

SECOND DIVISION

[G.R. No. 113626, September 27, 2002]

JESPAJO REALTY CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS, TAN TE GUTIERREZ AND CO TONG, RESPONDENTS.

DECISION

AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to review and set aside the decision of the Court of Appeals promulgated on January 26, 1994 in CA-G.R. SP No. 27312^[1] which reversed the decision of the Regional Trial Court in Civil Case No. 91-57757^[2] and reinstated the Metropolitan Trial Court rulings in Civil Case No. 134022-CV, entitled, "Jespajo Realty Corp., *Plaintiff*, vs. Tan Te Gutierrez and Co Tong, Defendants."^[3]

The uncontroverted facts of the case as found by the Court of Appeals are as follows:

"The subject of this controversy is an apartment building located at 619 Asuncion Street, Binondo, Manila and owned by Jespajo Realty Corporation. On February 1, 1985, said corporation, represented by its President, Jesus L. Uy, entered into separate contracts of lease with Tan Te Gutierrez and Co Tong.xxx Pursuant to the contract, Tan Te occupied room No. 217 of the subject building at a monthly rent of P847.00 while Co Teng occupied the Penthouse at a monthly rent of P910.00xxx The terms of the contract among others are the following:

'PERIOD OF LEASE- The lease period shall be effective as of February 1, 1985 and shall continue for an indefinite period provided the lessee is up-to-date in the payment of his monthly rentals. The LESSEE may, at his option, terminate this contract any time by giving sixty (60) days prior written notice of termination to the LESSOR.

'However, violation of any of the terms and conditions of this contract shall be a sufficient ground for termination thereof by the LESSOR.

'xxx xxx xxx

'RENT INCREASE - For the duration of this contract, the LESSEE agrees to an automatic 20% yearly increase in the monthly rentals.'

"Since the effectivity of the lease agreement on February 1985, the lessees religiously paid their respective monthly rentals together with the

20% yearly increased (sic) in the monthly rentals as stipulated in the contract. On January 2, 1990, the lessor corporation sent a written notice to the lessees informing them of the formers' intention to increase the monthly rentals on the occupied premises to P3,500.00 monthly effective February 1, 1990. The lessees through its counsel in a letter dated March 10, 1990 xxx manifested their opposition alleging that the same is in contravention of the terms of the contract of lease as agreed upon. Due to the opposition and the failure of the lessees to pay the increased monthly rentals in the amount of P3,500.00, the lessor through its counsel in a letter dated April 10, 1990 xxx demanded that the lessees vacate the premises and pay the amount of P7,000.00 corresponding to the months of February and March, 1990.

"The lessees exerted effort to pay the rentals due for the months of February and March 1990 at the monthly rate stipulated in the contract but was refused by the lessor so that on May 2, 1990, they instituted before the Metropolitan Trial Court of Manila, Branch 16 a case for consignment xxx

"In the said complaint, plaintiffs alleged that the amount of P2,107.60 and P2,264.40 are the monthly rental obligations of Tan Te and Co Tong respectively. They sought to consign with the court their monthly rental obligations at the rate above mentioned for the months of February up to April 1990. Additionally, they prayed that the court issue an order directing the defendant to honor the terms and conditions of the lease.

"It is to be noted that on February 6, 1991, the trial judge in the consignment case issued an order allowing the plaintiffs therein to deposit with the City Treasurer of Manila the amount of P33,480.28 for Co Tong and the amount of P32,710.32 for Tan Te Gutierrez representing their respective rentals for thirteen (13) months from February, 1990 to January, 1991. This order however is without prejudice to the final outcome of the case. Plaintiffs duly complied with the order as evidenced by an official receipts (sic) xxx in the name of Tan Te Gutierrez and Co Tong, respectively, issued by the City Treasurer on February 11, 1991.

"On November 15, 1990, or more than six (6) months from the filing of the case for consignment, the lessor instituted an ejectment suit against the lessees before the Metropolitan Trial Court of Manila Branch 20 xxx. The court in its decision dated May 10, 1991 rendered a decision dismissing the ejectment suit for lack of merit. xxx"^[4]

Portions of the MTC decision read:

"Furthermore, it appears that the plaintiff realizing that it had virtually surrendered certain aspects of its rights of ownership over the subject premises in stipulating that the lease 'shall continue for an indefinite period provided the LESSEE is up-to-date in the payment of his monthly rentals', has raised the monthly rental to P3,500.00 which is much higher than the correct rental in accordance with their stipulated 20% automatic increase annually. This was done by the plaintiff apparently in order to

create an artificial cause of action, as when the LESSEES would refuse, as in fact they refused, to pay the monthly rentals at the increase rate. This pretext of the plaintiff cannot be countenanced by law.

"Anent the final issue as to whether or not the defendants are already in arrears in the payment of rentals on the premises, it is noteworthy that the instant case for Unlawful Detainer was filed by the plaintiff-LESSOR herein only on November 15, 1990, while the LESSEES' consignment case against the LESSOR-plaintiff herein based on the latter's refusal to accept the rentals have been pending with Branch XVI of this Court since May 2, 1990. And, in accordance with the consignment case, the LESSEES, upon proper motion approved by the Court, deposited the amounts of "P33,480.28 covered by O.R. No. B-578503 (for CO TONG) and P32,710.32 covered by O.R. B-578502 (for TAN TE GUTIERREZ) both receipts dated February 11, 1991.

"IN VIEW OF THE FOREGOING, and after careful scrutiny of the entire record including all documentary evidence adduced by both parties, this Court is of the opinion and so holds that the plaintiff (Jespajo Realty Corporation) has failed to establish its claims by preponderance of evidence.

"WHEREFORE, this case is hereby dismissed for utter lack of merit. The counterclaim is likewise dismissed for lack of evidence to support the same. No pronouncement as to costs.

"SO ORDERED."^[5]

Jespajo Realty Corporation then appealed to the Regional Trial Court which ruled in its favor, thus:

"The Court is fully convinced that the sum demanded by appellant as increase in appellees monthly rentals to the premises which they are renting from appellant is very reasonable considering that the leased premises are located in the commercial and business section of Manila in Binondo. It is also undisputed that appellant has a 24-hour security unit over the property as well as parking spaces and provisions for electricity, water and telephone services.

"In the light of the foregoing, the Court is constrained to reverse the appealed decision and hereby orders another judgment to be entered in favor of appellant.

"WHEREFORE, PREMISES CONSIDERED, judgment is rendered as follows:

"1. Reversing the decision of the court a quo insofar as it dismissed appellant's complaint;

"2. Declaring the termination or revocation [of the] lease contracts Annexes 'A' and 'A-1', Complaint executed between appellant and appellees;

"3. Ordering appellees, their heirs and all other persons acting for and in their behalf to vacate and surrender immediately the lease premises to appellant;

"4. Adjudging appellees to pay unto appellant their rental arrearages of P57,426.45 for appellee (Tan Te Gutierrez) and P56,153.75 for appellee (Co Tong) as of April 30, 1991 and thereafter each appellee is ordered to pay also appellant the sum of P3,500.00 every month starting May 1, 1991 until they shall have fully vacated and surrendered the leased premises;

"5. Appellees are likewise adjudged to pay the sum of P10,000.00 as and for attorney's fees, and

"6. The costs of suit.

"SO ORDERED."^[6]

However, said RTC decision was reversed by the Court of Appeals in the herein assailed decision, portions of which read:

"Be that as it may, We find that it was the private respondent who, in fact, violated the lease agreement by charging petitioners a monthly rental of P3,500.00, well in excess of the rental stipulated in the lease contract. We see in the refusal of private respondent to accept the rental being offered by petitioners, a scheme to place petitioners in default of their rental payments. However, said scheme was waylaid by petitioners' consignment of the rentals due from them.

"In view of the foregoing discussion, We find no more necessity in discussing the last two (2) errors raised in the petition. We likewise find that the respondent court committed an error of fact and law in reversing the decision of the Metropolitan Trial Court of Manila and in arriving at the decision under review.

"WHEREFORE, the decision under review is hereby REVERSED and SET ASIDE. The decision dated May 10, 1991 of the Metropolitan Trial Court of Manila, Branch XX which dismissed Civil Case No. 134022 – CV for lack of merit is hereby REINSTATED. No pronouncement as to costs.

"SO ORDERED."^[7]

Petitioner comes before this Court with the following questions:

"I

"WHEN THE PARTIES TO A CONTRACT OF LEASE STIPULATED FOR AN INDEFINITE PERIOD AND SHALL CONTINUE FOR AS LONG AS THE LESSEE IS PAYING THE RENT, IS THE SAID CONTRACT INTERMINABLE EVEN BY THE LESSOR?

“II

“WHEN THERE IS A DISAGREEMENT ON THE RENTALS TO BE PAID, SHOULD IT BE RESOLVED IN A CONSIGNATION CASE OR IN AN EJECTMENT CASE?”^[8]

Petitioner claims that the contracts of lease entered into between the petitioner and private respondents did not provide for a definite period, hence, Art. 1687 of the New Civil Code applies. Said Article reads:

“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.”

Petitioner cited *Yek Seng Co. vs. Court of Appeals*,^[9] where this Court held that: “[c]onformably, we hold that as the rental in the case at bar was paid monthly and the term was not expressly agreed upon, the lease was understood under Article 1687 of the Civil Code to be terminable from month to month.”^[10]

On the premise that the lease contract was effective on a monthly basis, petitioner claims that the contract of lease with respondent has been terminated, without being renewed, after respondents refused to comply with the increased monthly rate of P3,500.00 and that this refusal even after receiving a notice of termination and a final demand letter is a valid cause of action for unlawful detainer.^[11]

As to the second issue, petitioner argues that the Court of Appeals erred in ruling that their allegation of respondents’ non-payment of rentals in the complaint for ejectment was false. Petitioner insists that when it filed the case of ejectment, private respondents had failed and refused to pay the demanded P3,500.00 monthly rentals. Thus, petitioner correctly alleged non-payment of this rental as another ground for ejectment aside from the basic allegation of termination of the lease contract. Petitioner also contends that the issue of whether or not the P3,500.00 monthly rental should be the correct rental to be paid by the private respondents cannot properly be determined in the consignment case earlier filed by private respondents since the issue can be resolved only in the ejectment case.^[12]

Crucial in the resolution of this case is the construction of the lease agreement, particularly the portion on the period of lease, which reads:

“PERIOD OF LEASE- The lease period shall be effective as of February 1, 1985 and shall continue for an indefinite period provided the lessee is up-to-date in the payment of his monthly rentals. xxx”