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SECOND DIVISION

[G.R. No. 64325. October 3, 1985]

CMS INVESTMENTS AND MANAGEMENT CORPORATION and LUIS F. SISON, *petitioners, vs.* **THE INTERMEDIATE APPELLATE COURT (First Special Cases Division) and JOSE TAN,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; ACTIONS; ACTION FOR DAMAGES WITH PRELIMINARY MANDATORY INJUNCTION; APPLICATION IN CASE OF LESSOR-LESSEE RELATIONSHIPS. — The original case of the petition before US was not an ejectment case. It did not have for its purpose the recovery of the possession of the leased property. Said original case, on the other hand, was for "damages with preliminary mandatory injunction" which is an entirely different action from an action for ejectment (*Tuason vs. Uson*, 7 Phil. 85). There is an action for damages. An action for damages specifically applicable in a lessor-lessee relationship is authorized in Article 1659 of the New Civil Code which states that : "Art. 1659. If the lessor or the lessee should not comply with the obligations set forth in Articles 1654 and 1657, the aggrieved party may ask for the rescission of the contract and indemnification for damages, or only the latter, allowing the contract to remain in force." It is very clear that Article 1659 of the New Civil Code allows the aggrieved party two remedies: (1) rescission with damages, or (2) damages only "allowing the contract to remain in force." The private respondent opted for the second remedy granted by Article 1659 of the New Civil Code, hence the action for "damages with preliminary mandatory injunction."

2. CIVIL LAW; LEASE; PADLOCKING THE OFFICES AND ENCLOSING THE LEASED PROPERTY WITH BARBED WIRES, A VIOLATION OF LESSEE'S RIGHT. — Section 3 of Article 1654 of the New Civil Code requires that the lessor must "maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract."

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The act of padlocking the offices of the private respondent on June 8, 1982 and the act of enclosing with barbed wire the leased land and the private respondent's offices are a clear violation by the lessor, the petitioners herein, of their third obligation mandated by Section 3 of Article 1659 of the New Civil Code. These acts by the lessor set at naught the duty required of the lessor by the New Civil Code.

3. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; CONTEMPT; A PERSON CANNOT BE PUNISHED FOR DOING A THING THAT HAS NOT BEEN PROHIBITED; CASE AT BAR.** – The persons enumerated in the temporary restraining order were restrained only from "further proceeding with Civil Case No. 3759, entitled '*Jose C. Tan, plaintiff, vs. The Investment and Management Corp., et al., defendants.*'" The petitioners' action then, in demolishing the structure built by the private respondent on the leased land was not a violation of said temporary restraining order. It cannot be said that the petitioners' action in demolishing the structure built on the leased land "without waiting for the final resolution or order of this Honorable Tribunal" is "in complete disregard of its honor and authority." Contempt partakes of the nature of a criminal offense (*Concepcion vs. Gonzales IV*, 114 Phil. 1066; *Villanueva vs. Lim*, 69 Phil. 654). Doubts must always be resolved in favor of the person charged with contempt (*Concepcion vs. Gonzales IV, supra*). A person cannot be punished for contempt in doing a thing that has not been prohibited or in omitting an act the performance of which has not been required (*Lee Yick Hon vs. Collector of Customs*, 41 Phil. 548).

DECISION

MAKASIAR, *C.J.*:

This is a petition for review on *certiorari* with preliminary injunction and/or restraining order of the order of the Court of First Instance of Rizal, Branch XXVII, Pasay City on June 10, 1982 which was sustained in a decision by the Intermediate Appellate Court, First Special Cases Division, on May 10, 1983, the dispositive portion of which is as follows:

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"WHEREFORE, the petition in this case is denied in so far as it seeks to prohibit respondent Judge from proceeding with or taking further action on Civil Case No. PQ-0133-P of the Court of First Instance of Rizal which we ruled as having rightful jurisdiction to take cognizance of and try said civil case.

"The petition for *certiorari* to nullify the temporary restraining order dated June 10, 1982 is likewise denied for the reasons stated in this decision and also because the issues raised in this regard have been now rendered moot and academic" (p. 52, rec.).

The facts as stated by the private respondent, the plaintiff in the original case, are as follows:

On January 24, 1978, private respondent entered into an oral contract of lease for ten years with the petitioner CMS Investments and Management Corporation. The contract involved a certain parcel of land owned by petitioner situated at Sucat Road, Parañaque, Metro Manila. The private respondent constructed therein a building with the agreement that private respondent will pay the lessor the sum of two thousand pesos (₱2,000.00) monthly which was later on increased to three thousand pesos (₱3,000.00) a month.

Private respondent opened in the said land a business known as Timber Country Lumber which was engaged in the Glass, Aluminum, Steel, Doors and Windows Store.

Private respondent paid rentals up to May, 1982. And with the advance rentals amounting to ₱8,000.00, plus the ₱6,000.00 which the private respondent paid as rental deposit at the inception of the lessor-lessee relationship, the rentals, up to November 20, 1982, were already paid.

On June 1, 1982, Carlos Moran Sison thru defendant Wilfredo Guerzon informed the private respondent to vacate the premises. Private respondent "requested the defendant that they cannot leave the premises on said date due to the volume of his business as he has many customers and further informed the defendants that it was their agreement when they just leased the land in question that plaintiff could stay in the premises for not less than ten (10) years from January 24, 1978" (pp. 128-129, rec.).

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On June 8, 1982, private respondent was "greatly shocked and surprised upon arriving at the Timber Country Lumber when he was informed by his *encargado* over the premises that it was padlocked by defendant Wilfredo Guerzon and four (4) men unknown to him at about 12:30 o'clock in the morning" (p. 129, rec.). Thus, private respondent and his "men working under him numbering about thirty (30) laborers could not enter the glass, aluminum, steel, door and window store to his great damage and prejudice, since no work could be performed therein" (p. 129, rec.). Private respondent "found out that there were several men guarding the premises aided by and under instruction from defendant Wilfredo Guerzon and upon inquiring from him why it was padlocked, plaintiff was informed by defendant Wilfredo Guerzon that the padlocking was thru the instruction of Atty. Luis Sison and even gave the address of said Atty. Sison to the plaintiff and likewise braggingly stated that they were ready to answer any legal action that may be taken by the plaintiff" (p. 129, rec.).

The facts according to the petitioner, the defendants in the original case are as follows:

"Private respondent was the lessee of a certain portion of a lot owned by petitioner corporation under the contract of lease entered into by said parties on *July 27, 1978*. According to petitioner herein, this contract underwent a modification on September 26, 1980, thru a letter sent to Jose Tan (private respondent) and by another similar letter sent to the latter on December 16, 1982 which 'spells out some new agreement between the parties.' (Petition, p. 3). Thus, it is claimed by petitioner that on January 9, 1981 a final agreement was confirmed in a letter of same date fixing the monthly rental at ₱3,000.00, effective February 1, 1981, and for a period of one year. At the end of one year if private respondent is still leasing the premises the rental of ₱3,000.00 shall be subject to negotiation.

"The petitioner herein avers that the lease is on a month to month basis with the understanding that private respondent may stay as long as petitioners do not need the property in question but respondent lessee may be asked to vacate at any time provided 60 days notice is given to the latter.

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"On March 1982, petitioner sent a letter to private respondent requesting him to vacate (Annex L, Petition), followed by another letter of the same tenor on April 30, 1982.

"When private respondent declined to vacate the premises in question, petitioners padlocked on June 8, 1982 the offices of private respondent Jose Tan and on June 9, 1982 petitioner enclosed with barbed wire the leased land and offices" (pp. 43-44, rec.).

The facts common to both parties are as follows:

On June 9, 1982, private respondent filed a complaint for damages with preliminary mandatory injunction with the Court of First Instance of Rizal, Pasay City, Branch XXVII.

On June 10, 1982, respondent Judge Honorable Manuel V. Romillo, granted the writ of preliminary mandatory injunction prayed for by Jose Tan.

On June 14, 1982, petitioners filed a motion to dissolve the writ of preliminary injunction on their submission that the court *a quo* has no jurisdiction at all over the subject matter, contending primarily that said damage suit is really that of a special civil action for forcible entry and therefore within the jurisdiction of the Municipal Court of Parañaque, Metro Manila.

On June 30, 1982, the petitioners filed a petition for *certiorari* and prohibition with the Intermediate Appellate Court praying for a restraining order or writ of preliminary injunction "to enjoin and restrain the respondent judge from enforcing or implementing the disputed temporary restraining order dated June 10, 1982, and from taking further action on Civil Case No. PQ-0133-P except to dismiss the same; and to enjoin and restrain the private respondent, his agent or representatives, or any persons acting under him, from disturbing or in any way interfering with petitioners' peaceful possession of the leased premises, until further orders from this Honorable Court" (p. 45, rec.).

On July 7, 1982, Jose Tan, the plaintiff in the original complaint filed an amended complaint substantially repeating the allegations in the former except for the following new averments: that the lessor-lessee relationship had its inception on January 24, 1978

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instead of July 27, 1978; and that rentals were paid up to May, 20, 1982; that with the application of the advance rental payments of ₱8,000.00, rentals already paid reached up to June 20, 1982 and that with the application of the ₱6,000.00 paid as rental deposit, rentals already paid reached up to November 20, 1982.

On November 17, 1982, the petitioner renewed its plea for the issuance of a temporary restraining order against respondent Judge of the Court of First Instance. This motion was granted by the respondent Intermediate Appellate Court in a resolution dated November 22, 1982.

On December 8, 1982, private respondent filed an Urgent Motion for Reconsideration of the resolution dated November 22, 1982.

On February 3, 1983, another urgent motion to dissolve the resolution dated November 22, 1983 was filed by the private respondent.

On May 10, 1983, the respondent Intermediate Appellate Court issued a decision denying the petition for the following reasons:

"As to the first matter, we find that the court below has jurisdiction to act on the complaint for damages. Private respondent is not necessarily limited and restricted to an action for forcible entry. Petitioners herein submit and argue that the private respondent's cause of action being intrinsically one for forcible entry should be presented in the municipal court and therefore the court presided over by respondent judge cannot acquire jurisdiction in this instance.

"We do not subscribe to these contentions of petitioners. Firstly, when private respondent filed the damage suit in the Court of First Instance he was in possession of the leased premises despite the actions done by petitioners. Private respondent never lost possession of the subject premises but was simply disturbed and extremely inconvenienced in his enjoyment of possession thereof. What private respondent seeks in his complaint is for the court to order the petitioner to desist from molesting his possession which petitioners in paragraph 16 of the petition in this case, admit to be still continuously exercised by private respondent.

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"x x x The views expressed by Justice Santiago Kapunan which we have considered and also subscribe to and maintain, are as follows:

x x x x x x x x x

> "'Private respondent's cause of action in the complaint for damages was the act of petitioners in padlocking and fencing the leased premises in violation of his alleged legal right of possession thereof under a lease agreement which he claimed to be still existing and by reason of the violation, private respondent claimed to have suffered moral, exemplary and actual damages as alleged in his complaint. If as contended by petitioners, private respondent's possession of the premises was illegal because the contract of lease had already expired, it was their duty to institute an action to recover possession of the same instead of forcibly ejecting private respondent from such possession, it was their duty to resort to the court for the purpose of obtaining peacefully their rights to said lot under lease. Petitioners were not justified in taking the law into their own hands and forcibly ejecting private respondent. It was mainly because of the damages private respondent claims to have suffered that he instituted the action for damages in the Court of First Instance of Rizal against petitioners. Parenthetically, private respondent denied that the lease contract had expired. In his complaint for damages, private respondent alleged that the contract will expire in 1988' [Justice Kapunan's Report, pp. 7-8]" (pp. 47-49, rec.).

On May 24, 1983, the plaintiff in the original case filed an urgent motion for the issuance of preliminary injunction with the lower court inasmuch as the Intermediate Appellate Court "has finally decided that defendants in this case had no right to invade the leased premises subject matter of this litigation" (p. 60, rec.).

On June 14, 1983, an order was issued by the lower court "to set the urgent motion for the issuance of preliminary mandatory injunction and the urgent motion (*ex parte*) to issue restraining order while preliminary mandatory injunction is being resolved for hearing on Friday, June 17, 1983, at 8:30 o'clock in the morning" (p. 61, rec.).

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On June 22, 1983, a petition for review by *certiorari* was filed with the Supreme Court.

On *July 8, 1983*, the Supreme Court in a resolution resolved to issue a temporary restraining order effective July 8, 1983 (p. 92, rec.). This was confirmed in a resolution dated *July 11, 1983* (p. 93-A, rec.).

On July 24, 1983, the private respondents filed their comments with the Supreme Court alleging that there was no written contract between the parties hence there was no contract which could have been modified by the petitioners' letters to the private respondents (pp. 97-101, rec.).

On November 18, 1983, the petitioners filed their reply (pp. 142-149, rec.).

On *August 2, 1984*, the private respondent filed a manifestation and motion for early resolution of this case, for "petitioners, through their hired men demolished on *June 16, 1984* private respondent's buildings on Sucat Road, Parañaque, Metro Manila which is the subject of this litigation without waiting for the final resolution or order of this Honorable Tribunal in complete disregard of its honor and authority" (pp. 149-152, rec.).

I

WE uphold the decision of the respondent Intermediate Appellate Court which affirmed the assumption by the lower court of jurisdiction over the original case.

The original case of the petition before US was not an ejectment case. It did not have for its purpose the recovery of the possession of the leased property. Said original case, on the other hand, was for "damages with preliminary mandatory injunction" which is an entirely different action from an action for ejectment (*Tuason vs. Uson*, 7 Phil. 85).

Petitioners' allegations that the private respondent's complaint did not have a cause of action for "there is no such thing in law as an action for damages or a cause of action for damages" (p. 21, rec.) and that "the cause of action stated in private

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respondent's complaint is one of forcible entry and not of damages" (p. 18, rec.) are without merit.

There is an action for damages. An action for damages specifically applicable in a lessor-lessee relationship is authorized in Article 1659 of the New Civil Code which states that:

"Art. 1659. If the lessor or the lessee should not comply with the obligations set forth in Articles 1654 and 1657, the aggrieved party may ask for the rescission of the contract and indemnification for damages, or only the latter, allowing the contract to remain in force."

Article 1657 of the New Civil Code enumerates the duties of a lessee, to quote:

"Art. 1657. The lessee is obliged:

"(1) To pay the price of the lease according to the terms stipulated;

"(2) To use the thing leased as a diligent father of a family, devoting it to the use stipulated; and in the absence of stipulation, to that which may be inferred from the nature of the thing leased, according to the custom of the place;

"(3) To pay the expenses for the deed of lease."

And Article 1654 of the New Civil Code lists down the obligations of a lessor, to wit:

"Art. 1654. The lessor is obliged:

"(1) To deliver the thing which is the object of the contract in such a condition as to render it fit for the use intended;

"(2) To make on the same during the lease all the necessary repairs in order to keep it suitable for the use to which it has been devoted, unless there is a stipulation to the contrary;

"(3) To maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract."

It is very clear that Article 1659 of the New Civil Code allows the aggrieved party two remedies: (1) rescission with damages, or (2) damages only "allowing the contract to remain in force."

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The private respondent opted for the second remedy granted by Article 1659 of the New Civil Code, hence the action for "damages with preliminary mandatory injunction."

Section 3 of Article 1654 of the New Civil Code requires that the lessor must "maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract."

To fully appreciate the importance of this provision, the comment of Manresa on said article is worth mentioning:

"The lessor must see that the enjoyment is not interrupted or disturbed, either by others' acts x x x or by his own. By his own acts, because, being the person principally obligated by the contract, he would openly violate it if, in going back on his agreement, he should attempt to render ineffective in practice the right in the thing he had granted to the lessee; and by others' acts, because he must guarantee the right he created, for he is obliged to give warranty in the manner we have set forth in our commentary on Article 1553, and, in this sense, it is incumbent upon him to protect the lessee in the latter's peaceful enjoyment" (cited in *Goldstein vs. Roces*, 34 Phil. 562).

The act of padlocking the offices of the private respondent on June 8, 1982 and the act of enclosing with barbed wire the leased land and the private respondent's offices are a clear violation by the lessor, the petitioners herein, of their third obligation mandated by Section 3 of Article 1659 of the New Civil Code. These acts by the lessor set at naught the duty required of the lessor by the New Civil Code.

Article 1659 allows the lessor or the lessee two remedies provided he is the aggrieved party (*Fernandez Hermanos vs. Pitt*, 34 Phil. 549).

There is no doubt that the lessee, the private respondent, is the aggrieved party. The duties of the lessee contained in Article 1657 have been complied with by the private respondent. Moreover, the contract of lease entered into by the petitioners and the private respondent was an oral contract for a ten-year period. When the petitioner padlocked and fenced the leased

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land and private respondent's offices in 1982, only four (4) years from the inception of the contract of lease, with six (6) more years to go in the life of the contract of lease, the private respondent became the aggrieved party.

The private respondent was obviously within his rights to file a complaint for "damages with preliminary mandatory injunction." Hence, the lower court's assumption of jurisdiction over the original case was warranted.

WE cannot find any grave abuse of discretion, not even a mere abuse of discretion on the part of the respondent Intermediate Appellate Court.

II

As heretofore stated, on July 8, 1983, the Supreme Court issued a temporary restraining order, to quote:

"NOW THEREFORE, effective immediately and until further orders from this Court, You (Judge Ansberto Paredes), your agents, representatives, and/or any person or persons, acting upon your orders or in your place or stead are hereby RESTRAINED from further proceeding with Civil Case No. 3759, entitled '*Jose C. Tan, plaintiff, vs. The Investment and Management Corp., et al., defendants*,' of the Regional Trial Court, Branch 140 at Makati, Metro Manila" (p. 90, rec.).

On June 16, 1984, the petitioners demolished the structure built by the private respondent on the leased land.

This temporary restraining order issued on July 8, 1983 embraced only Judge Ansberto Paredes, his agents, representatives and/or any person or persons, acting upon his orders or in his place or stead. It did not include the petitioners herein.

The persons enumerated therein were restrained only from "further proceeding with Civil Case No. 3759, entitled '*Jose C. Tan, plaintiff, vs. The Investment and Management Corp., et al., defendants.*'" The petitioners' action then, in demolishing the structure built by the private respondent on the leased land

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was not a violation of said temporary restraining order. It cannot be said that the petitioners' action in demolishing the structure built on the leased land "without waiting for the final resolution or order of this Honorable Tribunal" is "in complete disregard of its honor and authority" (p, 149, rec.).

Contempt partakes of the nature of a criminal offense (*Concepcion vs. Gonzales IV*, 114 Phil. 1066; *Villanueva vs. Lim*, 69 Phil. 654). Doubts must always be resolved in favor of the person charged with contempt (*Concepcion vs. Gonzales IV, supra*). A person cannot be punished for contempt in doing a thing that has not been prohibited or in omitting an act the performance of which has not been required (*Lee Yick Hon vs. Collector of Customs*, 41 Phil. 548).

WHEREFORE, THE HEREIN PETITION IS HEREBY DISMISSED. THE TEMPORARY RESTRAINING ORDER IS HEREBY LIFTED. COSTS AGAINST PETITIONER. **SO ORDERED.**

Concepcion Jr., Abad Santos, Escolin, and *Cuevas, JJ.*, concur.

Aquino (Chairman) and *Alampay, JJ.*, took no part.

SECOND DIVISION

[G.R. No. 55347. October 4, 1985]

PHILIPPINE NATIONAL RAILWAYS, *petitioner, vs.* **THE HONORABLE COURT OF APPEALS and ROSARIO TUPANG**, *respondents.*