

FIRST DIVISION

[G.R. No. 154366, November 17, 2010]

**CEBU BIONIC BUILDERS SUPPLY, INC. AND LYDIA SIA,
PETITIONERS, VS. DEVELOPMENT BANK OF THE PHILIPPINES,
JOSE TO CHIP, PATRICIO YAP AND ROGER BALILA,
RESPONDENTS.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assails the Resolution^[2] dated February 5, 2002 and the Amended Decision^[3] dated July 5, 2002 of the Court of Appeals in CA-G.R. CV No. 57216. In the Resolution dated February 5, 2002, the Court of Appeals admitted the Motion for Reconsideration^[4] of herein respondents Development Bank of the Philippines (DBP), Jose To Chip, Patricio Yap and Roger Balila, notwithstanding the fact that the same was filed more than six months beyond the reglementary period. Said motion prayed for the reversal of the Court of Appeals Decision^[5] dated February 14, 2001, which affirmed the Decision^[6] dated April 25, 1997 of the Regional Trial Court (RTC) of Cebu, Branch 8, in Civil Case No. CEB-10104 that ruled in favor of petitioners. In the Amended Decision of July 5, 2002, the Court of Appeals reversed its previous Decision dated February 14, 2001 and dismissed the petitioners' complaint for lack of merit.

The facts leading to the instant petition are as follows:

On June 2, 1981, the spouses Rudy R. Robles, Jr. and Elizabeth R. Robles entered into a mortgage contract^[7] with DBP in order to secure a loan from the said bank in the amount of P500,000.00. The properties mortgaged were a parcel of land situated in Tabunoc, Talisay, Cebu, which was then covered by Transfer Certificate of Title (TCT) No. T- 47783 of the Register of Deeds of Cebu, together with all the existing improvements, and the commercial building to be constructed thereon^[8] (subject properties). Upon completion, the commercial building was named the State Theatre Building.

On October 28, 1981, Rudy Robles executed a contract of lease in favor of petitioner Cebu Bionic Builders Supply, Inc. (Cebu Bionic), a domestic corporation engaged in the construction business, as well as the sale of hardware materials. The contract pertinently provides:

CONTRACT OF LEASE

KNOW ALL MEN BY THESE PRESENTS:

This Lease Contract made and entered into, by and between:

RUDY ROBLES, JR., Filipino, of legal age, married and resident of 173 Maria Cristina Ext., Cebu City, hereinafter referred to as the LESSOR,

- and -

CEBU BIONIC BUILDER SUPPLY, represented by LYDIA SIA, Filipino, of legal age, married and with address at 240 Magallanes St., Cebu City hereinafter known as the LESSEE;

WITNESSETH:

The LESSOR is the owner of a commercial building along Tabunok, Talisay, Cebu, known as the State Theatre Building.

The LESSOR agrees to lease unto the LESSEE and the LESSEE accepts the lease from the LESSOR, a portion of the ground floor thereof, consisting of one (1) unit/store space under the following terms and conditions:

1. The LESSEE shall pay a monthly rental of One Thousand (P1,000.00) Pesos, Philippine Currency. The rental is payable in advance within the first five (5) days of the month, without need of demand;
2. That the term of this agreement shall start on November 1, 1981 and shall terminate on the last day of every month thereafter; provided however that this contract shall be automatically renewed on a month to month basis if no notice, in writing, is sent to the other party to terminate this agreement after fifteen (15) days from receipt of said notice;

x x x x

9. Should the LESSOR decide to sell the property during the term of this lease contract or immediately after the expiration of the lease, the LESSEE shall have the first option to buy and shall match offers from outside parties.^[9] (Emphases ours.)

The above contract was not registered by the parties thereto with the Registry of Deeds of Cebu.

Subsequently, the spouses Robles failed to settle their loan obligation with DBP. The latter was, thus, prompted to effect extrajudicial foreclosure on the subject properties.^[10] On February 6, 1987, DBP was the lone bidder in the foreclosure sale and thereby acquired ownership of the mortgaged subject properties.^[11] On October 13, 1988, a final Deed of Sale^[12] was issued in favor of DBP.

Meanwhile, on June 18, 1987, DBP sent a letter to Bonifacio Sia, the husband of petitioner Lydia Sia who was then President of Cebu Bionic, notifying the latter of DBP's acquisition of the State Theatre Building. Said letter reads:

June 18, 1987

Mr. Bonifacio Sia
Bionic Builders' Inc.
State Theatre Bldg.
Tabunok, Talisay, Cebu

Sir:

This refers to the commercial space you are occupying in the acquired property of the Bank, formerly owned by Rudy Robles, Jr.

Please be informed that said property has been acquired through foreclosure on February 6, 1987. Considering thereat, we require you to remit the rental due for June 1987.

If you wish to continue on leasing the property, we request you to come to the Bank for the execution of a Contract of Lease, the salient conditions of which are as follows:

1. The lease will be on month to month basis, for a maximum period of one (1) year;
2. Deposit equivalent to two (2) months rental and advance of one (1) month rental, and the remaining amount for one year period (equivalent to 9 months rental) shall be secured by either surety bond, cash bond or assigned time deposit;
3. That in case there is a better offer or if the property will be subject of a purchase offer, within the term, the lessor is given an option of first refusal, otherwise he has to vacate the premises within thirty (30) days from date of notice.

We consider, temporarily, the current monthly rental based on the six-month receipts, which we require you to submit, until such time when we will fix the amount accordingly.

If the contract of lease is not executed within thirty (30) days from date hereof, it is construed that you are not interested in leasing the premises and will vacate within the said period.

Please be guided accordingly.

Truly yours,

(SGD)LUCILO

S.

REVILLAS

Branch Head^[13]
(Emphases ours.)

On July 7, 1987, the counsel of Bonifacio Sia replied to the above letter, to wit:

July 7, 1987

Mr. Lucilo S. Revillas
Branch Head
Development Bank of the Philippines

Dear Mr. Revillas,

This has reference to your letter of 18 June 1987 which you sent to my client, Mr. Bonifacio Sia of Cebu Bionic Builders' Supply - the lessee of a commercial space of the State Theatre Bldg., located at Tabunok, Talisay, Cebu.

My client is amenable to the terms contained in your letter except the following:

1. In lieu of item no. 2 thereof, my client will deposit with your bank the amount of P10,000.00, as assigned time deposit;
2. The 30 days notice you mentioned in your letter, (3), is too short. My client is requesting for at least 60 days notice.

I sincerely hope that you will give due course to this request.

Thank you.

Truly yours,
(SGD) ANASTACIO T. MUNTUERTO,
JR.^[14]

Thereafter, on November 14, 1989, a Certificate of Time Deposit^[15] for P11,395.64 was issued in the name of Bonifacio Sia and the same was allegedly remitted to DBP as advance rental deposit.

For reasons unclear, however, no written contract of lease was executed between DBP and Cebu Bionic.

In the meantime, subsequent to the acquisition of the subject properties, DBP offered the same for sale along with its other assets. Pursuant thereto, DBP published a series of invitations to bid on such properties, which were scheduled on January 19, 1989,^[16] February 23, 1989,^[17] April 13, 1989,^[18] and November 15, 1990.^[19] As no interested bidder came forward, DBP publicized an Invitation on

Negotiated Sale/Offer, the relevant terms and conditions of which stated:

INVITATION ON NEGOTIATED SALE/OFFER

The DEVELOPMENT BANK OF THE PHILIPPINES, Cebu Branch, will receive SEALED NEGOTIATED OFFERS/PURCHASE PROPOSALS tendered at its Branch Office, DBP Building, Osmeña Boulevard, Cebu City for the sale of its acquired assets mentioned hereinunder **within the "15-Day-Acceptance-Period" starting from NOVEMBER 19, 1990 up to 12:00 o'clock noon of DECEMBER 3, 1990.** Sealed offers submitted shall be opened by the Committee on Negotiated Offers at exactly 2:00 o'clock in the afternoon of the last day of the acceptance period in order to determine the highest and/or most advantageous offer.

Item No.	Description/Location	Starting Price
	X X X X	
II	Commercial land, Lot No. 3681-C-3, having an area of 396 sq. m., situated in Tabunok, Talisay, Cebu and covered by TCT No. T-65199 (DBP), including the commercial building thereon.	P1,838,100.00
	X X X X	

A pre-numbered Acknowledgment Receipt duly signed by at least two (2) of the Committee members shall be issued to the offeror acknowledging receipt of such offer.

Negotiated offers may be made in CASH or TERMS, the former requiring a deposit of 10% and the latter 20% of the starting price, either in the form of cash or cashier's/manager's check to be enclosed in the sealed offer.

X X X X

Interested negotiated offerors are requested to see Atty. Apolinar K. Panal, Jr., Acquired Asset in Charge (Tel. No. 9-63-25), in order to secure copies of the Letter-Offer form and Negotiated Sale Rules and Procedures.

NOTE: If no offer is received during the above stated acceptance period, the properties described above shall be sold to the first offeror who submits an acceptable proposal on a "First-Come-First-Served" basis.