

FIFTH DIVISION

[CA-G.R. CV No. 94964, June 10, 2014]

METROPOLITAN BANK & TRUST COMPANY, PLAINTIFF- APPELLEE, VS. CATHAY BUILDERS CENTER, INC., DEFENDANT- APPELLANT.

DECISION

SORONGON, E.D., J.

This is an Appeal^[1] from the Decision^[2] dated February 27, 2007 of the Regional Trial Court of Makati City, Branch 59 in Civil Case No. 06-266 entitled *Metropolitan Bank and Trust Co. vs. Cathay Builders Center, Inc. for Sum of Money*.

Background of the Case

The instant case arose from the interlocking relationships among three entities, to wit: (1) Between Belvedere Properties Corporation (Belvedere) and Cathay Builders Center, Inc.(Cathay) as **lessor and lessee** respectively; (2) between Metropolitan Bank & Trust Company (Metrobank) and Cathay as **creditor and debtor**, respectively; and (3) Between Cathay and Metrobank as **sub-lessor and lessee**, respectively, of the same property being leased by Cathay from Belvedere.

The Antecedent Facts

On September 24, 2003, Belvedere and Cathay entered into a Contract of Lease^[3] over the former's 2,000 square meter lot and building located at 1194 EDSA, Quezon City. Though the contract of lease does not contain a prohibition from subleasing the property, the same must however conform to the following term of the contract:

"15. The LESSEE shall not transfer, assign or in any manner alienate its leasehold rights on the leased premises or any party thereof without the prior written consent of the LESSOR. The LESSEE may sub-lease a portion of leased premises only with the proper notice to the LESSOR. The contract drawn by the LESSEE and SUB-LESSEE should co-terminate with this lease. In case of default by the LESSEE the LESSOR shall have the right to collect rentals from all SUB-LESSEES."

Meanwhile, to finance the operations of its business, Cathay obtained loans from Metrobank secured by Real Estate Mortgage. When Cathay failed to pay its loan obligations, it agreed to transfer and convey to Metrobank, by way of *Dacion En Pago*, the mortgaged real property. Cathay also agreed to shoulder the expenses of the *Dacion* in the total amount of Four Million Pesos (Php4,000,000.00). Pursuant thereto, a Memorandum of Agreement (MOA) was executed by and between Cathay and Metrobank, the terms thereof are hereunder reproduced:

x x x x

WHEREAS, the DEBTOR is the sub-lessor of a parcel of land with building and improvement situated at No. 1194 Unit A & B, EDSA, Quezon City.

WHEREAS, the DEBTOR has an outstanding obligation to METROBANK arising from the dacion expenses incurred and advanced by METROBANK in connection with the registration of the Dacion Agreement dated December 10, 2003 in the amount of PESOS: FOUR MILLION only (P4,000,000.00).

WHEREAS, METROBANK is leasing a portion of the above-mentioned property with a total rental for three (3) years equivalent to PESOS: TWO MILLION FOUR HUNDRED TWENTY TWO THOUSAND EIGHT HUNDRED ONLY (P2,422,800.00) – P60,000.00/month on the 1st year, P66,000.00/month on the 2nd year and P75,900.00/month on the 3rd year.

WHEREAS, the DEBTOR acknowledges the validity and legality of METROBANK'S claim and in order to settle the same agreed to ASSIGN as it hereby ASSIGNS its right to the monthly rental equivalent to a total of P2,422,800.00 (from September 1, 2003 to August 31, 2006) to METROBANK-EDSA Congressional Branch.

WHEREAS, METROBANK accepts the offer of the DEBTOR subject to the following terms and conditions:

- a. Assignment of the monthly rental of P60,000.00 on the 1st year for a total yearly rental of P720,000.00
- b. Assignment of the monthly rental of P66,000.00 on the 2nd year for a total yearly rental of P792,000.00
- c. Assignment of the monthly rental of P75,900.00 on the 3rd year for a total yearly rental of P910,800.00
- d. The remaining balance in the amount of P1,577,200.00 shall be paid at the end of the 3rd year or before the expiration of the Lease Agreement on August 31, 2006; provided, that should the existing Lease Agreement is renewed by the parties, the DEBTOR shall commit to assign the monthly rentals in favor of METROBANK until its obligations with the latter mentioned in the Second WHEREAS Clause is fully settled.

In accordance with the aforementioned MOA, Cathay and Metrobank executed a Sub-Lease Agreement^[4] on December 26, 2003.

Circumstances, however, worked against the full completion of the terms of the MOA and Sub-lease Agreement as Belvedere made a final demand to vacate and pay rental arrearages on January 18, 2005 against Cathay because of the latter's failure to pay the rent on the subject premises. Moreover, Belvedere noted that Cathay sub-leased the premises in violation of the terms of the Contract of Lease by failing to notify it of the said sub-lease. Hence, Belvedere terminated the Contract of Lease.^[5]

Due to this development, Metrobank stopped paying the rent to Cathay as well as debiting the rentals from the latter's obligation under the MOA effective April 2005.

As of said date Metrobank was only able to collect from Cathay the amount of Php942,000.00 leaving a balance of P3,057,000.98.^[6]

Accordingly, beginning April 2005, Metrobank directly paid the rent to Belvedere in accordance with the right given to the latter to directly collect rent from sub-lessees as provided under paragraph 15 of the Contract of Lease^[7]. In turn, in light of the termination of the lease agreement between Belvedere and Cathay, Metrobank thereupon made its respective demand to Cathay to pay^[8] the remaining balance of the Four-Million Peso (Php4,000,000.00) *Dacion* service charges. As of November 30, 2005, Cathay's liability has amounted to Php3,223,855.00^[9].

Despite repeated demands, Metrobank was unable to collect from Cathay prompting it to file a collection suit^[10] against the latter.

Cathay counter-argued that the MOA was never rescinded. Thus, its terms continue to govern the terms of payment of the Four-Million Peso (Php4,000,000.00) *Dacion* expenses. It being so, the obligation to pay the subsequent payments most especially the Php1,577,200.00 which would mature on August 31, 2006 was not yet due at the time of the filing of the complaint.

After due hearing, the trial court issued its assailed Decision on February 27, 2007, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing discussion, this Court hereby finds for the plaintiff Metrobank and against defendant Cathay for sum of money for violation of the Memorandum of Agreement and the Sublease Agreement, and hereby orders the defendant Cathay Builders Center, Inc. to pay Metropolitan Bank and Trust Company:

1. the sum of THREE MILLION PESOS TWO HUNDRED TWENTY-THREE THOUSAND PESOS as of November 30, 2005, plus legal interest at SIX PERCENT (6%) per annum computed from the time of judicial demand and TWELVE PERCENT (12%) per annum computed from the finality of this decision until its full execution;
2. a sum equivalent to TEN PERCENT (10%) of the total amount due as and by way of attorney's fees; and
3. the cost of suit.

SO ORDERED.”

Displeased, Cathay through this appeal alleged:

I

THE REGIONAL TRIAL COURT ERRED IN ORDERING APPELLANT TO PAY APPELLEE THE AMOUNT OF P3,223,000.00 CONSIDERING THAT APPELLANT DID NOT CONSENT TO APPELLEE'S ACT OF PAYING BELVEDERE PROPERTIES CORPORATION.

II

THE REGIONAL TRIAL COURT ERRED IN FAILING TO REALIZE THAT APPELLANT'S LIABILITY, IF ANY, SHOULD NOT, AS IT COULD NOT,