

## SECOND DIVISION

[ G.R. No. 140886, April 19, 2001 ]

**EULOGIO "EUGUI" LO CHUA, PETITIONER, VS. COURT OF  
APPEALS, ERIC CHUA AND MAGIC AIRE INDUSTRIES, INC.,  
RESPONDENTS.**

### D E C I S I O N

**BELLOSILLO, J.:**

GIVEN THESE FACTS: the lease period was not agreed upon by the parties, rental was paid monthly, and the lessee has been occupying the premises for a couple of years, will the law step in to fix the period, or authorize the court to fix a longer period?

On 19 April 1996 a *Complaint* for Unlawful Detainer and Damages was filed by respondent Eric Chua against petitioner Eulogio "Eugui" Lo Chua before the Metropolitan Trial Court of Manila. On 3 December 1996 the *Complaint* was amended joining respondent Magic Aire Industries, Inc. (MAGICAIRE) as plaintiff being the present owner of the premises.

Respondent Eric Chua, plaintiff in the trial court, alleged that he was the former owner of a parcel of land with a four (4)-storey commercial building thereon known as *National Business Center (NBC) Bldg.* situated at 567 G. Puyat St., Sta. Cruz, Manila. Room No. 308 and Stall No. 561 thereof were both leased by petitioner on a month-to-month basis for P12,938.20.

Subsequently, respondent Eric Chua decided to sell the property. Through a letter of 6 November 1995 he offered petitioner a right of first refusal to be exercised within five (5) days from receipt thereof, which was on 7 November 1995.<sup>[1]</sup> Petitioner failed to manifest his intention within the period. Thus, on 16 November 1995 respondent Chua sold the property to respondent MAGICAIRE for P25,000,000.00 subject to the condition stated in the *Deed of Conditional Sale* that P5,000,000.00 would be paid after the building was completely vacated by the tenants.<sup>[2]</sup> On 4 December 1995 respondent Chua through a letter informed petitioner about the sale transaction, the termination of their lease agreement effective 31 March 1996 and demanded that petitioner vacate the premises after the end of the period, at the same time waiving the rentals for January to March 1996 in consideration of petitioner's understanding and cooperation.<sup>[3]</sup> On 23 January 1996 petitioner tendered payment of the rental for that month but was declined by respondent Chua.

On 1 February 1996 petitioner filed a Petition for Consignation before the Metropolitan Trial Court of Manila. On 28 March 1996 respondent Chua made a final demand on petitioner to vacate the property<sup>[4]</sup> but was refused.

Petitioner contended that he ignored the demand letters of respondent Chua because upon verification from the Register of Deeds of Manila petitioner learned that respondent Chua was no longer the owner of the property; that petitioner allowed the *Petition for Consignation* to be dismissed on 25 September 1996 because respondent Chua was not the real party-in-interest; and, that petitioner made a counter offer to purchase the property on 11 November 1995 but respondent Chua nonetheless proceeded with the sale to respondent MAGICAIRE.

During the preliminary conference, the parties stipulated on certain facts, among which insofar as pertinent were: (a) payment of rental was on a monthly basis; (b) receipt by petitioner of the 6 November 1995 letter from respondent Chua offering petitioner a right of first refusal; (c) validity of TCT No. 167283 in the name of respondent Chua; (d) receipt by petitioner of the 4 December 1995 letter of respondent Chua terminating the lease and ejecting petitioner from the premises; (e) filing by petitioner of a *Petition for Consignation* before the MTC of Manila; (f) existence of the 28 March 1996 letter of respondent Chua containing the final demand to vacate; (g) receipt by respondent Chua of the *Reply* of petitioner of 11 November 1995 to his letter of 6 November 1995; (h) existence of the *Deed of Absolute Sale* over the property executed by respondent Chua in favor of respondent MAGICAIRE on 16 November 1995 aside from the *Deed of Conditional Sale* executed on the same day; and, (i) issuance on 27 November 1995 of TCT No. 225102 in the name of respondent MAGICAIRE cancelling the title of respondent Chua.

The parties also stipulated on the following issues: (a) whether petitioner may be validly ejected from the premises on the ground of termination of monthly lease contract and non-payment of rentals; (b) whether petitioner was entitled to exercise his right of first refusal; (c) whether petitioner was entitled to an extension of the lease period conformably with Art. 1687 of the *Civil Code* for having occupied the property for more than thirty (30) years; (d) whether respondent Chua had the right to demand that petitioner vacate the premises and to file the present case after he ceased to be the owner thereof; and, (e) whether the amendment of the *Complaint* joining respondent MAGICAIRE as plaintiff validated the demand letter of 28 March 1996 for the purpose of filing the ejectment suit.

As to the first issue, the trial court found -

x x x in the letter dated December (4), 1995 sent by plaintiff's counsel to defendant x x x x defendant was advised about the termination of his month to month lease contract effective end of March 1996 and required him to vacate the subject premises thereafter. In the event of compliance with this demand, plaintiff shall waive the rentals for the period covering January to March 1996 which was the reason why the tender of rental payments made by defendant was initially rejected by plaintiff in anticipation of the former's compliance with the demand to vacate subject premises.

Apparently however, defendant refused to heed said demand and in the letter dated March 28, 1996 x x x accrued rentals were likewise demanded from defendant in addition to the reiterated demand to vacate subject premises x x x x<sup>[5]</sup> The MTC concluded that petitioner could be ejected from the premises for non-payment of rentals and termination of the lease contract, and for the period that petitioner unlawfully withheld possession thereof, he was liable to pay accrued rentals as

reasonable compensation for its use and occupation until final surrender to respondents.

Regarding the second issue, the MTC opined that petitioner was not entitled to exercise his right of first refusal since the property was not located within the *Priority Development Zone* decreed pursuant to Sec. 4, PD 1517.<sup>[6]</sup> Moreover, the right pertained only to tenants who built their homes on a parcel of land.

With respect to the third issue, the MTC did not find justification to extend the lease period since petitioner invoked extension only after the period of lease had already expired or during the court proceedings.

Concerning the fourth and fifth issues, the MTC held that under Sec. 1, Rule 70, of the *Rules of Court*, a landlord, vendor or vendee may rightfully file an ejectment case against the person unlawfully withholding possession of a specific property as well as the legal representatives or assigns of such persons. Respondent Chua was the vendor of the property and as stated in the *Deed of Conditional Sale*, he was under obligation to cause the ejectment of the tenants thereon within one (1) year from the execution of the deed.

On 1 April 1997 the MTC thus ordered petitioner and all persons claiming under him to immediately vacate and surrender possession of Rm. No. 308 and Stall No. 561 of the NBC, and to pay the current monthly rental of P12,938.20 as reasonable compensation for the continued use and occupancy thereof from April 1996 until he finally vacated and surrendered possession to private respondents as well as to pay attorney's fees of P5,000.00 and the costs.<sup>[7]</sup> On 16 October 1997 the Regional Trial Court affirmed the Decision of the lower court.<sup>[8]</sup> As regards the fifth issue, it elaborated that the demand sent by respondent Chua on 4 December 1995 was sufficient compliance with the rules for filing an ejectment suit. It cited *Garcia v. Court of Appeals*<sup>[9]</sup> where this Court ruled that when the former owner of the leased estate already sent a notice to vacate, the buyer thereof need not send another notice before filing the ejectment suit.

On 19 November 1999 the Court of Appeals likewise affirmed the Decision of the Regional Trial Court.<sup>[10]</sup> On the same day, it granted private respondents' *Motion for Immediate Execution and to Withdraw Rental Deposits*.<sup>[11]</sup> On 19 January 2000 this Court directed the parties to maintain the *status quo* as of the filing of the present *Petition* on 14 December 1999.

It may be mentioned at this juncture that petitioner makes a big fuss over the circumstance that in the first sentence of the Decision of the RTC, it is stated that the subject matter thereof was "an appeal from the decision of the Metropolitan Trial Court of Manila, Branch 22 x x x (underscoring supplied)."<sup>[12]</sup> He deduces that the RTC Decision was based on the records which originated from MTC-Br. 22, not Br. 30, and/or the RTC Decision was merely copied from a Decision which affirmed a Decision of MTC-Br. 22.

The argument is hollow. It is very clear that the reference in the first sentence of the RTC Decision to the ruling of Br. 22, instead of Br. 30, is a mere typographical error. The dispositive portion of the MTC Decision quoted by the RTC as part of that

sentence is precisely that of Br. 30. Being harmless, the error should have been simply disregarded by petitioner.

Petitioner argues that his lease contract with the owners of the property previous to respondent Chua, referring to Vic-Mar Industries and Mariano Chua, was in writing and on a yearly basis which was thereafter assumed by respondent Chua also on a yearly basis, except that the new lease agreement was not reduced to writing.

We agree with the finding of all the three (3) lower courts that the lease contract between petitioner and respondent Chua was on a monthly basis. We recall that one of the subject matters of the stipulation during the preliminary conference was that "the manner of payment of rental is on a monthly basis." It is settled that if the rent is paid monthly, the lease is on a month-to-month basis<sup>[13]</sup> and may be terminated at the end of each month.<sup>[14]</sup> Article 1687 of the *Civil Code* is in point. Among other things, it provides that "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."

Petitioner also claims that respondent Chua ceased to be the owner-lessor of the property effective 16 November 1995 when he executed his *Deed of Absolute Sale* in favor of MAGICAIRE on 27 November 1995 and a new title was issued in favor of respondent MAGICAIRE, such that respondent Chua had no more right to serve upon petitioner the notice of termination of the lease and to vacate on 4 December 1995 nor to file the *Complaint* for ejectment on 19 April 1996.

The lower courts correctly resolved the question by relying on Sec. 1, Rule 70, of the *Rules of Court* -

Sec. 1. *Who may institute proceedings, and when.* - Subject to the provisions of the next succeeding section,<sup>[15]</sup> a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a landlord, vendor, vendee or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such landlord, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper inferior court against the person or persons unlawfully withholding or depriving possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs x x x x

On the strength of this provision of Rule 70, respondent Chua as vendor was without doubt authorized to institute the action for ejectment. Moreover, inasmuch as the rule recognizes such right of the vendor, respondent Chua also had the right to send the notices of termination of the lease agreement and to vacate on 4 December 1995 and 28 March 1996. The right to send the notices is rooted in the right to file the court action. At any rate, petitioner need not have harped on the alleged absence of the right of respondent Chua to send the notices. The notice or demand to vacate is not necessary when the unlawful detainer is based on expiration of the

contract of lease,<sup>[16]</sup> as what obtains here.

Petitioner invites attention to the circumstance that he had a right of first refusal which he exercised when he manifested his interest to buy the property through his 11 November 1995 letter sent by his counsel to respondent Chua.

The right of first refusal is provided in Sec. 6, *P. D. 1517* -

Sec. 6. *Land Tenancy in Urban Land Reform Areas.* - Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have legally occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee x x x x

Clearly, petitioner was not entitled to the right of first refusal under PD 1517 since he was using the premises not for residential but for business purpose. Even granting that the right was available to him, the Court of Appeals correctly noted that his reply to the 6 November 1995 letter of respondent Chua was not timely exercised. The reply of 11 November 1995 was received by respondent Chua only on 21 November 1995 or beyond the period that ended on 12 November 1995.

Petitioner invokes Sec. 5, BP 877 which provides that "no lessor or his successor-in-interest shall be entitled to eject the lessee upon the ground that the leased premises have been sold or mortgaged to a third person regardless of whether the lease or mortgage is registered or not."

Petitioner cannot seek refuge in the above provision as the ground for his ejectment was not the sale of the property to respondent MAGICAIRE but the expiration of the term of the lease.

Finally, petitioner contradicts himself by arguing that since he has been occupying the premises for more than thirty (30) years, his lease contract should be understood as one for an indefinite period entitling him to an extension thereof pursuant to Art. 1687 of the *Civil Code*.

This point must be discussed at length. In this regard, the Court of Appeals ruled -

Although (Art. 1687) grants the courts the authority to extend the period of lease, the same provision should be appreciated only if the duration of the lease is not fixed (*Jueco vs. Court of Appeals*, 224 SCRA 390) and not where the lease is for a fixed period, especially if said period has expired (*Gindoy vs. Tapucar*, 75 SCRA 81). Considering that the lease in the case at bench is for a definite period which has expired at the time respondent Chua demanded petitioner to vacate the subject premises, petitioner can no longer ask for an extension of the term of lease.<sup>[17]</sup>