

FIRST DIVISION

[G.R. No. 152614, September 30, 2009]

SALVADOR A. FERNANDEZ, PETITIONER, VS. CRISTINA D. AMAGNA, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure which seeks to set aside and annul the Decision^[1] dated May 25, 2001 and the Resolution^[2] dated March 14, 2002 rendered by the Court of Appeals (CA) in *CA-G.R. SP No. 46910*.

The CA decision affirmed the decision^[3] of the Regional Trial Court (RTC) of Manila, Branch 16, which ordered petitioner to vacate the premises owned by respondent and to pay the unpaid rentals thereon in *Civil Case No. 97-85824*.

The facts may be succinctly stated as follows:

On September 23, 1996, a complaint for unlawful detainer^[4] was filed by respondent Cristina Amagna against petitioner Salvador Fernandez in the Metropolitan Trial Court (MeTC) of Manila, Branch 11, docketed as *Civil Case No. 153177-CV*. In her complaint, respondent, plaintiff in the trial court, alleged that she is a co-owner and administratrix of a property located at 1901-K Int. 34, Zamora St., Pandacan, Manila. The property is covered by OCT No. 7369 in the name of siblings Aurelio Restua (married to Clara Bautista) and Trinidad Restua (married to Felipe Dalmacio), with a total area of 3,271 square meters. Respondent, being the heir of Trinidad, owns in common with her brothers and sisters, one-half of the property. A portion of the property was leased by petitioner on a month-to-month basis at the rate of P1,300.00. In July 1995, petitioner failed to pay the monthly rentals, prompting respondent to send a demand letter dated April 11, 1996 to pay and vacate but petitioner refused. Respondent also alleged that she and her siblings needed the leased premises as they were also renting.

In his Answer,^[5] petitioner averred that he had been renting the premises for over fifty (50) years and had, in fact, already constructed substantial improvements on the lot; that he was one of several lessees of the property represented by their association known as "Barangay 843 Neighborhood Association"; that the monthly rental was only P420.00 and not P1,300.00 as claimed by respondent; that respondent had been transacting business with him through the association and respondent acknowledged payments made through the said association; that there was no agreement with respondent regarding the period for the lease; that he was surprised to receive a demand letter from respondent because he was sure that he had no arrears; and that on May 15, 1997, he filed a Petition for Consignation

before the MeTC, Manila, Branch 3 and deposited his arrears in rent computed at the rate of P420.00 per month.

On October 13, 1997, the MeTC, Manila rendered its decision in favor of respondent, the dispositive portion of which stated:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff [herein respondent] and against the defendant [herein petitioner] ordering:

1. The defendant and all persons claiming rights under him to immediately vacate the premises known as 1901-K Int. 34, Zamora St., Pandacan, Manila, and surrender its peaceful possession to the plaintiff;
2. To remove and demolish the structure he built on the premises;
3. To pay the plaintiff the sum of P1,300.00 monthly beginning July 1995 and every month thereafter until he shall have finally and actually vacated the subject premises;
4. To pay the plaintiff the sum of P5,000.00 for and as attorney's fees; and
5. To pay the costs of the suit.

SO ORDERED.^[6] (Words in bracket ours)

Thereafter, petitioner appealed the case to the RTC which rendered a decision on February 4, 1998 affirming the decision of the MeTC, thus:

WHEREFORE, PREMISES CONSIDERED, except with the qualification that any demolition of the structures introduced by the defendant should be made only after the procedures mandated under Rule 39, Section 10(d) ^[7] is observed, the MTC Manila decision is hereby AFFIRMED, with costs against defendant.^[8]

Aggrieved with the ruling of the RTC, petitioner elevated the matter to the CA. On May 25, 2001, the CA promulgated its assailed decision dismissing petitioner's appeal and affirming the RTC decision. The CA held:

Thus, the Court has ruled that lease agreements with no specified period, but where monthly rentals are paid monthly are considered to be on a month-to-month basis. They are for a definite period and expire at the last day of any given thirty-day period, upon proper demand, and a notice by the lessor to vacate.

In the case at bar, it was found by the two lower courts that the lease over the subject property was on a month-to-month basis, and there was a proper demand to vacate the premises made by the respondent-appellee on petitioner-appellant. Consequently, the verbal lease agreement entered into by the parties has been validly terminated on April 11, 1996, when respondent-appellee gave a written demand on the petitioner-appellant to pay his back rentals, and to vacate the premises.

xxx xxx xxx

Respondent-appellee claims that from July 1995 up to the filing of the complaint, the petitioner-appellant has refused to heed the demand to settle his unpaid rentals and to vacate the leased premises. On the other hand, petitioner-appellant argues that the monthly rentals from July 1995 to January 1997 at P420 per month were paid in consignment case filed before Branch 3 of Metropolitan Trial Court of Manila.

When petitioner-appellant filed a consignment case, a fact was established that there was really an unpaid rental commencing from July 1995. A closer examination of the records reveals that the complaint for ejectment was filed on September 23, 1996, while the consignment case was commenced on May 15, 1997. Hence, when the petitioner-appellant paid the back rentals, the respondent-appellee had already filed the ejectment case. Case law is to the effect that the acceptance by the lessor of the payment by lessee of rentals in arrears does not constitute a waiver of the default of the payment of rentals as a valid cause of action for ejectment. xxx.^[9]

Petitioner's subsequent motion for reconsideration was likewise denied by the CA in its Resolution dated March 14, 2002. Hence, petitioner filed the instant petition anchored on the following grounds:

- A. THE HONORABLE COURT OF APPEALS ERRED IN FAILING TO CONSIDER THE ORDINANCE NO. 8020 ENACTED BY THE CITY OF MANILA ON MARCH 12, 2001 AUTHORIZING ACQUISITION OF THE SUBJECT PROPERTY, FOR RESALE TO THE BONAFAIDE TENANT THEREAT, UNDER THE LAND-FOR-THE-LANDLESS PROGRAM OF THE CITY OF MANILA.
- B. THE HONORABLE COURT OF APPEALS ERRED IN FAILING TO CONSIDER OR TAKE JUDICIAL NOTICE OF THE FACT THAT THE SUBJECT PROPERTY IS UNDER EXPROPRIATION BY THE CITY OF MANILA AND THEREFORE PETITIONER BY FORCE OF P.D. NO. 1517 IS A BENEFICIARY OF "NO EVICTION RULE" UNDER THE SAME.
- C. THE HONORABLE COURT OF APPEALS ERRED IN FAILING TO CONSIDER THE RENT CONTROL LAW (BP BLG. 877) INSOFAR AS ALLOWABLE INCREASE OF RENTAL OF THE SUBJECT PROPERTY IS CONCERNED, I.E. FROM P480.00/PER MONTH TO P1,300.00/PER

MONTH.

D. THE HONORABLE COURT OF APPEALS ERRED IN FAILING TO REVERSE THE ASSAILED DECISION (ANNEX "A") IN FAVOR OF THE PETITIONER.^[10]

Petitioner argues that the decision rendered by the MeTC of Manila, Branch 11, must be voided on account of the approval of Ordinance No. 8020 by the City Council of Manila on March 12, 2001 which authorized the acquisition of the subject property for resale to qualified tenants under the land-for-the-landless program of the City of Manila. He also maintains that the property is within the area for Priority Development Zone pursuant to Section 6 of Presidential Decree No. 1517 (P.D. No. 1517) or the Urban Land Reform Act. Petitioner claims that he is qualified under the so called "no eviction rule" considering that he has resided on the leased premises for more than ten (10) years already.

Likewise, petitioner insists that the agreed monthly rental is not P1,300.00 but P420.00 only. According to petitioner, the monthly rental had been increased from P420.00 to P1,300.00 which was a clear violation of the allowable increase under Batas Pambansa Blg. 877 (B.P. Blg. 877) or the Rent Control Law. Nevertheless, petitioner paid the said increase albeit under protest but when respondent did not accept his payments, he was forced to file a consignment case where the back rentals for the period July 1995-April 1996 had been deposited in court. These payments were withdrawn by respondent from the court, thus, respondent no longer had a cause of action against him.

In her Comment,^[11] respondent asserts that Ordinance No. 8020 does not apply in this case because the said ordinance did not indicate that the subject property had been acquired by the City of Manila from the heirs of the late spouses Restua for distribution to petitioner. Moreover, the ordinance was approved only on March 12, 2001 while the ejectment case was filed on September 23, 1996. The ordinance cannot belatedly affect the outcome of the instant case. Inasmuch as expropriation proceedings have not been instituted, respondent and her siblings remain the owners of the subject property and the leased premises.

Respondent also avers in her Memorandum^[12] that she was able to prove that grounds exist for the ejectment of petitioner when the latter failed to pay the rent for over three (3) months. She further asserts that her acceptance of the rents paid by petitioner by way of consignment will not legitimize petitioner's unlawful possession of the premises.

As to petitioner's claim that he is entitled to the benefits of P.D. No. 1517, respondent asseverates that under it, only legitimate tenants can take advantage of its beneficent provisions. By reason of petitioner's failure to pay the rents, his possession became unlawful and he could not be considered a *bona fide* tenant of the property.

We agree with the findings of all the three (3) lower courts that the verbal lease agreement between petitioner and respondent was on a monthly basis. It is settled that if the rent is paid monthly, the lease is on a month-to-month basis and may be

terminated at the end of each month. Article 1687 of the Civil Code is in point, thus:

Art. 1687. If the period for the lease has not been fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is monthly; from week to week, if the rent is weekly; and from day to day, if the rent is to be paid daily. However, even though a monthly rent is paid, and no period for the lease has been set, the courts may fix a longer term for the lease after the lessee has occupied the premises for over one year. If the rent is weekly, the courts may likewise determine a longer period after the lessee has been in possession for over six months. In case of daily rent, the courts may also fix a longer period after the lessee has stayed in the place for over one month.

In the case at bar, it is undisputed that the lease was verbal, that the period for the lease had not been fixed, that the rentals were paid monthly, and that proper demand and notice by the lessor to vacate were given. In the case of *Acab v. Court of Appeals*,^[13] this Court held:

...lease agreements with no specified period, but in which rentals are paid monthly, are considered to be on a month-to-month basis. They are for a definite period and expire after the last day of any given thirty-day period, upon proper demand and notice by the lessor to vacate.^[14]

A lease on a month-to-month basis provides for a definite period and may be terminated at the end of any month, hence, by the failure of the lessees to pay the rents due for a particular month, the lease contract is deemed terminated as of the end of that month.^[15] Applying this principle, the lease contract in the instant case was deemed terminated at the end of the month when the petitioner, as lessee, failed to pay the rents due.

B.P. Blg. 877^[16] was the rent control law in force at the time the complaint for unlawful detainer was filed. Sec. 5 thereof allows for judicial ejectment of a lessee on the following grounds:

Section 5. *Grounds for Judicial Ejectment.* • Ejectment shall be allowed on the following grounds:

(b) Arrears in payment of rent for a total of three (3) months: Provided, that in case of refusal by the lessor to accept payment of the rental agreed upon, the lessee may either deposit, by way of consignment, the amount in court, or with the city or municipal treasurer, as the case may be, or in a bank in the name of and with notice to the lessor, within one month after the refusal of the lessor to accept payment.

The lessee shall thereafter deposit the rental within ten days of every current month. Failure to deposit rentals for three months shall constitute a ground for ejectment. If an ejectment case is already pending, the