

SECOND DIVISION

[G.R. No. 115851, June 20, 2001]

**LA JOLLA, INC., PETITIONER, VS. COURT OF APPEALS AND
PELAGIA VIRAY DE AGUILAR, RESPONDENTS.**

D E C I S I O N

DE LEON, JR., J.:

Before us is a petition for review on *certiorari* of the Decision^[1] and the Resolution^[2] of the Court of Appeals dated February 21, 1994 and June 10, 1994, respectively, which extended the period of lease of private respondent Pelagia Viray de Aguilar over a portion of the building situated at No. 440 Rizal Avenue, Sta. Cruz, Manila to two (2) years from finality of decision.

Petitioner is the owner of the land and building situated at Nos. 434 and 440 Rizal Avenue, Sta. Cruz, Manila having acquired the same through a Deed of Sale with Mortgage on October 13, 1964. Private respondent, as early as then, was an occupant of a portion of the building situated at 440 Rizal Avenue, Sta. Cruz, Manila by way of a verbal contract of sub-lease on a month-to-month basis from a certain Leon Co Santos.

It appears that on November 14, 1964, petitioner notified the private respondent that it was terminating her lease over the premises in question effective December 31, 1964 and demanded that she vacate the premises, since petitioner intended that the building be demolished for the construction of a new building. When private respondent failed to vacate despite demand, and further failed to pay the rentals from November 1, 1964, petitioner instituted an ejectment suit against private respondent. On March 27, 1965, a decision^[3] was rendered in favor of petitioner, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING, judgment by default is hereby rendered for the plaintiff and against the defendant, ordering the latter and all persons claiming under her to vacate the premises described in the complaint, to pay the sum of P1,200.00 as monthly rental from November 1, 1964 until said premises are actually vacated, to pay also the sum of P300.00 as and for attorney's fees, plus costs.

SO ORDERED.

Private respondent appealed from said decision, but her appeal was dismissed by the then Court of First Instance of Manila, Branch XV, in its Order dated November 26, 1965.^[4] Undaunted, private respondent interposed a petition for review with the Court of Appeals; however, the same was dismissed.^[5] The said decision became

final and executory on October 23, 1966. Nonetheless, private respondent interposed an appeal by certiorari with this Court, which petition was dismissed by the Court, for being moot and academic, after considering private respondent's manifestation that she was still occupying the leased premises based on adjusted monthly rentals.^[6]

On August 6, 1976, petitioner instituted the second suit for ejectment against private respondent on the strength of private respondent's refusal to accede to the 50% increase of the monthly rental which was then at P2,400.00 and to vacate the premises in question. On June 8, 1978, a decision^[7] was rendered by the City Court of Manila, Branch II, the dispositive portion of which, in part, reads:

Therefore, its is the considered finding of this Court that [La Jolla, Inc.] has proved by more than a preponderance of evidence, the allegations contained in its complaint and hereby orders [Pelagia Viray de Aguilar] to vacate the premises leased, to pay the increase in rentals from November, 1974 to December, 1975 in the total amount of P18,800.00 to pay monthly rental at the rate of P3,600.00 from January, 1976, until [Pelagia Viray de Aguilar] actually vacates the premises, and to pay the costs of suit. All sums deposited in Court by [Pelagia Viray de Aguilar] shall be credited to [her] liabilities and deducted therefrom, the balance payable to [La Jolla, Inc.]. xxx

SO ORDERED.

On appeal, the Court of First Instance of Manila, Branch XXIV, rendered a decision^[8] on July 3, 1979, the decretal portion of which reads:

PREMISES CONSIDERED, the judgment appealed from is hereby modified to the end that [Pelagia Viray de Aguilar] is ordered to pay the [La Jolla, Inc.] the amount of P10,456.32 as reasonable increase in rental of the premises in question for the period covering November, 1974 to December, 1975 within thirty (30) days from receipt of this Decision, and, thereafter, to pay the monthly sum of P3,186.88 until [Pelagia Viray de Aguilar] finally vacates the premises. Without pronouncement as to costs.

SO ORDERED.

No appeal from said decision was filed, hence, it became final and executory.

On February 11, 1989, petitioner notified private respondent of the termination of her lease effective February 28, 1989 over the property situated in 440 Rizal Avenue, Sta. Cruz, Manila on the grounds that (a) the lease being on a month-to-month basis, it is terminated at the end of every month; and (b) violation of the terms and conditions of the lease by sub-leasing a portion of the premises without the consent of the owner. Petitioner, therefore, demanded that private respondent vacate the subject premises by February 28, 1989.^[9]

Private respondent failed to vacate the leased premises despite demand, hence, petitioner filed the third complaint for ejectment, dated August 31, 1989, raising as an additional cause of action the petitioner's right to receive reasonable compensation from private respondent in the amount of P15,000.00 for the unauthorized use by private respondent of the premises as well as attorney's fees and litigation expenses in the amount of P20,000.00, plus exemplary damages and costs.^[10]

In her Answer, private respondent interposed as an affirmative defense, among others, that petitioner had no cause of action, that petitioner's claim was barred by prior judgment in the second ejectment suit, Civil Case No. 121890, and that petitioner could not demand an increase in rental since the amount fixed at P3,186.88 a month in said prior decision had become *res judicata*.^[11]

On May 6, 1992, a decision^[12] was rendered by the Metropolitan Trial Court of Manila, Branch V, the decretal portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant PELAGIA VIRAY DE AGUILAR ordering the latter and all the persons claiming rights under her to vacate the premises located at No. 440 Rizal Avenue, Sta. Cruz, Manila and deliver the peaceful possession thereof to the plaintiff; to pay the plaintiff the amount of P15,000.00 a month as reasonable compensation for the use and occupation of said premises from March 1989 until such time as defendant shall have actually vacated the same; ordering the defendant to pay the sum of P10,000.00 as and for attorney's fees and expenses of litigation plus the costs of suit.

SO ORDERED.

On appeal, the above decision was affirmed by the Regional Trial Court of Manila, Branch 4.^[13] Thereafter, private respondent interposed a petition for review before the Court of Appeals. Acting on the petition, the appellate court issued on February 21, 1994 its decision,^[14] the decretal portion of which reads:

"WHEREFORE, the MTC decision in Civil Case No. 129779 CV, and that of the RTC in Civil Case no. 92-61720 subject of this petition for review are hereby MODIFIED to read as follows:

The lease of defendant-petitioner Pelagia Viray de Aguilar over the premises at No. 440 Rizal Avenue, Sta. Cruz, Manila is hereby extended and fixed for a period of two (2) years from the date of finality of this decision at a prospective monthly rental of P15,000.00; and, for the use and occupation of the subject premises from March 1989 until the date of finality of this decision, defendant-petitioner is ordered to pay plaintiff-respondent La Jolla, Inc. a reasonable compensation for the use and occupation of the subject premises at the rate of P9,000.00 monthly, provided that whatever monthly amounts defendant-petitioner has paid,