

FIRST DIVISION

[G.R. No. 131471, January 22, 2003]

**CARMELITA T. PANGANIBAN, PETITIONER, VS. PILIPINAS SHELL
PETROLEUM CORPORATION, RESPONDENT.**

DECISION

CARPIO, J.:

The Case

Before us is a petition for review assailing the Decision^[1] of the Court of Appeals dated November 12, 1997 in CA-G.R. SP No. 44673 dismissing the appeal of petitioner. The questioned decision affirmed the order of the Regional Trial Court of Makati City, Branch 137, in Case No. 95-1010 dismissing petitioner's petition for declaratory relief on the ground of *litis pendentia*.

The Antecedent Facts

On August 7, 1990, Carmelita Panganiban ("petitioner" for brevity) entered into a Sublease and Dealer Agreement ("SLDA" for brevity) with Pilipinas Shell Petroleum Corporation ("private respondent" for brevity). Through the SLDA, private respondent subleased to petitioner a gasoline station located at 427 Samson Road, EDSA, Caloocan City. The period of the sublease as stipulated in the SLDA is as follows:

"5. Effectivity Date. Duration and Termination of Agreement.

This Agreement may be terminated by SHELL at any time during the first six (6) months from the date of approval by ERB of the application of the DEALER to operate this station, on any of the following grounds: failure of the DEALER to meet any of the conditions stipulated in this Agreement, lack of appropriate personal attention/presence in the operation of the station, or poor volume performance of the station, the evaluation and determination of which shall be at the exclusive discretion of SHELL. Such decision of termination by SHELL shall be accepted by the DEALER, who hereby agrees that another dealer shall be appointed by SHELL and approved by BEU or other appropriate government agency. If this agreement is not terminated during the first six (6) months, it shall continue to be in effect for another period of 4½ years, unless otherwise terminated as herein provided in paragraph 5(3). The parties agree that this Agreement is, however, co-terminus with SHELL's lease on the site referred to under paragraph 1 of this Agreement notwithstanding the total 5-year period aforementioned."^[2]

Private respondent is not the owner of the lot subject of the sublease. Private respondent was only leasing the lot from its owner, Serafin Vasquez, pursuant to a Lease Agreement dated February 27, 1987. The Lease Agreement was effective from January 1, 1987 to December 31, 2002 or for a period of 15 years.

In a letter dated June 14, 1995, private respondent notified petitioner that the SLDA was expiring on July 31, 1995. Private respondent then advised petitioner to wind up her business on or before July 31, 1995.

Believing that the SLDA had not yet expired and was still effective until December 31, 2002, petitioner continued to pay rentals for the gasoline station. Private respondent refused to accept the payments.

On July 10, 1995, petitioner filed a petition for declaratory relief with Branch 137 of the Regional Trial Court of Makati City. The case was docketed as Case No. 95-1010.

On August 30, 1995, private respondent filed its Answer.

On April 26, 1996, private respondent filed an unlawful detainer case against petitioner with the Metropolitan Trial Court of Caloocan City. The case was docketed as Civil Case No. 22645.

On April 30, 1996, or eight months after it submitted its Answer in Case No. 95-1010 with the Regional Trial Court, private respondent filed a Manifestation with Motion to Dismiss in the same case. Private respondent claimed that the issue of the renewal of the lease should be raised in the unlawful detainer case pending before the Metropolitan Trial Court.

On August 1, 1996, during the preliminary conference of the unlawful detainer case, petitioner moved for the suspension of the proceedings since the other case filed with the Regional Trial Court involved the same parties and issues. The Metropolitan Trial Court denied petitioner's motion and the court ordered the parties to submit their position papers.

On September 25, 1996, the Metropolitan Trial Court issued its Decision in the unlawful detainer case in favor of private respondent, thus:

"WHEREFORE, premises considered, judgment is hereby rendered, ordering:

1. the defendant and all persons or parties claiming rights under her to vacate the subject subleased premises and peacefully surrender possession thereof to the plaintiff;
2. the said defendant to pay the plaintiff as follows:
 - a) the amount of P52,500.00 per month from August 1, 1995 until the said premises is fully vacated by defendant and returned to plaintiff;
 - b) the amount of P20,000.00 as plaintiff's reduced attorney's fees; and

c) the costs of suit.

The counterclaim of the defendant is dismissed for lack of merit.

IT IS SO ORDERED.”^[3]

Petitioner appealed from the decision of the Metropolitan Trial Court. The appeal is now pending with the Regional Trial Court of Caloocan City, Branch 124, docketed as Civil Case No. C-17726.

On February 21, 1997, the Regional Trial Court ordered the dismissal of the petition for declaratory relief. The Order reads:

“Considering that there has been a breach of the Sublease and Dealer Agreement (SLDA) on the part of the petitioner (lessee therein) as said lease had supposedly expired on 31 July 1995, and that, consequently, an ejectment has already been filed against petitioner by respondent before the Metropolitan Trial Court of Kalookan City, so that this petition is no longer proper under the circumstances, and considering further that the issue on possession can be threshed out in said ejectment case based on the jurisprudence in *Rosales vs. CFI of Lanao del Norte*, Br. III, 154 SCRA 153, this petition is dismissed.”^[4]

Petitioner filed a motion for reconsideration of the Order. Because of petitioner’s failure to appear at the hearing on her motion for reconsideration, the Regional Trial Court on April 11, 1997 denied the motion for reconsideration.

On May 13, 1997, petitioner filed a petition for review under Rule 45 of the Rules of Court with the Supreme Court. The petition assailed the February 21, 1997 Order of the Regional Trial Court dismissing Case No. 95-1010. The petition was docketed as G.R. No. 128984.

On June 25, 1997, the Supreme Court issued a Resolution referring the petition for certiorari to the Court of Appeals. The petition was referred to the Court of Appeals because the appellate court has concurrent jurisdiction with the Court and petitioner failed to cite a special or important reason for the Court to take immediate cognizance of the petition.

On November 12, 1997, the Court of Appeals denied the petition for certiorari. The dispositive portion of the Decision reads:

“THE FOREGOING CONSIDERED, and not being sufficient in substance, herein Petition for Certiorari is hereby dismissed.”^[5]

The Ruling of the Court of Appeals

The Court of Appeals upheld the order of the trial court dismissing the petition for declaratory relief on the ground of *litis pendentia*. The appellate court ruled that in dismissing the petition for declaratory relief, the Regional Trial Court correctly applied the doctrine laid down in ***Rosales v. Court of First Instance of Lanao del Norte***.^[6] The Court of Appeals also considered ***University Physicians Services,***

Inc. v. Court of Appeals^[7] as a case parallel to the present case. In ruling that the case for declaratory relief should be abated in favor of the case for unlawful detainer, the Court of Appeals quoted the pertinent portions of ***Rosales***^[8] and ***University Physicians Services, Inc.***^[9]

In disregarding petitioner's contention that it is this Court that has jurisdiction over her petition, the Court of Appeals pointed out that it was merely yielding to this Court's June 25, 1997 Resolution ordering the appellate court to decide the case on the merits. This Court referred the petition to the Court of Appeals because the appellate court has concurrent jurisdiction with this Court and there is no "special or important reason" for this Court to take immediate cognizance of the case.

The Issues

The sole issue raised by petitioner in this case is:

"THE COURT OF APPEALS ERRED IN AFFIRMING RTC-MAKATI'S DISMISSAL OF CIVIL CASE NO. 95-1010 ON MOTION OF SHELL ON THE GROUND OF LITIS PENDENTIA WHICH WAS FILED LONG AFTER SHELL HAD FILED ITS ANSWER."^[10]

The Ruling of the Court

We find no merit in the petition.

The Court of Appeals correctly applied ***Rosales***^[11] and ***University Physicians Services, Inc.***^[12] in sustaining the dismissal of the action for declaratory relief to give way to the ejectment suit.

In ***Rosales***,^[13] the real issue between the parties, the lessor and the lessee, was whether the contract of lease they entered into had already prescribed. The lessee filed an action for the continued enforcement of the lease contract and for damages with the Court of First Instance of Iligan City. The lessor in turn filed a case for unlawful detainer with the City Court of Iligan City. The lessor filed with the Court of First Instance a motion to dismiss the complaint of the lessee because of the pendency of the ejectment case. The lessee for his part moved for the dismissal of the ejectment suit also on the ground of litis pendentia contending that the case he had filed earlier should be decided first before the lessor's complaint could be entertained. In deciding which case should take precedence, the Court cited the ruling in ***Pardo v. Encarnacion***,^[14] to wit:

"At any rate, while the said case before the Court of First Instance of Cavite appears to be one for specific performance with damages, it cannot be denied that the real issue between the parties is whether or not the lessee should be allowed to continue occupying the land as lessee.

The situation is not novel to Us.

It has been settled in a number of cases that the right of a lessee to occupy the land leased as against the demand of the lessor should be

decided under Rule 70 (formerly 72) of the Rules of Court.

There is no merit to the contention that the lessee's supposed right to a renewal of the lease contract can not be decided in the ejectment suit. In the case of *Teodoro v. Mirasol*, supra, this Court held that 'if the plaintiff has any right to the extension of the lease at all, such right is a proper and legitimate issue that could be raised in the unlawful detainer case because it may be used as a defense to the action.' In other words, the matter raised in the Court of First instance of Cavite may be threshed out in the ejectment suit, in consonance with the principle prohibiting multiplicity of suits. And the mere fact that the unlawful detainer case was filed later, would not change the situation to depart from the application of the foregoing rule.

'It is to be noted that the Rules do not require as a ground for dismissal of a complaint that there is a prior pending action. They provide that there is pending action, not a pending prior action. The fact that the unlawful detainer suit was of a later date is no bar to the dismissal of the present action.' (*Teodoro, Jr. v. Mirasol*, supra.)"

In ***University Physicians Services, Inc.***,^[15] the Court also had to resolve which of two cases, one for damages and one for ejectment, filed in two different courts involving the same parties and subject matter, should take precedence over the other. In settling this issue, the Court also relied on ***Pardo v. Encarnacion***, citing the discussion quoted above. The Court further declared in ***University Physicians Services, Inc.*** that:

"The issue of whether private respondent had the right to occupy the subject apartment unit should therefore be properly threshed out in an ejectment suit and not in an action for damages where the question of possession is likewise the primary issue to be resolved.

We cannot simply ignore the fact that private respondent, after her unjustified refusal to vacate the premises, was aware that an ejectment case against her was forthcoming. It is therefore evident that the filing of the complaint for damages and preliminary injunction was but a canny and preemptive maneuver intended to block the action for ejectment which petitioner was to take against private respondent.

The matter raised in the Regional Trial Court of Manila may be properly determined in the ejectment suit before the Metropolitan Trial Court, in consonance with the rule prohibiting multiplicity of suits. And the mere fact that the unlawful detainer suit was filed later than the one for damages does not change the situation of the parties (*Rosales vs. CFI*, 154 SCRA 153 [1987])".

Petitioner insists that the doctrine laid down in ***Rosales*** and ***University Physicians Services, Inc.*** is not applicable to this case. Rather, the case law applicable is that laid down in ***J.M. Tuason & Co., Inc. v. Rafor***,^[16] ***Ruiz, Jr. v. Court of Appeals***^[17] and ***Heirs of Mariano Lagutan v. Icao***^[18] which essentially establish the doctrine that a motion to dismiss must be filed within the time to answer.