



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**PRO-GUARD SECURITY
SERVICES CORPORATION,**

Petitioner,

G.R. No. 176341

Present:

- versus -

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

**TORMIL REALTY AND
DEVELOPMENT CORPORATION,**

Respondent.

Promulgated:

JUL 07 2014

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DECISION

DEL CASTILLO, J.:

Contending that it is obliged to pay back rentals only from the time the demand to vacate was served upon it and not from the time it began occupying the disputed premises, petitioner Pro-Guard Security Services Corporation (Pro-Guard) seeks recourse to this Court.

This is a Petition for Review on *Certiorari*¹ of the September 6, 2006 Decision² of the Court of Appeals (CA) in CA-G.R. SP No. 58867 which denied the Petition for Review filed therewith by Pro-Guard as one of the petitioners. Likewise assailed is the CA's January 23, 2007 Resolution³ denying the motion for reconsideration thereto.

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¹ *Rollo*, pp. 11-44.

² *CA rollo*, pp. 105-125; penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Rodrigo V. Cosico and Edgardo F. Sundiam.

³ *Id.* at 227-228.

Factual Antecedents

On July 24, 1984, Manuel A. Torres, Jr., (Manuel) assigned to respondent Tormil Realty and Development Corporation (Tormil) three parcels of land located in Pasay City and all the improvements thereon in exchange for shares of stock in the said corporation.⁴ Despite the assignment, however, title to the real properties remained in Manuel's name as he neither registered the transaction in the Registry of Deeds nor provided Tormil the necessary documents to have the titles over the properties transferred in its name. Later, Manuel unilaterally revoked the transaction.

Subsequently, Manuel, together with two other persons, one of whom is Edgardo Pabalan (Edgardo), established Torres Pabalan Realty, Incorporated (Torres-Pabalan). As part of his capital contribution, Manuel assigned the same aforesaid parcels of land to Torres-Pabalan. In the meantime, construction of the Torres Building on the subject real properties was completed in 1985 and its units rented out. Edgardo, who was also then the General Manager and Administrator of Tormil, acted as the building administrator and occupied the 2nd floor. He later resigned from his position in Tormil in September 1986.

In March 1987, Tormil filed a case before the Securities and Exchange Commission (SEC) docketed as SEC Case No. 3153⁵ (SEC case) to compel Manuel to fulfill his obligation by turning over the documents necessary to effect the registration and transfer of titles in its name of the properties assigned to it by Manuel.

Meanwhile, Edgardo continued to act as the administrator of Torres Building allegedly on behalf of Torres-Pabalan. He then set up in October 1989 a law office (law office) with Atty. Augustus Cesar Azura (Augustus) in the 2nd floor of the building. Torres Building was thereafter declared by Torres-Pabalan for tax purposes.⁶

On March 6, 1991, the SEC rendered judgment in favor of Tormil,⁷ and this was later affirmed by the SEC *en banc*.⁸ Manuel appealed to the CA. During the pendency thereof, Pro-Guard entered into an agreement with Edgardo in March 1994 for the rent of a unit in the 3rd floor of Torres Building. As payment, Pro-Guard was to provide security services to Torres-Pabalan. Subsequently, the

⁴ See Deed of Assignment, MeTC records, pp. 14-15. As stated therein, the Deed covered the lands registered under Transfer Certificates of Title Nos. 41527, 41528, and 41529.

⁵ Id. at 16-30. The following month, Tormil filed SEC Case No. 3161, id. at 31-40, to challenge the election of certain persons to its Board of Directors, which was consolidated with SEC Case 3153.

⁶ Declared under Tax Declarations Nos. A2-024-00133 to 00134, 00136-00150 and 00152 to 00158.

⁷ See SEC Decision, MeTC records, pp. 42-70.

⁸ See SEC *En Banc* Decision, id at 72-81.

CA,⁹ and later this Court,¹⁰ upheld the ruling in the SEC case such that it became final and executory on December 12, 1997.¹¹ By October 1998, not only were the titles to the subject parcels of land registered in Tormil's name,¹² but also the tax declaration over the Torres Building.¹³

On November 5, 1998, Tormil sent letters¹⁴ to Edgardo and Augustus (for the law office) and Pro-Guard asking them to validate their possession/enter into a lease contract with Tormil and at the same time settle their past and current rentals. Since these letters were ignored, Tormil, on November 16, 1998 sent them separate demands to vacate the premises and pay the monthly rental of ₱20,000.00 from the time of their occupation thereof until the same are actually turned over to Tormil.¹⁵ As these were unheeded, Tormil asserting right of possession based on its ownership of the Pasay properties, filed before the Pasay City Metropolitan Trial Court (MeTC) separate ejectment suits against Edgardo and Augustus, and Pro-Guard¹⁶ which were raffled to Branch 44. The cases were later on consolidated. In its complaints, Tormil stated that it deemed prudent to have the ownership issue over the premises resolved first in the SEC case before it filed the ejectment cases in order to prevent complication. It thus averred that the occupancy by defendants of units in Torres Building pending resolution of the SEC Case was out of tolerance.

Edgardo and Augustus disputed Tormil's ownership of the parcels of land where the building stands and asserted that Torres-Pabalan was the owner of the same. It was also the one who funded the building's construction. Unfortunately, its tax declarations over the building were surreptitiously and unlawfully cancelled on the sole basis of the SEC Case. Pro-Guard, for its part, claimed that it was paying rentals to the owner, Torres-Pabalan, in the form of security services provided to the latter. It likewise called attention to the fact that it was no longer in the premises as Tormil forcibly ousted it therefrom.

Ruling of the Metropolitan Trial Court

The MeTC adjudged that Tormil has proven its right to possess the property. Said court brushed aside the claim that Torres-Pabalan owns the building since its SEC Certificate of Registration was already cancelled, and that the construction of the building was completed in July 1985 or prior to the time said corporation was incorporated in September 1986. Finding the defendants'

⁹ See CA Decision dated May 23, 1994, id. at 83-90.

¹⁰ Id. at 94-122. See *Torres, Jr. v. Court of Appeals*, 344 Phil. 348 (1997).

¹¹ Id. at 124.

¹² Id. at 9-11, the Certificates of Title of Manuel replaced by TCT Nos. 141458, 141459, and 141460.

¹³ Id. at 12.

¹⁴ Id. at 326-327.

¹⁵ Id. at 328-329; July 1985 in case of the law office and March 1994 with respect to Pro-Guard.

¹⁶ The case against Edgardo and Augustus was docketed as Civil Case No. 2324-98, id. at 1-6, while the case against Pro-Guard was docketed as Civil Case No. 2334-98, id. at 131-136.

occupancy of the units as only upon Tormil's tolerance, the MeTC concluded that their possession became unlawful when Tormil decided to assert its right of ownership over the building after the ruling in the SEC case was upheld with finality by this Court.

Thus, in its June 28, 1999 Decision,¹⁷ the MeTC ordered Edgardo and Augustus to vacate the unit they possessed, as well as to pay attorney's fees and costs. With respect to Pro-Guard, it adjudged:

2. ordering defendant Pro-Guard Security Services Corporation and all persons claiming rights under [it] to vacate and surrender possession of Unit M, 3rd Floor, Torres Building, 157 Buendia Ext., Sen. Gil Puyat Avenue, Pasay City;

x x x x

4. ordering defendant Pro-Guard Security Services Corp. to pay [Tormil] the fair and reasonable rental of the premises [in] the amount of ₱20,000.00 per month with legal interest from June, 1995 until the premises is fully vacated;¹⁸

Contending that Tormil has no right to possess the building, the defendants appealed to the Regional Trial Court (RTC) of Pasay City and the same was raffled to Branch 109 thereof. In the meantime, Pro-Guard informed the MeTC that it had already vacated the premises as early as March 20, 1999.¹⁹

Ruling of the Regional Trial Court

In its Decision²⁰ dated December 15, 1999, the RTC did not find merit in the appeal, *viz*:

In view of the foregoing and pursuant to several decision[s] of the Supreme Court and the provision of Rule 70 of the Revised Rules of Court to the effect [that] the occupancy and possession of the subject premises by the defendants-appellants became illegal when they failed and refused to heed the demand letters of herein plaintiff-appellee to vacate the same and surrender possession peacefully, the Court finds no cogent reason to reverse the decision of the trial court and hereby affirms the same IN TOTO.

SO ORDERED.²¹

¹⁷ Id. at 374-380; penned by Judge Estrellita M. Paas.

¹⁸ Id. at 380.

¹⁹ Id. at 381-383.

²⁰ RTC records, unpaginated; penned by Judge Lilia C. Lopez.

²¹ Id.; RTC Decision, p. 4.

On appeal to the CA, Edgardo, Augustus and Pro-Guard reiterated their arguments on Torres-Pabalan's ownership of the building and on its right to possess it.

Ruling of the Court of Appeals

The CA adjudged Tormil to have sufficiently proven its case for unlawful detainer. It held that based on its Torrens titles over the subject parcels of land and the tax declarations over the building thereon, Tormil has the right to possess the disputed properties. It debunked the claim of Edgardo, Augustus and Pro-Guard that the tax declarations in Tormil's name are invalid, ratiocinating that their issuance by the City Assessor are presumed to have been regularly performed.

Ultimately, the CA denied the petition and affirmed the RTC Decision,²² viz:

WHEREFORE, PREMISES CONSIDERED, THE Petition is DENIED DUE COURSE and ordered DISMISSED for lack of merit. The Decision dated 15 December 1999 and Order dated 02 May 2000 of the Regional Trial Court of Pasay City, Branch 109 in Civil Case Nos. 99-0618 & 99-[0619] are hereby AFFIRMED. Costs against petitioners.

SO ORDERED.²³

In asking for a reconsideration, one aspect which Edgardo, Augustus and Pro-Guard objected to was the order for them to pay ₱20,000.00 monthly rental and the reckoning point of payment. Pro-Guard, in its Supplemental Motion for Reconsideration,²⁴ argued that the CA should have modified the RTC judgment by reckoning the payment from the date of Tormil's notice to vacate.

The CA found no reason to reverse its judgment,²⁵ impelling Pro-Guard to elevate the case to this Court.

Issue

WHETHER THE [CA] ERRED WHEN IT AFFIRMED THE DECISION OF THE [METC] AND THE [RTC] ON THE AWARD OF THE [METC] IN RECKONING THE DATE OF PAYMENT OF RENTALS IN THE AMOUNT OF ₱20,000.00 PER MONTH WITH LEGAL INTEREST FROM

²² CA *rollo*, pp. 105-125.

²³ Id. at 123.

²⁴ Id. at 152-161.

²⁵ Id. at 227-228.

JUNE 1995 UNTIL THE PREMISES IS FULLY VACATED CONTRARY TO PREVAILING LAW AND JURISPRUDENCE.²⁶

Parties' Arguments

Pro-Guard stresses that the CA erred in affirming the lower courts' award of ₱20,000.00 monthly rental reckoned from the time it occupied the unit. It contends that it cannot be blamed if it relied on the representations of Torres-Pabalan when it entered into a lease contract with it, the latter being then in possession of the building. Pro-Guard maintains that in any case, it owes no unpaid rentals to Tormil for the entire period of its stay in the building out of Tormil's tolerance.

On the other hand, Tormil argues that Pro-Guard's stay 'out of tolerance' does not bar it from claiming arrears from the time the latter occupied a unit in the building. It contends that the demand to vacate was not for the purpose of counting the reckoning period for payment of rental arrears, but only for the purpose of counting the prescriptive period to file a case for unlawful detainer. Besides, Pro-Guard's rental payments to Torres-Pabalan were not valid as the latter was not its authorized representative. To it, Pro-Guard, fully aware of the pending legal dispute between Tormil and Torres-Pabalan, should have consigned the rental payments.

It would appear that Pro-Guard no longer impugns the uniform rulings of the MeTC, RTC, and CA, on the right of Tormil to possess the subject premises. The only question it brought before this Court is when to reckon its rental payments.

Our Ruling

While indeed Tormil, as the victor in the unlawful detainer suit, is entitled to the fair rental value for the use and occupation of the unit in the building, such compensation should not be reckoned from the time Pro-Guard began to occupy the same, but from the time of the demand to vacate.

"In unlawful detainer cases, the defendant is necessarily in prior lawful possession of the property but his possession eventually becomes unlawful upon termination or expiration of his right to possess."²⁷ In other words, the entry is legal but the possession thereafter became illegal. Additionally, the Rules of Court requires the filing of such action within a year after the withholding of

²⁶ *Rollo*, p. 275.

²⁷ *Ganila v. Court of Appeals*, 500 Phil. 212, 220 (2005).

possession,²⁸ meaning that “if the dispossession has not lasted for more than one year, [then] an ejectment proceeding (in this case unlawful detainer) is proper x x x.”²⁹

Here, from the moment Pro-Guard started to occupy the unit in March 1994 up to November 15, 1998, the right of Pro-Guard to possess the premises was not challenged. It was only after Tormil prevailed over Manuel in its ownership of the same that it terminated Pro-Guard’s right to possess the unit it was occupying through a letter to vacate dated November 16, 1998. Hence, it is only from that point that Tormil is considered to have withdrawn its tolerance of Pro-Guard’s occupation. Conversely, Pro-Guard’s possession became unlawful at that same moment. This is supported by the allegation in the complaint for ejectment that Tormil initiated the same not because of non-payment of rentals, but because of withdrawal of tolerance. Tolerance or “[t]olerance is defined as ‘the act or practice of permitting or enduring something not wholly approved of,’”³⁰ while tolerated acts are “those which by reason of neighborliness or familiarity, the owner of the property *allows* his neighbor or another person to do on the property; they are generally those particular services or benefits which one’s property can give to another without material injury or prejudice to the owner, who *permits* them out of friendship or courtesy.”³¹

With regard to the effects of withdrawal of tolerance, it is settled that:

x x x A person who occupies the land of another at the latter’s tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against him. His status is analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner. **In such a case, the date of unlawful deprivation or withholding of possession is to be counted from the date of the demand to vacate.**³²

Thus, in *Sps. Jimenez v. Patricia, Inc.*,³³ the lessor ended its tolerance of the sublessees’ occupation of the property and demanded that they vacate the

²⁸ Rule 70, Section 1. *Who may institute proceedings, and when.*—Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, 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 lessor, 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 Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

²⁹ *Encarnacion v. Amigo*, 533 Phil. 466, 473 (2006).

³⁰ *Spouses Macasaet v. Spouses Macasaet*, 482 Phil. 853, 864 (2004).

³¹ *Id.*, citing *Sarona v. Villegas*, 131 Phil 365, 372 (1968). Italics in the original.

³² *Ganila v. Court of Appeals*, supra note 26 at 225; emphasis supplied; citations omitted.

³³ 394 Phil. 877 (2000).

premises on March 29, 1995. We upheld the ejectment of the sublessees and ordered them to pay monthly rentals beginning April 1995 until they vacate the premises. Indeed, it is inconsistent to demand payment of rentals during the period of tolerance.

Incidentally, Tormil mentioned that Pro-Guard is obliged to consign the payment of rentals. One legal cause for consignment is when two or more persons claim the same right to collect.³⁴ Various claimants to a debtor's payment must have the appearance of a right to collect such that the debtor would have a reasonable doubt, not based on negligence, as to who is entitled to the payment.³⁵

Whether Pro-Guard was indeed aware of the legal dispute then pending before the SEC and subsequently before the courts is of no moment. When the dispute regarding the validity of Manuel's assignment to Tormil of the realties was pending before the SEC, Tormil did not claim to Pro-Guard that it is the true owner of the premises. It neither sought payment of rentals which it now claims Pro-Guard should have consigned during the pendency of its suit against Manuel. As such, from the viewpoint of Pro-Guard, the lease contract remained to be then between it and Torres-Pabalan. The latter was occupying and running the building, as evidenced by several tax declarations in its name which, while not conclusive proofs of ownership, nevertheless, are good indicia of possession in the concept of owner.³⁶ Moreover, Edgardo, who claimed to act on behalf of Torres-Pabalan, administered the premises. Pro-Guard is not permitted to deny the title of his landlord at the time of the commencement of the relation of landlord and tenant between them.³⁷

WHEREFORE, the instant Petition is **GRANTED**. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. No. SP 58867 are **MODIFIED** in that Pro-Guard is to pay for the fair and reasonable rental of the premises in the amount of ₱20,000.00 per month with legal interest beginning November 16, 1998 up to the time that the premises are fully vacated.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

³⁴ CIVIL CODE OF THE PHILIPPINES, Article 1256 (4).

³⁵ Arturo Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines Vol. 4, 1999 Edition, p. 324.


³⁶ *Ganila v. Court of Appeals*, supra note 27 at 224.


³⁷ RULES OF COURT, Rule 131, Section 2(b).

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

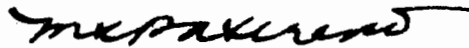
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court’s Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO***Chief Justice*