

FIRST DIVISION

[G.R. No. 110223, April 08, 1997]

**ARMY AND NAVY CLUB OF MANILA, INC., PETITIONER, VS.
HONORABLE COURT OF APPEALS, HON. WILFREDO D. REYES, AS
JUDGE REGIONAL TRIAL COURT OF MANILA, BRANCH 36
(FORMERLY (BRANCH 17)), HON. A. CAESAR SANGCO, AS JUDGE,
METROPOLITAN TRIAL COURT, BRANCH 17-MANILA AND THE
CITY OF MANILA, REPRESENTED HEREIN BY MAYOR ALFREDO
LIM, RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

The instant petition seeks to annul the decision of the Court of Appeals affirming the decision of the Regional Trial Court, National Capital Region, Branch 36, Manila which affirmed the summary judgment rendered by the Metropolitan Trial Court of Manila, Branch 17.

On November 29, 1989 the City of Manila filed an action against herein petitioner with the MTC for ejectment. The complaint alleged that:

1. That plaintiff is a municipal corporation duly organized and existing by virtue of Rep. Act No. 409, as amended, with offices at City Hall Building, Manila, represented in this action by its incumbent City Mayor, Hon. Gemiliano C. Lopez, Jr., with the same address as plaintiff;

Defendant is likewise a corporation organized under the laws of the Philippines with offices at the Army and Navy Club Building, Luneta, Manila, where it may be served with summons;

2. That plaintiff is the owner of a parcel of land with an area of 12,705.30 sq. m. located at South Boulevard corner Manila Bay, Manila, covered by TCT No. 156868/1059 of the Register of Deeds of Manila, together with the improvements thereon known as the Army and Navy of Manila;

3. That defendant is occupying the above-described land and the Army and Navy Club Building by virtue of a Contract of Lease executed between plaintiff and defendant in January 1983, copy of which is attached hereto as Annex "A";

4. That paragraph 1 of the said Contract of Lease provides that:

(1) That the LESSEE shall construct, at its own expense, a modern multi-storied hotel at a cost of not less than FIFTY MILLION PESOS (P50,000.00) (sic), which shall automatically belong to the LESSOR upon the expiration and/or termination of the lease agreement, without right of the LESSEE for reimbursement for the costs of its construction; PROVIDED, HOWEVER, that construction of the said hotel shall be

commenced within one (1) year, and completed as far as practicable within five (5) years, from date of approval by proper government officials of this lease agreement; PROVIDED, FURTHER, that the plans and specification for the same hotel shall be approved first by the LESSOR before actual construction;

5. That in violation of the aforequoted provision, defendant has failed and/or refused to construct a modern multi-storied hotel provided for therein, long after the expiration period therein stipulated and despite demands of plaintiff, to the prejudice of plaintiff who has agreed to defendant's continued retention of the property on a lease-back agreement on the basis of the warranties of defendant to put up a contemporary multi-storied building;

6. That paragraph 3 of the Contract of Lease also stipulates that:

(3) That the LESSEE shall pay a rent of TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00) a year, which may be paid by the LESSEE in twelve (12) equally monthly installments within the first five (5) days of each month, without the necessity of a demand, subject, however, to rental adjustment after the first five (5) days of each month, without the necessity of a demand, subject, however, to rental adjustment after the first five years of this lease, at the rate of not more than ten per centum (10%) per annum every two years, or on the basis of the increase in the prevailing market value of the leased premises whichever is higher of the two criteria;

7. That defendant also reneged on its rental obligation notwithstanding plaintiff's demand to pay, for its use and occupancy of the plaintiff's property, starting from January 1983 to the present, and its rental account stood at P1,604,166.70 as of May, 1989;

8. That in paragraph 4 of the Contract of Lease, it is also provided that:

(4) That the LESSEE shall pay the realty tax due on the land, including those assessed against the improvements thereon, as well as all government license, permits, fees and charges prescribed by law, Presidential decrees and ordinances for the leased premises, including those for the establishment and operation of a modern multi-storied hotel and all constructions and modifications pursuant to the provisions of this Contract;

9. That defendant violated its undertaking to pay the taxes due on the land and improvement, so much so that as of December 1989, its aggregate realty tax liability amounts to P3,818,913.81;

10. That repeated demands of plaintiff had been made upon the defendant to comply with its aforesaid contractual obligations, but defendant however remained unfazed; it still failed to perform any of its contractual obligations.

11. That as a result, plaintiff rescinded their Contract of Lease and demanded defendant to vacate, the last of which was contained in a letter dated

May 24, 1989, copy of which is attached hereto as ANNEX "B". To date however, defendant however, has not budged an inch from the property of plaintiff;

12. That the reasonable rental value for defendant's continued use and occupancy of the subject premises which is a prime property along Rozas (sic) Boulevard in Luneta area is P636,467.00 a month in the context of the prevailing rental rates of comparable real property;^[1]

On December 29, 1989 or within the reglementary period, petitioner filed its answer to the complaint. Subsequently, on February 22, 1990, it filed a "Motion for Leave to File and for Admission of Amended Answer" allegedly asserting additional special and affirmative defenses.

On May 23, 1990, the City of Manila filed a Motion for Summary Judgment^[2] on the ground that there exists no genuine triable issue in the case.

On July 27, 1990, the MTC denied the petitioner's motion for leave to admit its amended answer for lack of merit. Thus, on October 5, 1990, a decision was rendered with the following dispositive portion:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff, ordering the defendant:

- a) and all persons claiming rights or title under it, to immediate (sic) vacate and surrender to the plaintiff, the premises more particularly described as the Army and Navy Club Bldg. located at South Boulevard corner Manila Bay, Manila;
- b) to pay, all with legal interest thereon, its rental arrearages at the rate of P250,000.00 per year with a corresponding ten (10%) percent increase every two years from January, 1983 until it finally vacates and surrenders the premises to the plaintiff;
- c) the costs of suit.

SO ORDERED.^[3]

On appeal, the Regional Trial Court presided by Judge Wilfredo D. Reyes affirmed in toto the summary judgment of the Metropolitan Trial Court.^[4]

Petitioner elevated its case to the Court of Appeals. On October 30, 1992, the Court of Appeals dismissed the appeal.

On May 18, 1996, the Court of Appeals issued a resolution denying the motion for reconsideration of the decision dated October 30, 1992. At the same time, it also denied the City of Manila's motion for issuance of a writ of execution pending appeal.

Petitioner filed the instant petition raising the following issues:

- 1. RESPONDENT COURTS GRAVELY ERRED IN UPHOLDING THE OUSTER OF HEREIN PETITIONER FROM THE DISPUTED PREMISES

WHICH IS A CLEAR TRANSGRESSION OF THE FORMAL DECLARATION OF THE SITE OF HEREIN PETITIONER AS A HISTORICAL LANDMARK.

2. WHETHER OR NOT RESPONDENT COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE DECISIONS OF RESPONDENT METROPOLITAN TRIAL COURT (MTC) AND REGIONAL TRIAL COURT (RTC) JUDGES DENYING ADMISSION OF PETITIONER'S AMENDED ANSWER.

3. WHETHER OR NOT RESPONDENT COURT OF APPEALS ERRED IN AFFIRMING THE SUMMARY JUDGMENT RENDERED BY RESPONDENT MTC AND RTC JUDGES.

4. WHETHER OR NOT RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT PETITIONER WAS DENIED DUE PROCESS BY THE RENDITION OF SUMMARY JUDGMENT AGAINST IT.

5. AS AN INCIDENT TO THE MAIN ISSUE, THE PROPERTY, SUBJECT MATTER OF THIS CASE, IS OF PUBLIC DOMAIN AND THEREFORE, THE CONTRACT OF LEASE EXECUTED BY THE CITY OF MANILA IN FAVOR OF PETITIONER IS VOID.^[5]

There is no merit in the petition.

Amidst all the issues raised by the petitioner, the instant case is a simple ejectment suit.

There is no dispute that the City of Manila is the owner of a prime parcel of land with an area of 12,705.30 square meters located at South Boulevard corner Manila Bay together with the improvement thereon known as Army and Navy Club of Manila. Petitioner entered into a lease contract with private respondent sometime in January, 1983. In said lease contract, it agreed to: 1) pay an annual a rent of P250,000.00 with a 10% increase every two (2) years; 2) pay the realty tax due on the land; and 3) construct a modern multi-storey hotel provided for therein within five (5) years which shall belong to the City upon expiration or termination of the lease without right of reimbursement for the cost of construction.^[6]

Petitioner failed to pay the rents for seven (7) consecutive years. As of October, 1989 when the action was filed, rental arrears ballooned to P7.2 million. Real estate taxes on the land accumulated to P6,551,408.28 as of May, 1971. Moreover, petitioner failed to erect a multi-storey hotel in the site. For violations of the lease contract and after several demands, the City of Manila had no other recourse but to file the action for illegal detainer and demand petitioner's eviction from the premises. Article 1673 of the New Civil Code is explicit:

ART. 1673. The lessor may judicially eject the lessee for any of the following causes:

(1) When the period agreed upon, or that which is fixed for the duration of leases under articles 1682 and 1687, has expired;

(2) Lack of payment of the price stipulated;

(3) Violation of any of the conditions agreed upon in the contract;

(4) When the lessee devotes the thing leased to any use or service not stipulated which causes the deterioration thereof; or if he does not observe the requirement in No. 2 of article 1657, as regards the use thereof.

The ejectment of tenants of agricultural lands is governed by special laws.
(emphasis supplied)

Petitioner invokes and capitalizes on the fact that the Army and Navy Club has been declared a national historical landmark by the National Historical Commission on June 29, 1992 which the lower courts allegedly never gave due consideration. Thus, its existence should not in any way be undermined by the simple ejectment suit filed against it. Petitioner contends that all parties are enjoined by law to preserve its existence and site.

To support its claim, petitioner presented the Certificate of Transfer and Acceptance of the Historical Marker granted to it pursuant to R.A. 4846, as amended by PD 374 which provides that it shall be "the policy of the State to preserve and protect the important cultural properties and National Cultural Treasures of the nation and to safeguard their intrinsic value."^[7]

The Marker reads as follows:

CERTIFICATE OF TRANSFER AND ACCEPTANCE OF HISTORICAL MARKER
ARMY AND NAVY CLUB

TO ALL PERSONS TO WHOM THESE PRESENTS MAY COME:

Be it known that the National Historical Institute, in the exercise of its authority vested by law and in compliance with its mandate to honor national heroes and perpetuate the glory of their deeds, and to preserve historical sites, has transferred this historical marker unto Administration of Army and Navy Club, who has agreed to accept the same and to maintain it as a sacred duty.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 29th day of June, 1992, in Manila.

NATIONAL HISTORICAL INSTITUTE

by:

(SGD.) ILLEGIBLE

CAPT. VICENTE J. BRILLANTES

Transferee

Attested:

(SGD.) ILLEGIBLE

SERAFIN D. QUIASON

Transferor