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THIRD DIVISION

[G.R. No. 176282. August 22, 2008]

VICTORIA FERNANDO, *petitioner, vs.* **SPS. REGINALDO LIM and ASUNCION LIM,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; UNLAWFUL DETAINER; ALLEGATIONS THAT MUST BE STATED IN A COMPLAINT FOR UNLAWFUL DETAINER; APPLICATION.— A complaint sufficiently alleges a cause of action for unlawful detainer if it recites that: a) initially, possession of the property by the defendant was by contract with or by tolerance of the plaintiff; b) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession; c) thereafter, defendant remained in possession of the property and deprived plaintiff of the enjoyment thereof; and d) within one year from the last demand on defendant to vacate the property, plaintiff instituted the complaint for ejectment. In essence, the complaint recites that when respondents acquired Unit 1682 from LKTSI, petitioner was still in possession of the property by virtue of a month-to-month lease contract with LKTSI; that said lease contract was set to expire on April 30, 2005; that respondents verbally informed petitioner that her lease contract would not be renewed when it expired; and that respondents also served a written demand dated April 29, 2004 on petitioner to vacate Unit 1682, but the latter refused to do so. By these allegations, the complaint clearly drew up a case for unlawful detainer. It was therefore correctly filed with the MeTC which has jurisdiction over ejectment cases.

2. ID.; ID.; ID.; MERE CLAIM OF TITLE TO THE SUBJECT PROPERTY DOES NOT ALTER THE NATURE OF A COMPLAINT FOR UNLAWFUL DETAINER AND THE JURISDICTION OF THE COURT OVER IT; REASON.— Petitioner, however, has raised an issue of title, to question the jurisdiction of the MeTC. She claims that respondents have no right to institute the action for unlawful detainer because they did not validly acquire the property in view of the prohibition

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under P.D. No. 1517 against her dispossession or the transfer of the property without first offering it for sale to her. She insists that such issue of title prevents the MeTC from acquiring jurisdiction over the case; it should have deferred to the jurisdiction of the RTC where there is a pending case for annulment of the title of respondents. As a rule, the nature of a complaint for unlawful detainer and the jurisdiction of a court over it are not altered by the mere claim of the defendant of title to the property subject matter of the ejectment case. Even a pending action involving title to the property which the defendant may have instituted in another court will not abate or suspend the summary proceedings for unlawful detainer. The underlying reason for this rule is to prevent the defendant from trifling with the summary nature of the case by the simple expedient of asserting ownership over the disputed property.

3. ID.; ID.; ID.; REQUISITES THAT MUST BE ESTABLISHED BEFORE A PARTY MAY AVAIL OF THE BENEFIT OF P.D. 1517; REQUISITES NOT PRESENT IN CASE AT BAR.— To be entitled to the beneficence of P.D. No. 1517, a party must provide *prima facie* evidence of the following facts: a) that the property being leased falls within an Area for Priority Development and Urban Land Reform Zone; b) that the party is a tenant on said property as defined under Section 3 (f) of P.D. No. 1517; c) that the party built a house on said property; and d) that the party has been residing on the property continuously for the last ten (10) years or more, reckoned from 1968. The question is, did petitioner establish the foregoing requisites as to avail herself of the "suspensive" effect of P.D. No. 1517 as in *Sps. Dulay* and *Vda. de Legaspi*? It is noted that the MeTC rejected the claim of petitioner to preferential rights over the property, but petitioner objected on the ground that the MeTC had no jurisdiction to resolve such subject matter. Petitioner's objection was frivolous. Under Section 33 of *Batas Pambansa Blg*. 129, the MeTC is conditionally vested with authority to resolve the question of ownership raised as an incident in the case, the determination of which is necessary for a complete adjudication of the issue of possession. In the present case, the MeTC's foray into the issue of whether under P.D. No. 1517, petitioner has preferential rights to the purchase and occupation of Unit 1682 as against respondents' rights was necessary to resolve the issue of

material possession. The ***provisional*** ruling of the MeTC on said issue is that P.D. No. 1517 does not apply to the case because there was no sale between LKTSI and respondents but a mere distribution of liquidating dividends on account of the dissolution of LKTSI. The share of each stockholder in the remaining assets of the corporation upon liquidation, after the payment of all corporate debts and liabilities, is what is known as liquidating dividend. In its interpretation of recent tax laws, the Bureau of Internal Revenue viewed the distribution of liquidating dividends not as a sale of asset by the liquidating corporation to its stockholder but as ***a sale of shares by the stockholder to the corporation or the surrender of the stockholder's interest in the corporation, in place of which said stockholder receives property or money from the corporation about to be dissolved***. Thus, on the part of the stockholder, any gain or loss is subject to tax, while on the part of the liquidating corporation, no tax is imposed on its receipt of the shares surrendered by the stockholder or transfer of assets to said stockholder because said transaction is not treated as a sale. Preliminarily, therefore, the Court agrees with the view of the MeTC that the April 1, 2004 assignment of Unit 1682 is not covered by the prohibition under P.D. No. 1517. It should be emphasized that such interim ruling is without prejudice to how the complaint for annulment of the April 1, 2004 deed of assignment is resolved by the RTC. In addition to the foregoing reason, the Court also finds no ***prima facie*** evidence that petitioner qualifies as a tenant under P.D. No. 1517. Respondents presented a Land Transaction Certificate issued by the HLURB, stating that Unit 1682 is outside any Area for Priority Development. However, Proclamation No. 1967 identifies in Appendix "J" thereof 244 sites in Metropolitan Manila that fall within the coverage of P.D. No. 1517. In the West Sector (Manila), one identified site is "Sta. Clara to Blumentritt." Thus, it would appear that Unit 1682, which is located in Blumentritt Street, Sta. Cruz, Manila, is within the scope of P.D. No. 1517, the HLURB Certification to the contrary notwithstanding. Moreover, petitioner had a month-to-month lease contract with LKTSI on Unit 1682, which expired on April 30, 2004. Thus, up to that time, petitioner was a rightful occupant of the property as defined under Sec. 3 of P.D. No. 1517. However, other than her bare claim that she owns the structure on Unit 1682 because she allegedly

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rebuilt it after it was burned down, petitioner offered no concrete evidence of when the original structure was burned down and when she rebuilt it. She presented no detail on how she spent for the construction of the structure, or proof that LKTSI allowed her to claim ownership thereof. On the other hand, it was respondents who presented Tax Declaration No. 00182 which indicates that they are the registered owners of the improvements, including Unit 1682, on the land covered by TCT No. 264835. Furthermore, except for her empty allegation — which respondents dispute — that she has been occupying Unit 1682 for more than thirty (30) years, petitioner presented no concrete evidence of the exact period of her occupation, even when she could have easily produced receipts of past rental payments similar to the receipt she easily presented for her March 2004 rental payment. Such unexplained omission prevents an adjudication on whether petitioner's period of occupation qualifies her to exercise the right of first refusal under P.D. No. 1517. Therefore, unlike in *Sps. Dulay* or *Guardacasa de Legaspi*, there is no *prima facie* showing in this case that petitioner is protected under P.D. No. 1517 from dispossession of Unit 1682, or that she has the right of first refusal in the sale of said property. Petitioner, therefore, cannot invoke P.D. No. 1517 in abatement of the complaint for unlawful detainer.

4. ID.; ID.; ID.; TRIAL COURTS ARE AUTHORIZED TO FIX REASONABLE RENT AFTER TERMINATION OF THE LEASE CONTRACT.— Petitioner has also questioned the award of reasonable rent of ₱15,000.00. Trial courts are authorized to fix the reasonable value for the continued use and occupancy of the leased premises after the termination of the lease contract; and they are not bound by the stipulated rental in the contract of lease, since it is equally settled that upon termination or expiration of said contract, the rental stipulated therein may no longer be the reasonable value for the use and occupation of the premises as a result or by reason of the change or rise in values. As to what amount would constitute a reasonable rent of Unit 1682, the same is a question of fact on which the determination of the CA binds the Court, unless the latter finds reason to reverse it. In the present case, the CA reduced the award of reasonable rent from ₱25,000.00 to ₱15,000.00 based on the finding that such amount represents

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the reasonable amount of lost opportunity income respondents would have derived from the conversion of Unit 1682 into a San Miguel Food shop. Petitioner has not adduced evidence in refutation of the factual findings of the CA.

APPEARANCES OF COUNSEL

RRV Legal Consultancy Firm for petitioner.
Guzman Tañedo & Acain Law Offices for respondents.

D E C I S I O N

AUSTRIA-MARTINEZ, *J.*:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the August 31, 2006 Decision[1] of the Court of Appeals (CA) which affirmed the ejectment of Victoria Fernando (petitioner) from the property of Spouses Reginaldo and Asuncion Lim; and the January 15, 2007 CA Resolution[2] which denied the motion for reconsideration.

The relevant facts are of record.

Lim Kieh Tong and Sons, Inc. (LKTSI) was the owner of a parcel of land with an area of 400 sq. meters, known as Lot 1 of the consolidation-subdivision plan (LRC) Pcs-320, located at Blumentritt Street, Sta. Cruz, Manila and registered in its name under Transfer Certificate of Title (TCT) No. 125241.[3]

On the property are improvements registered in the name of LKTSI under Tax Declaration No. 00198.[4] Among these improvements is Unit 1682 which, as of March 5, 2004, was being occupied by petitioner for a gross monthly rental of

[1] Penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Fernanda Lampas-Peralta and Myrna Dimaranan Vidal; *rollo*, p. 59.

[2] *Id.* at 57.

[3] CA *rollo*, p. 56.

[4] *Id.* at 217.

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₱10,412.00 plus withholding tax of ₱520.60 or a total of ₱10,932.60.[5]

When it was about to be dissolved, LKTSI executed on April 1, 2004 a Deed of Assignment of Real Property,[6] transferring by way of liquidating dividends all its rights and interests in the property covered by TCT No. 125241 to its stockholder, respondent Reginaldo Lim.

Spouses Reginaldo and Asuncion Lim (respondents) subdivided the assigned property and registered their title to the larger portion under TCT No. 263331, and to the smaller portion — which covers Unit 1682 — under TCT No. 264835.[7] They also registered in their names the improvements on the assigned property under Tax Declaration No. 00182.[8]

In a letter dated April 29, 2004, respondents, through counsel, informed petitioner that they were the new owners of Unit 1682 and that they were not renewing her lease, thus:

> We are writing you in behalf of our client, Mr. Reginaldo Lim, to formally inform you that he is now the new owner of the property you are presently leasing. Please find attached a copy of his title to the said property.
>
> Our client decided not to renew or extend any lease agreement you may have entered with the previous owner. We understand that your lease of the property is on a month-to-month basis. Hence, your lease contract ends on April 30, 2004 and will no longer be renewed. Any stay in the premises beyond the said date should not be construed as a renewal of your monthly lease, but merely by tolerance of our client. At any rate, you are hereby given notice to vacate the premises of 1682 Blumentritt St., Sta. Cruz, Manila within fifteen (15) days from receipt of this letter. Your failure to do so will compel us to institute an ejectment suit against you to enforce

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[5] Position Paper of respondents in Civil Case No. 000000002-CV, CA *rollo*, p. 92; Position Paper of petitioner in Civil Case No. 00000002-CV, CA *rollo*, p. 107.

[6] CA *rollo*, p. 59.

[7] *Id.* at 62.

[8] *Id.* at 218.

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our clients' rights, and charge you with attorney's fees and all attendant damages that will be incurred by our client, including lost business opportunities and income.

We trust that you will see yourself clear on this matter and surrender peacefully the possession of the leased premises to our client.[9]

As their demand went unheeded, respondents filed with the Metropolitan Trial Court, Branch 16, Manila (MeTC) a Complaint[10] for Ejectment with Prayer for Issuance of Injunction against petitioner, praying that the latter be ordered to vacate Unit 1682 and to pay reasonable monthly rent of ₱25,000.00 and attorney's fees.

In her Answer,[11] petitioner questioned the jurisdiction of the MeTC in view of an issue of title over Unit 1682 that she raised in a complaint[12] she filed with the Regional Trial Court (RTC) to annul the April 1, 2004 deed of assignment for violation of Sec. 6 of Presidential Decree No. 1517 (P.D. No. 1517), which states:

Sec. 6. *Land Tenancy in Urban Land Reform Areas*. Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have legally occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree.

She pointed out that the MeTC could not decide the complaint for ejectment without determining whether the assignment of Unit 1682 to respondents impinged on her preemptive rights under P.D. No. 1517; that the MeTC would also have to determine

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[9] CA *rollo*, p. 61.

[10] *Id.* at 64.

[11] *Id.* at 72.

[12] *Id.* at 182. The complaint was filed with the RTC, Branch 49, Manila on March 22, 2005 and docketed as Civil Case No. 05112209.

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whether respondents could legally eject her despite the express prohibition against her dispossession under said law; and that, therefore, as the issues of possession and title could not be adjudicated separately, the case should have been brought before the RTC, not the MeTC.[13]

Petitioner further argued that respondents had no cause of action for ejectment because they did not serve on her a valid demand to pay rent and vacate, or resort to *barangay* conciliation.[14] Petitioner was never remiss in her obligations under the monthly lease contract; and under the Rent Control Law, expiration of contract is not a valid ground for ejectment.[15]

After the parties submitted their position papers, the MeTC rendered a Decision[16] dated June 7, 2005, in favor of respondents, thus:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff [respondents] and against the defendant [petitioners]:
>
> 1. Ordering the defendant [petitioner] and all persons claiming right under her to vacate the subject premises and peacefully surrender possession of the property located at 1682 Blumentritt, Sta. Cruz, Manila;
>
> 2. Ordering the defendant [petitioner] to pay a reasonable monthly rental of ₱25,000.00 to plaintiffs [respondents] computed from the time the instant action was filed up to the time the subject premises is completely vacated and surrendered to plaintiffs [respondents];
>
> 3. Ordering the defendant [petitioner] to pay plaintiff the sum of ₱20,000.00 as attorney's fees.
>
> 4. Without Costs.

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[13] Answer, CA *rollo*, pp. 75-78.

[14] *Id.* at 73-75.

[15] *Id.* at 77-78.

[16] *Id.* at 123.

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SO ORDERED.[17]

Petitioner appealed to the RTC, Branch 20, Manila emphasizing that she actually owns Unit 1682 because it was she who rebuilt it after it was destroyed by fire,[18] petitioner argued that respondents had no interest in or title to Unit 1682; hence, they could not validly compel her to vacate the property. Neither could they claim title to the land on which Unit 1682 stands because the April 1, 2004 deed of assignment was of no effect, for it was in violation of Sec. 6, P.D. No. 1517.[19] She reiterated that such issue of title affecting Unit 1682 could only be resolved in an *accion reivindicatoria* cognizable by the RTC.[20]

Moreover, in the event that the complaint for ejectment be found proper, petitioner invoked the protection against ejectment provided under existing rent control laws. She argued that, contrary to the ruling of the MeTC, said laws were applicable to her because she had been using Unit 1682 not just as her business office but also as a dwelling place.[21] Moreover, her lease on the property started more than thirty (30) years ago; hence, the ₱7,500.00 threshold rent set by the Rent Control Law could not prejudice her.[22]

Finally, petitioner questioned the MeTC's imposition of a ₱25,000.00 monthly rent for lack of factual and legal basis.[23]

In a Decision dated December 16, 2005, the RTC affirmed the MeTC Decision with modification, thus:

WHEREFORE, the assailed Decision dated June 7, 2005 of the Metropolitan Trial Court Branch 20 is hereby MODIFIED as follows:

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[17] CA *rollo*, p. 126.

[18] *Id.* at 142-144.

[19] *Id.* at 137-141

[20] *Id.* at 145-146.

[21] *Id.* at 149-150.

[22] *Id.* at 147-148.

[23] *Id.* at 150-151.

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> 1. Ordering the defendant [petitioner] and all persons claiming right under her to vacate the subject premises and peacefully surrender possession of the property located at 1682 Blumentritt, Sta. Cruz, Manila to herein plaintiffs [respondents];
>
> 2. Ordering the defendant [petitioner] to pay a reasonable monthly rental of ₱15,000.00 to plaintiffs [respondents] computed from the time the instant action was filed up to the time the subject premises is completely vacated and surrendered to plaintiffs;
>
> 3. Ordering the defendant [petitioner] to pay plaintiffs [respondents the sum of ₱20,000.00 as attorney's fees.
>
> 4. Without cost.
>
> SO ORDERED.[24]

Petitioner filed a motion for reconsideration but the RTC denied it in its Order[25] dated January 20, 2006.

She then filed with the CA a Petition for Review under Rule 42 of the Rules of Court in the August 31, 2006 Decision assailed herein. The CA affirmed the RTC decision with modification:

> WHEREFORE, in consideration of the foregoing, the instant petition is perforce ***denied***. Accordingly, we ***affirm with modification*** the assailed decision dated 16 December 2005 of the respondent court, in that the award of attorney's fees in the amount of ₱20,000.00 is hereby ***deleted***.
>
> SO ORDERED.[26]

Her motion for reconsideration[27] having been denied by the CA in its Resolution[28] dated January 15, 2007, petitioner filed the present Petition, with application for temporary restraining order and writ of preliminary injunction to enjoin enforcement of the assailed CA decision and resolution.

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[24] CA *rollo*, pp. 36-37.

[25] *Id.* at 37.

[26] *Rollo*, p. 67.

[27] *Id.* at 69.

[28] *Id.* at 57.

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In a Resolution[29] dated February 28, 2007, the Court issued a Temporary Restraining Order (TRO) enjoining the CA, RTC, MeTC and respondents or their agents and assigns from implementing or enforcing the August 31, 2006 Decision and January 15, 2007 Resolution of the CA. Petitioner posted a cash bond in the amount of ₱100,000.00.[30]

Respondents filed a Motion to Lift the TRO or to Require Petitioners to Make the Required Monthly Deposit,[31] to which petitioner filed a Consolidated Comment.[32] In its Resolution[33] of July 9, 2007, the Court denied respondents' motion to lift the TRO, but granted their prayer that petitioner be required to pay ₱10,932.60 monthly rental from the date of receipt by petitioner of the MeTC decision, in accordance with Section 19,[34] Rule 70 of the Revised Rules of Court.

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[29] CA *rollo*, pp. 110-114.

[30] *Id.* at 107.

[31] *Id.* at 120

[32] *Id.* at 152.

[33] *Id.* at 181-182.

[34] Sec. 19. *Immediate execution of judgment; how to stay same*.—If judgment is rendered against the defendant, execution shall issue immediately upon motion, unless an appeal has been perfected and the defendant to stay execution files a sufficient supersedeas bond, approved by the Municipal Trial Court and executed in favor of the plaintiff to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as determined by the judgment of the Municipal Trial Court. In the absence of a contract, he shall deposit with the Regional Trial Court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment of the lower court on or before the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the Municipal Trial Court, with the other papers, to the clerk of the Regional Trial Court to which the action is appealed. All amounts so paid to the appellate court shall be deposited with said court or authorized government depositary bank, and shall be held there until the final disposition of the appeal, unless the court, by agreement of the interested parties, or in the absence of reasonable grounds of opposition to a motion to withdraw, or for justifiable reasons, shall decree otherwise Should the defendant fail to make the payments above

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In separate Certifications[35] dated August 22, 2007, the MeTC and RTC reported that petitioner did not make any rental deposit, although she posted a supersedeas bond in the amount of ₱100,000.00. Hence, respondents filed a Manifestation and Motion[36] dated September 12, 2007 to lift the TRO for failure of petitioner to comply with the Court's Resolution of July 9, 2007. The Court, in a Resolution[37] dated October 15, 2007, required petitioner to comment.

In her January 28, 2008 Comment[38] to the September 12, 2007 Manifestation and Motion, petitioner explained that she already complied with the July 9, 2007 Resolution of the Court by filing a supersedeas bond for ₱100,000.00, and that she had filed with the RTC an urgent motion for computation of back rentals but the same had remained unresolved, thus preventing her from making the required monthly deposit.

Earlier, on January 23, 2008, respondents filed a Reiterative Motion to Lift the Temporary Restraining Order[39] for failure of petitioner to comply with the July 9, 2007 and October 15, 2007 Resolutions of the Court. On March 12, 2008, the Court

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prescribed from time to time during the pendency of the appeal, the appellate court, upon motion of the plaintiff, and upon proof of such failure, shall order the execution of the judgment appealed from with respect to the restoration of possession, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on the merits.

After the case is decided by the Regional Trial Court, any money paid to the court by the defendant for purposes of the stay of execution shall be disposed of in accordance with the provisions of the judgment of the Regional Trial Court. In any case wherein it appears that the defendant has been deprived of the lawful possession of land or building pending the appeal by virtue of the execution of the judgment of the Municipal Trial Court, damages for such deprivation of possession and restoration of possession may be allowed the defendant in the judgment of the Regional Trial Court disposing of the appeal.

[35] *Rollo*, pp. 187 and 188.

[36] *Id.* at 184.

[37] *Id.* at 259.

[38] *Id.* at 271-272.

[39] *Id.* at 261.

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issued a Resolution[40] noting both the respondents' Reiterative Motion and petitioner's Comment, and requiring petitioner to deposit to the RTC the unpaid monthly rentals in the amount of ₱10,932.60 as directed in the Court's July 9, 2007 Resolution and to submit proof of compliance within ten (10) days from notice; otherwise, the temporary restraining order would be lifted.

In a Manifestation and Compliance[41] dated March 9, 2008, petitioner explained that her January 28, 2008 Comment was in compliance with both the July 9, 2007 and October 15, 2007 Resolutions of the Court.

Based on court records, copy of the Resolution was mailed to petitioner on March 18, 2008,[42] and she received the same on April 28. 2008.[43] Yet, as per Certification issued on May 12, 2008 by the RTC, petitioner had not made any rental deposit.[44] Hence, respondents filed another Manifestation[45] for the lifting of the TRO.

The Court now resolves the main issues in the Petition, *viz.*:

1. Whether the pending action for annulment of transfer of title on ground of violation of P.D. 1517 (granting right of first refusal to the lessee and prohibiting dispossession of the property) filed by the petitioner against private respondents and previous lessor LKTSI constitutes *litis pendentia* or at the very least poses legal questions warranting the suspension of the proceedings of this ejectment suit.

2. Whether the court where the prior pending action involving the issue of whether the lessee can be dispossessed has exclusive and original jurisdiction to the exclusion of other courts where the action for dispossession via ejectment suit is filed after.

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[40] *Id.* at 284.

[41] *Rollo*, p. 288.

[42] As Registered Letter No. 40591.

[43] *Rollo*, p. 311.

[44] *Id.* at 312.

[45] *Id.* at 309.

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3. Whether the trial court *a quo* has jurisdiction over the complaint.

4. Whether there is a lease relationship between the parties that can entitle the lessor to file an ejectment case.

5. Whether there is a proper demand for purposes of ejectment suit.

6. Whether the appellate court and the trial court *a quo* could make an award for payment of monthly rental in such amount more than if not other than the last agreed monthly rentals between petitioner and LKTSI.[46]

To the foregoing set of issues, however, petitioner, in her Memorandum, added several more, to wit:

1. Whether private respondents committed forum-shopping;

xxx xxx xxx

7. Whether on account of the foregoing issues, the application for issuance of writ of preliminary injunction may be granted as prayed for in the petition.

8. Whether ejectment proceedings which are summary in nature can take precedence over an annulment action based upon a violation of specific and express provision of law (PD 1517).

9. Whether the ejectment proceeding can be suspended when it comes to direct conflict with an existing and applicable law; and

10. Whether which rights in the instant case must be a *priori* protected – physical or material right of possession or substantial issue of ownership which subsumes the issue of possession pursuant to the existing and applicable provision of law,[47]

in arrant disregard of the July 9, 2007 Resolution of the Court, forbidding new issues from being raised by the parties in their respective memoranda.[48] This is a standard prohibition inserted into every Court order for submission of memoranda, the purpose

[46] *Id.* at 24.

[47] *Rollo*, pp. 222-223.

[48] *Id.* at 178.

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of which is to forestall surprise by one party upon the other, who would have no opportunity to counter whatever new point of law, theory, issue or argument may be belatedly raised.[49]

Consequently, the Court will not resolve such new issues, except when they are related to the issues raised in the Petition, which may actually be condensed, thus:

First, whether the CA erred in affirming the RTC for sustaining the jurisdiction of the MeTC over the ejectment complaint; and

Second, whether the CA erred in affirming with modification the judgments of the RTC and MeTC ordering the ejectment of petitioner.

Third, whether the temporary restraining order issued by the Court should be lifted as prayed for by respondents.

On the issue of jurisdiction

The allegations in a complaint[50] and the character of the relief sought[51] determine the nature of the action and the court with jurisdiction over it. The defenses set up in an answer are not determinative.[52]

A complaint sufficiently alleges a cause of action for unlawful detainer if it recites that: a) initially, possession of the property by the defendant was by contract with or by tolerance of the plaintiff; b) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession; c) thereafter, defendant remained in possession of the property and deprived plaintiff of the enjoyment

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[49] *Valdes v. China Banking Corporation*, G.R. No. 155009, April 12, 2005, 455 SCRA 687, 696.

[50] *Ross Rica Sales Center, Inc. v. Ong*, G.R. No. 132197, August 16, 2005, 467 SCRA 35, 45.

[51] *Barrazona v. Regional Trial Court, Br. 61, Baguio City*, G.R. No. 154282, April 7, 2006, 486 SCRA 555, 560.

[52] *Dela Cruz v. Court of Appeals*, G.R. No. 139442, December 6, 2006, 510 SCRA 103, 117.

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thereof; and d) within one year from the last demand on defendant to vacate the property, plaintiff instituted the complaint for ejectment.[53]

The complaint for ejectment which respondents filed against petitioner alleges:

> 3. Plaintiffs [respondents] are the absolute and registered owners of the land located at No. 1682 Blumentritt St., Sta. Cruz, Manila, including improvements therein xxx.
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> xxx xxx xxx
>
> 5. xxx The first unit, designated as 1682 Blumentritt St., Sta. Cruz, Manila xxx is presently being occupied by herein defendant [petitioner].
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> 6. Defendant's [petitioner's] lease of Unit 1682 xxx with LKT, [sic] as with the others, was on a month-to-month basis. The property was transferred to plaintiffs [respondents] on April 2, 2004. Plaintiffs [respondents] have no plans to have the premises leased as they acquired the property for some other urgent business purpose in mind. Thus, plaintiffs [respondents] talked to and appealed to the occupants of the building to voluntarily vacate the premises and peacefully surrender possession thereof to plaintiffs [respondents].
>
> 7. However, defendant [petitioner] did not cooperate and instead stubbornly remained on the subject premises.
>
> xxx xxx xxx
>
> 9. Thus, plaintiffs [respondents], through their counsel, formally wrote to defendant Victoria Fernando [petitioner], informing the latter that her lease of the aforegmentioned (sic) premises, which is on a month-to-month basis, ended on April 30, 2004 and will no longer be renewed. Defendant [petitioner] was also informed that if she ever continued to stay in the premises beyond April 30, 2004, it should not be construed as a renewal of whatever lease agreement defendant [petitioner] previously had with LKT.
>
> 10. Defendant, who duly received the letter, was given fifteen (15) days to peacefully surrender possession of the subject

[53] *Dela Cruz v. Court of Appeals, id.*; *Heirs of Demetrio Melchor v. Melchor*, G.R. No. 150633, November 12, 2003, 415 SCRA 727.

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premises, particularly 1682 Blumentritt, St., Sta. Cruz, Manila, to herein plaintiffs. A copy of said letter dated April 29, 2004 is hereto attached and made an integral part hereof as "Annex C".

11. However, despite oral and written demands to vacate subject premises, defendant failed and refused, and still fails and refuses, without justifiable reason, to vacate the said subject premises and to peacefully surrender possession thereof to plaintiffs, to the damage and prejudice of the latter.[54]

In essence, the complaint recites that when respondents acquired Unit 1682 from LKTSI, petitioner was still in possession of the property by virtue of a month-to-month lease contract with LKTSI; that said lease contract was set to expire on April 30, 2005; that respondents verbally informed petitioner that her lease contract would not be renewed when it expired; and that respondents also served a written demand dated April 29, 2004 on petitioner to vacate Unit 1682, but the latter refused to do so. By these allegations, the complaint clearly drew up a case for unlawful detainer. It was therefore correctly filed with the MeTC which has jurisdiction over ejectment cases.[55]

Petitioner, however, has raised an issue of title, to question the jurisdiction of the MeTC. She claims that respondents have no right to institute the action for unlawful detainer because they did not validly acquire the property in view of the prohibition under P.D. No. 1517 against her dispossession or the transfer of the property without first offering it for sale to her. She insists that such issue of title prevents the MeTC from acquiring jurisdiction over the case; it should have deferred to the jurisdiction of the RTC where there is a pending case for annulment of the title of respondents.

As a rule, the nature of a complaint for unlawful detainer and the jurisdiction of a court over it are not altered by the mere claim of the defendant of title to the property subject

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[54] Complaint, CA *rollo*, pp. 65-67.

[55] Section 33, Chapter III of Batas Pambansa Blg. 129. See also Section 1, Rule 70 of the Rules of Court.

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matter of the ejectment case.[56] Even a pending action involving title to the property which the defendant may have instituted in another court will not abate or suspend the summary proceedings for unlawful detainer.[57] The underlying reason for this rule is to prevent the defendant from trifling with the summary nature of the case by the simple expedient of asserting ownership over the disputed property.[58]

Respondents cite *Solanda Enterprises, Inc. v. Court of Appeals*.[59] It involves an action for ejectment filed by the vendee of a parcel of land against the vendor's lessees on the property. In turn, the lessees filed an action for annulment of the sale of the property between the vendor and vendee on the ground that the sale violated their [lessees'] preemptive rights over the property as guaranteed under P.D. No. 1517. The Court held that the action for ejectment may proceed independently of the action for annulment, citing the following reason:

> xxx the consistent case law is that ejectment suits deal only with the issue of physical possession. The pendency of an action for the annulment of the sale and the reconveyance of the disputed property may not be successfully pleaded in abatement of an action for ejectment. Private respondent's alleged right of possession is conditioned on his right to acquire ownership over the land. His right of the possession is, at best, only inchoate. ***In any event, the private respondent's expectation of being granted the preemptive right to purchase the property neither establishes his right to possess nor justifies the dismissal of the ejectment case against him.*** [Emphasis added.]

It is important to bear in mind that in *Solanda*, it was conclusively found that the property in dispute was not within

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[56] *Palattao v. Court of Appeals*, G.R. No. 131762, May 7, 2002, 381 SCRA 681, 691.

[57] *Arambulo v. Gungab*, G.R. No. 156581, September 30, 2005, 471 SCRA 640.

[58] *Tecson v. Guitierrez*, G.R. No. 152978, March 4, 2005, 452 SCRA 781.

[59] G.R. No. 123479, April 14, 1999, 305 SCRA 645.

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the coverage of P.D. No. 1517 as defined under Proclamation No. 1967[60] and certified to by the Housing and Land Use Regulatory Board (HLURB).

But then, there have been two rare cases in which the Court allowed the suspension of an action for unlawful detainer to make way for an action for annulment of title.

In *Vda. de Legaspi v. Avendaño*,[61] the Court suspended the enforcement of a writ of demolition rendered in an ejectment case until after a case for annulment of title involving the property to be demolished was decided. The Court ratiocinated:

> x x x. ***Where the action, therefore, is one of illegal detainer, as distinguished from one of forcible entry, and the right of the plaintiff to recover the premises is seriously placed in issue in a proper judicial proceeding***, it is more equitable and just and less productive of confusion and disturbance of physical possession, with all its concomitant inconvenience and expenses. For the Court in which the issue of legal possession, whether involving ownership or not, is brought to restrain, should a petition for preliminary injunction be filed with it, the effects of any order or decision in the unlawful detainer case in order to await the final judgment in the more substantive case involving legal possession or ownership. It is only where there has been forcible entry that as a matter of public policy the right to physical possession should be immediately set at rest in favor of the prior possession regardless of the fact that the other party might ultimately be found to have superior claim to the premises involved, thereby to discourage any attempt to recover possession thru force, strategy or stealth and without resorting to the courts. (Emphasis supplied)

More in point is *Dulay v. Tabago*,[62] in which the Court sustained the RTC in suspending the eviction of Spouses Tabago from the property of Spouses Dulay in view of the issuance of Presidential Decree No. 2016, which placed the disputed property

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[60] Amending Proclamation No. 1893 by Specifying 244 Sites in Metropolitan Manila as Areas for Priority and Urban Reform Zones.

[61] No. L-40437, September 7, 1977, 79 SCRA 135.

[62] Resolution dated February 4, 2002 in G.R. No. 150645.

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under the coverage of P.D. No. 1517 and prohibited the eviction of the tenants therein. As there was no dispute over the status of Spouses Tabago as tenants on the property since 1959, or over the status of the property as an urban land reform area, the Court therein held:

> Sec. 2 of P.D. No. 2016, which was promulgated to forestall violations of P.D. No. 1517, provides that "No tenant or occupant family, residing for ten years or more, reckoned from the date of issuance of Presidential Decree No. 1517 [June 11, 1978] otherwise known as the Urban Land Reform Law, in land proclaimed as Areas of Priority Development . . . shall be evicted from the land or otherwise dispossessed" (emphasis added). ***Considering that respondents have been occupants of the lot in question since 1959 and in view of the subsequent classification of the said land as an APD, petitioners' action for ejectment cannot prosper.***

To be entitled to the beneficence of P.D. No. 1517, a party must provide *prima facie* evidence of the following facts: a) that the property being leased falls within an Area for Priority Development and Urban Land Reform Zone;[63] b) that the party is a tenant on said property as defined under Section 3 (f)[64] of P.D. No. 1517;[65] c) that the party built a house on said property;[66] and d) that the party has been residing on the property continuously for the last ten (10) years or more, reckoned from 1968.[67]

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[63] *Arlegui v. Court of Appeals*, G.R. 126437 Phil. 381, 391 (2002); *Vidal v. Escueta,* G.R. No. 156228, December 10, 2003, 417 SCRA 617.

[64] Sec. 3. Definitions. As used in this Decree, the following words and phrases shall have the following meanings and definitions: x x x (f) Tenant refers to the rightful occupant of land and its structure, but ***does not include those whose presence on the land is merely tolerated and without the benefit of contract***, those who enter the land by force or deceit, or those whose possession is under litigation. (Emphasis added)

[65] *Dee v. Court of Appeals*, G.R. No. 108205, February 15, 2000, 325 SCRA 466.

[66] *Vidal v. Escueta, supra* note 63.

[67] *Dimaculangan v. Casalla*, G.R. No. 156689, June 8, 2007, 524 SCRA 181.

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The question is, did petitioner establish the foregoing requisites as to avail herself of the "suspensive" effect of P.D. No. 1517 as in *Sps. Dulay* and *Vda. de Legaspi*?

It is noted that the MeTC rejected the claim of petitioner to preferential rights over the property, but petitioner objected on the ground that the MeTC had no jurisdiction to resolve such subject matter.

Petitioner's objection was frivolous. Under Section 33[68] of *Batas Pambansa Blg*. 129, the MeTC is conditionally vested with authority to resolve the question of ownership raised as an incident in the case, the determination of which is necessary for a complete adjudication of the issue of possession.[69] In the present case, the MeTC's foray into the issue of whether under P.D. No. 1517, petitioner has preferential rights to the purchase and occupation of Unit 1682 as against respondents' rights was necessary to resolve the issue of material possession.

The ***provisional*** ruling of the MeTC on said issue is that P.D. No. 1517 does not apply to the case because there was no sale between LKTSI and respondents but a mere distribution of liquidating dividends on account of the dissolution of LKTSI.[70]

The share of each stockholder in the remaining assets of the corporation upon liquidation, after the payment of all corporate debts and liabilities, is what is known as liquidating dividend.[71] In its interpretation of recent tax laws, the Bureau of Internal

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[68] Section 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases*.— Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise: x x x (2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

[69] *Aquino v. Aure*, G.R. No. 153567, February 18, 2008; *Dela Cruz v. Court of Appeals, supra* note 52.

[70] MeTC Decision, CA *rollo*, pp. 123-126.

[71] *PDIC v. Reyes*, G.R. No. 154973, June 21, 2005, 460 SCRA 473.

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Revenue viewed the distribution of liquidating dividends not as a sale of asset by the liquidating corporation to its stockholder but as ***a sale of shares by the stockholder to the corporation or the surrender of the stockholder's interest in the corporation, in place of which said stockholder receives property or money from the corporation about to be dissolved***.[72] Thus, on the part of the stockholder, any gain or loss is subject to tax, while on the part of the liquidating corporation, no tax is imposed on its receipt of the shares surrendered by the stockholder or transfer of assets to said stockholder because said transaction is not treated as a sale.[73]

Preliminarily, therefore, the Court agrees with the view of the MeTC that the April 1, 2004 assignment of Unit 1682 is not covered by the prohibition under P.D. No. 1517. It should be emphasized that such interim ruling is without prejudice to how the complaint for annulment of the April 1, 2004 deed of assignment is resolved by the RTC.

In addition to the foregoing reason, the Court also finds no ***prima facie*** evidence that petitioner qualifies as a tenant under P.D. No. 1517.

Respondents presented a Land Transaction Certificate issued by the HLURB, stating that Unit 1682 is outside any Area for Priority Development.[74] However, Proclamation No. 1967 identifies in Appendix "J"[75] thereof 244 sites in Metropolitan Manila that fall within the coverage of P.D. No. 1517. In the West Sector (Manila), one identified site is "8. Sta. Clara to

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[72] See, however, Jose Campos, *The Corporation Code* Volume II, p. 417, citing *Stockholders of Guanzon v. Register of Deeds*, No. L-18216, October 30, 1962, 6 SCRA 373.

[73] BIR Ruling No. DA-111-2005, April 5, 2005. See also *Commissioner v. Court Holding Co*. (324 U.S. 331 [1945]), in which the US Supreme Court held that that a corporation realizes no taxable gain by a mere distribution of its assets in kind, or in partial or complete liquidation, however much they may have appreciated in value since acquisition.

[74] CA *rollo*, p. 272.

[75] The Annex Attached to Proclamation 1967 Enumerates the Following Areas of Priority Development and Urban Land Reform Zones.

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Blumentritt." Thus, it would appear that Unit 1682, which is located in Blumentritt Street, Sta. Cruz, Manila, is within the scope of P.D. No. 1517,[76] the HLURB Certification to the contrary notwithstanding.

Moreover, petitioner had a month-to-month lease contract with LKTSI on Unit 1682, which expired on April 30, 2004. Thus, up to that time, petitioner was a rightful occupant of the property as defined under Sec. 3 of P.D. No. 1517.

However, other than her bare claim that she owns the structure on Unit 1682 because she allegedly rebuilt it after it was burned down, petitioner offered no concrete evidence of when the original structure was burned down and when she rebuilt it. She presented no detail on how she spent for the construction of the structure, or proof that LKTSI allowed her to claim ownership thereof. On the other hand, it was respondents who presented Tax Declaration No. 00182 which indicates that they are the registered owners of the improvements, including Unit 1682, on the land covered by TCT No. 264835.

Furthermore, except for her empty allegation — which respondents dispute —[77] that she has been occupying Unit 1682 for more than thirty (30) years, petitioner presented no concrete evidence of the exact period of her occupation, even when she could have easily produced receipts of past rental payments similar to the receipt[78] she easily presented for her March 2004 rental payment. Such unexplained omission prevents an adjudication on whether petitioner's period of occupation qualifies her to exercise the right of first refusal under P.D. No. 1517.[79]

Therefore, unlike in *Sps. Dulay* or *Guardacasa de Legaspi*, there is no *prima facie* showing in this case that petitioner is protected under P.D. No. 1517 from dispossession of Unit 1682, or that she has the right of first refusal in the sale of said property.

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[76] *Garrido v. Court of Appeals*, G.R. No. 118462, November 22, 2001, 370 SCRA 199.

[77] Memorandum for Respondents, *rollo*, p. 210

[78] *Supra* note 5.

[79] *Dimaculangan v. Casalla, supra* note 67.

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Petitioner, therefore, cannot invoke P.D. No. 1517 in abatement of the complaint for unlawful detainer.

Another matter raised by petitioner relating to the jurisdiction of the MeTC is the personality of respondents to give notice to vacate and to file an ejectment case. The Court need not belabor the point for it is well-settled that, as vendees of the property, respondents were placed in the shoes of the original lessor LKTSI and vested with the right to evict petitioner as the lessee from the premises.[80] Whether the transfer of the property to respondents was valid is of no moment, for all that is to be resolved in the ejectment case is whether the latter are entitled to the material possession of the property.[81]

All told, the Court sustains the CA in affirming the ruling of the RTC that the MeTC correctly exercised jurisdiction over the complaint for unlawful detainer.

On the issue of the correctness of the judgment of eviction

Petitioner poses no serious challenge to the concurrent findings of the MeTC, RTC and CA that her right to possession of Unit 1682 has expired; that her continued possession thereof unlawfully deprives respondents of the enjoyment of the property; and that, therefore, she must now peacefully surrender possession thereof to respondents. Her remaining defense is that, under the rent control laws, respondents cannot eject her because she has been religiously paying her rent.

Republic Act No. 9161,[82] otherwise known as the "Rental Reform Act of 2002," was the rent control law in force at the time the complaint for unlawful detainer was filed. Sec. 7(e)

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[80] Rule 70 of the Rules of Court, which 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 lessor, vendor, **vendee**, or other person against whom the possession of any land or building is unlawfully withheld xxx. See also *Ocampo v. Tirona*, G.R. No. 147812, April 6, 2005, 455 SCRA 62.

[81] *Barnes v. Quijano,* G.R. No. 160753, June 28, 2005, 461 SCRA 533.

[82] Effective January 1, 2002.

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thereof allows for judicial ejectment of a lessee on the ground of expiration of the period of the lease contract. As already discussed, the month-to-month lease contract of petitioner expired on April 30, 2004 and was not renewed by respondents; hence, the latter acted well within their rights to file a complaint for unlawful detainer.[83]

Petitioner has also questioned the award of reasonable rent of ₱15,000.00. Trial courts are authorized to fix the reasonable value for the continued use and occupancy of the leased premises after the termination of the lease contract; and they are not bound by the stipulated rental in the contract of lease, since it is equally settled that upon termination or expiration of said contract, the rental stipulated therein may no longer be the reasonable value for the use and occupation of the premises as a result or by reason of the change or rise in values.[84] As to what amount would constitute a reasonable rent of Unit 1682, the same is a question of fact on which the determination of the CA binds the Court, unless the latter finds reason to reverse it.[85] In the present case, the CA reduced the award of reasonable rent from ₱25,000.00 to ₱15,000.00 based on the finding that such amount represents the reasonable amount of lost opportunity income respondents would have derived from the conversion of Unit 1682 into a San Miguel Food shop.[86] Petitioner has not adduced evidence in refutation of the factual findings of the CA.

Considering that no error has been committed by the CA in its August 31, 2006 Decision and January 15, 2007 Resolution, the Court affirms the same.

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[83] *Lopez v. Fajardo*, G.R. No. 157971, August 31, 2005, 468 SCRA 664.

[84] *Sps. Catungal v. Hao*, G.R. No. 134972, March 22, 2001, 355 SCRA 29 citing *Sia v. Court of Appeals*, G.R. No. 108222, May 5, 1997, 272 SCRA 141.

[85] *Bacolod Delars Realty Dev't. Corp. v. Negros Grace Pharmacy*, G.R. No. 140855, August 9, 2000, Resolution, First Division.

[86] CA Decision, *rollo*, p. 67.

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On the issue of whether the temporary restraining order should be lifted

The Court finds respondents' September 12, 2007 Manifestation and Motion, January 23, 2008 Reiterative Motion to Lift the Temporary Restraining Order and May 13, 2008 Manifestation to be well-taken. It notes petitioner's January 28, 2008 Comment and March 9, 2008 Manifestation and Compliance, and finds unsatisfactory the explanation put forth therein why she failed to deposit to the RTC unpaid monthly rentals in the amount of ₱10,932.60 from date of receipt of the MeTC Decision. It should be emphasized that while petitioner may have questioned before the RTC the computation of back rentals, the same cannot muddle the July 9, 2007 and March 12, 2008 Resolution of the Court which are rather explicit in the amount of unpaid monthly rentals she is required to pay. The Court further notes that petitioner utterly failed to show proof of compliance with the foregoing resolutions.

WHEREFORE, the petition is *DENIED*. The temporary restraining order issued by the court is *LIFTED* and *SET ASIDE*.

Costs against petitioner.

SO ORDERED.

Ynares-Santiago (Chairperson), Chico-Nazario, Nachura, and *Reyes, JJ.,* concur.