

## **FIFTEENTH DIVISION**

**[ CA-G.R. SP No. 131610, March 19, 2014 ]**

**CATHERINE I. SIMON, PETITIONER, VS. SWISS AMERICAN  
LENDING CORPORATION, RESPONDENT.**

### **D E C I S I O N**

**CASTILLO, M., J.:**

This is a petition for review seeking to reverse and set aside the 15 March 2013 Decision<sup>[1]</sup> and 25 July 2013 Order<sup>[2]</sup> of the Regional Trial Court of Makati City, Branch 141, in Civil Case No. 12-1058, affirming the appealed Decision of the Metropolitan Trial Court of Makati City, Branch 66, and denying petitioner's motion for reconsideration, respectively.

As culled from the records before Us, the antecedents of this petition are:

The subject matter of this case is condominium unit no. 502 of the Our Lady of Guadalupe located in Makati City and the 12.5 square meter parking space provided therefor.

Respondent Swiss American Lending Corporation (SALC) was the highest bidder in the foreclosure sale of the Our Lady of Guadalupe Condominium conducted by the Bank of the Philippine Islands (then Prudential Bank).

On 15 December 2006, SALC and petitioner Catherine I. Simon forged an agreement involving the subject condominium unit and the parking space. Under the Agreement with Option to Buy, SALC authorized the petitioner to immediately occupy and take possession of the said unit, provided: (1) she would pay the aggregate amount of P62,500.00, as rent, for the period 15 December 2006 to 28 February 2007; (2) she would secure financing agreement for the purchase of the said unit and parking space with the Pag-ibig Fund, BPI Bank or any other bank, not later than 01 February 2007; and, (3) she would pay the amount of P200,000.00, as deposit. The parties further agreed that in the event the petitioner failed to comply with the conditions stipulated in the contract, specifically, that she would secure a loan from the Pag-ibig fund or any bank for the payment of the subject premises on the date agreed upon, their agreement anent the sale to her of the subject condominium unit and parking space would be cancelled. Upon the cancellation of the sale, petitioner would pay the amount of P12,500.00 per month as rent for her continued stay on the subject premises.

Save for the payment of the amount of P30,000.00 by the petitioner, none of the conditions stipulated in the contract was complied with. Such failure on the part of the petitioner prompted SALC to cancel the agreement to sell the subject condominium unit and parking space to her and she was given notice of the cancellation. Accordingly, pursuant to what they agreed upon in the contract, petitioner was thereafter charged with the amount of P12,500.00, as monthly rental for the said condominium unit and parking space.

As the petitioner still failed to pay the monthly rental due on the subject premises, respondent made several demands upon her to pay the accrued rentals and to vacate the same. The incessant failure of the petitioner to honor her commitment under their contract impelled SALC to cancel the same altogether, sending her a Notice of Cancellation dated 16 December 2010. On 11 March 2011, respondent sent petitioner a final demand letter for her to pay the unpaid rents and to vacate the subject condominium unit and parking space. Said demand, like all the previous demands made by the respondent, was unheeded by the petitioner.

Within a year from the time the final demand to pay and to vacate the subject premises was received by the petitioner, SALC filed a complaint for unlawful detainer against her before the MeTC of Makati City, Branch 66. The complaint was docketed as Civil Case No. 101930.

Upon her receipt of the summons and a copy of the complaint, petitioner, on 25 April 2011, sent a letter to the MeTC. In her letter, petitioner averred that SALC was not the owner of the Our Lady of Guadalupe Condominium since it had not yet fully paid the purchase price thereof to BPI. She maintained that she paid the monthly rentals due on the condominium unit in suit until her mother heard the other tenants questioning the ownership and management of the condominium by SALC. She said she demanded that SALC show her any document to prove its ownership of the Our Lady of Grace Condominium but the latter refused to do so.

The MeTC treated petitioner's letter as her answer to the complaint and it set the case for preliminary conference.

At the scheduled preliminary conference, both the petitioner and her counsel failed to appear despite notice. Petitioner's mother was present though, and she signed the minutes. Accordingly, the MeTC set the case for continuation of the preliminary conference on 22 February 2012 after SALC marked its documentary evidence. Copy of the MeTC's Order setting the continuation of the preliminary conference was sent to petitioner's counsel (former), Atty. Aureen P. Soriano.

On 22 February 2012, both the petitioner and her counsel again failed to appear. Accordingly, upon SALC's motion, the case was submitted for decision.

Petitioner filed a Motion to Reset Preliminary Conference on 20 March 2012 which was opposed by SALC. Finding no merit in said motion of the petitioner and upon noting that the same did not contain a notice of hearing, the MeTC denied it. The trial court also denied the motion for reconsideration subsequently filed by the petitioner.

In a Decision dated 29 June 2012, the MeTC disposed of SALC's complaint, as follows: <sup>[3]</sup>

WHEREFORE, in view of the foregoing, judgment is hereby rendered:

1. Ordering defendant Catherine I. Simon and all persons claiming rights under her as occupant to immediately vacate the premises located at Unit No. 502 of Our Lady of Guadalupe Condominium located at 1612 Camino De La Fe Street, Guadalupe, Makati City, and to peacefully surrender possession of the same to plaintiff Swiss American Lending Corporation;

2. Ordering defendant Catherine I. Simon to pay the amount of P62,500.00, representing back rentals from December 15, 2006 up to February 28, 2007 and P12,500.00 per month beginning March 1, 2007 until such time that she finally vacated the subject property;
3. Ordering defendant to pay plaintiff the amount of P20,000.00 as attorney's fees; and the costs of suit.

SO ORDERED.

Aggrieved, petitioner appealed the 29 June 2012 Decision of the MeTC to the RTC, putting the following in issue:<sup>[4]</sup>

1. Whether or not the Honorable Presiding Judge of MTC Branch 66 of Makati committed grave abuse of discretion in denying appellant's motion to reset hearing and thereby denying her the right to due process.
2. Whether or not the court a quo has jurisdiction over the case.
3. Whether or not the Honorable Presiding Judge committed grave and serious error in ruling that the appellee is entitled to the possession of the property plus the damages and rentals.

In its assailed Decision, the RTC affirmed the appealed Decision of the MeTC. The RTC further denied petitioner's subsequent motion for reconsideration in its assailed Order.

Hence, this petition.

Upon the filing of respondent's Comment on the petition for review and petitioner's failure to file her reply thereto, the filing thereof was deemed to have been waived by the petitioner and the case was submitted for decision.

The instant petition is grounded on the following:<sup>[5]</sup>

- I. With due respect, whether or not the Honorable Regional Trial Court's Decision to affirm the Order of the Honorable Metropolitan Trial Court in deciding the case pursuant to Section 7 in relation to Section 6 of the Rules on Summary Procedure, despite the indubitable proof that petitioner's former counsel's absence during the February 22, 2012 preliminary conference was because of lack of due notice, is contrary to law and jurisprudence;
- II. With due respect, whether or not the Honorable Regional Trial Court's Decision upholding the Metropolitan Trial Court's jurisdiction over the case is contrary to law and jurisprudence;
- III. With due respect, whether or not the Honorable Regional Trial Court committed errors in fact and in law when it upheld the Decision of the Honorable Metropolitan Trial Court ordering the defendant to vacate and surrender the possession of the condominium unit to the plaintiff plus payment of rentals, attorney's fees, and costs of the suit.

Regarding the first issue raised by the petitioner, she asserts that she was denied her right to due process of law when the MeTC denied her Motion to Reset the Preliminary Conference. She maintains that said motion should have been granted by the trial court. Her former counsel's absence during the preliminary conference held on 22 February 2012 was due to the fact that she received the notice of the said preliminary conference a day late or on 23 February 2012. While petitioner admits having been notified in open court<sup>[6]</sup> of the scheduled preliminary conference, she argues that under the Rules, it is the counsel's duty to inform his client of the schedule of court proceedings and not the other way around.

She further posits that it was improper for the trial court to have denied her Motion to Reset the Preliminary Conference just because the same did not contain a notice of hearing. She claims that her motion is exempted from the notice of hearing requirement as the same would not affect the substantial right of SALC.

With respect to the issue of jurisdiction, petitioner insists that the instant case is one incapable of pecuniary estimation as it involves the question of whether or not it was proper for SALC to unilaterally cancel the Agreement with Option to Buy. She therefore argues that the MeTC had no jurisdiction to try and decide the case.

Lastly, petitioner argues that, even on the assumption that the MeTC had jurisdiction over the case, it was still erroneous for the trial court to have sustained SALC's entitlement to the material possession of the subject premises even as it failed to establish its ownership over the same.

We deny the instant petition.

Petitioner cannot expect this Court to just disregard the common finding of both the MeTC and the RTC that she and her former counsel were duly notified of the preliminary conference set on 22 February 2012 based on her allegation and the Philpost certification she submitted in support thereof. Upon Our close examination of the said certification, We find the same unreliable to sustain petitioner's averment that it was only on 23 February 2012 when her former counsel received the trial court's Order setting the continuation of the preliminary conference on 22 February 2012. The Philpost certification is hereunder reproduced for easy reference:<sup>[7]</sup>

#### C E R T I F I C A T I O N

TO WHOM IT MAY CONCERN:

This is to certify that according to the record of this office, registered letter no. 322 posted by the Metropolitan Trial Court, Branch 66, Makati City addressed to Atty. Aureen P. Soriano, EJSO Tower, 9023 Arange St., San Antonio Village, Makati City, was duly delivered by Letter Carrier JOSEPH PINEDA on February 23, 2012 and was received by S/G SONNY BOY CANETE (Security Guard on Duty) on February 23, 2012.

This certification is being issued this 6<sup>th</sup> day of March 2012 upon the request of Atty. Aureen P. Soriano for whatever legal purpose it may serve.

FOR THE POSTMASTER:  
AMADEO P. ULIQUINO  
(sgd.)  
Chief, Admin. Unit

As it is not indicated in the Philpost certification that registered letter no. 322 pertains to the Order dated 02 February 2012 of the MeTC, which scheduled the continuation of the preliminary conference to 22 February 2012, the same cannot plainly be used to confirm petitioner's supposition.

At this juncture, We deem it prudent to point out that forcible entry and unlawful detainer cases are summary proceedings designed to provide for an expeditious means of protecting actual possession or the right to the possession of the property involved. It does not admit a delay in the determination thereof. It is a "*time procedure*" designed to remedy the situation.<sup>[8]</sup> Stated in another way, the avowed objective of actions for forcible entry and unlawful detainer, which have purposely been made summary in nature, is to provide a peaceful, speedy and expeditious means of preventing an alleged illegal possessor of property from unjustly continuing his possession for a long time, thereby ensuring the maintenance of peace and order in the community; otherwise, the party illegally deprived of possession might feel the despair of long waiting and decide as a measure of self-protection to take the law into his hands and seize the same by force and violence. And since the law discourages continued wrangling over possession of property for it involves perturbation of social order which must be restored as promptly as possible, technicalities or details of procedure which may cause unnecessary delays should accordingly and carefully be avoided.<sup>[9]</sup>

In accordance with the above objective, the Revised Rules on Summary Procedure set forth the steps to expeditiously dispose of the cases covered by the Rules, as in ejectment. Specifically, the Rules prohibit dilatory motions for postponements without justifiable cause; and make the appearance of parties and their counsels, during the preliminary conference, mandatory.

The pertinent provisions of the Rules on Summary Procedure, are the following:

*Sec. 6. Effect of failure to answer.* – Should the defendant fail to answer the complaint within the period above provided, the court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein xxx.

*SEC. 7 Preliminary conference; appearance of parties.* – Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be a cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counter-claim in accordance with Section 6 hereof, all cross-claims shall be dismissed.

***If the sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof.*** This rule shall not apply where one of two or more defendants sued under a