

SECOND DIVISION

[G.R. No. 134651, September 18, 2000]

**SPOUSES VIRGILIO AND JOSIE JIMENEZ, PETITIONERS, VS.
PATRICIA, INC., RESPONDENT.**

DECISION

BELLOSILLO, J.:

The Joint Decision of the Court of Appeals^[1] (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 Purisima Salazar who had been leasing the property from PATRICIA since 1970.

Sometime in 1995 Purisima 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.^[2] But the spouses refused to leave.

Thus, on 5 May 1995 PATRICIA filed a complaint^[3] for unlawful detainer against the Jimenez spouses alleging, among others, that the lessee Purisima Salazar subleased the premises to the Jimenezes; that Purisima 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 Purisima Salazar with the knowledge of PATRICIA; that the building originally found on the lot was owned by Purisima 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.^[4]

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.^[5]

The Jimenez spouses appealed the MeTC decision to the RTC.^[6] 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.^[7]

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;^[8] 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^[9] 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.^[10] 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.^[11]

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.^[12]

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.^[13] 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.^[14] 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