

## SECOND DIVISION

[ G.R. No. 144189, October 05, 2001 ]

**R & M GENERAL MERCHANDISE, INC., PETITIONER, VS. COURT OF APPEALS AND LA PERLA INDUSTRIES, INC., RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Court of Appeals affirming the decision of the Regional Trial Court, Branch 136, Makati City, which in turn affirmed the decision of the Metropolitan Trial Court, Branch 67, Makati City, ordering the ejectment of petitioner R & M General Merchandise, Inc. from the property of private respondent La Perla Industries, Inc.

On August 14, 1975, petitioner, as lessee, entered into a contract with Pioneer Realty & General Enterprise Corporation, as lessor, for the lease of a parcel of land and a building at 984 Pasay Road (now Arnaiz Avenue), San Lorenzo Village, Makati City. The lease was for a period of five years, from November 16, 1975 to November 16, 1980, renewable for another five years at the option of petitioner, unless the latter gave a written notice of non-renewal six months before the expiration of the contract. The contract fixed the rent at P12,000.00 per month, or P144,000.00 per year, for the first five years and P14,000.00 per month, or P168,000.00 per year, for the next five years. It was stipulated that petitioner would construct on the lot a concrete building worth at least P300,000.00 which would automatically become the property of Pioneer upon the termination of the lease without any obligation on the part of private respondent to reimburse petitioner for its cost.<sup>[2]</sup>

On January 19, 1984, Pioneer was merged with private respondent La Perla Industries, Inc., with the latter absorbing the entire assets and liabilities of the former.<sup>[3]</sup> On October 24, 1985, petitioner, through its vice-president, Monina Raz, entered into another contract of lease over the same property subject of the first lease contract with private respondent, represented by its president, Jesus D. Chuaunsu. The lease was for three years from November 16, 1985 to November 15, 1988, renewable for another three years, at an agreed rent of P28,500.00 per month. The agreement provided that either party may elect not to renew the contract after three years by giving a written notice to that effect 45 days before the contract expired.<sup>[4]</sup>

On October 10, 1988, petitioner and private respondent entered into another lease contract over the same property for a period of three years from November 16, 1988 to November 15, 1991, renewable for another three years. Except for the amount of the rent, the contract provided for the same stipulations and had the same signatories as the second contract.<sup>[5]</sup>

Later on, petitioner, represented by its president, Eufonio Raz, Jr., and private respondent, through its president, Johnson Cheng, executed another lease contract over the same property for a period of five years from November 16, 1991 to November 15, 1996, renewable for another five years. The contract provided for the 45-day written notice of non-renewal in case either party did not wish to renew the contract. The parties agreed on a monthly rental of P70,000.00 from November 16, 1991 to November 15, 1992, P75,000.00 from November 16, 1992 to November 15, 1993, P80,000.00 from November 16, 1993 to November 15, 1994, P90,000.00 from November 16, 1994 to November 15, 1995, and P100,000.00 from November 16, 1995 to November 15, 1996.<sup>[6]</sup>

On February 27, 1996, private respondent, through its general manager, Johnny Cheng, Jr., sent notice to petitioner of its intention not to renew the lease contract after its expiration on November 15, 1996. The notice was received by petitioner on February 29, 1996.<sup>[7]</sup>

In reply, petitioner, through its counsel, sent a letter, dated March 25, 1996, to private respondent claiming that it had the option to renew the lease contract for another period of five years, from November 16, 1996 to November 16, 2001. According to petitioner, it had been renewing the contract with the late Johnny Cheng, Sr. and that it had been agreed upon that private respondent should notify petitioner on the immediately preceding renewal contract that the contract would be renewed for the last time.<sup>[8]</sup> In its letter dated August 30, 1996, private respondent denied the alleged agreement. It stated that it had the right under the contract to terminate the lease upon its expiration and that it had complied with its obligation by giving notice to petitioner of its desire to terminate the lease more than 45 days before November 15, 1996.<sup>[9]</sup>

As petitioner failed to vacate the leased property, private respondent sent a final notice and demand to vacate dated December 9, 1996.<sup>[10]</sup> Private respondent reiterated to petitioner its final notice and demand to vacate in its letter dated October 30, 1997.<sup>[11]</sup> In addition, private respondent sent occupants of the commercial apartments, petitioner's lessees, letters of the same import as that of its last letter to petitioner.<sup>[12]</sup>

As petitioner refused to vacate the premises, private respondent filed this case for unlawful detainer before the Metropolitan Trial Court, Branch 67, Makati City. Aside from its prayer that petitioner surrender possession of the property, private respondent prayed for the payment of back rentals in the amount of P975,000.00 per month with legal interest from November 16, 1996 up to the time when petitioner vacates the premises, P100,000.00 as moral damages, P100,000.00 as attorney's fees, and the costs and expenses of the suit.<sup>[13]</sup> In its answer with compulsory counterclaim, petitioner alleged that: (1) there was an oral agreement between Eufonio Raz, Jr. and Johnny Cheng, Sr. for a lease of 30 years with the last five-year lease contract containing a provision that the same would be the last renewal of the contract; (2) the alleged supplemental agreement was made with the knowledge of Johnny Cheng, Jr.; (3) the notice for a last five-year contract was for the purpose of enabling petitioner to prepare for the final termination of the contract and to recover what it had spent for the construction and renovation on the building,

which would become the property of private respondent, at petitioner's cost; (4) the complaint stated no cause of action against petitioner; (5) the Metropolitan Trial Court, Branch 67, Makati City had no jurisdiction over the case as the real issue was not merely of possession of real property but one of interpretation of the lease contract; (6) the complaint should be dismissed on the ground of *litis pendentia* and forum-shopping; (7) the complaint for recovery of possession should have been filed before the Regional Trial Court, Branch 84, Quezon City, where the complaint filed by petitioner for specific performance and damages was pending; (8) for its failure to do so, private respondent was barred from claiming possession of the property as the claim would be considered extinguished, waived, or abandoned; (9) private respondent was guilty of bad faith, fraud, malice, and deceit and it was in estoppel; (10) the complaint for unlawful detainer should at least be suspended, if not dismissed, as the issues raised in the case for specific performance constituted a prejudicial question to the unlawful detainer case; and (11) the issue of non-payment of rentals was the subject matter of petitioner's motion for consignation before the Regional Trial Court, Branch 84, Quezon City. By way of counterclaim, petitioner prayed for the award of P1,500,000.00 as moral damages, P1,000,000.00 as exemplary damages, P50,000.00 as attorney's fees, and P3,000.00 as appearance fees.<sup>[14]</sup>

After the submission of the parties' position papers, the Metropolitan Trial Court, Branch 67, Makati City rendered a decision,<sup>[15]</sup> the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the court finds that plaintiff had fully substantiated its causes of action and therefore hereby renders judgment in its favor and against the defendant as follows:

1. Ordering the defendant and all persons deriving rights from it to vacate the premises located at 984 Pasay Road (now Arnaiz Avenue), Makati City and to peacefully surrender the premises to the plaintiff;
2. Ordering defendant to pay plaintiff as reasonable compensation for the use and occupancy of the premises the amounts of P110,400.00 per month from November 17, 1996 to November 16, 1997 or P1,324,800.00 per annum; P121,881.60 per month from November 17, 1997 to November 16, 1998 or P1,462,579.20 per annum and P134,557.28 per month from November 17, 1998 until defendant vacates the premises; and
3. Ordering defendant to pay plaintiff the amount of P20,000.00 as attorney's fees.

SO ORDERED.<sup>[16]</sup>

The foregoing decision was affirmed on appeal by the Regional Trial Court, Branch 136, Makati City,<sup>[17]</sup> whose decision was in turn affirmed by the Court of Appeals.<sup>[18]</sup> Hence, this petition for review on certiorari.

Petitioner contends that the Court of Appeals erred:

1. In concluding that the herein parties had no intention of entering and did not enter into a thirty-year lease of [the] subject property;
2. In failing to consider the proffered reason for and import of the renewal provision contained in the lease contracts executed by the parties over the years from 1975 to 1991-1996;
3. In failing to accord consideration to the unrebutted testimony [that] the real agreement between the parties was with the "knowledge of [respondent] Johnny Cheng, Jr. and accordingly apply the doctrine of estoppel against private respondent;
4. In concluding that petitioner is not exempted from the application of the Statute of Frauds;
5. In not resolving the legal issues raised in respect of jurisdiction, litis pendencia, forum-shopping, and others, which were raised on appeal; [and]
6. In affirming the decisions of the lower courts.<sup>[19]</sup>

The appeal is without merit.

*First.* The four lease contracts entered into by the parties provided in relevant parts as follows:

1975 contract

1. Term: This Contract of lease shall be for a period of five (5) years effective November 16, 1975, renewable for another period of five (5) years. In case the LESSEE elects not to renew the lease contract after five (5) years, the LESSEE shall inform the LESSOR by written notice six (6) months prior to the expiration of this lease contract.<sup>[20]</sup>

1985 contract

1. Term: This Contract of Lease shall be for a period of three (3) years starting November 16, 1985 to November 15, 1988 renewable for another period of three (3) years subject to terms and conditions to be mutually agreed upon between parties. In case either party elects not to renew the lease contract after three (3) years, a written notice shall be made within forty-five (45) days prior to the expiration of the lease contract.<sup>[21]</sup>

1988 contract

1. Term: This Contract of Lease shall be for a period of three (3) years