

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**SPOUSES VIRGILIO and JOSIE  
JIMENEZ,**  
*Petitioners,*

*-versus-*

**G.R. No. 134651  
September 18, 2000**

**PATRICIA, INC.,  
*Respondent.***

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**DECISION**

**BELLOSILLO, J.:**

The Joint Decision of the Court of Appeals<sup>[1]</sup> (*dismissing the petition for review filed by spouses Virgilio and Josie Jimenez in CA-G.R. SP No. 43185 and giving due course to the petition for review filed by Patricia, Inc., in CA-G.R. SP No. 43179*), in effect reversing the decision of the Regional Trial Court and reinstating that of the Metropolitan Trial Court, is assailed in the instant petition.

Petitioners Virgilio and Josie Jimenez, spouses, are sublessees of a lot and building located at 2853 Juan Luna Street, Tondo, Manila, owned by respondent Patricia Inc. (PATRICIA for brevity), a domestic corporation duly organized and existing under Philippine laws. The Jimenez spouses subleased the property in 1980 from a certain

Purísima Salazar who had been leasing the property from PATRICIA since 1970.

Sometime in 1995 Purísima Salazar abandoned the property thus incurring back rentals dating back to January 1992. Hence, by reason of her non-payment of the monthly rentals, her contract of lease with PATRICIA was terminated.

On 29 March 1995 PATRICIA sent a letter to the Jimenez spouses informing them of the termination of the lease and demanding that they vacate the premises within fifteen (15) days from notice since they had no existing lease contract with it.<sup>[2]</sup> But the spouses refused to leave.

Thus, on 5 May 1995 PATRICIA filed a complaint<sup>[3]</sup> for unlawful detainer against the Jimenez spouses alleging, among others, that the lessee Purísima Salazar subleased the premises to the Jimenezes; that Purísima Salazar no longer occupied the premises; that this notwithstanding, the Jimenez spouses continued to occupy the premises without any contract with PATRICIA, its owner, hence, their stay was merely being tolerated by the latter; and, that despite demands made upon them, they refused to vacate the premises thereby unlawfully and illegally withholding the property to the damage and prejudice of PATRICIA.

In their Answer, the Jimenez spouses claimed that they occupied the premises as sublessees of Purísima Salazar with the knowledge of PATRICIA; that the building originally found on the lot was owned by Purísima Salazar which she sold to them in 1984 with notice and without any objection from PATRICIA; that, when the building was gutted by fire in 1987 they constructed a new house on the lot worth P1,500,000.00 with the knowledge and without any objection from PATRICIA; and, that PATRICIA never collected any rental for the land but they nevertheless voluntarily paid the amount of P23,537.25 as rent corresponding to the period of September 1979 to 31 December 1991.<sup>[4]</sup>

The MeTC ruled in favor of PATRICIA and ordered the Jimenez spouses to vacate the premises, to pay PATRICIA the sum of P3,000.00 a month as reasonable rental and/or compensation for the

use of the premises beginning April 1995 until they finally vacated the premises, and to pay PATRICIA the sum of P5,000.00 as reasonable attorney's fees, plus costs of suit.<sup>[5]</sup>

The Jimenez spouses appealed the MeTC decision to the RTC.<sup>[6]</sup> On 2 January 1997 the RTC modified the decision in favor of the spouses holding that an implied new lease contract existed between the Jimenez spouses and PATRICIA in view of the latter's acceptance of rentals from the former. Thus the RTC extended the term of the lease between the parties for a period of one (1) year from date of decision, and ordered PATRICIA to reimburse the Jimenez spouses the expenses incurred in the construction of the house built on the property and/or for the Jimenez spouses to remove the improvements thereon.<sup>[7]</sup>

On 20 January 1997 PATRICIA filed a Motion for Clarificatory Judgment and later added a Supplement to the Motion for Clarificatory Judgment.

On 27 January 1997 PATRICIA, without waiting for the resolution of its Motion for Clarificatory Judgment as well as its supplement thereto, filed a Petition for Review of the RTC decision with the Court of Appeals, docketed as CA-G.R. SP No. 43179.

On 13 February 1997 the Jimenez spouses filed their own Petition for Review, docketed as CA-G.R. SP No. 43185. Subsequently, this petition was consolidated with PATRICIA's Petition for Review since it involved the same parties, facts, and issues.

The Court of Appeals in due course rendered a Joint Decision dismissing the Petition for Review filed by the Jimenez spouses while giving due course to the petition of PATRICIA. The Court of Appeals held that there was no implied renewal of the lease contract between the parties since, to begin with, there was no lease contract between them; hence, the Jimenez spouses could not have tendered payment of rentals to PATRICIA. Instead, it declared the status of the Jimenez spouses as being analogous to that of a lessee or tenant whose lease has expired but whose occupancy has been continued by mere tolerance of the owner, and hence, bound by an implied promise that he would vacate the premises upon demand. Thus, the appellate court

reversed and set aside the decision of the RTC and reinstated the decision of the MeTC which, among others, ordered the Jimenez spouses to vacate the premises.

Petitioners now assail the jurisdiction of the MeTC contending that the failure of the complaint to allege the character of the sublease or entry of the Jimenez spouses into the property, whether legal or illegal, automatically classified it into an *accion publiciana* or *reivindicatoria cognizable* by the RTC and not by the MeTC;<sup>[8]</sup> thus, the action should have been dismissed.

The rule is settled that a question of jurisdiction may be raised at any time, even on appeal, provided that its application does not result in a mockery of the tenets of fair play. In the instant case, the jurisdictional issue was raised by petitioners for the first time only in the instant Petition for Review. However, it should be noted that they did so only after an adverse decision was rendered by the Court of Appeals. Despite several opportunities in the RTC, which ruled in their favor, and in the Court of Appeals, petitioners never advanced the question of jurisdiction of the MeTC. Additionally, petitioners participated actively in the proceedings before the MeTC<sup>[9]</sup> and invoked its jurisdiction with the filing of their answer, in seeking affirmative relief from it, in subsequently filing a notice of appeal before the RTC, and later, a Petition for Review with the Court of Appeals. Upon these premises, petitioners cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the court to which they had submitted themselves voluntarily. Laches now bars them from doing so.

Be that as it may, we find no error in the MeTC assuming jurisdiction over the subject matter. A complaint for unlawful detainer is sufficient if it alleges that the withholding of possession or the refusal to vacate is unlawful without necessarily employing the terminology of the law.<sup>[10]</sup> As correctly found by the appellate court, to which we agree, the allegations in the complaint sufficiently established a cause of action for unlawful detainer. The complaint clearly stated how entry was effected and how and when dispossession started — petitioners were able to enter the subject premises as sublessees of Purisima Salazar who, despite the termination of her lease with

respondent, continued to occupy the subject premises without any contract with it; thus, their stay was by tolerance of respondent.

The fact that the complaint failed to state that respondent was in prior possession of the property before it was unlawfully withheld by petitioner spouses is of no moment. Prior physical possession is indispensable only in actions for forcible entry but not in unlawful detainer.<sup>[11]</sup>

Petitioner spouses, as mere sublessees of Purisima Salazar, derive their right from the sublessor whose termination of contract with the lessor necessarily also ends the sublease contract. Thus, when the contract of lease of Purisima Salazar with respondent was terminated the contract of sublease of petitioners with the former also necessarily ended and petitioners cannot insist on staying on the premises. Petitioners can invoke no right superior to that of their sublessor.<sup>[12]</sup>

It is not correct to say that petitioners could not have occupied the property by tolerance of respondent as their entry into the premises was inceptively illegal, the sublease being entered into without the consent of the owner.<sup>[13]</sup> Petitioners argue that tolerance is only available in cases where entry was lawful from the start and cannot be asserted where entry was illegal from the start. It appears however that respondent did not expressly and equivocally prohibit the subleasing of the property. Although the attached contracts of lease state that the lessee cannot sublease the property, none of those contracts pertain to the contract of lease between Purisima Salazar and respondent PATRICIA.<sup>[14]</sup> In any event, the fact that PATRICIA sent a letter to the Jimenez spouses informing them of the termination of the lease of Purisima Salazar shows that they recognize and acknowledge their stay in the premises as sublessees of Salazar. However, after the termination of the contract of lease of Purisima Salazar with PATRICIA, any right of the Jimenez spouses to stay in the premises, although previously recognized, then and there ended. After the termination of the contract of lease of Salazar the continued stay of the Jimenez spouses thereat was merely by tolerance of PATRICIA and it became unlawful after they ignored the lessor's demand to leave.

The status of petitioner spouses is akin to that of a lessee or a tenant whose term of lease has expired but whose occupancy has continued by tolerance of the owner. A person who occupies the land of another at the latter's forbearance 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.<sup>[15]</sup> The present action being for unlawful detainer, it is well within the exclusive original jurisdiction of the metropolitan trial courts.

Petitioners contend that respondent has no cause of action against them since, as proved by Transfer Certificate of Title No. T-44247, the property is in the name of the City of Manila and not of respondent PATRICIA.

Records however show that this issue has not been raised in the proceedings below, hence, will not be ruled upon by this Court. Any issue raised for the first time on appeal and not timely raised in the proceedings in the lower court is barred by estoppel. Moreover, being mere sublessees of the property in question, petitioners cannot in an action involving possession of the leased premises controvert the title of PATRICIA, or assert any right adverse to its title. It is the Manila City Government, not the Jimenez spouses, that is the proper party to dispute the ownership of PATRICIA.

Petitioners argue that the Petition for Review of respondent should have been dismissed for being premature in view of the pendency of its Motion for Clarificatory Judgment and Supplement to the Motion for Clarificatory Judgment which remained unresolved by the RTC. They assert that because of the pendency of its motion, there was no final judgment or decision that could properly be the subject of a petition for review before the Court of Appeals.

We do not agree. The Petition for Review filed by respondent with the Court of Appeals was not prematurely filed. It should be borne in mind that a Motion for Clarificatory Judgment not being in the character of a motion for reconsideration does not toll the reglementary period for filing a petition for review with the Court of Appeals. Its filing will not bar the judgment from attaining finality, nor will its resolution amend the decision to be reviewed. Thus, when

respondent filed a Petition for Review before the Court of Appeals, there was already a final judgment that could properly be the subject of a petition for review.

Moreover, under the Rules on Summary Procedure, the decision of the RTC in civil cases governed by this Rule, including forcible entry and unlawful detainer, is immediately executory without prejudice to a further appeal that may be taken therefrom. The judgment of the RTC being final and executory the filing of the Petition for Review was proper.

As to the house built by petitioners on the property, this Court has previously ruled that lessees, much less, sublessees, are not possessors or builders in good faith over rented land because they know that their occupancy of the premises continues only during the life of the lease, or sublease as the case may be; and, they cannot as a matter of right recover the value of their improvements from the lessor, much less retain the premises until they are reimbursed.<sup>[17]</sup> Instead, their rights are governed by Art. 1678 of the Civil Code which allows reimbursement of lessees up to one-half (1/2) of the value of their improvements if the lessor so elects:

Art. 1678. If the lessee makes, in good faith, useful improvements which are suitable to the use for which the lease is intended, without altering the form or substance of the property leased, the lessor upon the termination of the lease shall pay the lessee one-half of the value of the improvements at that time. Should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby. He shall not, however, cause any more impairment upon the property leased than is necessary. (New Civil Code).

Thus, applying the above rule, petitioners cannot recover full reimbursement of the value spent for the construction of the house, but is limited only to one-half (1/2) of its value at the election of the lessor. However, as PATRICIA has manifested its lack of intention to do so, the Jimenez spouses have no recourse but to remove the house at their own expense.

**WHEREFORE**, the assailed Joint Decision of the Court of Appeals reversing and setting aside the decision of the Regional Trial Court and reinstating the decision of the Metropolitan Trial Court is **AFFIRMED**, with the **MODIFICATION** that petitioner spouses Virgilio and Josie Jimenez should also remove the house they have constructed on the lot at their own expense. Thus, petitioner spouses and all persons claiming title under them are ordered: (a) to vacate the premises described in the complaint located at 2853 Juan Luna Street, Tondo, Manila; (b) to remove at their own expense within sixty (60) days from finality of this Decision the house they have constructed thereon; (c) to pay respondent Patricia, Inc., the sum of P3,000.00 a month as reasonable rental/compensation for the use of the premises beginning April 1995 until they finally vacate the premises; and, (d) to pay respondent Patricia, Inc., the sum of P5,000.00 as attorney's fees, plus costs of suit.

**SO ORDERED.**

**Mendoza, Quisumbing, Buena and De Leon, Jr., JJ., concur.**

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- [1] Decision penned by Associate Justice Angelina Sandoval Gutierrez and concurred in by Associate Justices Romeo G. Callejo and Omar U. Amin, dated 30 January 1998.
- [2] Rollo, p. 49.
- [3] Docketed as Civil Case No. 148128, subsequently raffled to MeTC-Br. 3, Manila.
- [4] Records, pp. 27-32.
- [5] Decision penned by Judge Jose V. Latayan, MeTC-Br. 3, Manila, Civil Case No. 148128-CV, dated 9 October 1996.
- [6] Docketed as Civil Case No. 95-75996, raffled to RTC-Br. 44, Manila, presided over by Judge Lolita O. Gal-lang.
- [7] CA Rollo, pp. 29-32.
- [8] Petitioners cited Muñoz vs. CA where the Court held that “when the complaint fails to aver facts constitutive of forcible entry and unlawful detainer as where it does not state how entry was effected or how and when dispossession started the action should be accion publiciana or reivindicatoria in the Court of First Instance (now Regional Trial Court) as basis for their contention. (G.R. No. 102693, 23 September 1992, 214 SCRA 216).
- [9] Refugia vs. Court of Appeals, G.R. No. 118284, 5 July 1996 258 SCRA 347 citing Rodriguez vs. Court of Appeals, No. L-29264, 29 August 1969, 29

- SCRA 419; Navoa vs. Court of Appeals, G.R. No. 59255, 29 December 1995, 251 SCRA 545.
- [10] Sumulong vs. Court of Appeals, G.R. No. 108817, 10 May 1994, 232 SCRA 372; Pangilinan vs. Aguilar, No. L-29275, 31 January 1972, 43 SCRA 136.
- [11] Javelosa vs. Court of Appeals, G.R. No. 124292, 10 December 1996, 265 SCRA 493.
- [12] Duellome vs. Gotico, No. L-17846 29 April 1963, 7 SCRA 841.
- [13] Sec. 4. Assignment of Lease or Subleasing. — Assignment of lease or subleasing of the whole or any portion of the residential unit including the acceptance of boarders or bedspacers, without the written consent of the owner/lessor is prohibited (Batas Pambansa Blg. 887).
- [14] Attached Contracts of Lease pertain to those between Patricia, Inc., and Renato Establecida Patricia, Inc., and Augusto Tortosa, and not Patricia, Inc., and herein petitioners; Rollo, pp. 109-114.
- [15] Vda. De Catchuela vs. Francisco, No. L-31985, 25 June 1980, 98 SCRA 172, citing Calubayan vs. Pascual, No. L-22645, 18 September 1967, 21 SCRA 146; Yu vs. de Lara, No. L-16084, 30 November 1962, 6 SCRA 785.
- [16] Art. 448 of the Civil Code applies only where one builds on land in the belief that he is the owner of the land, but does not apply where one's interest in the land is that of a lessee under a rental contract; Balucanag vs. Francisco, No. L-33422, 30 May 1983, 122 SCRA 498.
- [17] Gabrito vs. Court of Appeals, G.R. No. 77976, 24 November 1988, 167 SCRA 771, citing Vda. De Bacaling vs. Laguna, No. L-26694, 18 December 1973, 54 SCRA 243, 250.