

EN BANC

[G.R. No. 137533, November 22, 2002]

**TALA REALTY SERVICES CORPORATION, PETITIONER, VS.
BANCO FILIPINO SAVINGS AND MORTGAGE BANK,
RESPONDENT.**

DECISION

PUNO, J.:

A four-page contract executed by the parties more than two decades ago spurred the present controversy. The records of the case total thousands of pages, but no amount and fashion of words can forever bury or hide the truth. Justice will be dispensed to both parties and each would pay the price for its deception.

This is a petition for review on certiorari to annul and set aside the Court of Appeals' December 18, 1998 decision and February 17, 1999 resolution affirming the decision of the Regional Trial Court of Malolos, Bulacan, Branch 78, which dismissed petitioner's action for ejectment.

Petitioner Tala Realty Services Corporation ("Tala") alleges that it is the absolute owner of nine parcels of land and their improvements located in Manila, Malabon, Marikina City, La Union, Lucena City, Iloilo City, Davao City, Pangasinan, and Bulacan by virtue of separate Deeds of Absolute Sale executed between Tala and the respondent Banco Filipino Savings and Mortgage Bank (the "Bank") on August 25, 1981. The Bulacan property is the subject matter of this case.^[1]

On that same day, August 25, 1981, Tala and the Bank entered into separate lease contracts over the aforementioned nine properties. The contracts had the same form and terms, except for the description of the property and the amount of the monthly rentals. The contracts provided for twenty-year lease periods renewable for another twenty years at the option of the Bank. The monthly rental for the Bulacan property was ₱9,800.00.^[2]

Later that same day, the parties revised these nine lease contracts. The terms of the lease were shortened to eleven years renewable for a period of nine years "at the option of the lessee under terms and conditions mutually agreeable to both parties." The monthly rental for the Bulacan property remained ₱9,800.00.^[3]

Almost eleven years after the execution of the nine lease contracts, or on August 19, 1992, Tala's director, Elizabeth H. Palma, wrote to the Bank reminding the latter that the contracts were about to expire on August 31, 1992, and that the Bank had earlier signified its interest to renew the lease contracts. The letter also indicated that Tala was open to discuss the terms and conditions of the renewal of the lease "subject to the condition that the lease rate which may be mutually agreed upon shall retroact to September 1, 1992." Meantime, Tala would lease the properties to the Bank on a month-to-month basis until the agreement was finalized.^[4]

On January 20, 1993, the Bank requested Tala to send its representative to the Bank's office to negotiate the renewal of the lease.^[5] Tala's director, Elizabeth Palma, negotiated the renewal and submitted a proposal for increased rental. In its February 10, 1993 letter to the Bank, Tala reiterated the increased rental which was agreed upon in the previous negotiation. It also stated that Tala was charging the Bank goodwill money for the renewal of the lease to cover the substantial losses it incurred during the period of the lease and upon its expiration when Tala was holding the lease sites for the Bank and turning down more profitable offers. The new monthly rental rate for the Bulacan property was ₱31,800.00.

On March 4, 1993, the Bank requested Tala to furnish it some documents regarding the lease of Tala's properties. For several months from the time of negotiation, the Bank failed to take action on Tala's proposed terms for the renewal of the lease contract, prompting Tala to write to the Bank on June 22, 1993; it billed the Bank the difference between the old monthly rental rate of ₱9,800.00 it had been paying for the past ten months and the increased rate of ₱31,800.00^[6] which, according to Tala, was agreed upon by the parties during the negotiation.^[7] Tala also informed the Bank in its June 22, 1993 letter that since it had been ten months since the expiration of the lease contracts in August 1992 and the Bank had not taken any definite action to renew the contracts despite being furnished copies of the same in December 1992, Tala declared itself free to "lease, dispose, sell and/or in any way alienate the bank branch sites subject of the lease agreement."^[8]

The Bank responded on June 29, 1993, clarifying that it was the Bank which had the option to renew the lease and that it had communicated to Tala it was exercising its option to do so. However, Tala failed to furnish some documents relevant to the lease the Bank had earlier requested. The Bank needed the requested documents to help clear up (1) its sale of the leased properties to Tala and (2) the basis of its lease negotiations with the latter, but could not find the pertinent deeds of sale and lease contracts over some of the lease sites. On January 15, 1985, the Central Bank closed the Bank, placed it under receivership, and took possession of its records; but this Court in 1991 declared the closure null and void, and the records were returned. However, the Bank could not find in the returned records some deeds of sale, lease contracts, and transfer certificates of title regarding the properties Tala leased to it.^[9]

From the time the lease contract over the Bulacan property expired in August 1992 until March 1994, the Bank continued to occupy the subject Bulacan property. It paid Tala monthly rentals at the old rate of ₱9,800.00 from September 1, 1992 until March 1994, but refused to pay the ₱22,000.00 difference between the old monthly rate and the new rate of ₱31,800.00. Beginning April 1994 until the filing of the instant case, however, the Bank did not pay any rent at all. Nor did it pay the goodwill money and deposit Tala required for the renewal of the lease.^[10]

On April 14, 1994, Tala wrote to the Bank demanding payment of the latter's outstanding obligations of ₱1,102,440.00 over the Bulacan property, consisting of unpaid rental adjustment of ₱440,260.00, deposit of ₱127,200.00, and goodwill money of ₱500,000.00. Tala also informed the Bank that at the end of the month, the month-to-month lease would no longer be renewed, thus, it should vacate the premises by that time, otherwise, petitioner would resort to legal action.^[11] Still, the Bank refused to pay its outstanding obligations, prompting Tala's lawyer to write to it on May 2, 1994 demanding the latter to vacate the premises and to pay its

outstanding obligation within five days from receipt of the letter, otherwise a legal action would be filed against it.^[12] The petitioner wrote similar letters for the nine other properties it leased to the Bank.^[13]

As the Bank did not comply with Tala's demands, the latter filed complaints for ejectment and/or unlawful detainer in the courts where the nine properties are located. The complaint in the case at bar was filed in the Municipal Trial Court of Malolos on November 11, 1994.^[14] Tala prayed therein that the Bank vacate the premises, and pay it ₱653,638.00 accrued rentals as of September 30, 1994 and rental of ₱42,325.00 a month with an annual 10% escalation from October 1994 until it vacates the premises, and to pay the costs.^[15]

Parenthetically, on August 5, 1985, while the Bank was closed, placed under receivership and being liquidated by order of the Monetary Board, counsel for the Bank's liquidator wrote Tala regarding the lease contracts that have expired and others that would expire in 2001. It appeared from some lease contracts that the Bank had paid Tala advance rentals/deposits amounting to ₱13,937,300.00 which were to cover rentals accruing from the eleventh to the twentieth year of the lease, *i.e.*, from 1992 to 2001. Since the Bank was under liquidation at that time and had no more need for the leased premises for that ten-year period, the liquidator's counsel asked Tala to apply the advance deposit to the rentals of the properties totaling ₱423,550.00 a month for the period during which the Bank was closed and under receivership.^[16]

In a letter dated October 7, 1987, Tala's lawyer replied to the counsel of the Bank's liquidator that the amended 11-year lease contracts of August 25, 1981 provided for the payment of security deposits and not advance rentals so that said payment could not be used to cover unpaid rentals during the period that the Bank was closed and under receivership and liquidation. According to Tala's lawyer, the only time that said security deposits may be applied to unpaid rents is when the rentals for the last year of the lease contracts were not paid, but the lease contracts were still due to expire in 1992.^[17] The Bank, therefore, could not apply the security deposits to the payment of rentals and thus had to pay its accrued rentals. However, on February 21, 1990, the Bank's liquidator wrote Tala informing the latter that it had approved payment of accrued rents on Tala's properties leased by the Bank, less the security deposit of ₱13,937,300.00 that the Bank had earlier paid for all the properties it leased from Tala. The letter indicated that the total rent due on all the leased properties as of November 1989 was ₱19,169,625.00. Applying the security deposit of ₱13,937,300.00 to this amount, the net amount due Tala for unpaid rent as of November 1989 was ₱5,232,325.00. The representative of Tala, Elizabeth H. Palma, agreed to this net amount due for unpaid rent as of November 1989 and signed in the liquidator's letter to show conformity to said net amount.^[18] Of the unpaid rent due as of November 1989, ₱509,600.00 was due with respect to the Bulacan property for the period covering August 1985 to November 1989.^[19] Petitioner notes that since the Bank paid only ₱487,500.00 advance rental/security deposits on the Bulacan property, there was still a balance of ₱22,100.00 to be paid by the Bank.^[20]

The Bank had a different story to tell.

In 1979, the Bank undertook an expansion program, part of which was to purchase the present site of its head office at corner Paseo de Roxas and Dela Rosa Streets in Makati City. At that time, however, it had already reached the limit for real estate investment set by Sections 25(a) and 34 of Rep. Act No. 337 or the General Banking Act, as amended, viz:

"Sec. 25. Any commercial bank may purchase, hold and convey real estate for the following purposes:

(a) such as shall be necessary for its immediate accommodation in the transaction of its business: Provided, however, that the total investment in such real estate and improvements thereof, including bank equipment, shall not exceed fifty percent (50%) of net worth: Provided, further, That real estate used for the bank's purposes, owned by another corporation in which the bank owns equity, shall be considered as part of the bank's total investment in real estate.

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Sec. 34. Savings and mortgage banks may purchase, hold and convey real estate under the same conditions as those governing commercial banks as specified in Section 25 of this Act."

To avoid exceeding the limit set by law as it pursued its expansion program, the Bank had to reduce its branch site holdings and merely lease, instead of own or buy, branch sites. The matter of reducing the Bank's existing branch site holdings and leasing them, and leasing new properties instead of buying them was taken up by Nancy Lim Ty, then senior vice president and director of the Bank, with Tomas Aguirre and other major stockholders.^[21] The major stockholders agreed to form an allied corporation to which the Bank's existing branch sites could be unloaded and leased back from, and which would acquire new branch sites for the Bank that the latter would lease. That allied corporation is the petitioner Tala. It was originally named Alta Realty Services Corporation, but its name was changed to Tala Realty Services Corporation upon registration with the Securities and Exchange Commission (SEC) as there was already an entity named Alta. Alta or Tala is an acronym formed by the first letters of the family names of four major stockholders of the Bank, namely Antonio **T**iu, Tomas B. **A**guirre, Nancy **L**im Ty, and Pedro B. **A**guirre. These four major stockholders contributed P250,000.00 each to put up a P1,000,000.00 capital for Tala. The names of the four, however, did not appear in Tala's incorporation papers, and instead the names of their nominees appeared therein.^[22]

On August 18, 1981, the Bank's Board of Directors voted to authorize the negotiation for sale and conclusion of an agreement to sell eleven of their branch sites, including the subject Bulacan property which was to be sold for P975,000.00.^[23] The sale was part of a "warehousing agreement"^[24] between the Bank and Tala, viz:

"The Respondent (Bank) was to transfer or unload^[25] a number of its existing branch sites to the Petitioner (Tala) and the latter was to simultaneously lease them back to the former. New branch sites which the Respondent will be disqualified from buying, by reason of the

aforecited limitations under existing banking laws and regulations, will be acquired for it by the Petitioner which will forthwith lease them to the Respondent. Any or all of these branch sites will be returned or reconveyed to the Respondent by the Petitioner at the former's demand or pleasure at the same transfer or acquisition cost."^[26]

On August 25, 1981, in accordance with this "warehousing agreement," the Bank executed in favor of Tala eleven separate deeds of absolute sale, transferring to the latter eleven branch sites, including the subject Bulacan property.^[27] On the same day, Tala executed in favor of the Bank eleven separate contracts of lease over the eleven properties, leasing the branch sites for a term of twenty years "renewable for another period of twenty (20) years, at the option of the LESSEE."^[28] All eleven lease contracts were uniform except for the amounts of monthly rentals and advance rentals. All eleven contracts provided the Bank a "first preference to buy"^[29] which was meant to express the above agreement between the Bank and Tala that "any or all of these branch sites will be returned or reconveyed to the Respondent by the Petitioner at the former's demand or pleasure at the same transfer or acquisition cost." This agreement to reconvey was not spelled out in the lease contracts because the Bank was apprehensive that it might provide basis for the Central Bank to question the sale and simultaneous lease back of the branch sites between the Bank and Tala, for being merely simulated, and thereby derail the Bank's expansion program. But the Bank was nevertheless confident that Tala would honor the agreement though not written "not only because among bankers, commitments, though not written, are as binding and are honored as written ones, but also because the Bank was dealing with an entity owned and backed up by four major stockholders of the Bank: three of whom, namely, Antonio Tiu, Nancy Lim Ty and Pedro Aguirre, were members of the Bank's Board of Directors at that time, with one of them, Nancy Lim Ty, also Senior Vice President at the same time; and the fourth, Tomas Aguirre, was the founder of the Bank who, in his Affidavit, confirmed the Agreement."^[30] That the Bank intended to keep the leased properties can be gleaned from the fact that as of the filing of the instant case, more than ten years after their sale, their titles remain in the name of the Bank as shown by TCT No. RT-39662 (T-261735) and RT-39663 (T-261736) of the Registry of Deeds of the Province of Bulacan.^[31]

As Tala had only ₱1,000,000.00 paid-up capital as of August 25, 1981, while the combined selling price of the Bank's branch sites being unloaded to it was nearly ₱30,000,000.00, the Bank and Tala devised a way for Tala to pay the selling price through loans and the Bank's payment of advance rentals. The eleven lease contracts provided for payment of substantial advance rentals for the eleventh to the twentieth year of the 20-year contracts of lease. These advance rentals in the eleven lease contracts were applied to the purchase price stipulated in the eleven deeds of absolute sale. The balance of the purchase price was paid through loans obtained by Tala, through the intercession of the Bank, from Pacific Bank and Metrobank with the branch sites as collaterals. The monthly rental rates for the lease of the eleven properties were pegged at an amount that would allow Tala to meet the amortizations for said loans and retain 3% of the rentals as compensation for its services.^[32] On December 18, 1981, the Bank paid Tala advance rental in the amount of ₱487,500.00 and monthly rentals of ₱39,200.00 for the period covering September 1981 to December 1981 at ₱9,800.00 per month over the Bulacan property, less withholding tax of ₱26,335.00, or a total of ₱500,365.00.^[33]