



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

PNTC COLLEGES, INC.,
Petitioner,

G.R. No. 219698

Present:
 PERLAS-BERNABE, *SAJ.*,
Chairperson,
 HERNANDO,
 INTING,
 GAERLAN, and
 DIMAAMPAO, *JJ.*

- versus -

TIME REALTY, INC.,
Respondent.

Promulgated:

SEP 27 2021

X ----- X

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ challenges the April 8, 2014 Decision² and March 26, 2015 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 97119, which set aside the June 15, 2010 Decision⁴ and April 4, 2011 Order⁵ of the Regional Trial Court (RTC) of Manila, Branch 21, in Civil Case No. 07-117895.

The Facts:

PNTC Colleges, Inc. (PNTC) and Time Realty, Inc. (Time Realty) entered into a Contract of Lease⁶ wherein Time Realty leased to PNTC the

¹ *Rollo*, pp. 3-21.
² *Id.* at 202-214. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Rebecca De Guia-Salvador and Ramon R. Garcia.
³ *Id.* at 241-242. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Ramon R. Garcia and Rodil V. Zalameda (now a member of this Court).
⁴ *Id.* at 116-120. Penned by Judge Amor A. Reyes.
⁵ *Id.* at 146-147. Penned by Judge Amor A. Reyes.
⁶ *Id.* at 45-53.

Extremadura Streets, Sampaloc, Manila, from 2005 to 2007.⁷ While the term of the lease ended on December 31, 2005, the contract was impliedly renewed on a monthly basis after said date. With the acquiescence of Time Realty, PNTC continued to occupy the premises for an increased rental rate.⁸

Eventually, Time Realty notified PNTC of its (Time Realty's) intent not to extend the lease on the fourth floor anymore. For this reason, Time Realty provided PNTC two options: (1) to extend the lease on the fourth floor but only until April 2007; or (2) to transfer to the second floor of the same building. In a letter⁹ dated April 4, 2007, PNTC informed Time Realty of its decision to terminate its lease in the fourth floor which would take effect at the end of April 2007.¹⁰

Sometime in April 2007, PNTC commenced the transfer of its operations to its new site in Intramuros, Manila. However, Time Realty alleged that PNTC did so without settling its (PNTC's) outstanding rentals and service (electricity and water) charges, plus interest/surcharges. Hence, Time Realty ordered PNTC to cease its moving out operations, then retained the remaining properties of PNTC in the premises.¹¹

Time Realty averred that its retention of PNTC's properties as security was in accordance with Paragraph 23 of the Contract of Lease, viz.:

Breach or Default

X X X X

LESSEE hereby agrees that all the provisions contained in this contract shall be deemed as conditions, as well as covenants, and that this contract shall be automatically terminated and cancelled without resorting to court action should LESSEE violate any or all said conditions, including the payment of rent and other charges indicated in this contract due within the time herein stipulated and in any such cases, LESSEE hereby irrevocably appoints LESSOR, its authorized agents, employees and/or representatives as his duly authorized attorney-in-fact, with full authority to open, enter, repossess, secure, enclose, fence and otherwise take full and complete physical possession and control of the leased premises and its contents without resorting to court action and/or summarily disconnect electrical and/or water services thereof, and that LESSEE hereby irrevocably empowers LESSOR, its authorized agents, employees and/or representatives to take inventory and possession of whatever equipment, furniture, articles, merchandise, appliances, etc. found therein belonging to the LESSEE, consignors and/or to any other person and to place the same in LESSOR's warehouse for safekeeping, charging LESSEE the corresponding storage fees therefore, that in case LESSEE fails to claim said equipment, furniture, articles, merchandise, appliances, etc. from storage and

⁷ Id. at 202-203.

⁸ Id. at 39.

⁹ Id. at 54 and 58.

¹⁰ Id. at 203.

¹¹ Id.

simultaneously liquidate any liability with LESSOR within ten (10) days from date of said transfer to LESSOR's warehouse, LESSOR is likewise hereby expressly authorized and empowered by LESSEE to dispose of said property/properties in a public sale through a Notary Public of LESSOR's choice and to apply the proceeds thereof to whatever liability and/or indebtedness LESSEE may have to LESSOR plus reasonable expenses for the same, including storage fees and balance, if any, shall be turned over to LESSEE, that LESSEE hereby expressly agrees that any or all acts performed by LESSOR, its authorized agents, employees and/or representatives [under the provisions] of this Section may not be the subject of any petition for a Writ of Preliminary Injunction or Mandatory Injunction in court, and that LESSOR and/or his authorized agents, employees and/or representatives shall be free from any civil and/or criminal liability or responsibility whatsoever therefore.¹²

On May 7, 2007, PNTC sent a Letter (Re: Unjustified Withholding of Numerous [Equipment], Machineries, and Other Related Materials Which Greatly Damage our Operations)¹³ to Time Realty stating its intention to seek legal action to protect its interests.¹⁴

Thus, PNTC filed a Complaint¹⁵ for Delivery of Personal Properties with Damages dated August 18, 2007 before the RTC. It essentially alleged that it suffered serious losses due to Time Realty's unjustified withholding of its properties valued at ₱561,360.00¹⁶ after employees of PNTC made an inventory.¹⁷

Time Realty filed an Answer with Counterclaim¹⁸ arguing that PNTC started vacating the leased premises absent a formal notice and without paying its remaining obligations. It asserted that since discovery of PNTC's moving out operations sometime in April 2007, Time Realty retained and inventoried¹⁹ the remaining items, most of which could not be removed without damaging the property. Time Realty contended that pursuant to the lease contract, it had the right to withhold the properties to cover PNTC's payables and damages caused to the property.²⁰ By way of counterclaim, Time Realty prayed for the payment of the unpaid rentals and service charges with interest from May 2007.²¹

Also, Time Realty averred that PNTC left without restoring the premises in the same condition it was found at the beginning of the lease. Hence, Time Realty engaged the services of a general contractor in order to restore the premises to a tenantable condition which costs ₱5,095,822.24²² as

¹² Id. at 51.

¹³ Id. at 32.

¹⁴ Id. at 205.

¹⁵ Id. at 25-29.

¹⁶ Id. at 31.

¹⁷ TSN, June 15, 2009, pp. 6-7.

¹⁸ *Rollo*, pp. 35-42.

¹⁹ Id. at 74.

²⁰ Id. at 205-206.

²¹ Id. at 206.

²² Id. at 76-77.

of December 3, 2008. It thus sought the reimbursement of the expense of restoration of the premises and also attorney's fees. Significantly, it admitted that PNTC had rental deposits totaling ₱743,640.00.²³

PNTC, in its Reply,²⁴ denied that the lease contract was still in effect when the properties were confiscated. It argued that the parties' relationship should be based on a monthly rental basis.²⁵ Moreover, PNTC submitted copies of check vouchers²⁶ payable to Time Realty to answer for its liabilities²⁷ but these were not actually tendered to the latter.²⁸

Notably, however, PNTC alleged that it had an agreement with Time Realty (supposedly through Time Realty's representative, Natividad Ocampo) that it (PNTC) would settle its obligations after the transfer of all its properties has been finalized.²⁹ In addition, PNTC stated that it was prepared to make payments as far as unpaid rentals and service charges were concerned, less its security deposits with Time Realty.³⁰

The Ruling of the Regional Trial Court:

In a Decision³¹ dated June 15, 2010, the RTC dismissed the Complaint³² and found that PNTC has no cause of action against Time Realty. It noted that the lease contract's effectivity ceased a year after its execution without need of demand. However, even without a subsequent lease contract, Time Realty allowed PNTC to continue occupying the premises and collected monthly rentals therefrom, creating an implied new lease (*tacita reconduccion*) in accordance with Article 1670 of the Civil Code.³³

The trial court found that PNTC violated Paragraph 23 of the Contract of Lease when it vacated the premises without settling all of its obligations, notwithstanding receipt of the Statement of Account from Time Realty. Because PNTC did not tender rental and service charge payments since the lease was terminated in April 2007, the trial court held that it did not comply with the contract in good faith. Thus, Time Realty was justified to seize PNTC's properties pursuant to the lease contract. Notably, however, the RTC denied Time Realty's counterclaims for lack of basis.³⁴

²³ Id. at 40.

²⁴ Id. at 55-57.

²⁵ Id. at 55 and 206.

²⁶ Id. at 59-62.

²⁷ Id. at 55; TSN, June 15, 2009, p. 20.

²⁸ TSN, August 7, 2009, p. 15.

²⁹ *Rollo*, p. 55; TSN, June 15, 2009, pp. 11-13.

³⁰ TSN, June 15, 2009, pp. 25-26.

³¹ *Rollo*, pp. 116-120.

³² Id. at 120.

³³ Id. at 119.

³⁴ Id. at 120.

Both PNTC³⁵ and Time Realty³⁶ filed their respective Motions for Partial Reconsideration which the RTC both denied in an Order³⁷ dated April 4, 2011. The RTC reiterated that PNTC's continuous refusal to settle its obligations justifies Time Realty's retention of the properties. Relevantly, the trial court ruled that since Time Realty already has complete physical possession and control of PNTC's properties, unjust enrichment would arise if the former's counterclaims would still be granted even without the accounting and valuation of the said properties.³⁸

Aggrieved, Time Realty appealed³⁹ to the CA.

The Ruling of the Court of Appeals:

The CA, in its assailed April 8, 2014 Decision,⁴⁰ granted Time Realty's appeal. It noted that PNTC made the following judicial admissions,⁴¹ to wit:

[PNTC] itself admitted its liability to [Time Realty] in its reply to answer of the latter saying that it never refused to pay any alleged obligation. Further, as claimed by [PNTC], it agreed through a certain Ms. Natividad Ocampo that whatever deficiency, if any, would be paid after the transfer to its new office site.

Moreover, in the same reply, [PNTC] said that checks and vouchers were prepared and ready for transmittal; that it no longer turned over the checks as it has suffered tremendous losses and sustained considerable damages by the unjustified and unlawful action on the part of [Time Realty].

Significantly, [PNTC] marked in evidence as Exhibit '2' the Summary of Payables prepared and signed by one Francilita O. Corres from the former's finance department manifesting its unpaid rents and electricity and water charges for the months of March and April 2007.

Likewise, in paragraph 4 of [PNTC's] Comment/Opposition dated 24 September 2010, [PNTC] agreed with the findings of the [RTC] that its non-payment is sufficient basis for [Time Realty] 'to take full and complete physical possession and control of the personal property taken by [Time Realty] pursuant to paragraph 23 of the Contract of Lease of the parties.'⁴²

The appellate court held that Time Realty presented sufficient evidence to prove its counterclaims, "i.e., [PNTC's] violation of the contract of lease such as non-payment of rentals, utilities, surcharges and cost of repairs, which

³⁵ Id. at 137-141.

³⁶ Id. at 121-129.

³⁷ Id. at 146-147.

³⁸ Id. at 146.

³⁹ Id. at 148-149.

⁴⁰ Id. at 202-214.

⁴¹ Id. at 209-210.

⁴² Id. at 209.

[PNTC] failed to dispute.”⁴³ Thus, it ruled that it was grave error for the trial court to dismiss Time Realty’s counterclaims for lack of basis.⁴⁴

Moreover, the appellate court did not agree with the RTC’s ruling on unjust enrichment. It pointed out that a claim for unjust enrichment fails when the entity who will benefit, like Time Realty, has a valid right therein. It noted that Time Realty retained PNTC’s personal properties because of the latter’s unpaid obligations and that such withholding was made pursuant to Paragraph 23 of the lease contract.⁴⁵ Also, the appellate court noted that PNTC failed to prove the true value of the properties which were retained by Time Realty, and failed to justify that such would be sufficient to cover or set-off its unsettled accountabilities. Similarly, the CA did not find merit in PNTC’s argument that unjust enrichment would ensue without Time Realty’s accounting and valuation of the personal properties.⁴⁶ Hence, the dispositive portion of the CA’s assailed Decision reads:

WHEREFORE, in view of the foregoing, the Order dated 4 April 2011 of the Regional Trial Court of Manila, Branch 21 denying the Motion for Partial Reconsideration of defendant-appellant Time Realty[,] Inc. is hereby **REVERSED** and **SET ASIDE**.

Accordingly, plaintiff-appellee PNTC Colleges, Inc. is **ORDERED** to pay the defendant-appellant [Time Realty, Inc.] the following amounts:

1. Php870,038.40 for unpaid rentals;
2. Php340,090.48 for unpaid utilities (electricity and water);
3. Php5,095,822.34 for the restoration of the leased premises; and,
4. Php100,000.00 for attorney’s fees.

SO ORDERED.⁴⁷

PNTC asked for a reconsideration⁴⁸ which the CA denied in a Resolution⁴⁹ dated March 26, 2015. PNTC then filed the instant Petition for Review on *Certiorari*⁵⁰ before the Court and raised the following –

Issues:

WHETHER THE COURT OF APPEALS ERRED WHEN IT REVERSED AND SET ASIDE THE ORDER OF THE RTC MANILA DATED APRIL 4, 2011 DENYING TIME REALTY’S MOTION FOR PARTIAL RECONSIDERATION OF THE DECISION OF THE RTC MANILA DATED JUNE 15, 2010.

⁴³ Id. at 210.

⁴⁴ Id. at 211.

⁴⁵ Id. at 211-212.

⁴⁶ Id. at 212-213.

⁴⁷ Id. at 213.

⁴⁸ See id. at 215-219 and 223-227.

⁴⁹ Id. at 241-242.

⁵⁰ Id. at 3-21.

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WHETHER THE COURT OF APPEALS ERRED IN ORDERING PNTC TO PAY TO TIME REALTY P870,038.40 FOR UNPAID RENTALS, P340,090.48 FOR UNPAID UTILITIES (ELECTRICITY AND WATER), P5,095,822.34 FOR THE RESTORATION OF THE LEASED PREMISES, AND P100,000.00 FOR ATTORNEY'S FEES.⁵¹

Thus, the main issue is whether or not Time Realty's counterclaims should be granted.

Our Ruling

The petition has no merit.

PNTC argues that the CA placed much emphasis on its admission that it had unpaid accountabilities which would justify the withholding of its properties. It points out that Time Realty was aware of its intended transfer, as it could not have moved out 90% of its properties without notice and consent from Time Realty (considering the gate passes which Time Realty issued and the security guards posted in the building). PNTC asserts that the parties agreed that it would settle its liabilities, if any, after its complete transfer. It likewise questions the admission of the Summary of Payables⁵² it issued as the said document was only presented during the mediation proceedings.⁵³

Moreover, PNTC insists that unjust enrichment would result if Time Realty's counterclaims would be granted, especially when proper accounting and valuation of the properties have not been made.⁵⁴ Moreover, it disagrees that it should reimburse the expenses for the restoration of the fourth floor as it denied inflicting damage on the premises.⁵⁵ Similarly, it questions the award of attorney's fees in favor of Time Realty.⁵⁶

Conversely, Time Realty contends that the grant of its counterclaims is compatible with its possession of PNTC's properties.⁵⁷ It emphasizes that "the mere existence of a security does not extinguish the obligation. Accordingly, the fact that [Time Realty] has in its possession several of [PNTC's] personal properties does not mean that [PNTC's] undisputed obligations no longer [exist]. By granting [Time Realty's] counterclaims, the CA merely [recognized], and correctly so, the continuing existence of [PNTC's] obligation to [Time Realty]."⁵⁸

⁵¹ Id. at 10.

⁵² Id. at 73; A document issued by PNTC which indicated that it had accountabilities for March and April 2007 covering rental arrears and utility charges.

⁵³ Id. at 11-12.

⁵⁴ Id. at 12-13 and 346.

⁵⁵ Id. at 13-14 and 347.

⁵⁶ Id. at 14-15 and 348.

⁵⁷ Id. at 256-258.

⁵⁸ Id. at 258.

Time Realty asserts that prior accounting is not necessary for its counterclaims to be granted. Unjust enrichment can only *possibly* arise if Time Realty would still refuse to turn over the personal properties even after PNTC satisfies the monetary award in its (Time Realty's) favor.⁵⁹ It states that by the recognition of its counterclaims, it is given the choice to satisfy PNTC's liabilities through the possessory lien or by other means allowed by the Rules of Court to execute the judgment award.⁶⁰

Furthermore, Time Realty questions the inclusion of the factual issue involving the alleged previous agreement to allow PNTC to remove all the properties first before paying all of its unsettled accounts, as it is not within the purview of a Rule 45 petition.⁶¹ In any case, it posits that since PNTC did not appeal the RTC's dismissal of the Complaint, then it (PNTC) is barred from raising this factual issue before the Court.⁶²

Also, Time Realty maintains that its entitlement to the reimbursement of the costs of restoration of the leased premises is another factual issue which was correctly resolved in its favor by the RTC and the CA, especially when PNTC did not actually dispute the costs before the said courts.⁶³ Finally, it claims that it is entitled to attorney's fees.⁶⁴

To start, an assessment of the records affirms the finding that PNTC is liable to Time Realty for rental arrears and service charges. PNTC even acknowledged this, yet it justified its non-payment by arguing that it had a previous agreement with Time Realty that full payment will be made after a complete transfer of its properties. Since PNTC failed to prove this allegation with sufficient evidence, its obligations must be fulfilled in accordance with law and the lease contract. Particularly, PNTC incurred liabilities because it violated the provisions of the Contract of Lease which it willingly signed.

In view of this, "it is well to remember that a contract is the law between the parties.⁶⁵ Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.⁶⁶ The parties are allowed by law⁶⁷ to enter into stipulations, clauses, terms and conditions they may deem convenient which bind the parties as long as they are not contrary to law, morals, good customs, public order or public policy."⁶⁸

⁵⁹ *Id.*

⁶⁰ *Id.* at 258-259.

⁶¹ *Id.* at 259-260.

⁶² *Id.* at 260.

⁶³ *Id.* at 261.

⁶⁴ *Id.* at 262-263.

⁶⁵ *D.M. Ragasa Enterprises, Inc. v. Banco De Oro, Inc.*, 833 Phil. 640, 652 (2018) citing *Morla v. Belmonte*, 678 Phil. 102, 107 (2011).

⁶⁶ *Id.* citing CIVIL CODE, Art. 1159.

⁶⁷ *Id.* citing CIVIL CODE, Art. 1306.

⁶⁸ *Id.*

Essentially, the stipulations in the Contract of Lease “are clear and show no contravention, of law, morals, good customs, public order or public policy. As such, they are valid, and the parties’ rights shall be adjudicated according to them, being the primary law between them. When the terms of the contract are clear and leave no doubt as to the intention of the contracting parties, the rule is settled that the literal meaning of its stipulations should control.”⁶⁹

Relevantly, the lease contract provides that Time Realty has the prerogative to take control or possession of PNTC’s properties in the event the latter violates a provision of the contract, including non-payment of rent and other charges. Through its judicial admissions⁷⁰ which the CA already took note, there is no doubt that PNTC should settle the said obligations in accordance with the Contract of Lease⁷¹ and applicable laws.

To expound, PNTC incurred the obligations mainly because of Paragraph 23 of the Contract of Lease which states that Time Realty can retain PNTC’s properties as security for unpaid rentals and other charges. Even while Time Realty exercised its right under the contract, PNTC still filed a Complaint to recover its properties. By doing so and yet still refusing to pay, PNTC somehow preempted Time Realty’s option to file its own case in order to collect from the former. Hence, Time Realty filed an Answer with Counterclaim instead. Nonetheless, as Time Realty was forced to resort to the measures specified in the contract to protect its interests, its counterclaims should be granted. This is because these counterclaims are intimately related to the subject matter of the Complaint, particularly the personal properties of PNTC, which have been withheld and stored by Time Realty. A compulsory counterclaim is described as follows:

A compulsory counterclaim is a defendant’s claim for money or other relief which arises out of, or is necessarily connected with, the subject matter of the complaint. In *Spouses Ponciano v. Hon. Parentela, Jr.*:

A compulsory counterclaim is any claim for money or other relief which a defending party may have against an opposing party, which at the time of suit arises out of, or is necessarily connected with, the same transaction or occurrence that is the subject matter of plaintiff’s complaint. It is compulsory in the sense that if it is within the jurisdiction of the court, and does not require for

⁶⁹ Id. citing CIVIL CODE, Art. 1370 and *Heirs of Uy Ek Liang v. Castillo*, 710 Phil. 261, 275-276 (2013).

⁷⁰ RULES OF COURT, Rule 129, § 4.

Section 4. Judicial Admissions. – An admission, verbal or written, made by the party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

⁷¹ Said lease contract was renewed monthly, as Time Realty acquiesced to PNTC’s continued lease of the premises even if the parties’ initial contract already expired, pursuant to Article 1670 of the Civil Code, to wit:

Article 1670. If at the end of the contract the lessee should continue enjoying the thing leased for fifteen days with the acquiescence of the lessor, and unless a notice to the contrary by either party has previously been given, it is understood that there is an implied new lease, not for the period of the original contract, but for the time established in articles 1682 and 1687. The other terms of the original contract shall be revived.

its adjudication the presence of third parties over whom the court cannot acquire jurisdiction, it must be set up therein, and will be barred in the future if not set up.⁷²

Contrary to the claim of PNTC and the finding of the RTC, there would be no unjust enrichment to speak of, as Time Realty withheld the properties pursuant to Paragraph 23 of the Contract of Lease, a provision which PNTC knowingly agreed to. In other words, Time Realty retained the said properties as security to compel PNTC to pay and not to unduly enrich itself. To support this finding:

Jurisprudence holds that there is unjust enrichment when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience. The statutory basis for the principle of unjust enrichment is Article 22 of the Civil Code which provides that '[e]very person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.'

The principle of unjust enrichment under Article 33 requires two conditions: (1) that a person is benefited without a valid basis or justification, and (2) that such benefit is derived at another's expense or damage. There is no unjust enrichment when the person who will benefit has a valid claim to such benefit.⁷³

The circumstances in the instant case do not show that Time Realty unjustly benefitted from the retention of the properties without valid basis, as it merely acted in accordance with the lease contract to ensure recovery of what is due to it. If anything, the so-called "benefit" which Time Realty is "enjoying" by withholding the properties is the assurance that it would be able to collect from PNTC. Additionally, it cannot be said that Time Realty is using the said properties as these were being kept in storage pursuant to the lease contract.

In relation to this, PNTC argues that the properties' actual values should be determined, as it may already be adequate to compensate for its accountabilities. While this may be so, a perusal of the inventories⁷⁴ submitted by both PNTC and Time Realty shows that the projected values of the personal properties would not be enough to cover all of PNTC's liabilities. In any case, whether the properties' values are sufficient or not, it would not

⁷² *Intramuros Administration v. Offshore Construction Development Co.*, 827 Phil. 303, 330 (2018) citing *Spouses Ponciano v. Hon. Parentela*, 387 Phil. 621 (2000).

⁷³ *Department of Public Works and Highways, Region IV-A v. Commission on Audit*, G.R. No. 237987, March 19, 2019, citing *Car Cooi Philippines, Inc. v. Ushia Realty & Development Corp.*, 515 Phil. 376, 384 (2006); and *Cabrera v. Ameco Contractors Rental, Inc.*, G.R. No. 201560, June 20, 2012 (Minute Resolution); and *Government Service Insurance System v. Commission on Audit*, 694 Phil. 518, 526 (2012).

⁷⁴ *Rallo*, pp. 31 and 74. Unfortunately, the inventories of both parties do not match. These need further verification during the execution of the judgment in this case.

change the fact that PNTC owes Time Realty. Besides, the issue of valuation and depreciation of the personal properties are matters which should be addressed during the execution stage after the finality of the judgment in this case.⁷⁵

It should be noted, though, that as admitted by Time Realty, PNTC still has a deposit amounting to ₱743,640.00.⁷⁶ Notably, Paragraph 1 (Deposit)⁷⁷ of the Contract of Lease expressly provides that “[t]he deposit shall be forfeited in favor of [Time Realty], should [PNTC] fail to consummate the full term of this contract, or upon violation of any of the terms of this contract.”⁷⁸ Although the contract indicated that the deposit would be forfeited in favor of Time Realty, it did not specifically prohibit the application of the same deposit to rental arrears or to any other monetary liability of PNTC.⁷⁹ The deposit, therefore, should be deducted from the total figure which PNTC has to pay Time Realty during the execution stage.

In connection with this, the lease contract states that PNTC’s deposit should be ₱739,200.00 or equivalent to two (2) months’ rental of the leased premises to answer for any of its obligations under the contract. Curiously, there is an amount of ₱4,440.00 unaccounted for in the deposit, since Time Realty did not clarify why there is a difference between ₱743,640.00 (PNTC’s deposit as indicated in Time Realty’s Answer with Counterclaim) and ₱739,200.00 (the amount indicated in the Contract of Lease regarding the deposit). Additionally, Time Realty did not explain the discrepancy, whether it was due to the increase in rentals or not. Ergo, the entire deposit of ₱743,640.00, which Time Realty admitted, should be the figure considered.

On a different but related matter, Time Realty claims that PNTC should reimburse it for the repairs of the fourth floor, as the latter vacated the premises without returning the same in good condition considering ordinary wear and tear, and in violation of the lease contract.⁸⁰ Time Realty listed the following observations:

- a. The vinyl flooring, floor and wall [tiles] are destroyed;
- b. Door knobs were dismantled and carted away;
- c. Fire exit doors, plywood partitions, and cubicle doors at the comfort room are destroyed or in a state of disrepair;
- d. Comfort rooms are clogged;
- e. Lavatory, water closet, at comfort rooms are either destroyed or in a state of disrepair; lighting fixtures, light switches and outlets were removed and/or carted away.⁸¹

⁷⁵ *Booklight, Inc. v. Tu*, GR. No. 213650, June 17, 2019 citing RULES OF COURT, Rule 39, Section 1.

⁷⁶ *Rollo*, p. 40.

⁷⁷ *Id.* at 211.

⁷⁸ *Id.*

⁷⁹ *Cf. D.M. Ragasa Enterprises, Inc. v. Banco De Oro, Inc.*, supra note 65, and *Bio-Research, Inc. v. Univille Development Corporation*, GR. No. 199257 (*Notice*), April 18, 2018.

⁸⁰ *Rollo*, pp. 76-77.

⁸¹ *See id.* at 107.

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A scrutiny of the records reveals that PNTC failed to demonstrate that the dire condition of the fourth floor was not due to its own actions. It should be noted that PNTC occupied the premises for more than two years, and it did not show any proof that during the said period, it reported issues with the doors, floors, lighting, rest rooms and water sources to the administrator of the building. Thus, there is an assumption that PNTC's personnel initially occupied the premises in tenable condition and that, over time, their employees or their agents caused the state of disrepair due to poor maintenance.⁸²

Since We have established that PNTC is liable for rental arrears, service charges and the repair of the premises, We now move on to the computation of the sums due to Time Realty. In line with this, it is important to mention that Time Realty did not dispute or move for the modification of the awards given by the CA in its favor. The figures were based on the Statement of Account⁸³ which Time Realty itself submitted, pertaining to PNTC's rental arrears and utility charges for the months of March and April 2007. Thus, the said amounts, ₱870,038.40 for rental arrears and ₱340,090.48 for utilities, should be maintained as the principal figures for the purpose of the imposition of the interests. Additionally, the reimbursement amounting to ₱5,095,822.34 for the restoration of the leased premises should be taken into account. Also, as previously mentioned, PNTC's deposit of ₱743,640.00 should be deducted in the total amount of its accountabilities.

As regards the interest on unpaid rentals, Time Realty prays that an interest of three percent (3%) per month (on any amount due and not paid on time) should be imposed from May 2007 until full payment pursuant to the lease contract.⁸⁴ We disagree. It is true that according to Paragraph 1 (Amount of Rent) of the Contract of Lease, "[w]ithout prejudice to the exercise by [Time Realty] of its rights under Paragraph 24 herein, [PNTC] shall pay to [Time Realty] an interest at the rate of three (3) per cent a month on any amount due and not paid on time, to be computed per number of days delayed over thirty (30) days from the date of delinquency, which is from the 5th of each and every month."⁸⁵ However, it is also true that the imposition of an interest on unpaid rentals contained in the said provision takes the nature of a penalty clause, in case PNTC breaches any of the stipulations in the lease contract. Withal, even if such was specified in the contract, public morals and policy dictate that the interest rate should still be reasonable and equitable. Jurisprudence teaches that:

In *Ligutan v. Court of Appeals*, we held that a penalty clause, expressly recognized by law, is an accessory undertaking to assume greater liability on the part of an obligor in case of breach of an obligation. It functions to strengthen the coercive force of the obligation and to provide, in effect, for

⁸² See: CIVIL CODE, Arts. 1910 and 1911.

⁸³ *Rollo*, p. 78.

⁸⁴ *Id.* at 43.

⁸⁵ *Id.*

what could be the liquidated damages resulting from such a breach. The obligor would then be bound to pay the stipulated indemnity without the necessity of proof on the existence and on the measure of damages caused by the breach. Although a court is not at liberty to ignore the freedom of the parties to agree on such terms and conditions as they see fit that contravene neither law nor morals, good customs, public order or public policy, a stipulated penalty, nevertheless, may be equitably reduced by the courts if it is iniquitous or unconscionable or if the principal obligation has been partly or irregularly complied with.

Pertinently, Article 1229 of the Civil Code states:

Art. 1229. The judge shall equitably reduce the penalty when the principal obligation has been partly or irregularly complied with by the debtor. Even if there has been no performance, the penalty may also be reduced by the courts if it is iniquitous or unconscionable.

In exercising this power to determine what is iniquitous and unconscionable, courts must consider the circumstances of each case since what may be iniquitous and unconscionable in one may be totally just and equitable in another.⁸⁶

In light of this, the Court deems the penalty charge of 3% per month for unpaid rentals unconscionable,⁸⁷ especially considering that PNTC only failed to pay when it was already clearing out of the premises. Thence, We find it equitable to reduce the interest rate from 3% to 1% per month or a total of 12% per *annum*⁸⁸ in accordance with Article 1229⁸⁹ of the Civil Code. As such, the amount of ₱870,038.40 should be subject to the interest rate of 1% per month or 12% per *annum* counting from May 2007 until full payment.

With regard to the service charges, Time Realty prays for the imposition of the legal interest from May 2007 until full payment.⁹⁰ Given that these charges do not constitute as a loan or forbearance of money, the applicable legal interest should be six percent (6%) per *annum* from the time of judicial demand,⁹¹ or the date when Time Realty filed its Answer with Counterclaim on January 7, 2008.⁹²

⁸⁶ *Bio-Research, Inc. v. Univille Development Corporation*, supra note 79; citing *Ligutan v. Court of Appeals*, 427 Phil. 42, 42-55 (2002) and *Imperial v. Jaucian*, 471 Phil. 42 (2005).

⁸⁷ *Id.* citing the following: In *MCMP Construction Corp. v. Monark Equipment Corp.*, 746 Phil. 383, 393 (2014), we held that the penalty charge of 2% per month is unconscionable. Similarly, in *Pentacapital Investment Corporation v. Mahinay*, 637 Phil. 283, 304 (2010) we held that the penalty charge of 3% per month is unconscionable and reduced it accordingly.

⁸⁸ *Mondragon International Philippines, Inc. v. Union Bank of the Philippines*, G.R. No. 228530, January 21, 2019.

⁸⁹ **Art. 1229.** The judge shall equitably reduce the penalty when the principal obligation has been partly or irregularly complied with by the debtor. Even if there has been no performance, the penalty may also be reduced by the courts if it is iniquitous or unconscionable.

⁹⁰ *Rollo*, pp. 41-42.

⁹¹ *Nissan Gallery-Ortigas v. Felipe*, 720 Phil. 828, 840 (2013), citing *Nacar v. Gallery Frames*, 716 Phil. 267, 281-283 (2013) which cited BSP-MB Circular No. 799 dated May 16, 2013.

⁹² *Rollo*, p. 35.

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Regarding attorney's fees, Paragraph 24 (Judicial Relief and Penalty) of the Contract of Lease provides:

Should [Time Realty] be compelled to seek judicial relief against [PNTC], the latter shall, in addition to the damages mentioned in [paragraph 23], pay an amount equivalent to 20% of the amount, claimed in the complaint, but in no case less than P10,000.00 as attorney's fees aside from the costs of the litigation and other expenses which the law may entitle [Time Realty] to recover from [PNTC].

Provisions of a penal character in the other sections of this contract shall be considered as cumulative to the relief granted by this section.⁹³

Based on the foregoing, in calculating for the attorney's fees, twenty percent (20%) of the amounts claimed in Time Realty's counterclaims should be computed, which in all cases should not be less than P10,000.00. In its counterclaim, Time Realty asked for the payment of P977,314.46 (or the remainder thereof after application of PNTC's deposit) for unpaid rentals including E-VAT and surcharges for late payment of previous rentals. However, it only presented sufficient proof for the amount of P870,038.40 as reflected in the Statement of Account,⁹⁴ which the CA actually awarded and which Time Realty no longer questioned. For purposes of illustration, let Us assume that the deposit of PNTC amounting to P743,640.00, when subtracted from the amount of P870,038.40, yields the remainder of P126,398.40. This should be added to the claimed amount of P340,090.48 for service charges as well as P5,095,822.34 for the cost of restoration of the premises. The total would be P5,562,311.22, 20% of which yields P1,112,462.24, represents attorney's fees pursuant to Paragraph 24 of the Contract of Lease.

Notwithstanding this, We should consider that Time Realty, in its Answer with Counterclaim, only prayed for P100,000.00 as attorney's fees.⁹⁵ Likewise, Time Realty did not expressly appeal the award of the CA of P100,000.00 in attorney's fees in its favor. To stress, Time Realty did not file its own motion for reconsideration before the CA or its own petition before this Court in order to question the specific amount of the award for attorney's fees. It merely filed a Comment on PNTC's motion for reconsideration before the CA, followed by another Comment on PNTC's instant petition, wherein it (Time Realty) suddenly mentioned Paragraph 24 of the Contract of Lease as the basis for its entitlement to attorney's fees without further explanation or computation.⁹⁶ Simply put, Time Realty's Comments were only "responses" to PNTC's motion and petition, both of which cannot be considered as a definite or direct request to modify the award for attorney's fees in accordance with Paragraph 24 of the Contract of Lease.

⁹³ Id. at 52.

⁹⁴ Id. at 78.

⁹⁵ Id. at 42.

⁹⁶ Id. at 262-263.

Indeed, “[s]ettled is the rule that an issue not properly raised on appeal constitutes a waiver of that issue on appeal, which precludes the Court from acquiring jurisdiction to review and alter judgment. An appellee who has not himself appealed cannot obtain from the appellate court any affirmative relief other than those granted in the decision of the court below.”⁹⁷ Considering that Time Realty did not itself contest the amount of ₱100,000.00, the said figure is already final and binding upon it.⁹⁸ In any case, this amount is still higher than the minimum of ₱10,000.00 as provided by Paragraph 24 of the Contract of Lease.

Given that the Court has discussed the computation of the sums due to Time Realty which PNTC has the obligation to pay, the ruling of the CA should accordingly be modified with respect to the amounts and interests applicable for each category of liability. Moreover, once the judgment in this case becomes final and executory, all the monetary awards in favor of Time Realty shall be subject to legal interest at the rate of 6% per *annum* from such finality until its full satisfaction.⁹⁹

WHEREFORE, the instant petition is hereby **DENIED**. The assailed Decision dated April 8, 2014 and Resolution dated March 26, 2015 rendered by the Court of Appeals in CA-GR. CV No. 97119 are hereby **AFFIRMED with MODIFICATIONS** in that PNTC Colleges, Inc. is **ORDERED** to pay Time Realty, Inc. the following amounts, less the deposit amounting to ₱743,640.00:

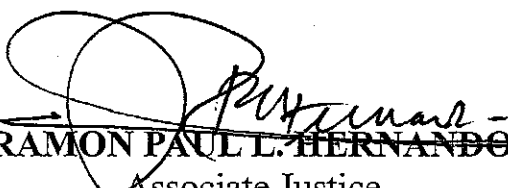
1. ₱870,038.40 for unpaid rentals, with an interest rate of 1% per month or 12% per *annum* computed from May 2007 until finality of this Decision;
2. ₱340,090.48 for unpaid utilities (electricity and water service charges) with an interest rate of 6% per *annum* from January 7, 2008 until finality of this Decision;
3. ₱5,095,822.34 for the cost of the restoration of the leased premises with an interest rate of 6% per *annum* from the date of finality of this Decision until full payment;
4. ₱100,000.00 for attorney’s fees; and,
5. the sum of the amounts in numbers 1 to 2 herein, with interest at the rate of 6% per *annum* from finality of this Decision until full payment.

⁹⁷ *Mondragon International Philippines, Inc. v. Union Bank of the Philippines*, supra note 88, citing *Hiponia-Mayuga v. MBTC*, 761 Phil. 521, 530 (2015), and *Javines v. XLibris*, G.R. No. 214301, June 7, 2017, 826 SCRA 640, 647.

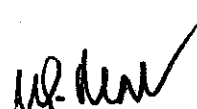
⁹⁸ *Manese v. Jollibee Foods Corp.*, 697 Phil. 322 (2012).


⁹⁹ *Rollo*, pp. 41-42.

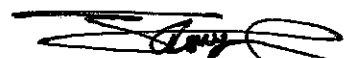
SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

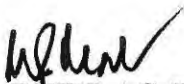

HENRI JEAN PAUL B. INTING
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JABAR B. DIMAAMPAO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice