

FIRST DIVISION

[G.R. No. 183035, January 09, 2013]

**OPTIMA REALTY CORPORATION, PETITIONER, VS. HERTZ PHIL.
EXCLUSIVE CARS, INC., RESPONDENT.**

D E C I S I O N

SERENO, J.:

Before us is a Rule 45 Petition assailing the Decision^[1] and Resolution^[2] of the Court of Appeals (CA) in CA-GR SP No. 99890, which reversed the Decision^[3] and Resolution^[4] of the Regional Trial Court (RTC), Branch 137, Makati City in Civil Case No. 06-672. The RTC had affirmed *in toto* the 22 May 2006 Decision^[5] of the Metropolitan Trial Court (MeTC), Branch 64, Makati City in Civil Case No. 90842 evicting respondent Hertz Phil. Exclusive Cars, Inc. (Hertz) and ordering it to pay back rentals and other arrearages to petitioner Optima Realty Corporation (Optima).

Optima is engaged in the business of leasing and renting out commercial spaces and buildings to its tenants. On 12 December 2002, it entered into a Contract of Lease with respondent over a 131-square-meter office unit and a parking slot in the Optima Building for a period of three years commencing on 1 March 2003 and ending on 28 February 2006.^[6] On 9 March 2004, the parties amended their lease agreement by shortening the lease period to two years and five months, commencing on 1 October 2003 and ending on 28 February 2006.^[7]

Renovations in the Optima Building commenced in January and ended in November 2005.^[8] As a result, Hertz alleged that it experienced a 50% drop in monthly sales and a significant decrease in its personnel's productivity. It then requested a 50% discount on its rent for the months of May, June, July and August 2005.^[9]

On 8 December 2005, Optima granted the request of Hertz.^[10] However, the latter still failed to pay its rentals for the months of August to December of 2005 and January to February 2006,^[11] or a total of seven months. In addition, Hertz likewise failed to pay its utility bills for the months of November and December of 2005 and January and February of 2006,^[12] or a total of four months.

On 8 December 2005, Optima wrote another letter to Hertz,^[13] reminding the latter that the Contract of Lease could be renewed only by a new negotiation between the parties and upon written notice by the lessee to the lessor at least 90 days prior to the termination of the lease period.^[14] As no letter was received from Hertz regarding its intention to seek negotiation and extension of the lease contract within the 90-day period, Optima informed it that the lease would expire on 28 February 2006 and would not be renewed.^[15]

On 21 December 2005, Hertz wrote a letter belatedly advising Optima of the former's desire to negotiate and extend the lease.^[16] However, as the Contract of Lease provided that the notice to negotiate its renewal must be given by the lessee at least 90 days prior to the expiration of the contract, petitioner no longer entertained respondent's notice.

On 30 January 2006, Hertz filed a Complaint for Specific Performance, Injunction and Damages and/or Sum of Money with prayer for the issuance of a Temporary Restraining Order (TRO) and Writ of Preliminary Injunction (Complaint for Specific Performance) against Optima. In that Complaint, Hertz prayed for the issuance of a TRO to enjoin petitioner from committing acts that would tend to disrupt respondent's peaceful use and possession of the leased premises; for a Writ of Preliminary Injunction ordering petitioner to reconnect its utilities; for petitioner to be ordered to renegotiate a renewal of the Contract of Lease; and for actual, moral and exemplary damages, as well as attorney's fees and costs.

On 1 March 2006, Optima, through counsel, wrote Hertz a letter requiring the latter to surrender and vacate the leased premises in view of the expiration of the Contract of Lease on 28 February 2006.^[17] It likewise demanded payment of the sum of ₱420,967.28 in rental arrearages, unpaid utility bills and other charges.^[18] Hertz, however, refused to vacate the leased premises.^[19] As a result, Optima was constrained to file before the MeTC a Complaint for Unlawful Detainer and Damages with Prayer for the Issuance of a TRO and/or Preliminary Mandatory Injunction (Unlawful Detainer Complaint) against Hertz.^[20]

On 14 March 2006, Summons for the Unlawful Detainer Complaint was served on Henry Bobiles, quality control supervisor of Hertz, who complied with the telephone instruction of manager Rudy Tirador to receive the Summons.^[21]

On 28 March 2006, or 14 days after service of the Summons, Hertz filed a Motion for Leave of Court to file Answer with Counterclaim and to Admit Answer with Counterclaim (Motion for Leave to File Answer).^[22] In that Motion, Hertz stated that, "in spite of the defective service of summons, [it] opted to file the instant Answer with Counterclaim with Leave of Court."^[23] In the same Motion, it likewise prayed that, in the interest of substantial justice, the Answer with Counterclaim attached to the Motion for Leave to File Answer should be admitted regardless of its belated filing, since the service of summons was defective.^[24]

On 22 May 2006, the MeTC rendered a Decision,^[25] ruling that petitioner Optima had established its right to evict Hertz from the subject premises due to nonpayment of rentals and the expiration of the period of lease.^[26] The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the Court hereby renders judgment for the plaintiff and against the defendant, ordering:

1. the defendant corporation and all persons claiming rights from it to immediately vacate the leased premises and to surrender

possession thereof to the plaintiff;

2. the defendant corporation to pay the plaintiff the amount of Four Hundred Twenty Thousand Nine Hundred Sixty Seven Pesos and 28/100 (P420,967.28) representing its rentals arrearages and utility charges for the period of August 2005 to February 2006, deducting therefrom defendant's security deposit;
3. the defendant corporation to pay the amount of Fifty Four Thousand Two Hundred Pesos (P54,200.00) as a reasonable monthly compensation for the use and occupancy of the premises starting from March 2006 until possession thereof is restored to the plaintiff; and
4. the defendant corporation to pay the amount of Thirty Thousand Pesos (P30,000.00) as and for attorney's fees; and
5. the cost of suit.

SO ORDERED.^[27]

Hertz appealed the MeTC's Decision to the RTC.^[28]

Finding no compelling reason to warrant the reversal of the MeTC's Decision, the RTC affirmed it by dismissing the appeal in a Decision^[29] dated 16 March 2007.

On 18 June 2007, the RTC denied respondent's Motion for Reconsideration of its assailed Decision.^[30]

Hertz thereafter filed a verified Rule 42 Petition for Review on Certiorari with the CA.^[31]

On appeal, the CA ruled that, due to the improper service of summons, the MeTC failed to acquire jurisdiction over the person of respondent Hertz. The appellate court thereafter reversed the RTC and remanded the case to the MeTC to ensure the proper service of summons. Accordingly, the CA issued its 17 March 2008 Decision, the *fallo* of which reads:

WHEREFORE, premises considered, the May 22, 2006 Decision of the Metropolitan Trial Court of Makati City, Branch 64, in Civil Case No. 90842, and both the March 16, 2007 Decision, as well as the June 18, 2007 Resolution, of the Regional Trial Court of Makati City, Branch 137, in Civil Case No. 06-672, are hereby **REVERSED, ANNULLED and SET ASIDE** – due to lack of jurisdiction over the person of the defendant corporation HERTZ. This case is hereby **REMANDED** to the Metropolitan Trial Court of Makati City, Branch 64, in Civil Case No. 90842, which is **DIRECTED** to ensure that its Sheriff properly serve summons to only those persons listed in Sec. 11, Rule 14 of the Rules of Civil Procedure in order that the MTC could acquire jurisdiction over the person of the

defendant corporation HERTZ.

SO ORDERED.^[32]

Petitioner's Motion for Reconsideration of the CA's Decision was denied in a Resolution dated 20 May 2008.^[33]

Aggrieved by the ruling of the appellate court, petitioner then filed the instant Rule 45 Petition for Review on Certiorari with this Court.^[34]

THE ISSUES

As culled from the records, the following issues are submitted for resolution by this Court:

1. Whether the MeTC properly acquired jurisdiction over the person of respondent Hertz;
2. Whether the unlawful detainer case is barred by *litis pendentia*; and
3. Whether the ejectment of Hertz and the award of damages, attorneys fees and costs are proper.

THE COURT'S RULING

We grant the Petition and reverse the assailed Decision and Resolution of the appellate court.

I

The MeTC acquired jurisdiction over the person of respondent Hertz.

In civil cases, jurisdiction over the person of the defendant may be acquired either by service of summons or by the defendant's voluntary appearance in court and submission to its authority.^[35]

In this case, the MeTC acquired jurisdiction over the person of respondent Hertz by reason of the latter's voluntary appearance in court.

In *Philippine Commercial International Bank v. Spouses Dy*,^[36] we had occasion to state:

Preliminarily, jurisdiction over the defendant in a civil case is acquired either by the coercive power of legal processes exerted over his person, or his voluntary appearance in court. As a general proposition, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court. It is by reason of this rule that we have had occasion to declare that **the filing of motions to admit answer**, for additional time

to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration, is considered voluntary submission to the court's jurisdiction. This, however, is tempered by the concept of conditional appearance, such that a party who makes a special appearance to challenge, among others, the court's jurisdiction over his person cannot be considered to have submitted to its authority.

Prescinding from the foregoing, it is thus clear that:

- (1) Special appearance operates as an exception to the general rule on voluntary appearance;
- (2) Accordingly, **objections to the jurisdiction of the court over the person of the defendant must be explicitly made**, i.e., set forth in an unequivocal manner; and
- (3) **Failure to do so constitutes voluntary submission to the jurisdiction of the court, especially in instances where a pleading or motion seeking affirmative relief is filed and submitted to the court for resolution.** (Emphases supplied)

In this case, the records show that the following statement appeared in respondent's Motion for Leave to File Answer:

[I]n spite of the defective service of summons, the defendant opted to file the instant Answer with Counterclaim with Leave of Court, upon inquiring from the office of the clerk of court of this Honorable Court and due to its notice of hearing on March 29, 2005 application for TRO/Preliminary Mandatory Injunction was received on March 26, 2006. (Emphasis supplied)^[37]

Furthermore, the Answer with Counterclaim filed by Hertz never raised the defense of improper service of summons. The defenses that it pleaded were limited to *litis pendentia*, *pari delicto*, performance of its obligations and lack of cause of action.^[38] Finally, it even asserted its own counterclaim against Optima.^[39]

Measured against the standards in *Philippine Commercial International Bank*, these actions lead to no other conclusion than that Hertz voluntarily appeared before the court *a quo*.

We therefore rule that, by virtue of the voluntary appearance of respondent Hertz before the MeTC, the trial court acquired jurisdiction over respondent's.

II

The instant ejectment case is not barred by *litis pendentia*.

Hertz contends that the instant case is barred by *litis pendentia* because of the pendency of its Complaint for Specific Performance against Optima before the RTC.

We disagree.