Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

KOPPEL, INC. (formerly known as KPL AIRCON, INC.),
Petitioner,

- versus -

MAKATI ROTARY CLUB FOUNDATION, INC.,
Respondent.

G.R. No. 198075

Present:

BRION, *J.*,
Acting Chairperson,
DEL CASTILLO,
ABAD,*
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

SEP 04 2013

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D E C I S I O N

PEREZ, *J.*:

This case is an appeal[1] from the Decision[2] dated 19 August 2011 of the Court of Appeals in C.A.-G.R. SP No. 116865.

The facts:

The Donation

* Per Raffle dated 10 October 2011.

[1] The appeal was filed as a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court. *Rollo*, pp. 3-56.

[2] The decision was penned by Justice Angelita A. Gacutan for the Sixteenth Division of the Court of Appeals, with Justices Vicente S.E. Veloso and Francisco P. Acosta concurring; id. at 61-82.

Fedders Koppel, Incorporated (FKI), a manufacturer of air-conditioning products, was the registered owner of a parcel of land located at Km. 16, South Superhighway, Parañaque City (subject land).[3] Within the subject land are buildings and other improvements dedicated to the business of FKI.[4]

In 1975, FKI[5] bequeathed the subject land (exclusive of the improvements thereon) in favor of herein respondent Makati Rotary Club Foundation, Incorporated by way of a *conditional* donation.[6] The respondent accepted the donation with all of its conditions.[7] On 26 May 1975, FKI and the respondent executed a *Deed of Donation*[8] evidencing their consensus.

The Lease and the Amended Deed of Donation

One of the conditions of the donation required the respondent to lease the subject land back to FKI under terms specified in their *Deed of Donation*.[9] With the respondent's acceptance of the donation, a lease agreement between FKI and the respondent was, therefore, effectively incorporated in the *Deed of Donation*.

Pertinent terms of such lease agreement, as provided in the *Deed of Donation*, were as follows:

1. The period of the lease is for twenty-five (25) years,[10] or until the 25th of May 2000;

2. The amount of rent to be paid by FKI for the first twenty-five (25) years is ₱40,126.00 per *annum*.[11]

The *Deed of Donation* also stipulated that the lease over the subject property is renewable for another period of twenty-five (25) years "*upon*

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3 Per TCT No. 357817. The land has an aggregate area of 20,063 square meters.
4 *See* Deed of Donation dated 26 May 1975, (*rollo*, p. 238); and Amended Deed of Donation dated 27 October 1976, (*rollo*, pp. 100-105).
5 Then known as Koppel, Incorporated.
6 *Rollo*, pp. 238-243.
7 Id.
8 Id.
9 Id. at 239-241.
10 Id. at 239.
11 Id. at 240.

mutual agreement" of FKI and the respondent.[12] In which case, the amount of rent shall be determined in accordance with item 2(g) of the *Deed of Donation*, *viz*:

> g. The rental for the second 25 years shall be the subject of mutual agreement and in case of disagreement the matter shall be referred to a Board of three Arbitrators appointed and with powers in accordance with the Arbitration Law of the Philippines, Republic Act 878, whose function shall be to decide the current fair market value of the land excluding the improvements, provided, that, any increase in the fair market value of the land shall not exceed twenty five percent (25%) of the original value of the land donated as stated in paragraph 2(c) of this Deed. The rental for the second 25 years shall not exceed three percent (3%) of the fair market value of the land excluding the improvements as determined by the Board of Arbitrators.[13]

In October 1976, FKI and the respondent executed an *Amended Deed of Donation*[14] that reiterated the provisions of the *Deed of Donation*, including those relating to the lease of the subject land.

Verily, by virtue of the lease agreement contained in the *Deed of Donation* and *Amended Deed of Donation*, FKI was able to continue in its possession and use of the subject land.

2000 Lease Contract

Two (2) days before the lease incorporated in the *Deed of Donation* and *Amended Deed of Donation* was set to expire, or on 23 May 2000, FKI and respondent executed another contract of lease (*2000 Lease Contract*)[15] covering the subject land. In this *2000 Lease Contract*, FKI and respondent agreed on a new five-year lease to take effect on the 26th of May 2000, with annual rents ranging from ₱4,000,000 for the first year up to ₱4,900,000 for the fifth year.[16]

The *2000 Lease Contract* also contained an arbitration clause enforceable in the event the parties come to disagreement about the "*interpretation, application and execution*" of the lease, *viz*:

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12 Id. at 239.
13 Id. at 240.
14 Id. at 100-105.
15 Id. at 106-116.
16 The schedule of rental fees were as follows: ₱4,000,000 for the years 2000 and 2001; ₱4,300,000 for the year 2002; ₱4,600,000 for the year 2003; and ₱4,900,000 for the year 2004 (id. at 108).

> 19. Governing Law – The provisions of this [2000 Lease Contract] shall be governed, interpreted and construed in all aspects in accordance with the laws of the Republic of the Philippines.
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> **Any disagreement as to the interpretation, application or execution of this [2000 Lease Contract] shall be submitted to a board of three (3) arbitrators constituted in accordance with the arbitration law of the Philippines. The decision of the majority of the arbitrators shall be binding upon [FKI and respondent].**[17] (Emphasis supplied)

2005 Lease Contract

After the *2000 Lease Contract* expired, FKI and respondent agreed to renew their lease for another five (5) years. This new lease (*2005 Lease Contract*)[18] required FKI to pay a fixed annual rent of ₱4,200,000.[19] In addition to paying the fixed rent, however, the *2005 Lease Contract* also obligated FKI to make a yearly "*donation*" of money to the respondent.[20] Such donations ranged from ₱3,000,000 for the first year up to ₱3,900,000 for the fifth year.[21]

Notably, the *2005 Lease Contract* contained an arbitration clause similar to that in the *2000 Lease Contract*, to wit:

> 19. Governing Law – The provisions of this [2005 Lease Contract] shall be governed, interpreted and construed in all aspects in accordance with the laws of the Republic of the Philippines.
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> **Any disagreement as to the interpretation, application or execution of this [2005 Lease Contract] shall be submitted to a board of three (3) arbitrators constituted in accordance with the arbitration law of the Philippines. The decision of the majority of the arbitrators shall be binding upon [FKI and respondent].**[22] (Emphasis supplied)

The Assignment and Petitioner's Refusal to Pay

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17 Id. at 114.

18 The contract was dated 10 August 2005; id. at 117-123.

19 Plus value added tax; id. at 118.

20 Id. at 118.

21 The schedule of "*donations*" are as follows: ₱3,000,000 for the year 2005; ₱3,200,000 for the year 2006; ₱3,300,000 for the year 2007; ₱3,600,000 for the year 2008; and ₱3,900,000 for the year 2009 (id).

22 Id. at 114.

From 2005 to 2008, FKI faithfully paid the rentals and "*donations*" due it per the *2005 Lease Contract*.[23] But in June of 2008, FKI sold all its rights and properties relative to its business in favor of herein petitioner Koppel, Incorporated.[24] On 29 August 2008, FKI and petitioner executed an *Assignment and Assumption of Lease and Donation*[25]—wherein FKI, with the conformity of the respondent, formally assigned all of its interests and obligations under the *Amended Deed of Donation* and the *2005 Lease Contract* in favor of petitioner.

The following year, petitioner discontinued the payment of the rent and "*donation*" under the *2005 Lease Contract*.

Petitioner's refusal to pay such rent and "*donation*" emanated from its belief that the rental stipulations of the *2005 Lease Contract*, and even of the *2000 Lease Contract*, cannot be given effect because they violated one of the "*material conditions*" of the donation of the subject land, as stated in the *Deed of Donation* and *Amended Deed of Donation*.[26]

According to petitioner, the *Deed of Donation* and *Amended Deed of Donation* actually established not only one but two (2) lease agreements between FKI and respondent, *i.e.*, one lease for the first twenty-five (25) years or from 1975 to 2000, and another lease for the next twenty-five (25) years thereafter or from 2000 to 2025.[27] Both leases are material conditions of the donation of the subject land.

Petitioner points out that while a definite amount of rent for the second twenty-five (25) year lease was not fixed in the *Deed of Donation* and *Amended Deed of Donation*, both deeds nevertheless prescribed rules and limitations by which the same may be determined. Such rules and limitations ought to be observed in any succeeding lease agreements between petitioner and respondent for they are, in themselves, material conditions of the donation of the subject land.[28]

In this connection, petitioner cites item 2(g) of the *Deed of Donation* and *Amended Deed of Donation* that supposedly limits the amount of rent for the lease over the second twenty-five (25) years to only "*three percent*

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23 Id. at 64.

24 *See* Assignment and Assumption of Lease and Donation; id. at 124. Petitioner was then known as KPL Aircon, Incorporated; id. at 124.

25 Id. at 124-129.

26 *See* petitioner's Answer with Compulsory Counterclaim; id. at 140-142.

27 *See* Petition for Review on *Certiorari*; id. at 43-49.

28 Id.

(3%) of the fair market value of the [subject] land excluding the improvements.[29]

For petitioner then, the rental stipulations of both the *2000 Lease Contract* and *2005 Lease Contract* cannot be enforced as they are clearly, in view of their exorbitant exactions, in violation of the aforementioned threshold in item 2(g) of the *Deed of Donation* and *Amended Deed of Donation*. Consequently, petitioner insists that the amount of rent it has to pay thereon is and must still be governed by the limitations prescribed in the *Deed of Donation* and *Amended Deed of Donation*.[30]

The Demand Letters

On 1 June 2009, respondent sent a letter (*First Demand Letter*)[31] to petitioner notifying the latter of its default "*per Section 12 of the [2005 Lease Contract]*" and demanding for the settlement of the rent and "*donation*" due for the year 2009. Respondent, in the same letter, further intimated of cancelling the *2005 Lease Contract* should petitioner fail to settle the said obligations.[32] Petitioner received the *First Demand Letter* on 2 June 2009.[33]

On 22 September 2009, petitioner sent a reply[34] to respondent expressing its disagreement over the rental stipulations of the *2005 Lease Contract*—calling them "*severely disproportionate*," "*unconscionable*" and "*in clear violation to the nominal rentals mandated by the Amended Deed of Donation*." *In lieu* of the amount demanded by the respondent, which purportedly totaled to ₱8,394,000.00, exclusive of interests, petitioner offered to pay only ₱80,502.79,[35] in accordance with the rental provisions of the *Deed of Donation* and *Amended Deed of Donation*.[36] Respondent refused this offer.[37]

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29 *See* petitioner's Letter dated 22 September 2009; id. at 131.
30 Id. at 131-132.
31 Id. at 130.
32 Id.
33 Id. at 9.
34 Id. at 131-133.
35 Inclusive of 12% Value Added Tax and net of 5% Expanded Withholding Tax. The offer is further coupled by an undertaking to pay real estate tax due on the subject land on the part of petitioner; id. at 132.
36 Id.
37 *See* respondent's Letter dated 25 September 2009; id. at 504-505.

On 25 September 2009, respondent sent another letter (*Second Demand Letter*)[38] to petitioner, reiterating its demand for the payment of the obligations already due under the *2005 Lease Contract*. The *Second Demand Letter* also contained a demand for petitioner to "*immediately vacate the leased premises*" should it fail to pay such obligations within seven (7) days from its receipt of the letter.[39] The respondent warned of taking "*legal steps*" in the event that petitioner failed to comply with any of the said demands.[40] Petitioner received the *Second Demand Letter* on 26 September 2009.[41]

Petitioner refused to comply with the demands of the respondent. Instead, on 30 September 2009, petitioner filed with the Regional Trial Court (RTC) of Parañaque City a complaint[42] for the rescission or cancellation of the *Deed of Donation* and *Amended Deed of Donation* against the respondent. This case is currently pending before Branch 257 of the RTC, docketed as Civil Case No. CV 09-0346.

The Ejectment Suit

On 5 October 2009, respondent filed an unlawful detainer case[43] against the petitioner before the Metropolitan Trial Court (MeTC) of Parañaque City. The ejectment case was raffled to Branch 77 and was docketed as Civil Case No. 2009-307.

On 4 November 2009, petitioner filed an *Answer with Compulsory Counterclaim.*[44] In it, petitioner reiterated its objection over the rental stipulations of the *2005 Lease Contract* for being violative of the material conditions of the *Deed of Donation* and *Amended Deed of Donation.*[45] In addition to the foregoing, however, petitioner also interposed the following defenses:

1. The MeTC was not able to validly acquire jurisdiction over the instant unlawful detainer case in view of the insufficiency of respondent's demand.[46] The *First Demand Letter* did not contain an actual demand

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38 Id.
39 Id.
40 Id. at 505.
41 Id. at 40.
42 Id. at 181-193.
43 Id. at 84-93.
44 Id. at 134-148.
45 Id. at 140-142.
46 Id. at 139-140.

to vacate the premises and, therefore, the refusal to comply therewith does not give rise to an action for unlawful detainer.[47]

2. Assuming that the MeTC was able to acquire jurisdiction, it may not exercise the same until the disagreement between the parties is first referred to arbitration pursuant to the arbitration clause of the *2005 Lease Contract*.[48]

3. Assuming further that the MeTC has jurisdiction that it can exercise, ejectment still would not lie as the *2005 Lease Contract* is void *ab initio*.[49] The stipulation in the *2005 Lease Contract* requiring petitioner to give yearly "*donations*" to respondent is a simulation, for they are, in fact, parts of the rent.[50] Such grants were only denominated as "*donations*" in the contract so that the respondent—a non-stock and non-profit corporation—could evade payment of the taxes otherwise due thereon.[51]

In due course, petitioner and respondent both submitted their position papers, together with their other documentary evidence.[52] Remarkably, however, respondent failed to submit the *Second Demand Letter* as part of its documentary evidence.

Rulings of the MeTC, RTC and Court of Appeals

On 27 April 2010, the MeTC rendered judgment[53] in favor of the petitioner. While the MeTC refused to dismiss the action on the ground that the dispute is subject to arbitration, it nonetheless sided with the petitioner with respect to the issues regarding the insufficiency of the respondent's demand and the nullity of the *2005 Lease Contract*.[54] The MeTC thus disposed:

> WHEREFORE, judgment is hereby rendered dismissing the case x x x, without pronouncement as to costs.
>
> SO ORDERED.[55]

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47 Id.
48 Id. at 137-139.
49 Id. at 143-145.
50 Id.
51 Id.
52 Id. at 154-174 and 196-225.
53 The decision was penned by Assisting Judge Bibiano G. Colasito; id. at 288-299.
54 Id.
55 Id. at 299.

The respondent appealed to the Regional Trial Court (RTC). This appeal was assigned to Branch 274 of the RTC of Parañaque City and was docketed as Civil Case No. 10-0255.

On 29 October 2010, the RTC reversed[56] the MeTC and ordered the eviction of the petitioner from the subject land:

> WHEREFORE, all the foregoing duly considered, the appealed Decision of the Metropolitan Trial Court, Branch 77, Parañaque City, is hereby reversed, judgment is thus rendered in favor of the plaintiff-appellant and against the defendant-appellee, and ordering the latter –
>
> (1) to vacate the lease[d] premises made subject of the case and to restore the possession thereof to the plaintiff-appellant;
> (2) to pay to the plaintiff-appellant the amount of Nine Million Three Hundred Sixty Two Thousand Four Hundred Thirty Six Pesos (₱9,362,436.00), penalties and net of 5% withholding tax, for the lease period from May 25, 2009 to May 25, 2010 and such monthly rental as will accrue during the pendency of this case;
> (3) to pay attorney's fees in the sum of ₱100,000.00 plus appearance fee of ₱3,000.00;
> (4) and costs of suit.
>
> **As to the existing improvements belonging to the defendant-appellee, as these were built in good faith, the provisions of Art. 1678 of the Civil Code shall apply**.
>
> SO ORDERED.[57]

The ruling of the RTC is premised on the following ratiocinations:

1. The respondent had adequately complied with the requirement of demand as a jurisdictional precursor to an unlawful detainer action.[58] The *First Demand Letter*, in substance, contains a demand for petitioner to vacate when it mentioned that it was a notice "*per Section 12 of the [2005 Lease Contract].*"[59] Moreover, the issue of sufficiency of the respondent's demand ought to have been laid to rest by the *Second Demand Letter* which, though not submitted in evidence, was nonetheless admitted by petitioner as containing a "*demand to eject*" in its *Answer with Compulsory Counterclaim*.[60]

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56 The decision was penned by Presiding Judge Fortunito L. Madrona, id. at 373-388.
57 Id. at 387-388; emphasis ours.
58 Id. at 383-384.
59 Id.
60 Id.

2. The petitioner cannot validly invoke the arbitration clause of the *2005 Lease Contract* while, at the same time, impugn such contract's validity.[61] Even assuming that it can, petitioner still did not file a formal application before the MeTC so as to render such arbitration clause operational.[62] At any rate, the MeTC would not be precluded from exercising its jurisdiction over an action for unlawful detainer, over which, it has exclusive original jurisdiction.[63]

3. The *2005 Lease Contract* must be sustained as a valid contract since petitioner was not able to adduce any evidence to support its allegation that the same is void.[64] There was, in this case, no evidence that respondent is guilty of any tax evasion.[65]

Aggrieved, the petitioner appealed to the Court of Appeals.

On 19 August 2011, the Court of Appeals affirmed[66] the decision of the RTC:

> **WHEREFORE**, the petition is **DENIED**. The assailed Decision of the Regional Trial Court of Parañaque City, Branch 274, in Civil Case No. 10-0255 is **AFFIRMED**.
>
> x x x x
>
> **SO ORDERED**.[67]

Hence, this appeal.

On 5 September 2011, this Court granted petitioner's prayer for the issuance of a Temporary Restraining Order[68] staying the immediate implementation of the decisions adverse to it.

OUR RULING

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61 Id. at 384-387.
62 Id.
63 Id.
64 Id. at 382-383.
65 Id.
66 Id. at 61-82.
67 Id. at 81-82; emphasis in the original.
68 Id. at 508-509.

Independently of the merits of the case, the MeTC, RTC and Court of Appeals all erred in overlooking the significance of the arbitration clause incorporated in the *2005 Lease Contract*. As the Court sees it, that is a fatal mistake.

For this reason, We grant the petition.

Present Dispute is Arbitrable Under the Arbitration Clause of the 2005 Lease Agreement Contract

Going back to the records of this case, it is discernable that the dispute between the petitioner and respondent emanates from the rental stipulations of the *2005 Lease Contract*. The respondent insists upon the enforceability and validity of such stipulations, whereas, petitioner, in substance, repudiates them. It is from petitioner's apparent breach of the *2005 Lease Contract* that respondent filed the instant unlawful detainer action.

One cannot escape the conclusion that, under the foregoing premises, the dispute between the petitioner and respondent arose from the *application* or *execution* of the *2005 Lease Contract*. Undoubtedly, such kinds of dispute are covered by the arbitration clause of the *2005 Lease Contract* to wit:

> 19. Governing Law – The provisions of this [2005 Lease Contract] shall be governed, interpreted and construed in all aspects in accordance with the laws of the Republic of the Philippines.
>
> **Any disagreement as to the interpretation, application or execution of this [2005 Lease Contract] shall be submitted to a board of three (3) arbitrators constituted in accordance with the arbitration law of the Philippines. The decision of the majority of the arbitrators shall be binding upon [FKI and respondent].**[69] (Emphasis supplied)

The arbitration clause of the *2005 Lease Contract* stipulates that "*any disagreement*" as to the "*interpretation, application or execution*" of the *2005 Lease Contract* ought to be submitted to arbitration.[70] To the mind of this Court, such stipulation is clear and is comprehensive enough so as to include virtually any kind of conflict or dispute that may arise from the *2005*

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69 Id. at 114.

70 Id.

Lease Contract including the one that presently besets petitioner and respondent.

The application of the arbitration clause of the *2005 Lease Contract* in this case carries with it certain legal effects. However, before discussing what these legal effects are, We shall first deal with the challenges posed against the application of such arbitration clause.

Challenges Against the Application of the Arbitration Clause of the 2005 Lease Contract

Curiously, despite the lucidity of the arbitration clause of the *2005 Lease Contract*, the petitioner, as well as the MeTC, RTC and the Court of Appeals, vouched for the non-application of the same in the instant case. A plethora of arguments was hurled in favor of bypassing arbitration. We now address them.

At different points in the proceedings of this case, the following arguments were offered against the application of the arbitration clause of the *2005 Lease Contract*:

1. The disagreement between the petitioner and respondent is non-arbitrable as it will inevitably touch upon the issue of the validity of the *2005 Lease Contract*.[71] It was submitted that one of the reasons offered by the petitioner in justifying its failure to pay under the *2005 Lease Contract* was the nullity of such contract for being contrary to law and public policy.[72] The Supreme Court, in ***Gonzales v. Climax Mining, Ltd.***,[73] held that "*the validity of contract cannot be subject of arbitration proceedings*" as such questions are "*legal in nature and require the application and interpretation of laws and jurisprudence which is necessarily a judicial function*."[74]

2. The petitioner cannot validly invoke the arbitration clause of the *2005 Lease Contract* while, at the same time, impugn such contract's validity.[75]

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71 *See* respondent's Comment dated 22 September 2011; id. at 851-852.
72 Id.
73 492 Phil. 682 (2005).
74 Id. at 697.
75 *See* Decision of the RTC dated 29 October 2010, (*rollo* p. 386); and the respondent's Comment dated 22 September 2011; *rollo*, pp. 854-855.

3. Even assuming that it can invoke the arbitration clause whilst denying the validity of the *2005 Lease Contract*, petitioner still did not file a formal application before the MeTC so as to render such arbitration clause operational.[76] Section 24 of Republic Act No. 9285 requires the party seeking arbitration to first file a "*request*" or an application therefor with the court *not later than the preliminary conference*.[77]

4. Petitioner and respondent already underwent Judicial Dispute Resolution (JDR) proceedings before the RTC.[78] Hence, a further referral of the dispute to arbitration would only be circuitous.[79] Moreover, an ejectment case, in view of its summary nature, already fulfills the prime purpose of arbitration, *i.e.*, to provide parties in conflict with an expedient method for the resolution of their dispute.[80] Arbitration then would no longer be necessary in this case.[81]

None of the arguments have any merit.

First. As highlighted in the previous discussion, the disagreement between the petitioner and respondent falls within the all-encompassing terms of the arbitration clause of the *2005 Lease Contract*. While it may be conceded that in the arbitration of such disagreement, the validity of the *2005 Lease Contract*, or at least, of such contract's rental stipulations would have to be determined, the same would *not* render such disagreement non-arbitrable. The quotation from ***Gonzales*** that was used to justify the contrary position was taken out of context. A rereading of ***Gonzales*** would fix its relevance to this case.

In ***Gonzales***, a complaint for arbitration was filed before the Panel of Arbitrators of the Mines and Geosciences Bureau (PA-MGB) seeking the nullification of a Financial Technical Assistance Agreement and other mining related agreements entered into by private parties.[82] Grounds invoked for the nullification of such agreements include fraud and unconstitutionality.[83] The pivotal issue that confronted the Court then was

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76 *See* Decision of the RTC dated 29 October 2010; (id. at 387); and the Decision of the Court of Appeals dated 19 August 2011; (id. at 71).

77 Id. at 71.

78 Id. at 72.

79 Id.

80 Id.

81 Id. *See* also respondent's Comment dated 22 September 2011; *rollo*, pp. 853-854.

82 *Gonzales v. Climax Mining, Ltd.*, supra note 73. Aside from the FTAA, the arbitration complaint seeks to annul the following agreements entered into between the parties in *Gonzales*: (a) *Addendum to the May 14, 1987 Letter of Intent and February 29, 1989 Agreement with Express Adhesion Thereto*; (b) *Operating and Financial Accommodation Contract*; (c) *Assignment, Accession Agreement* and; (d) *Memorandum of Agreement*.

83 Id. at 697.

whether the PA-MGB has jurisdiction over that particular arbitration complaint. Stated otherwise, the question was whether the complaint for arbitration raises arbitrable issues that the PA-MGB can take cognizance of.

Gonzales decided the issue in the negative. In holding that the PA-MGB was devoid of any jurisdiction to take cognizance of the complaint for arbitration, this Court pointed out to the provisions of R.A. No. 7942, or the Mining Act of 1995, which granted the PA-MGB with exclusive original jurisdiction only over *mining disputes, i.e.*, disputes involving "*rights to mining areas*," "*mineral agreements or permits*," and "*surface owners, occupants, claimholders or concessionaires*" requiring the technical knowledge and experience of mining authorities in order to be resolved.[84] Accordingly, since the complaint for arbitration in ***Gonzales*** did not raise *mining disputes* as contemplated under R.A. No. 7942 but only issues relating to the validity of certain mining related agreements, this Court held that such complaint could not be arbitrated before the PA-MGB.[85] It is in this context that we made the pronouncement now in discussion:

> Arbitration before the Panel of Arbitrators is proper only when there is a disagreement between the parties as to some provisions of the contract between them, which needs the interpretation and the application of that particular knowledge and expertise possessed by members of that Panel. It is not proper when one of the parties repudiates the existence or validity of such contract or agreement on the ground of fraud or oppression as in this case. **The validity of the contract cannot be subject of arbitration proceedings.** Allegations of fraud and duress in the execution of a contract are matters within the jurisdiction of the ordinary courts of law. **These questions are legal in nature and require the application and interpretation of laws and jurisprudence which is necessarily a judicial function.[86]** (Emphasis supplied)

The Court in ***Gonzales*** did not simply base its rejection of the complaint for arbitration on the ground that the issue raised therein, *i.e.*, the validity of contracts, is *per se* non-arbitrable. The real consideration behind the ruling was the **limitation that was placed by R.A. No. 7942 upon the jurisdiction of the PA-MGB as an arbitral body**. ***Gonzales*** rejected the complaint for arbitration because the issue raised therein is not a *mining dispute* per R.A. No. 7942 and it is for this reason, and only for this reason, that such issue is rendered non-arbitrable before the PA-MGB. As stated beforehand, R.A. No. 7942 clearly limited the jurisdiction of the PA-MGB only to *mining disputes*.[87]

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84 Id. at 692-693. *See* Section 77 of R.A. No. 7942.
85 Id. at 696.
86 Id. at 696-697.
87 Id. at 696. *See* Section 77 of R.A. No. 7942.

Much more instructive for our purposes, on the other hand, is the recent case of ***Cargill Philippines, Inc. v. San Fernando Regal Trading, Inc.***[88] In ***Cargill***, this Court answered the question of whether issues involving the *rescission* of a contract are arbitrable. The respondent in ***Cargill*** argued against arbitrability, also citing therein ***Gonzales***. After dissecting ***Gonzales***, this Court ruled in favor of arbitrability.[89] Thus, We held:

> Respondent contends that assuming that the existence of the contract and the arbitration clause is conceded, the CA's decision declining referral of the parties' dispute to arbitration is still correct. It claims that its complaint in the RTC presents the issue of whether under the facts alleged, it is entitled to rescind the contract with damages; and that issue constitutes a judicial question or one that requires the exercise of judicial function and cannot be the subject of an arbitration proceeding. Respondent cites our ruling in *Gonzales*, wherein we held that a panel of arbitrator is bereft of jurisdiction over the complaint for declaration of nullity/or termination of the subject contracts on the grounds of fraud and oppression attendant to the execution of the addendum contract and the other contracts emanating from it, and that the complaint should have been filed with the regular courts as it involved issues which are judicial in nature.
>
> **Such argument is misplaced and respondent cannot rely on the *Gonzales* case to support its argument**.[90] (Emphasis ours)

Second. Petitioner may still invoke the arbitration clause of the *2005 Lease Contract* notwithstanding the fact that it assails the validity of such contract. This is due to the *doctrine of separability*.[91]

Under the doctrine of separability, an arbitration agreement is considered as independent of the main contract.[92] Being a separate contract in itself, the arbitration agreement may thus be invoked regardless of the possible nullity or invalidity of the main contract.[93]

Once again instructive is ***Cargill***, wherein this Court held that, as a further consequence of the doctrine of separability, even the very party who repudiates the main contract may invoke its arbitration clause.[94]

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88 G.R. No. 175404, 31 January 2011, 641 SCRA 31.
89 Id. at 50.
90 Id. at 47-48.
91 *Gonzales v. Climax Mining Ltd*., 541 Phil. 143, 166 (2007).
92 Id.
93 Id. at 158.
94 *Cargill Philippines. Inc. v. San Fernando Regal Trading, Inc.*, supra note 88 at 47.

Third. The operation of the arbitration clause in this case is not at all defeated by the failure of the petitioner to file a formal "*request*" or application therefor with the MeTC. We find that the filing of a "*request*" pursuant to Section 24 of R.A. No. 9285 is *not* the sole means by which an arbitration clause may be validly invoked in a pending suit.

Section 24 of R.A. No. 9285 reads:

> **SEC. 24. *Referral to Arbitration*.** - A court before which an action is brought in a matter which is the subject matter of an arbitration agreement shall, if at least one party so **requests** not later that the pre-trial conference, or upon the request of both parties thereafter, refer the parties to arbitration unless it finds that the arbitration agreement is null and void, inoperative or incapable of being performed. [Emphasis ours; italics original]

The "*request*" referred to in the above provision is, in turn, implemented by Rules 4.1 to 4.3 of A.M. No. 07-11-08-SC or the *Special Rules of Court on Alternative Dispute Resolution* (Special ADR Rules):

RULE 4: REFERRAL TO ADR

> **Rule 4.1.** *Who makes the request*. - A party to a pending action filed in violation of the arbitration agreement, whether contained in an arbitration clause or in a submission agreement, **may** request the court to refer the parties to arbitration in accordance with such agreement.
>
> **Rule 4.2.** *When to make request*. - (A) *Where the arbitration agreement exists before the action is filed*. - The request for referral shall be made not later than the pre-trial conference. After the pre-trial conference, the court will only act upon the request for referral if it is made with the agreement of all parties to the case.
>
> (B) *Submission agreement*. - If there is no existing arbitration agreement at the time the case is filed but the parties subsequently enter into an arbitration agreement, they may request the court to refer their dispute to arbitration at any time during the proceedings.
>
> **Rule 4.3.** *Contents of request*. - The request for referral shall be in the form of a motion, which shall state that the dispute is covered by an arbitration agreement.
>
> Apart from other submissions, the movant shall attach to his motion an authentic copy of the arbitration agreement.
>
> The request shall contain a notice of hearing addressed to all parties specifying the date and time when it would be heard. The party making the

> request shall serve it upon the respondent to give him the opportunity to file a comment or opposition as provided in the immediately succeeding Rule before the hearing. [Emphasis ours; italics original]

Attention must be paid, however, to the salient wordings of Rule 4.1. It reads: "*[a] party to a pending action filed in violation of the arbitration agreement x x x* ***may*** *request the court to refer the parties to arbitration in accordance with such agreement*."

In using the word "*may*" to qualify the act of filing a "*request*" under Section 24 of R.A. No. 9285, the Special ADR Rules clearly did not intend to limit the invocation of an arbitration agreement in a pending suit solely *via* such "*request*." After all, non-compliance with an arbitration agreement is a valid defense to any offending suit and, as such, may even be raised in an *answer* as provided in our ordinary rules of procedure.[95]

In this case, it is conceded that petitioner was not able to file a separate "*request*" of arbitration before the MeTC. However, it is equally conceded that the petitioner, as early as in its *Answer with Counterclaim*, had already apprised the MeTC of the existence of the arbitration clause in the *2005 Lease Contract*[96] and, more significantly, of its desire to have the same enforced in this case.[97] This act of petitioner is enough valid invocation of his right to arbitrate.

Fourth. The fact that the petitioner and respondent already underwent through JDR proceedings before the RTC, will not make the subsequent conduct of arbitration between the parties unnecessary or circuitous. The JDR system is substantially different from arbitration proceedings.

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95 *See* Section 4 of Rule 6 of the Rules of Court.

96 *Rollo*, pp. 137-138. In its Answer with Compulsory Counterclaim, petitioner made known the existence of the arbitration clause of the 2005 Lease Contract in this wise:

> 16. [Respondent] bases its purported causes of action on [Petitioner's] alleged violation of the 2005 [Lease Contract] dated 10 August 2005 executed by [Respondent] and [Petitioner's] predecessor in interest involving the subject parcel of land covered by Transfer Certificate of Title (TCT) No. 357817. Paragraph 19 of the contract provides:
>
> x x x
>
> **Any disagreement as to the interpretation, application or execution of this CONTRACT shall be submitted to a board of three (3) arbitrators constituted in accordance with the arbitration law of the Philippines**. The decision of the majority of the arbitrators shall be binding upon the Parties. (Emphasis and underscoring in the original).

97 Id. at 139. Petitioner, in its Answer with Compulsory Counterclaim, was categorical of its desire to have the arbitration clause enforced in the unlawful detainer suit:

> 21. **Thus, the parties are contractually bound to refer the issue of possession and the alleged non-payment of rent of the subject property to an arbitral body. The filing of the present case is a gross violation of the contract and, therefore, the same must be dismissed**. (Emphasis and underscoring in the original)

The JDR framework is based on the processes of *mediation, conciliation* or *early neutral evaluation* which entails the submission of a dispute before a "*JDR judge*" who shall merely "*facilitate settlement*" between the parties in conflict or make a "*non-binding evaluation or assessment of the chances of each party's case*."[98] Thus in JDR, the JDR judge lacks the authority to render a resolution of the dispute that is binding upon the parties in conflict. In arbitration, on the other hand, the dispute is submitted to an *arbitrator/s*—a neutral third person or a group of thereof—who shall have the authority to render a resolution binding upon the parties.[99]

Clearly, the mere submission of a dispute to JDR proceedings would *not* necessarily render the subsequent conduct of arbitration a mere surplusage. The failure of the parties in conflict to reach an amicable settlement before the JDR may, in fact, be supplemented by their resort to arbitration where a binding resolution to the dispute could finally be achieved. This situation precisely finds application to the case at bench.

Neither would the summary nature of ejectment cases be a valid reason to disregard the enforcement of the arbitration clause of the *2005 Lease Contract*. Notwithstanding the summary nature of ejectment cases, arbitration still remains relevant as it aims not only to afford the parties an expeditious method of resolving their dispute.

A pivotal feature of arbitration as an alternative mode of dispute resolution is that it is, first and foremost, a product of *party autonomy* or the freedom of the parties to "*make their own arrangements to resolve their own disputes*."[100] Arbitration agreements manifest not only the desire of the parties in conflict for an expeditious resolution of their dispute. They also represent, if not more so, the parties' mutual aspiration to achieve such resolution outside of judicial auspices, in a more informal and less antagonistic environment under the terms of their choosing. Needless to state, this critical feature can never be satisfied in an ejectment case no matter how summary it may be.

Having hurdled all the challenges against the application of the arbitration clause of the *2005 Lease Agreement* in this case, We shall now proceed with the discussion of its legal effects.

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98 A.M. No. 11-1-6-SC-PHILJA, 11 January 2011.

99 *Uniwide Sales Realty and Resources Corporation v. Titan Ikeda Construction and Development Corporation*, 540 Phil. 350, 370 (2006).

100 Rule 2.1 of A.M. No. 07-11-08-SC, 1 September 2009.

Legal Effect of the Application of the Arbitration Clause

Since there really are no legal impediments to the application of the arbitration clause of the *2005 Contract of Lease* in this case, We find that the instant unlawful detainer action was instituted in violation of such clause. The Law, therefore, should have governed the fate of the parties and this suit:

R.A. No. 876

> **Section 7.** *Stay of civil action.* - If any suit or proceeding be brought upon an issue arising out of an agreement providing for the arbitration thereof, the court in which such suit or proceeding is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration, **shall stay the action or proceeding until an arbitration has been had in accordance with the terms of the agreement**: Provided, That the applicant for the stay is not in default in proceeding with such arbitration. [Emphasis supplied]

R.A. No. 9285

> **Section 24.** *Referral to Arbitration.* - A court before which an action is brought in a matter which is the subject matter of an arbitration agreement shall, if at least one party so requests not later that the pre-trial conference, or upon the request of both parties thereafter, **refer the parties to arbitration** unless it finds that the arbitration agreement is null and void, inoperative or incapable of being performed. [Emphasis supplied]

It is clear that under the law, the instant unlawful detainer action should have been stayed;[101] the petitioner and the respondent should have

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[101] Relevantly, Rule 2.4 of A.M. No. 07-11-08-SC provides:

> **Rule 2.4.** *Policy implementing competence-competence principle*. - The arbitral tribunal shall be accorded the first opportunity or competence to rule on the issue of whether or not it has the competence or jurisdiction to decide a dispute submitted to it for decision, including any objection with respect to the existence or validity of the arbitration agreement. When a court is asked to rule upon issue/s affecting the competence or jurisdiction of an arbitral tribunal in a dispute brought before it, either before or after the arbitral tribunal is constituted, the court must exercise judicial restraint and defer to the competence or jurisdiction of the arbitral tribunal by allowing the arbitral tribunal the first opportunity to rule upon such issues.
>
> Where the court is asked to make a determination of whether the arbitration agreement is null and void, inoperative or incapable of being performed, under this policy of judicial restraint, the court must make no more than a prima facie determination of that issue.

been referred to arbitration pursuant to the arbitration clause of the *2005 Lease Contract*. The MeTC, however, did not do so in violation of the law—which violation was, in turn, affirmed by the RTC and Court of Appeals on appeal.

The violation by the MeTC of the clear directives under R.A. Nos. 876 and 9285 renders invalid all proceedings it undertook in the ejectment case ***after*** the filing by petitioner of its *Answer with Counterclaim*—the point when the petitioner and the respondent should have been referred to arbitration. This case must, therefore, be remanded to the MeTC and be suspended at said point. Inevitably, the decisions of the MeTC, RTC and the Court of Appeals must all be vacated and set aside.

The petitioner and the respondent must then be referred to arbitration pursuant to the arbitration clause of the *2005 Lease Contract*.

This Court is not unaware of the *apparent* harshness of the Decision that it is about to make. Nonetheless, this Court must make the same if only to stress the point that, in our jurisdiction, *bona fide* arbitration agreements are recognized as valid;[102] and that laws,[103] rules and regulations[104] do exist protecting and ensuring their enforcement as a matter of state policy. Gone should be the days when courts treat otherwise valid arbitration agreements with disdain and hostility, if not outright "*jealousy*,"[105] and then get away with it. Courts should instead learn to treat alternative means of dispute resolution as effective partners in the administration of justice and, in the case of arbitration agreements, to afford them *judicial restraint*.[106] Today, this Court only performs its part in upholding a once disregarded state policy.

Civil Case No. CV 09-0346

> **Unless the court, pursuant to such prima facie determination, concludes that the arbitration agreement is null and void, inoperative or incapable of being performed, the court must suspend the action before it and refer the parties to arbitration pursuant to the arbitration agreement**. [Emphasis supplied]

102 *Mindanao Portland Cement Corp. v. McDonough Construction Company of Florida*, 126 Phil. 78, 84-85 (1967); *General Insurance & Surety Corp. v. Union Insurance Society of Canton, Ltd*., 259 Phil. 132, 143-144 (1989); *Chung Fu Industries Phils. Inc. v. Court of Appeals*, G.R. No. 96283, 25 February 1992, 206 SCRA 545, 551-552.

103 *See* Articles 2042 to 2046 of R.A. No. 386 or the New Civil Code of the Philippines; R.A. No. 876; R.A. No. 9285.

104 *See* A.M. No. 07-11-08-SC, 1 September 2009.

105 *See* Dissenting Opinion of Justice George A. Malcolm in *Vega v. San Carlos Milling Co*., 51 Phil. 908, 917 (1924).

106 Rule 2.4 of A.M. No. 07-11-08-SC, 1 September 2009.

This Court notes that, on 30 September 2009, petitioner filed with the RTC of Parañaque City, a complaint[107] for the rescission or cancellation of the *Deed of Donation* and *Amended Deed of Donation* against the respondent. The case is currently pending before Branch 257 of the RTC, docketed as Civil Case No. CV 09-0346.

This Court recognizes the great possibility that issues raised in Civil Case No. CV 09-0346 may involve matters that are rightfully arbitrable per the arbitration clause of the *2005 Lease Contract*. However, since the records of Civil Case No. CV 09-0346 are not before this Court, We can never know with true certainty and only speculate.

In this light, let a copy of this Decision be also served to Branch 257 of the RTC of Parañaque for its consideration and, possible, application to Civil Case No. CV 09-0346.

WHEREFORE, premises considered, the petition is hereby **GRANTED**. Accordingly, We hereby render a Decision:

1. **SETTING ASIDE all the proceedings** undertaken by the Metropolitan Trial Court, Branch 77, of Parañaque City in relation to Civil Case No. 2009-307 ***after*** the filing by petitioner of its *Answer with Counterclaim*;

2. **REMANDING** the instant case to the MeTC, **SUSPENDED** at the point ***after*** the filing by petitioner of its *Answer with Counterclaim;*

3. **SETTING ASIDE** the following:

    a. Decision dated 19 August 2011 of the Court of Appeals in C.A.-G.R. SP No. 116865,

    b. Decision dated 29 October 2010 of the Regional Trial Court, Branch 274, of Parañaque City in Civil Case No. 10-0255,

    c. Decision dated 27 April 2010 of the Metropolitan Trial Court, Branch 77, of Parañaque City in Civil Case No. 2009-307; *and*

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107 *Rollo*, pp. 181-193.

4. **REFERRING** the petitioner and the respondent to arbitration pursuant to the arbitration clause of the *2005 Lease Contract,* repeatedly included in the 2000 Lease Contract and in the 1976 Amended Deed of Donation.

Let a copy of this Decision be served to Branch 257 of the RTC of Parañaque for its consideration and, possible, application to Civil Case No. CV 09-0346.

No costs.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

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

ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were 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