

SECOND DIVISION

[G.R. No. 111928, March 01, 2000]

**ALMARIO SIAPIAN, PETITIONER, VS. HON. COURT OF APPEALS,
HON. MARCELINO L. SAYO, JR., PRESIDING JUDGE,
METROPOLITAN TRIAL COURT, BRANCH 50, CALOOKAN CITY;
AND ALFONSO A. MARIANO, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This is a petition to review on certiorari the decision of the Court of Appeals dated September 14, 1993 reversing the decision of the Regional Trial Court (RTC) in the ejectment case filed by private respondent against petitioner.

The records disclose that the spouses Diosdado Tarlengao and Dominga de la Cruz owned a residential lot located at Tandang Sora Street corner Katipunan, Caloocan City. In July 1947, the late Dominga Siapian leased the said residential lot from the aforementioned spouses and built thereon a two-storey house where her family lived. The lessee religiously paid the agreed monthly rental of P100.00 until June 1979 when the lessor stopped collecting the same.

In a letter dated June 9, 1979, Theresa Yu informed Dominga Siapian that she purchased the lot from its previous owners. Yu said that she wanted to take immediate possession of the property since she had no other residential lot and she intended to make use of the lot for the construction of her own house. She gave Dominga Siapian three months notice to vacate and to demolish the improvements which the latter had built on the lot. This was the prelude to the three ejectment cases, the salient points of which are as follows:

On October 4, 1979, Yu filed the first ejectment case, entitled '*Baby Theresa Yu, plaintiff vs. Dominga Pavia vda. de Siapian, defendant.*' That ejectment case was based on plaintiff's alleged need of the premises to build a house for her own use, not owning any other available residential unit. The defendant therein, petitioner's predecessor in interest, lost the case and appealed to the RTC. The RTC reversed the decision of the lower court and dismissed plaintiff's ejectment suit. In its decision, the court held that defendant has not been in arrears in the payment of the monthly rentals and noted that plaintiff never tried to collect. That decision had long become final and executory.

The same Theresa Yu, bent on ejecting the lessee from the premises, filed in 1982 a second case entitled '*Theresa Yu, plaintiff, vs. Almario Siapian, defendant*' before the same MeTC. In said ejectment case, defendant Almario Siapian who had succeeded his mother Dominga Siapian, lost the case and was ordered evicted from the premises subject matter thereof, which was also the same leased property involved in the first ejectment case. On appeal to the RTC, the lower court's decision

was reversed and another entered dismissing plaintiff's complaint. In that decision, it was stated that the rentals up to and including February 1982 had been paid in full. Said decision had also become final and executory.

In the third ejectment case instituted in 1989 entitled '*Alfonso Ang Mariano, plaintiff, vs. Almario Siapian, defendant,*' the plaintiff was already Alfonso Mariano, the new owner of the property, but the defendant was the same Almario Siapian. The premises involved was the same as in the two previous cases. This time, however, the decision was already in favor of defendant because plaintiff's ejectment suit was dismissed as was defendant's counterclaim. On appeal to the RTC, the decision of the MeTC was affirmed. Alfonso Mariano was, however, not satisfied with the decision so he filed a petition for review before the Court of Appeals. That petition for review was dismissed by the appellate court in a decision promulgated on December 27, 1990. It had long become final and executory.

In this fourth ejectment case commenced in 1992 and docketed as '*Alfonso Ang Mariano, plaintiff vs. Almario Siapian, defendant,*' Mariano (private respondent herein) alleges in his complaint that he is leasing the subject property to Siapian (petitioner herein) on a monthly basis at the rate of P534.90 per month. Private respondent avers that petitioner violated the terms of their lease agreement by not paying rentals since December 1987 which had accumulated to P17,564.45. Private respondent also claims that he made several demands upon petitioner to pay his arrears and to vacate the premises the latest of which is through a letter dated January 16, 1992. Private respondent insists that petitioner failed and refused to heed those demands.

For his part, petitioner insists that private respondent refused to collect or accept rentals since December 1987, thus, he allegedly deposited said rentals with the bank as they fell due. Petitioner likewise maintains that private respondent has no cause of action inasmuch as this latest case is barred by previous final and executory judgments.

In this latest attempt to eject petitioner from the premises, the MeTC ruled in favor of private respondent. The MeTC ruled that petitioner indeed failed to pay rentals in arrears and even requested for extension of time to settle the same. It also held that petitioner did not deposit rentals due with the bank as the latter claimed, for no evidence was adduced to prove it. In fact, when private respondent inquired from the bank as to the alleged deposit, no statement was given.^[1] In a decision dated July 3, 1992, the MeTC disposed of the case as follows:

"WHEREFORE, and in view of the foregoing, judgment is hereby rendered in favor of the plaintiff, ordering the defendant:

(1) to vacate the premises in question and surrender possession thereof to plaintiff;

(2) to pay his rental arrearages in the amount of P17,064.65 as of January 1992 plus the amount of P534.90 monthly from February 1992 and every month thereafter until the defendant finally vacates the said premises;

(3) to pay attorney's fees in the sum of P7,500.00 plus the costs of this suit."^[2]

On appeal, the RTC reversed the MeTC decision. The RTC declared that the demand letter was not precise in asking petitioner to vacate the premises because it only asked for payment of arrearages and current rentals. It also held that this latest ejectment suit against petitioner is barred by the final and executory decisions in previous cases. Hence, the ejectment suit was dismissed, thus:

"WHEREFORE, in view of all the foregoing considerations, the Court declares that this fourth and latest ejectment suit against defendant Almario Siapian is barred by the final and executory decisions in Civil Case No. 8418, Civil Case No. C-10968 and CA-G.R. No. 22742 hereinabove alluded to, hence, this Court resolves to reverse as it is hereby reverses the appealed decision in Civil Case No. 20202 of the Metropolitan Trial Court, Branch 50, Kalookan City, entitled 'Alfonso Ang Mariano, plaintiff, vs. Almario P. Siapian, defendant,' and another is entered dismissing aid plaintiff's ejectment complaint against defendant with costs against siad (sic) plaintiff.

Defendant's counterclaim is likewise dismissed for lack of substantiation/merit."^[3]

On review by the Court of Appeals, the appellate court reversed the aforequoted judgment of the RTC, and *in lieu* thereof, reinstated the decision of the MeTC dated July 3, 1992.^[4] Hence, this petition.

In this recourse, petitioner assigns the following errors allegedly committed by the appellate court:

[I]

"A) WHETHER OR NOT RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE SUBJECT DEMAND LETTER IS VALID AND SUFFICIENT AS REQUIRED AND CONTEMPLATED UNDER SECTION 2, RULE 70 OF THE RULES OF COURT FOR THE PURPOSE OF EJECTING THE DEFENDANT FROM THE PREMISES;

[II]

B) WHETHER OR NOT RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE DOCTRINE OF RES JUDICATA DOES NOT APPLY IN THE CASE AT BAR."^[5]

For the purpose of bringing an ejectment suit, two requisites must concur: (1) there must be failure to pay rent or comply with the conditions of the lease, and (2) there must be demand both to pay or to comply and vacate within the periods specified in Section 2, Rule 70 ^[of the 1964 Rules of Court] namely 15 days in case of lands and 5 days in case of buildings. The first requisite refers to the existence of the cause of action for unlawful detainer while the second refers to the jurisdictional requirement of demand in order that said cause of action may be pursued.^[6] It is therefore clear that before the lessor may institute such action, he must make a demand upon the