

## FIRST DIVISION

[ G.R. NO. 147594, March 07, 2007 ]

**METRO MANILA TRANSIT CORPORATION,\* PETITIONER, VS.  
D.M. CONSORTIUM, INC., RESPONDENT.**

### DECISION

**CORONA, J.:**

On appeal by certiorari under Rule 45 of the Rules of Court are the decision<sup>[1]</sup> of the Court of Appeals (CA) dated December 6, 1999 in CA-G.R. CV No. 54294 and its resolution<sup>[2]</sup> dated March 16, 2001, affirming the judgment<sup>[3]</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 93.

In 1981, the national government, through petitioner Metro Manila Transit Corporation (MMTC), launched a bus assistance program to aid private bus operators in acquiring new bus units through a "lease-purchase on easy installment payment" scheme. Respondent D.M. Consortium, Inc. (DMCI) availed of the program and entered into a lease-purchase agreement (LPA) with MMTC for the acquisition of 228 buses. Both parties agreed that, pending full payment, the monthly installments were to be treated as rentals. The salient features of the agreement included, among others, the following:

4.05 The operation and use of the [L]eased [E]quipment shall be at the risk of the LESSEE and not of the LESSOR, and the obligation of the LESSEE to pay the rent hereunder to the LESSOR shall be unconditional.

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11.01 It shall be a violation of the Lease Purchase Agreement [:] (a) if the LESSEE shall default in the payment of any rent hereunder and such default shall continue unremedied for a period of three (3) consecutive months;

11.02 In the event of a violation or breach of this lease, as herein defined: (a) the leased equipment shall, upon the LESSOR's option and demand, forthwith be delivered to the LESSOR, at the LESSEE's expense, at such place as the LESSOR may designate, and the LESSOR, and/or its agents may, without notice or liability or legal process, enter upon the premises where such leased equipment is situated, and repossess all or any of the leased equipment, using such force as may be necessary and permitted under the law applicable;

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14.01 Title of the [L]eased [E]quipment shall, at all times, remain with

the LESSOR. The [L]eased [E]quipment is, and shall remain, personal property of the LESSOR. The original registration of title thereto in the name of the LESSOR or any subsequent registration in the name of the LESSOR shall be effected by the LESSEE at its expense.

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15. 01 The LESSEE shall have the option to purchase or otherwise acquire title to or ownership of any of the [L]eased [E]quipment, upon expiration of the lease period, or prior to the expiration of said lease period, provided, that the LESSEE shall have paid in full all outstanding obligations to the LESSOR.<sup>[4]</sup>

After an alleged default in its amortizations, DMCI was informed by MMTC that it was taking immediate possession of all the bus units and accessories.

Meanwhile, because of the national emergency caused by a *coup d' etat* attempt, then President Corazon Aquino issued Memorandum Order (MO) No. 267 on December 7, 1989 directing the Secretary of Transportation and Communication to temporarily take over the operations of DMCI. Under the MO, the DOTC Secretary was to recommend payment of "just compensation to the owner for the use of their buses and facilities."<sup>[5]</sup>

On December 9, 1989, MMTC repossessed the buses by occupying the premises of DMCI, including its offices.

Consequently, MMTC took steps to sell the repossessed buses at a public auction. Before the public bidding, however, DMCI filed a petition for injunction with prayer for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction in the RTC of Quezon City, Branch 93.<sup>[6]</sup>

On April 11, 1990, a TRO was issued enjoining the scheduled public auction of the buses. After due notice and hearing, the lower court later issued a writ of preliminary injunction in favor of DMCI.

MMTC filed a motion for reconsideration (MR) of said order but this was denied. It subsequently filed a petition for certiorari in the CA questioning the issuance of the writ of preliminary injunction but it was likewise dismissed for lack of merit.

Thereafter, trial of the main case ensued.

On September 11, 1995, the RTC decided in favor of DMCI and found no basis for MMTC to repossess the buses or to sell them at public auction. According to the trial court, under 11.01<sup>[7]</sup> of the LPA, repossession was possible only if there was failure on the part of DMCI to pay within three consecutive months but, contrary to MMTC's claim, DMCI made partial payments which were accepted without protest. The trial court added that long before the December 9, 1989 takeover, DMCI had already paid about P106 million or more than its original obligation of P71 million under the LPA. The dispositive portion of the decision read:

WHEREFORE, premises considered, judgment is hereby rendered in favor of [DMCI] and the [MMTC] is hereby ordered to:

1. Pay [DMCI] the amount of P200,000.00 by way of moral damages.
2. Pay the [DMCI] the amount of P100,000.00 for the use of the furniture[s], fixtures and other equipments.
3. [Pay] the [DMCI] the amount of P500,000.00 for the reasonable rent for the use of DMC[I]'s buses from December 9, 1989 up to the present.
4. [Return] all DMC[I]'s buses that were taken by [MMTC].
5. [Pay] attorney's fees in the amount of P100,000.00[;] and
6. [Pay] the costs.

SO ORDERED.<sup>[8]</sup>

On appeal to the CA, the appellate court sustained the RTC's order for MMTC to return the buses to DMCI. However, it deleted the award to DMCI of moral damages, payment for the use of its buses and office facilities and attorney's fees. The decretal portion of the decision read:

WHEREFORE, foregoing considered, a new decision is hereby entered by (1) AFFIRMING the return of all the DMC[I] buses taken by the [MMTC] as embodied in no. 4 of the dispositive portion of the appealed decision; and (2) we REVERSED and SET ASIDE the rest of the dispositive portion of the questioned decision as appearing in no. 1,2,3,5 and 6.

SO ORDERED.<sup>[9]</sup>

MMTC and DMCI filed their respective MRs of the CA decision.

In its MR, MMTC contended that it owned the buses and its takeover/repossession of said buses was justified under the LPA. On the other hand, DMCI insisted that it was not the LPA that was involved but MO No. 267 which expressly called for payment of just compensation on account of the government's takeover of its facilities during the national emergency declared by then President Aquino. It also argued that it was entitled to damages since the buses could no longer be returned in their original condition.

On March 16, 2001, the CA issued a resolution modifying its questioned decision. It held:

1. Adjudging - **MMTC liable to pay [DMCI] the value of the subject 228 DMC[I] buses as of December, 1989, to be determined by the lower court after appropriate proceedings. For this purpose[,] the case is remanded to the lower court only for this purpose** and thereafter to enforce this judgment.
2. Requiring - **MMTC to pay [DMCI] the amount of P2,000,000.00 for the appropriation and use of its furniture, fixtures and other equipments.**

**Except as herein modified, the dispositive part of the Decision of December 6, 1999 is maintained.**

SO ORDERED. (emphasis supplied)<sup>[10]</sup>

The appellate court's bases for modifying its previous decision read:

There is preponderant evidence that MMTC took over not only of the transport facilities of [DMCI], but also the latter's furniture, equipments, fixtures....It is not disputed that MMTC did not have the semblance of authority whether under the LPA or MO 267 to appropriate the said properties thus listed. MMTC in fact admitted that [DMCI was] entitled to reasonable compensation for the use of these properties.

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While the total value of the items listed by [DMCI] was P5,220,997.59 ..., MMTC pray[ed] in their Brief and Motion for Reconsideration for an award of P2,000,000.00. We now find this reasonable and supported by evidence.

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The last matter to be resolved is DMCI's assertion that MMTC should pay the market value of the 228 bus units as of December 9, 1989, the date of the repossession.

The lower court decreed that the subject buses should be returned to DMCI as a necessary consequence of the absence of legal and factual basis for the taking thereof. On this, we sustained the lower court.

DMCI...pointed out, however, that the subject buses can no longer be returned in the same condition that they were at the time of repossession, understandably so considering that eleven (11) years had lapsed. In any event, there seems to be no disagreement on this point. It is then posited that DMCI ... should be paid the corresponding value of the repossessed buses as of the time of the taking, the return thereof having become impractical, if not possible.

We agree.<sup>[11]</sup>

Only MMTC appealed the CA decision and resolution to us.

In this petition, MMTC raises the following issues: (1) whether it can be ordered to return the repossessed buses after exercising its right of possession as owner/lessor thereof and (2) whether the award of P2 million as payment for the use and appropriation of DMCI's furniture, fixture and other equipment was warranted.<sup>[12]</sup>

On the first issue, MMTC argues that the assailed CA decision and resolution were contrary to the provisions of Article 1485<sup>[13]</sup> in relation to Article 1484<sup>[14]</sup> of the Civil Code. On the second issue, MMTC insists that the lower courts had no basis for holding it liable for P2 million for the use of DMCI's furniture, fixtures and equipment.

We deny the petition.

It is futile for MMTC to challenge the CA's order to return the repossessed buses to