



Republic of the Philippines  
**Supreme Court**  
Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division

FEB 15 2016

**THIRD DIVISION**

**NISSAN CAR LEASE PHILS.,  
INC.**

**G.R. No. 176986**

Petitioner,

Present:

-versus-

VELASCO, JR., *J.*, *Chairperson*,  
BERSAMIN,\*  
VILLARAMA, JR.,  
MENDOZA,\*\* and  
JARDELEZA, *JJ.*

**LICA MANAGEMENT, INC. and  
PROTON PILIPINAS, INC.,**

Respondents.

Promulgated:

January 13, 2016

x ----- *Wilfredo V. Lapitan* ----- x

**DECISION**

**JARDELEZA, J.:**

This is a Petition for Review on *Certiorari*<sup>1</sup> filed by Nissan Car Lease Philippines, Inc. (NCLPI) to assail the Decision<sup>2</sup> and Resolution<sup>3</sup> dated September 27, 2006 and March 8, 2007, respectively, of the Court of Appeals (CA) in CA-G.R. CV No. 75985. The CA affirmed with modification the Decision<sup>4</sup> of the Regional Trial Court dated June 7, 2002 and ruled that there was a valid extrajudicial rescission of the lease contract between NCLPI and Lica Management, Inc. (LMI). It also ordered NCLPI to pay its unpaid rentals and awarded damages in favor of LMI and third-party respondent Proton Pilipinas, Inc. (Proton).

\* Designated additional Member in lieu of Associate Justice Bienvenido L. Reyes, per Raffle dated September 3, 2014.

\*\* Designated additional Member in lieu of Associate Justice Diosdado M. Peralta per Raffle dated November 11, 2015.

<sup>1</sup> *Rollo*, pp. 11-35.

<sup>2</sup> *Id.* at 39-52. Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Bienvenido L. Reyes, now a member of this Court, and Myrna Dimaranan-Vidal concurring.

<sup>3</sup> *Id.* at 54-58.

<sup>4</sup> *Id.* at 144-168. Penned by Judge Marissa Macaraig-Guillen.

### The Facts

LMI is the absolute owner of a property located at 2326 Pasong Tamo Extension, Makati City with a total area of approximately 2,860 square meters.<sup>5</sup> On June 24, 1994, it entered into a contract with NCLPI for the latter to lease the property for a term of ten (10) years (or from July 1, 1994 to June 30, 2004) with a monthly rental of ₱308,000.00 and an annual escalation rate of ten percent (10%).<sup>6</sup> Sometime in September 1994, NCLPI, with LMI's consent, allowed its subsidiary Nissan Smartfix Corporation (NSC) to use the leased premises.<sup>7</sup>

Subsequently, NCLPI became delinquent in paying the monthly rent, such that its total rental arrearages<sup>8</sup> amounted to ₱1,741,520.85.<sup>9</sup> In May 1996, Nissan and Lica verbally agreed to convert the arrearages into a debt to be covered by a promissory note and twelve (12) postdated checks, each amounting to ₱162,541.95 as monthly payments starting June 1996 until May 1997.<sup>10</sup>

While NCLPI was able to deliver the postdated checks per its verbal agreement with LMI, it failed to sign the promissory note and pay the checks for June to October 1996. Thus, in a letter dated October 16, 1996, which was sent on October 18, 1996 by registered mail, LMI informed NCLPI that it was terminating their Contract of Lease due to arrears in the payment of rentals. It also demanded that NCLPI (1) pay the amount of ₱2,651,570.39 for unpaid rentals<sup>11</sup> and (2) vacate the premises within five (5) days from receipt of the notice.<sup>12</sup>

In the meantime, Proton sent NCLPI an undated request to use the premises as a temporary display center for "Audi" brand cars for a period of ten (10) days. In the same letter, Proton undertook "not to disturb [NCLPI and LMI's] lease agreement and ensure that [NCLPI] will not breach the same [by] lending the premises x x x without any consideration."<sup>13</sup> NCLPI acceded to this request.<sup>14</sup>

On October 11, 1996, NCLPI entered into a Memorandum of Agreement with Proton whereby the former agreed to allow Proton "to immediately commence renovation work even prior to the execution of the Contract of Sublease x x x."<sup>15</sup> In consideration, Proton agreed to transmit to

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<sup>5</sup> *Id.* at 60, 65.

<sup>6</sup> *Id.* at 65-71.

<sup>7</sup> *Id.* at 60, 72.

<sup>8</sup> As of May 1996, *id.* at 60.

<sup>9</sup> *Rollo*, p. 60.

<sup>10</sup> *Id.* at 61.

<sup>11</sup> Covering a portion of July 1996 up to and including October 1996. *Id.* at 73.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 102-103.

<sup>14</sup> *Id.* at 104.

<sup>15</sup> *Id.* at 142-143.

NCLPI a check representing three (3) months of rental payments, to be deposited only upon the due execution of their Contract of Sublease.<sup>16</sup>

In a letter dated October 24, 1996, NCLPI, through counsel, replied to LMI's letter of October 16, 1996 acknowledging the arrearages incurred by it under their Contract of Lease. Claiming, however, that it has no intention of abandoning the lease and citing efforts to negotiate a possible sublease of the property, NCLPI requested LMI to defer taking court action on the matter.<sup>17</sup>

LMI, on November 8, 1996, entered into a Contract of Lease with Proton over the subject premises.<sup>18</sup>

On November 12, 1996, LMI filed a Complaint<sup>19</sup> for sum of money with damages seeking to recover from NCLPI the amount of ₱2,696,639.97, equivalent to the balance of its unpaid rentals, with interest and penalties, as well as exemplary damages, attorney's fees, and costs of litigation.<sup>20</sup>

On November 20, 1996, NCLPI demanded Proton to vacate the leased premises.<sup>21</sup> However, Proton replied that it was occupying the property based on a lease contract with LMI.<sup>22</sup> In a letter of even date addressed to LMI, NCLPI asserted that its failure to pay rent does not automatically result in the termination of the Contract of Lease nor does it give LMI the right to terminate the same.<sup>23</sup> NCLPI also informed LMI that since it was unlawfully ousted from the leased premises and was not deriving any benefit therefrom, it decided to stop payment of the checks issued to pay the rent.<sup>24</sup>

In its Answer<sup>25</sup> and Third-Party Complaint<sup>26</sup> against Proton, NCLPI alleged that LMI and Proton "schemed" and "colluded" to unlawfully force NCLPI (and its subsidiary NSC) from the premises. Since it has not abandoned its leasehold right, NCLPI asserts that the lease contract between LMI and Proton is void for lack of a valid cause or consideration.<sup>27</sup> It likewise prayed for the award of: (1) ₱3,000,000.00, an amount it anticipates to lose on account of LMI and Proton's deprivation of its right to use and occupy the premises; (2) ₱1,000,000.00 as exemplary damages; and (3) ₱500,000.00 as attorney's fees, plus ₱2,000.00 for every court appearance.<sup>28</sup>

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 74-75. *See also id.* at 61-62.

<sup>18</sup> *Id.* at 139.

<sup>19</sup> Docketed as Civil Case No. 96-1840 before the RTC, Branch 60 of Makati City. *Id.* at 59-64.

<sup>20</sup> *Id.* at 63.

<sup>21</sup> *Id.* at 105-106.

<sup>22</sup> *Id.* at 109.

<sup>23</sup> *Id.* at 107.

<sup>24</sup> *Id.* at 108.

<sup>25</sup> *Id.* at 84-94.

<sup>26</sup> *Id.* at 111-118.

<sup>27</sup> *Id.* at 88.

<sup>28</sup> *Id.* at 88-89.

The trial court admitted<sup>29</sup> the third-party complaint over LMI's opposition.<sup>30</sup>

Subsequently, or on April 17, 1998, Proton filed its Answer with Compulsory Counterclaim against NCLPI.<sup>31</sup> According to Proton, the undated letter-request supposedly sent by Proton to NCLPI was actually prepared by the latter so as to keep from LMI its intention to sublease the premises to Proton until NCLPI is able to secure LMI's consent.<sup>32</sup> Denying NCLPI's allegation that its use of the lease premises was made without any consideration, Proton claims that it "actually paid [NCLPI] rental of ₱200,000.00 for the use of subject property for 10 days x x x."<sup>33</sup>

Proton further asserted that NCLPI had vacated the premises as early as during the negotiations for the sublease and, in fact, authorized the former to enter the property and commence renovations.<sup>34</sup> When NCLPI ultimately failed to obtain LMI's consent to the proposed sublease and its lease contract was terminated, Proton, having already incurred substantial expenses renovating the premises, was constrained to enter into a Contract of Lease with LMI. Thus, Proton prayed for the dismissal of the Third-Party Complaint, and asked, by way of counterclaim, that NCLPI be ordered to pay exemplary damages, attorney's fees, and costs of litigation.<sup>35</sup>

### **Ruling of the Trial Court**

On June 7, 2002, the trial court promulgated its Decision,<sup>36</sup> the decretal portion of which reads:

WHEREFORE, in view of the foregoing, judgment is rendered in plaintiff LICA MANAGEMENT INCORPORATED's favor. As a consequence of this, defendant NISSAN CAR LEASE PHILIPPINES, INC. is directed to pay plaintiff the following:

- 1.) [₱]2,696,639.97 representing defendant's unpaid rentals inclusive of interest and penalties up to 12 November 1996, plus interest to be charged against said amount at the rate of twelve percent (12%) beginning said date until the amount is fully paid.
- 2.) Exemplary damages and attorney's fees amounting to Two Hundred Thousand Pesos

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<sup>29</sup> *Id.* at 136.

<sup>30</sup> *Id.* at 76-83.

<sup>31</sup> *Id.* at 137-143.

<sup>32</sup> *Id.* at 137.

<sup>33</sup> *Id.* at 137.

<sup>34</sup> *Id.* at 139.

<sup>35</sup> *Id.* at 139-140.

<sup>36</sup> *Id.* at 144-168.

([P]200,000.00) and litigation expenses amounting to Fifty Thousand Pesos ([P]50,000.00).

The third party complaint filed by defendant is DENIED for lack of merit and in addition to the foregoing and as prayed for, defendant NISSAN is ordered to pay third party defendant PROTON PILIPINAS INC. the sum of Two Hundred Thousand Pesos ([P]200,000.00) representing exemplary damages and attorney's fees due.

SO ORDERED.<sup>37</sup>

The trial court found that NCLPI purposely violated the terms of its contract with LMI when it failed to pay the required rentals and contracted to sublease the premises without the latter's consent.<sup>38</sup> Under Article 1191 of the Civil Code, LMI was therefore entitled to rescind the contract between the parties and seek payment of the unpaid rentals and damages.<sup>39</sup> In addition, the trial court ruled that LMI's act of notifying NCLPI of the termination of their lease contract due to non-payment of rentals is expressly sanctioned under paragraphs 16<sup>40</sup> and 18<sup>41</sup> of their contract.<sup>42</sup>

Contrary to NCLPI's claim that it was "fooled" into allowing Proton to occupy the premises for a limited period after which the latter unilaterally usurped the premises for itself, the trial court found that it was NCLPI "which misrepresented itself to [Proton] as being a lessee of good standing, so that it could induce the latter to occupy and renovate the premises when at that time the negotiations were underway the lease between [LMI] and [NCLPI] had already been terminated."<sup>43</sup>

Aggrieved, NCLPI filed a Petition for Review with the CA. In its Appellant's Brief,<sup>44</sup> it argued that the trial court erred in: (1) holding that there was a valid extrajudicial rescission of its lease contract with LMI; and (2) dismissing NCLPI's claim for damages against LMI and Proton while at

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<sup>37</sup> *Id.* at 168.

<sup>38</sup> *Id.* at 166.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 69. This paragraph reads:

16. BREACH OR DEFAULT – Any breach or default by either party of any of the terms and conditions of this Contract shall be sufficient ground for the aggrieved party to rescind the same.

<sup>41</sup> *Id.* This paragraph reads:

18. DAMAGES – It is hereby mutually agreed and covenanted that non-compliance by either party with any of the provisions of this Contract to be performed by it and which may be the basis of a suit by the other shall entitle the injured party to collect such damages it may sustain.

<sup>42</sup> *Id.* at 65-71, 162.

<sup>43</sup> *Id.* at 164.

<sup>44</sup> *Id.* at 169-206

the same time holding NCLPI liable to them for exemplary damages and attorney's fees.<sup>45</sup>

### **Ruling of the Court of Appeals**

The CA denied NCLPI's appeal and affirmed the trial court's decision with modification. The decretal portion of the CA's Decision<sup>46</sup> reads:

**WHEREFORE**, the appealed Decision dated June 7, 2002 of the trial court is affirmed, subject to modification that:

(1) The award of exemplary damages of ₱100,000.00 each in favor of plaintiff-appellee and third-party defendant-appellee is reduced to ₱50,000.00 each;

(2) The award of attorney's fees of ₱100,000.00 each in favor of plaintiff-appellee and third-party defendant-appellee is reduced to ₱50,000.00 each;

(3) The amount of unpaid rentals is reduced from ₱2,696,639.97 to ₱2,365,569.61, exclusive of interest; and,

(4) Plaintiff-appellee is ordered to return the balance of the security deposit amounting to ₱883,253.72 to defendant-appellant.

The Decision dated June 7, 2002 is affirmed in all other respects.

**SO ORDERED.**<sup>47</sup>

NCLPI sought for a reconsideration<sup>48</sup> of this decision. LMI, on the other hand, filed a motion to clarify whether the amount of ₱2,365,569.61 representing unpaid rentals was inclusive of interest.<sup>49</sup> The CA resolved both motions, thus:

**WHEREFORE**, the motion for reconsideration filed by defendant-appellant Nissan Car Lease is denied for lack of merit.

With respect to the motion for clarification filed by plaintiff-appellee Lica Management, Inc., paragraph (3) of the dispositive portion of the Decision is hereby clarified to read as follows:

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<sup>45</sup> *Id.* at 171.

<sup>46</sup> *Id.* at 39-52.

<sup>47</sup> *Id.* at 51-52.

<sup>48</sup> CA *rollo*, pp. 269-295.

<sup>49</sup> *Id.* at 265-268.

(3) The amount of unpaid rentals is reduced from ₱2,696,639.97 to ₱2,365,569.61, inclusive of interest and penalties up to November 12, 1996, plus interest to be charged against said amount at the rate of twelve per cent (12%) beginning said date until the amount is fully paid.

**SO ORDERED.**<sup>50</sup>

Hence, this petition.

### **The Petition**

NCLPI, in its Petition, raises the following questions:

1. May a contract be rescinded extrajudicially despite the absence of a special contractual stipulation therefor?
2. Do the prevailing facts warrant the dismissal of [LMI]'s claims and the award of NCLPI's claims?
3. How much interest should be paid in the delay of the release of a security deposit in a lease contract?<sup>51</sup>

### **The Court's Ruling**

We deny the Petition for lack of merit.

Before going into the substantive merits of the case, however, we shall first resolve the technical issue raised by LMI in its Comment<sup>52</sup> dated August 22, 2007.

According to LMI, NCLPI's petition must be denied outright on the ground that Luis Manuel T. Banson (Banson), who caused the preparation of the petition and signed the Verification and Certification against Forum Shopping, was not duly authorized to do so. His apparent authority was based, not by virtue of any NCLPI Board Resolution, but on a Special Power of Attorney (SPA) signed only by NCLPI's Corporate Secretary Robel C. Lomibao.<sup>53</sup>

As a rule, a corporation has a separate and distinct personality from its directors and officers and can only exercise its corporate powers through its board of directors. Following this rule, a verification and certification signed

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<sup>50</sup> *Rollo*, pp. 54-58.

<sup>51</sup> *Id.* at 11.

<sup>52</sup> *Id.* at 312-327.

<sup>53</sup> *Id.* at 315.

by an individual corporate officer is defective if done without authority from the corporation's board of directors.<sup>54</sup>

The requirement of verification being a condition affecting only the form of the pleading,<sup>55</sup> this Court has, in a number of cases, held that:

**[T]he following officials or employees of the company can sign the verification and certification without need of a board resolution: (1) the Chairperson of the Board of Directors, (2) the President of a corporation, (3) the General Manager or Acting General Manager, (4) Personnel Officer, and (5) an Employment Specialist in a labor case.**

**x x x [T]he determination of the sufficiency of the authority was done on a case to case basis. The rationale applied in the foregoing cases is to justify the authority of corporate officers or representatives of the corporation to sign x x x, being "in a position to verify the truthfulness and correctness of the allegations in the petition."<sup>56</sup> (Emphasis and underscoring supplied)**

In this case, Banson was President of NCLPI at the time of the filing of the petition.<sup>57</sup> Thus, and applying the foregoing ruling, he can sign the verification and certification against forum shopping in the petition without the need of a board resolution.<sup>58</sup>

Having settled the technical issue, we shall now proceed to discuss the substantial issues.

### *Validity of Extrajudicial Rescission of Lease Contract*

It is clear from the records that NCLPI committed substantial breaches of its Contract of Lease with LMI.

Under Paragraph 2, NCLPI bound itself to pay a monthly rental of ₱308,000.00 not later than the first day of every month to which the rent corresponds. NCLPI, however, defaulted on its contractual obligation to timely and properly pay its rent, the arrearages of which, as of October 16,

<sup>54</sup> *Swedish Match Philippines Inc. v. The Treasurer of the City of Manila*, G.R. No. 181277, July 3, 2013, 700 SCRA 428, 434.

<sup>55</sup> *Id.*, citing *Shipside Incorporated v. Court of Appeals*, G.R. No. 143377, February 20, 2001, 352 SCRA 334, 345-346.

<sup>56</sup> *PCI Travel Corporation v. National Labor Relations Commission*, G.R. No. 154379, October 31, 2008, 570 SCRA 315, 321, citing *Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue*, G.R. No. 151413, February 13, 2008, 545 SCRA 10, 18-19. *See also University of the East v. Pepanio*, G.R. No. 193897, January 23, 2013, 689 SCRA 250, 258.

<sup>57</sup> *Rollo*, p. 35.

<sup>58</sup> *See also PCI Travel Corporation v. National Labor Relations Commission*, *supra*.

1996, amounted to ₱2,651,570.39.<sup>59</sup> This fact was acknowledged and admitted by NCLPI.<sup>60</sup>

Aside from non-payment of rentals, it appears that NCLPI also breached its obligations under Paragraphs 4<sup>61</sup> and 5<sup>62</sup> of the Contract of Lease which prohibit it from subleasing the premises or introducing improvements or alterations thereon without LMI's prior written consent. The trial court found:

As revealed from the evidence presented by PROTON however, even before [NCLPI] represented that it would try to negotiate a possible sub-lease of the premises, **it had, without any semblance of authority from [LMI,] already effectively subleased the subject premises to PROTON and allowed the latter not only to enter the premises but to renovate the same.**

[NCLPI]'s assertion that they only allowed PROTON to utilize the premises for ten days as a display center for Audi cars on the occasion of the historic visit of Chancellor Helmut Kohl of Germany to the Philippines is **belied by the evidence offered by PROTON that by virtue of a Memorandum of Agreement [NCLPI] had already permitted PROTON "to immediately commence renovation work even prior to the execution of the Contract of Sublease" and had accepted a check** from PROTON representing the rental deposit under the yet to be executed Contract of Sublease. x x x

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<sup>59</sup> *Id.* at 73.

<sup>60</sup> *Id.* at 23, 74-75.

<sup>61</sup> *Id.* at 66-67. This paragraph reads:

4. USE OF LEASED PREMISES – The LESSEE shall use and allow the use of the Leased Premises exclusively for legitimate business, industrial and commercial purposes and for such purposes as the premises are presently devoted and shall not divert the same or allow the diversion thereof to other uses or purposes without the written consent of the LESSOR. The LESSOR shall provide the LESSEE with written notice requesting that the LESSEE cease any operations and activities which the LESSOR deems to be non[-]acceptable use of the premises.

The LESSEE shall not sublease the premises to other parties without the prior written consent of the LESSOR[.]

<sup>62</sup> *Id.* at 67. This paragraph reads:

5. IMPROVEMENTS – The LESSEE may not introduce any structural changes, improvements or alterations to the Leased Premises without the LESSOR's prior written consent, however, any such improvements or alterations shall upon the expiration or termination of this Contract inure to the benefit of the Leased Premises and become the LESSOR's property, without any obligation on the latter's part to pay or refund the LESSEE for its cost or value, except those improvements which can be removed without causing damage to the Leased Premises.

X X X X

Besides, the court is not inclined to show [NCLPI] any sympathy x x x because **it came to court with unclean hands when it accused [LMI] and PROTON of being guilty parties when they supposedly connived with each other to oust [NCLPI] from the leased premises when in truth and in fact, [NCLPI]'s lease was already terminated when it pursued negotiations to sub-lease the premises to PROTON** then giving the latter the assurance they would be able to obtain [LMI]'s consent to the sublease when this was very remote, in light of [NCLPI]'s failure to update its rental payments.<sup>63</sup> (Emphasis and underscoring supplied)

This factual finding was affirmed by the CA:

There is no merit in [NCLPI]'s claim for damages allegedly arising from [LMI]'s failure to maintain it in peaceful possession of the leased premises. **It was [NCLPI] who breached the lease contract by defaulting in the payment of lease rentals, entering into a sublease contract with [Proton] and allowing [Proton] to introduce renovations on the leased premises without the consent of [LMI].**<sup>64</sup> x x x (Emphasis supplied)

Factual findings of the CA are binding and conclusive on the parties and upon this Court and will not be reviewed or disturbed on appeal. While the rule admits of certain exceptions,<sup>65</sup> NCLPI failed to prove that any of the exceptions applies in this case.

The crux of the controversy rather revolves around the validity of LMI's act of extrajudicially rescinding its Contract of Lease with NCLPI.

NCLPI maintains that while a lessor has a right to eject a delinquent lessee from its property, such right must be exercised in accordance with law:

6.15. In this case, [LMI] did not comply with the requirement laid down in Section 2 of Rule 70 of the Rules of Court, in unceremoniously ejecting [NCLPI] from the property. The said Rule explicitly provides that the lessor shall serve a written notice of the demand to pay or comply with the conditions of the lease and to vacate or post such notice on the premises if no person is found thereon, giving the lessee **15 days to comply with the demand.** [LMI]'s

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<sup>63</sup> *Rollo*, pp. 163-164, 167.

<sup>64</sup> *Id.* at 48.

<sup>65</sup> *Bank of the Philippine Islands v. Leobrera*, G.R. No. 137147, November 18, 2003, 416 SCRA 15, 18, citing *Vicente v. Planters Development Bank*, G.R. No. 136112, January 28, 2003, 396 SCRA 282, 290.

demand letter dated 16 October 1996 provides only a period of **five days** for [NCLPI] to comply with such demand and, thus, defective.<sup>66</sup> (Emphasis and underscoring supplied)

NCLPI's reliance on Section 2, Rule 70<sup>67</sup> in this case is misplaced.

Rule 70 of the Rules of Court sets forth the procedure in relation to *the filing of suits for forcible entry and unlawful detainer*. The action filed by LMI against NCLPI, however, is *one for the recovery of a sum of money*. Clearly, Section 2 of Rule 70 is not applicable.

In fact, it does not appear that it was even necessary for LMI to eject NCLPI from the leased premises. NCLPI had already vacated the same as early as October 11, 1996 when it surrendered possession of the premises to Proton, by virtue of their Memorandum of Agreement, so that the latter can commence renovations.<sup>68</sup>

NCLPI also maintains that LMI cannot unilaterally and extrajudicially rescind their Contract of Lease *in the absence of an express provision in their Contract to that effect*.<sup>69</sup> According to NCLPI:

6.1. The power to rescind is judicial in nature x x x

6.2. Nevertheless, the Supreme Court has allowed extrajudicial rescission if such remedy is specifically provided for in the contract. A provision granting the non-defaulting party merely a right to rescind would be superfluous because by law, it is inherent in such contract [*see by analogy Villanueva, PHILIPPINE LAW ON SALES, P. 238 (1998)*].

x x x x

6.4. [Paragraph 16],<sup>70</sup> however, cannot be construed as an authority for either party to unilaterally and extrajudicially

<sup>66</sup> *Rollo*, p. 23.

<sup>67</sup> RULES OF COURT, Rule 70, Sec. 2 provides:

SEC. 2. *Lessor to proceed against lessee only after demand.* – Unless otherwise stipulated, such action by the lessor shall be commenced only after demand to pay or comply with the conditions of the lease and to vacate is made upon the lessee, or by serving written notice of such demand upon the person found on the premises, or by posting such notice on the premises if no person be found thereon, and the lessee fails to comply therewith after fifteen (15) days in the case of land, or five (5) days in the case of buildings.

<sup>68</sup> *Rollo*, pp. 139, 142.

<sup>69</sup> *Id.* at 17-20.

<sup>70</sup> *Id.* at 124. This Paragraph reads:

16. BREACH OR DEFAULT – Any breach or default by either party of any of the terms and conditions of this Contract shall be sufficient ground for the party to **rescind** the same. (Emphasis supplied)

rescind the *Lease Contract* in case of breach by the other party. All that [Paragraph] 16 affords the aggrieved party is merely the **right** to rescind the lease contract, which is the very same right already granted under Article 1191 of the Civil Code.<sup>71</sup> (Emphasis and underscoring in the original)

It is true that NCLPI and LMI's Contract of Lease does not contain a provision expressly authorizing extrajudicial rescission. LMI can nevertheless rescind the contract, without prior court approval, pursuant to Art. 1191 of the Civil Code.

Art. 1191 provides that the power to rescind is implied in reciprocal obligations, in cases where one of the obligors should fail to comply with what is incumbent upon him. Otherwise stated, an aggrieved party is not prevented from extrajudicially rescinding a contract to protect its interests, even in the absence of any provision expressly providing for such right.<sup>72</sup> The rationale for this rule was explained in the case of *University of the Philippines v. De los Angeles*<sup>73</sup> wherein this Court held:

[T]he law definitely does **not** require that the contracting party who believes itself injured must first file suit and wait for a judgment before taking extrajudicial steps to protect its interest. **Otherwise, the party injured by the other's breach will have to passively sit and watch its damages accumulate during the pendency of the suit until the final judgment of rescission is rendered when the law itself requires that he should exercise due diligence to minimize its own damages** (Civil Code, Article 2203). (Emphasis and underscoring supplied)

We are aware of this Court's previous rulings in *Tan v. Court of Appeals*,<sup>74</sup> *Iringan v. Court of Appeals*,<sup>75</sup> and *EDS Manufacturing, Inc. v. Healthcheck International, Inc.*,<sup>76</sup> for example, wherein we held that extrajudicial rescission of a contract is not possible without an express stipulation to that effect.<sup>77</sup>

The seeming "conflict" between this and our previous rulings, however, is more apparent than real.

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<sup>71</sup> *Id.* at 185-186, 188.

<sup>72</sup> *Multinational Village Homeowners Association, Inc. v. Ara Security & Surveillance Agency, Inc.*, G.R. No. 154852, October 21, 2004, 441 SCRA 126, 135; *Casiño, Jr. v. Court of Appeals*, G.R. No. 133803, September 16, 2005, 470 SCRA 57, 67-68. *See also University of the Philippines v. De los Angeles*, G.R. No. L-28602, September 29, 1970, 35 SCRA 102, 107; and the Concurring Opinion of Justice Marvic Mario Victor F. Leonen in *EDS Manufacturing, Inc. v. Healthcheck International, Inc.*, G.R. No. 162802, October 9, 2013, 707 SCRA 133, 147-148.

<sup>73</sup> *Supra.*

<sup>74</sup> G.R. No. 80479, July 28, 1989, 175 SCRA 656.

<sup>75</sup> G.R. No. 129107, September 26, 2001, 366 SCRA 41, 48.

<sup>76</sup> *Supra* at 143, citing *Iringan v. Court of Appeals*, *id.*

<sup>77</sup> *Alcaraz v. Tangga-an*, G.R. No. 128568, April 9, 2003, 401 SCRA 84, 92. *See also Tan v. Court of Appeals*, *supra* at 662.

Whether a contract provides for it or not, the remedy of rescission is always available as a remedy against a defaulting party. When done without prior judicial *imprimatur*, however, it may still be subject to a possible court review. In *Golden Valley Exploration, Inc. v. Pinkian Mining Company*,<sup>78</sup> we explained:

This notwithstanding, jurisprudence still indicates that **an extrajudicial rescission based on grounds not specified in the contract would not preclude a party to treat the same as rescinded.** The rescinding party, however, by such course of action, subjects himself to the risk of being held liable for damages when the extrajudicial rescission is questioned by the opposing party in court. This was made clear in the case of *U.P. v. De los Angeles*, wherein the Court held as follows:

Of course, it must be understood that **the act of a party in treating a contract as cancelled or resolved on account of infractions by the other contracting party must be made known to the other and is always provisional, being ever subject to scrutiny and review by the proper court. If the other party denies that rescission is justified, it is free to resort to judicial action in its own behalf, and bring the matter to court.** Then, should the court, after due hearing, decide that the resolution of the contract was not warranted, the responsible party will be sentenced to **damages**; in the contrary case, the resolution will be affirmed, and the consequent indemnity awarded to the party prejudiced.

**In other words, the party who deems the contract violated may consider it resolved or rescinded, and act accordingly, without previous court action, but it proceeds at its own risk. For it is only the final judgment of the corresponding court that will conclusively and finally settle whether the action taken was or was not correct in law.** x x x  
(Emphasis and underscoring in the original)

The only practical effect of a contractual stipulation allowing extrajudicial rescission is “merely to transfer to the defaulter the initiative of instituting suit, instead of the rescinder.”<sup>79</sup>

<sup>78</sup> G.R. No. 190080, June 11, 2014, 726 SCRA 259, 273-274.

<sup>79</sup> *University of the Philippines v. De Los Angeles*, *supra* at 108.

In fact, the rule is the same even if the parties' contract **expressly** allows extrajudicial rescission. The other party denying the rescission may still seek judicial intervention to determine whether or not the rescission was proper.<sup>80</sup>

Having established that LMI *can* extrajudicially rescind its contract with NCLPI even absent an express contractual stipulation to that effect, the question now to be resolved is whether this extrajudicial rescission was proper under the circumstances.

As earlier discussed, NCLPI's non-payment of rentals and unauthorized sublease of the leased premises were both clearly proven by the records. We thus confirm LMI's rescission of its contract with NCLPI on account of the latter's breach of its obligations.

### *Rental Arrearages and Interest*

Having upheld LMI's extrajudicial rescission of its Contract of Lease, we hold that NCLPI is required to pay all rental arrearages owing to LMI, computed by the CA as follows:

In its appellant's brief, [NCLPI] admitted that it had rental arrears of ₱1,300,335.60 *as of May 1996*. Additionally, the statement of account submitted by [LMI] showed that *from June 1996 to October 1996* the rental arrears of [NCLPI] amounted to ₱1,065,234.01. **Hence, the total of said rental arrears not disputed by the parties is ₱2,365,569.61 x x x.**<sup>81</sup> (Emphasis and underscoring supplied)

The Contract of Lease shows that the parties did not stipulate an applicable interest rate in case of default in the payment of rentals. Thus, and following this Court's ruling in *Nacar v. Gallery Frames*,<sup>82</sup> the foregoing amount of rental arrearages shall earn interest at the rate of six percent (6%) per annum computed from October 18, 1996, the date of LMI's extrajudicial demand,<sup>83</sup> until the date of finality of this judgment. The total amount shall thereafter earn interest at the rate of six percent (6%) per annum from such finality of judgment until its satisfaction.

### *Security Deposit*

<sup>80</sup> *Golden Valley Exploration, Inc. v. Pinkian Mining Company*, *supra* at 272, 274, citing *De Luna v. Abrigo*, G.R. No. L-57455, January 18, 1990, 181 SCRA 150, 158. *See also Olympic Mines and Development Corp. v. Platinum Group Metals Corporation*, G.R. No. 178188, August 14, 2009, 596 SCRA 314; *Pangilinan v. Court of Appeals*, G.R. No. 83588, September 29, 1997, 279 SCRA 590.

<sup>81</sup> *Rollo*, p. 50.

<sup>82</sup> G.R. No. 189871, August 13, 2013, 703 SCRA 439, 457-459.

<sup>83</sup> *Rollo*, p. 73. *See also Gilat Satellite Networks, Ltd. v. United Coconut Planters Bank General Insurance Co., Inc.*, G.R. No. 189563, April 7, 2014, 720 SCRA 726, 741.

NCLPI also argues that, assuming LMI could validly rescind their Contract of Lease, the security deposit must be returned, with interest at the rate of twelve percent (12%) per annum, the obligation to return being in the nature of a forbearance of money.<sup>84</sup>

NCLPI is partly correct.

Paragraph 3<sup>85</sup> of the Contract of Lease provides that, in case of termination of the lease, the balance of the security deposit must be returned to NCLPI within seven (7) days. Since “there is no question that [LMI] is retaining the security deposit” in the amount of ₱883,253.72 (after deduction of the expenses for water and telephone services),<sup>86</sup> LMI must return the same to NCLPI, with interest.

Considering, however, that the Contract of Lease does not stipulate an applicable interest rate, again following our ruling in *Nacar*, the rate shall be **six percent (6%)** from the time of judicial or extrajudicial demand. The records of this case show that *the first time* NCLPI raised the issue on the security deposit was in its *Brief* dated March 25, 2003 filed with the CA.<sup>87</sup> Thus, the interest should be computed starting only on said date until the finality of this Decision, after which the total amount shall earn interest at the rate of six percent (6%) from the finality of this Decision until satisfaction by LMI.<sup>88</sup>

### *Improvements*

In its *Petition*, NCLPI also prayed for the return of “**all** the equipment installed and the other improvements on the property, or their value, pursuant to the mandate of mutual restitution.”<sup>89</sup>

NCLPI errs.

<sup>84</sup> *Rollo*, p. 31.

<sup>85</sup> *Id.* at 121. This Paragraph reads:

3. SECURITY DEPOSIT – During the effectivity of this Contract, the LESSEE shall ensure that there is on deposit at all time with the LESSOR an amount equivalent to three (3) months rental payments which shall answer for water, gas[,] electricity, telephone, garbage fees, or damages to the premises aside from ordinary wear and tear, the liabilities for which shall be deducted from the deposit **and the balance, if any, shall be refunded to the LESSEE not later than seven (7) days from the termination of this lease. The security deposit cannot be applied against unpaid rental payments.** x x x  
(Emphasis and underscoring supplied)

<sup>86</sup> *Id.* at 51.

<sup>87</sup> *Id.* at 202-203.

<sup>88</sup> *Nacar v. Gallery Frames, supra.*

<sup>89</sup> *Rollo*, p. 31. Emphasis supplied.

Under Paragraph 5 of the Contract of Lease, NCLPI is entitled only to the return of those improvements introduced by it which can be removed without causing damage to the leased premises.<sup>90</sup> Considering, however, that the issue of ownership of the improvements within the premises appears to be subject of another case initiated by NCLPI's subsidiary, NSC,<sup>91</sup> this Court will not rule on the same.

*Denial of NCLPI's claim and award of damages in favor of LMI and Proton proper*

Both the trial court and CA found that NCLPI breached the Contract of Lease. In sustaining the denial of NCLPI's claim for damages, the CA held:

There is **no** merit in [NCLPI]'s claim for damages allegedly arising from [LMI]'s failure to maintain it in peaceful possession of the leased premises. It was [NCLPI] who breached the lease contract x x x Moreover, the lease contract between [LMI] and [Proton] was entered into only on November 8, 1996 x x x after the lease contract between [LMI] and [NCLPI] had been terminated. As aptly noted by the trial court:

X X X X

In other words, while in its responsive pleading [NCLPI] claims [that] it was fooled into allowing [Proton] to occupy the subject premises for a limited period, after which the latter, in alleged collusion with [LMI] unilaterally usurped the premises for itself, **the evidence shows that it was [NCLPI] which misrepresented itself to PROTON as being a lessee of good standing, so that it could induce the latter to occupy and renovate the premises when at that time the negotiations were underway, the lease between [LMI] and [NCLPI] had already**

<sup>90</sup> *Id.* at 122. Paragraph 5 of the Contract of Lease states:

5. IMPROVEMENTS – The LESSEE may not introduce any structural changes, improvements or alterations to the Leased Premises without the LESSOR's prior written consent, however any such improvements or alterations shall upon the expiration or termination of this Contract inure to the benefit of the Leased Premises and become the LESSOR's property, without the obligation on the latter's part to pay or refund the LESSEE for its cost or value, except those improvements which can be removed without causing damage to the Leased Premises. (Underscoring supplied)

<sup>91</sup> Docketed as Civil Case No. 98-595. *See* RTC records, Vol. I, pp. 302-303.

**been terminated.**<sup>92</sup> (Emphasis and underscoring supplied)

Contrary to NCLPI's claims of an unlawful "scheme" devised by LMI and Proton to force it out of the leased premises, we find that it was NCLPI who was in bad faith and itself provided the bases for the cancellation of its Contract of Lease with LMI and its eventual ejection from the leased premises. Accordingly, we affirm (1) the award of exemplary damages and attorney's fees in favor of LMI and Proton and (2) the denial of NCLPI's claim for damages.<sup>93</sup>

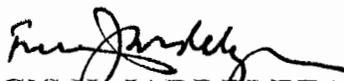
**WHEREFORE**, in view of the foregoing, the petition is **DENIED**. The Decision dated September 27, 2006 and the Resolution dated March 8, 2007 rendered by the CA in CA-G.R. CV No. 75985 are, however, **MODIFIED** as follows:

(1) NCLPI is ordered to pay LMI and Proton exemplary damages of ₱50,000.00 and attorney's fees of ₱50,000.00, each;

(2) NCLPI is ordered to pay the amount of ₱2,365,569.61 unpaid rentals, with interest at the rate of six percent (6%) per annum computed from October 18, 1996 until the date of finality of this judgment. The total amount shall thereafter earn interest at the rate of six percent (6%) per annum from the finality of judgment until its satisfaction;

(3) LMI is ordered to return to NCLPI the balance of the security deposit amounting to ₱883,253.72, with interest at the rate of six percent (6%) starting March 25, 2003 until the finality of this Decision, after which the total amount shall earn interest at the rate of six percent (6%) from the finality of this Decision until satisfaction by LMI.<sup>94</sup>

**SO ORDERED.**

  
**FRANCIS M. JARDELEZA**  
*Associate Justice*

<sup>92</sup> *Rollo*, pp. 48-49.

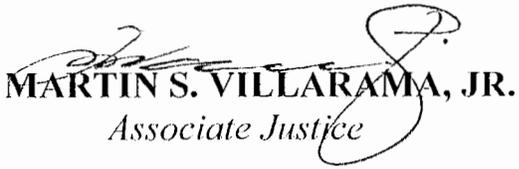
<sup>93</sup> *Id.* at 48-50.

<sup>94</sup> *Nacar v. Gallery Frames, supra.*

**WE CONCUR:**

**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*  
*Chairperson*

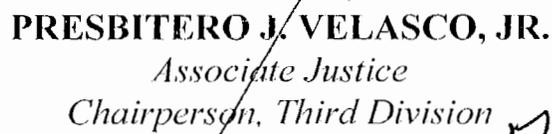
  
**LUCAS P. BERSAMIN**  
*Associate Justice*

  
**MARTIN S. VILLARAMA, JR.**  
*Associate Justice*

  
**JOSE C. MENDOZA**  
*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.

  
**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*  
*Chairperson, Third Division*

**CERTIFICATION**

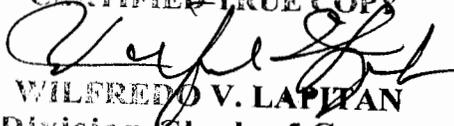
Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**

*Chief Justice*

**CERTIFIED TRUE COPY**



**WILFREDO V. LAPITAN**  
**Division Clerk of Court**  
**Third Division**

FEB 15 2016