. The assailed Decision dated January 28, 2010 and Order dated April 6, 2010, issued by the RTC, Branch 59, Makati, in Civil Case No. 09-981 are hereby **AFFIRMED** with **MODIFICATION** that petitioners are further **ORDERED** to pay [Spouses Layug] legal interest of twelve percent (12%) per annum on the back rentals [amounting to Php3,119,200.00] from the date of judicial demand on July 23, 2008 until fully paid.

**SO ORDERED.**<sup>[19]</sup>

The CA held that Spouses Modomo failed to establish the concurrence of the requisites necessary to extinguish or modify the Contract of Lease by way of novation.<sup>[20]</sup> As well, the CA affirmed the lower courts' findings regarding the inapplicability of the principle of estoppel.<sup>[21]</sup>

Finally, considering that Spouses Modomo vacated the leased premises on November 2009, the CA clarified that the monetary award of Php208,725.00 per month as payment for reasonable use and occupation of the leased premises shall run from the filing of the complaint for ejectment in July 2008, but only until the surrender of the leased premises in November 2009.<sup>[22]</sup>

Spouses Modomo's subsequent motion for reconsideration was also denied through the CA's assailed Resolution,<sup>[23]</sup> which the former received on July 26, 2011.<sup>[24]</sup>

On August 5, 2011, Spouses Modomo filed a Motion for Extension of Time to File Petition for Review on Certiorari<sup>[25]</sup> (Motion for Extension), praying for an additional period of thirty (30) days, or until September 9, 2011, to file their Petition.

Finally, this Petition was filed on September 9, 2011, the last day of the additional period prayed for.

On October 3, 2011, the Court issued a Resolution<sup>[26]</sup> granting Spouses Modomo's Motion for Extension, and directing Spouses Layug to file their comment to the Petition.

It appears, however, that the RTC issued a Writ of Execution against Spouses Modomo for the satisfaction of the monetary award granted in Spouses Layug's favor. Hence, Spouses Modomo's real property covered by TCT No. T-130972 was made subject of a Notice of Sheriff's Sale on Execution of Real Property<sup>[27]</sup> scheduled on March 5 and 9 of the following year.<sup>[28]</sup> This prompted Spouses Modomo to file an Urgent Motion for the Issuance of a Temporary Restraining Order/Status Quo Order<sup>[29]</sup> (Urgent Motion) on February 21, 2012.

The Urgent Motion was opposed by Spouses Layug through their Comment (To Petitioners' Urgent Motion)<sup>[30]</sup> filed on June 25, 2012. Appended to this Comment is a copy of the RTC's Order<sup>[31]</sup> dated March 2, 2012 granting the Urgent Motion to Defer Sale on Execution filed therein by Spouses Modomo. The Order states, in part:

In this case, considering that there is a pending *Urgent Motion for the Issuance of a Temporary Restraining Order/Status Quo* and *Petition for Review on Certiorari* under Rule 45 before the Honorable Supreme Court x x x [the RTC], which is a mere lower [c]ourt, deems it wise and appropriate to defer the scheduled auction sale on March 5 and 9, 2012, so as not to render the issues pending before the High Court moot and moribund. Moreover, the Court believes that the deferment of the auction sale will not prejudice nor cause irreparable damage against [Spouses Layug] considering that should the High Court rule on the pending issues therein, [the RTC] can promptly act accordingly.

WHEREFORE, in view of the foregoing, [Spouses Modomo's] Urgent Motion to Defer Sale on Execution is hereby GRANTED. Accordingly, the auction sale scheduled on March 5 and 9, 2012 is hereby deferred until further ordered.<sup>[32]</sup> (Italics supplied)

According to Spouses Layug, the foregoing Order rendered Spouses Modomo's Urgent Motion before this Court moot and academic.<sup>[33]</sup>

Spouses Layug's Comment on the Urgent Motion was noted by the Court through its Resolution<sup>[34]</sup> dated September 3, 2012.

Meanwhile, Spouses Layug filed their Comment<sup>[35]</sup> to the Petition on January 4, 2012, to which Spouses Modomo filed their Reply.<sup>[36]</sup>

In this Petition, Spouses Modomo fault the CA for ruling that no novation of the Contract of Lease had taken place.<sup>[37]</sup> In this connection, Spouses Modomo also claim that the CA erred when it failed to apply the principle of estoppel *in pais* in the present case.<sup>[38]</sup>

Finally, Spouses Modomo argue that the CA erred in failing to rule upon their claim for reimbursement for useful improvements under Article 1678 of the Civil Code.<sup>[39]</sup>