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SECOND DIVISION

[G.R. No. 110174. March 20, 1998]

NONITO LABASTIDA and CONSTANCIA LABASTIDA, *petitioners*, *vs.* **COURT OF APPEALS, JOSE C. DELESTE, SR., JOSE L. DELESTE, JR., RAUL L. DELESTE and RUBEN L. DELESTE,** *respondents*.

SYNOPSIS

Private respondents were the owners of Lot 226 registered under TCT T-22148, a portion of which was leased to petitioners. Petitioners were later given verbal notices to vacate the subject lot and two written notices to vacate, the last of which was on February 20, 1983. On December 6, 1983, private respondents filed a complaint with the RTC denominated as one for recovery of possession and damages alleging that despite notices to vacate and expiration of their month-to-month contract, petitioners refused to vacate the property. Petitioners moved to dismiss on the ground of lack of jurisdiction and pendency of an ejectment case against petitioners. The trial court rendered judgment in favor of private respondents. It was affirmed on appeal, hence, this recourse.

A lease on a month-to-month basis is deemed to expire at the end of the month upon notice to vacate addressed by the lessor to the lessee. The refusal of the lessee to leave the premises gives rise to an action for unlawful detainer. In case several demands to vacate are made, the period is reckoned from the date of the last demand. The period of unlawful withholding starts to run from the date of the last demand on the theory that if the lessor brings no action shortly after the demand, it may be because he has agreed to the renewal of the lease.

The Regional Trial Court has no jurisdiction where the case was filed within one year from the date of the last demand to vacate. The case should have been brought in the Municipal Trial Court.

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SYLLABUS

1. **REMEDIAL LAW; ACTIONS; REFUSAL OF LESSEE TO LEAVE THE PREMISES AT THE EXPIRATION OF CONTRACT GIVES RISE TO AN ACTION FOR UNLAWFUL DETAINER.** — In their complaint, private respondents alleged that they were the registered owners of the lot subject of the case and thus entitled to possession thereof; that petitioners were their lessees, paying rent on a month-to-month basis; and that despite repeated demands to vacate the land made by private respondents, petitioners refused to leave the premises. This amounts to an allegation that petitioners were unlawfully withholding possession of the land. A lease on a month-to month basis is deemed to expire at the end of the month upon notice to vacate addressed by the lessor to the lessee. The refusal of the lessee to leave the premises gives rise to an action for unlawful detainer.

2. **ID.; SPECIAL CIVIL ACTIONS; UNLAWFUL DETAINER; MUST BE BROUGHT WITHIN ONE YEAR AFTER UNLAWFUL WITHHOLDING OF POSSESSION; IN CASES OF SEVERAL DEMANDS TO VACATE, THE PERIOD IS RECKONED FROM DATE OF LAST DEMAND; CASE AT BAR.** — As the action below was for unlawful detainer, the question is whether it was brought within one year after the unlawful withholding of possession so as to sustain petitioners' contention that the action should have been filed before the Municipal Trial Court rather than in the Regional Trial Court. In case several demands to vacate are made, the period is reckoned from the date of the last demand. In this case, several demands to vacate were alleged to have been made by private respondents, the last of which was dated February 20, 1983. As the complaint was filed on December 3, 1983, that is, within one year from February 20, 1983, it is clear that the case should have been brought in the Municipal Trial Court.

3. **ID.; ID.; ID.; DEMAND, INDISPENSABLE REQUISITE.** — But if private respondents are to be bound by any representation that no demand had ever been served on them, then, as provided by Rule 70, §2, all the more no action can be brought against them. Pursuant to this provision, no action could be brought against petitioners for alleged violation of the terms and conditions of their lease agreement unless a notice to vacate is given to the lessee.

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APPEARANCES OF COUNSEL

Salatandre & Associates Law Office for petitioners.
Jurado Law Office for private respondents.

D E C I S I O N

MENDOZA, *J.*:

This is a petition seeking review of the decision of the Court of Appeals,[1] holding petitioners estopped from questioning the jurisdiction of the Regional Trial Court of Iligan City[2] in an ejectment case brought against them and affirming *in toto* the decision[3] of the aforesaid trial court.

The facts are summarized in the following portion of the decision of the Court of Appeals:

> Plaintiffs [private respondents Jose C. Deleste, Sr., Jose L. Deleste, Jr., Raul L. Deleste and Ruben L. Deleste] are the owners of a parcel of land identified as Lot 226 of Iligan Cadastre survey and covered by TCT No. T-22148 located at Sabayle Street, Poblacion, Iligan City. A portion of said lot was leased to defendants [herein petitioners Nonito Labastida and Constancia Labastida] for the sum of ₱200.00 as monthly rental.
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> On December 6, 1983, plaintiffs filed a case against defendants denominated as one for recovery of possession and damages with preliminary mandatory injunction (pp. 1-4, records). The complaint alleged, among others, that in the latter part of 1979 plaintiffs served notice to the occupants-lessees on their land, including defendants, to vacate the property because the owners would erect a commercial building thereon; that defendants, instead of heeding the request, repaired their (defendants') building, put additional constructions on the lot, partitioned the first storey of the building and converted the same into four (4) stores or business spaces and subleased the

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[1] Promulgated June 20, 1989.

[2] Branch 4, Regional Trial Court of Lanao del Norte, Iligan City.

[3] Dated November 18, 1985, per Judge Felipe G. Javier, Jr.

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same to other persons without the knowledge and consent of the plaintiffs; that on October 24, 1980 or after other previous notices, plaintiffs sent a written demand to defendants to vacate the land but the latter refused; that "again, on February 20, 1983 plaintiffs made and sent another written notice to defendants to vacate" but to no avail; and that plaintiffs suffered actual damage in the amount of ₱40,000.00 which was the increase of construction materials and labor costs since 1979 and moral damages in the amount of ₱100,000.00.

Plaintiffs prayed that defendants be ordered, *inter alia,* to remove their building, makeshift structures and fence, vacate the premises and pay defendants the sum of ₱100,000.00 as moral damages and ₱40,000.00 for actual damages "or the difference of the cost of construction materials and labor in 1979 and at the time when the defendants will be able to vacate the premises."

Defendants filed a motion to dismiss the complaint on two grounds, namely: (a) lack of jurisdiction of the trial court over the person of one of the defendants and over the nature or subject matter of the action and (b) pendency of an ejectment case filed by the plaintiffs against the same defendants in the municipal court of Iligan City involving the same property.

In support of the first ground, defendants contended that "[in as much] as the written notice to vacate was only mailed to defendants last February 20, 1983 and there is no showing that defendants even received said notice to vacate and therefore there is no evidence to show that the one (1) year period has elapsed from the time defendants received the written notice to vacate, coupled by the fact that this is a clear case of Unlawful Detainer and this case was filed on December 6, 1983, therefore, the court that has jurisdiction over the case is the Municipal Trial Court in Cities, Iligan City, as provided for in Sections 1 and 2 of Rule 70, of the Revised Rules of Court." Additionally, defendants' counsel allegedly "failed to contact" the other defendant, Constancia Labastida, so that no jurisdiction had been acquired over her person.

The motion to dismiss was denied by the lower court, ruling that the complaint was filed after one year from the date of demand. The trial court also said that it was the manifestation of defendants' counsel in open court that summons was in fact served on Constancia Labastida. On the issue of *lis pendens*, it was brought out that the ejectment case was dismissed on December 2, 1983 or before the complaint in Civil Case No. 186 was filed.

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In their answer, defendants alleged that no verbal or written demand to vacate was made by the plaintiffs in 1979 or in 1980 and that "if ever there was any demand it was on February 20, 1983." They alleged that they were personally operating the small sari-sari store, carinderia and snack center whose capitalization did not exceed ₱5,000.00. They insisted that the house was residential and denied that they expanded the area of their occupancy by building additional structures, make-shifts or fence thereon.

As affirmative defenses, defendants reiterated their defense of lack of jurisdiction of the trial court, insisting that the case should have been filed before the municipal court.[4]

Petitioners also claimed before the trial court that the case was covered by the Rent Control Law (B.P. Blg. 25) and the Urban Land Reform Act (P.D. No. 1517) and therefore private respondents did not have a cause of action against them.

The trial court gave judgment for the private respondents based on the findings:

> . . . that the contract of lease was on a month-to-month basis which gave the plaintiffs the right to eject the defendants after the expiration of each month; that the demands to vacate had been made more than a year before the filing of the complaint; that [in violation of the provisions of B.P. Blg. 25] defendants had subleased portions of the premises for business purposes; that even assuming that the beauty parlor, carinderia and snack center in the premises were operated by defendants themselves, the total capitalization thereof was more than ₱6,000.00; that defendants failed to pay the monthly rentals starting March, 1981.[5]

Petitioners appealed to the Court of Appeals which, as already stated, affirmed the decision of the trial court.

The basic issue raised in the petition before us is whether the trial court had jurisdiction to try the case filed against petitioners. The subsidiary questions are whether the action

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[4] *Rollo*, pp. 39-41.

[5] *Id.*, p. 41.

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is for recovery of possession (*accion publiciana*) or for ejectment (*desahucio*) and whether it was brought within one year.

First. Although entitled "For Recovery of Possession, Damages, with Preliminary Mandatory Injunction," it is evident from the allegations of the complaint filed by private respondents that the case was actually for unlawful detainer. Thus, the complaint alleged in pertinent parts:[6]

2. That your plaintiffs are the absolute and registered owners in common of a parcel of a commercial lot situated at Sabayle Street, Poblacion, Iligan City which is more particularly described hereunder as follows, to wit:

"COVERED BY TRANSFER CERTIFICATE OF TITLE NO. T-22,148 (a.f.)

. . . A parcel of land (Lot #226 of the cadastral survey of Iligan, Cadastral Case #N-1, LRC Cad. Rec. #N-146), with improvements thereon, situated in the City of Iligan. Bounded on the N. by Sabayle St.; on the E. by Lots Nos. 227 & 2772; on the S. by Lot #221; and on the W. by Lots Nos. 221 & 220; containing a total area of 1117 square meters, more or less, and declared for taxation purposes in the Office of the City Assessor of Iligan City under Tax Declaration No. 79-57502 for the year 1982..."

a portion of which is being occupied by the herein defendants at a monthly rental of ₱200.00, the lease agreement being verbal and on a month to month basis;

3. That sometime in the latter part of the year 1979, plaintiffs verbally adviced and served notice to the occupants/lessees of the land above-described, especially those along Sabayle Street including the herein defendants, to vacate the land for the reason that the plaintiffs are ready to erect a commercial building on the land above-described, but the herein defendants instead of heeding to the plaintiff's notice to vacate, repaired their building, replaced the nipa roofing with galvanized sheets, and put up additional constructions on the lot, fencing the backyard which was not included in the lease agreement;

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[6] *Id.*, pp. 96-97.

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4. That aside from the expansions made by defendants on their house, they instead partitioned the first storey such that four (4) stores or business spaces were subleased to other persons without the knowledge and consent of the plaintiffs;

5. That after repeated verbal demands to vacate the land [in question] which defendants only ignored, plaintiffs sent on October 24, 1980 a written demand to the herein defendants, but in spite of said demand, defendants continued to fail and still refuse to vacate the premises complained of; again, on February 20, 1983, plaintiffs made and sent another written notice to the defendants to vacate the above-described property for the reason that plaintiffs are likely to suffer a more serious and continuing damages on the unabated rising prices on construction materials and labor costs, but all those demands fell on deaf ears, just being ignored and refused until the present:

Rule 70, §1 provides:

SECTION 1. *Who may institute proceedings, and when.* — Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a landlord, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such landlord, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper inferior court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs. The complaint must be verified.

The provisions of this rule shall not apply to cases covered by the Agricultural Tenancy Act.

In their complaint, private respondents alleged that they were the registered owners of the lot subject of the case and thus entitled to possession thereof; that petitioners were their lessees, paying rent on a month-to-month basis; and that despite repeated demands to vacate the land made by private respondents, petitioners refused to leave the premises. This amounts to an

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allegation that petitioners were unlawfully withholding possession of the land. A lease on a month-to-month basis is deemed to expire at the end of the month upon notice to vacate addressed by the lessor to the lessee.[7] The refusal of the lessee to leave the premises gives rise to an action for unlawful detainer.

Private respondents' action is not for recovery of possession. It is not for a determination which party has a better right of possession. Both the trial court and the Court of Appeals correctly found the action to be for ejectment.

Second. As the action below was for unlawful detainer, the question is whether it was brought within one year after the unlawful withholding of possession[8] so as to sustain petitioners' contention that the action should have been filed before the Municipal Trial Court rather than in the Regional Trial Court.

In case several demands to vacate are made, the period is reckoned from the date of the last demand.[9] In this case, several demands to vacate were alleged to have been made by private respondents, the last of which was dated February 20, 1983. As the complaint was filed on December 3, 1983, that is, within one year from February 20, 1983, it is clear that the case should have been brought in the Municipal Trial Court.

The Regional Trial Court would have jurisdiction if the deprivation of possession had been committed through other means than those enumerated in Rule 70, or if the period of dispossession under Rule 70 has lasted for more than a year.

But, in its resolution denying petitioners' motion for reconsideration, the Court of Appeals stated:

On the question of jurisdiction, it was appellant's admission in their motion to dismiss filed in the Regional Trial Court that the last

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[7] *Acab v. Court of Appeals,* 241 SCRA 546 (1995), *citing Palanca v. Intermediate Appellate Court,* 180 SCRA 119 (1989).

[8] Rule 70, §1; *De la Paz v. Panis,* 245 SCRA 242 (1995).

[9] *Sy Oh v. Garcia,* 28 SCRA 735 (1969); *Calubayan v. Pascual,* 21 SCRA 146 (1967).

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demand to vacate was made on February 20, 1983 while the complaint for recovery of possession was filed only on *December 6, 1984.* Such being the case, the Court *a quo* was, therefore, correct in ruling that it was the Regional Trial Court and not the Municipal Trial Court which had jurisdiction over the complaint. [Italics added][10]

This is not true. Petitioners' motion to dismiss did not say that the complaint had been filed on December 6, *1984* but December 6, *1983.* In fact, the complaint attached to the records of this case shows on its face that it was received by the Regional Trial Court of Iligan on "Date: *12-6-83.*"[11] Clearly, the case was filed within one year from February 20, 1983, the date of the last demand to vacate addressed to petitioners.

Private respondents do not deny this. What they assert, however, is that the one-year period should be reckoned from the time oral demand was made by them on petitioners in 1979. This is error. As we have already stated, where there are several demands made, the period of unlawful withholding starts to run from the date of the last demand on the theory that if the lessor brings no action shortly after the demand, it may be because he has agreed to the renewal of the lease.

Third. The Court of Appeals held petitioners estopped from questioning the jurisdiction of the trial court on the ground that in the beginning they denied having received the notice to vacate sent to them dated February 20, 1983 and it was only in their answer later filed that they said that "if ever there was any demand it was on February 20, 1983" for the purpose of arguing that the case should have been filed in the MTC. The Court of Appeals said:

. . . Now, considering that defendants effectively denied in both their motion to dismiss and answer having received the notice to vacate dated February 20, 1983, they are now estopped from questioning

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[10] CA *Rollo*, p. 72.

[11] Records, p. 1.

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the jurisdiction of the court on the particular ground that the complaint was filed less than one (1) year from the last letter of demand.[12]

But if private respondents are to be bound by any representation that no demand had ever been served on them, then, as provided by Rule 70, §2, all the more no action can be brought against them. Thus, Rule 70, §2 provides:

> SEC. 2. *Landlord to proceed against tenant only after demand.* — No landlord, or his legal representative or assign, shall bring such action against a tenant for failure to pay rent due or to comply with the conditions of his lease, unless the tenant shall have failed to pay such rent or comply with such conditions for a period of fifteen (15) days, or five (5) days in the case of building, after demand therefor, made upon him personally, or by serving written notice of such demand upon the person found on the premises, or by posting such notice on the premises if no persons be found thereon.

Pursuant to this provision, no action could be brought against petitioners for alleged violation of the terms and conditions of their lease agreement unless a notice to vacate is given to the lessee. On the other hand, if as the appellate court held, the action for unlawful detainer is based on the expiration of the lease, no notice is required. Any notice given only serves to negate any inference that the lessor has agreed to extend the period of the lease. Such a notice is needed only when the action is due to the lessee's failure to pay rent or to comply with the conditions of the lease.[13]

WHEREFORE, the decision of the Court of Appeals is REVERSED and the proceedings before Branch 4, RTC of Iligan City in Civil Case No. 186 are declared NULL and VOID for lack of jurisdiction of that court.

SO ORDERED.

Regalado (Chairman), Melo, Puno, and *Martinez, JJ.,* concur.

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[12] *Rollo*, pp. 44-45.

[13] *Racaza v. Susana Realty, Inc.*, 18 SCRA 1172 (1966).