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Both Sides Claim Victory in Wynwood Real Estate Dispute

Samantha Joseph, Daily Business Review

Both sides are claiming victory in a multimillion-dollar fight between a landlord and Miami developer, who paid rent for years on a Wynwood property he was unable to occupy.

Tenant Slims Universal Holding Co. LLC pushed to exercise a purchase option in the lease and eventually acquired the building for \$1.75 million. The acquisition was a coup, according to its attorneys, who said the lease included a substantially higher \$2.176 million purchase price for the well-located commercial property in one of the city's most trendy neighborhoods.

But an attorney for landlord Rosenthal LLC claimed it beat back Slims' \$2 million claim, outmaneuvering the tenant looking to pay nothing for the valuable piece of real estate. Tax records place the land value alone at nearly \$2.2 million.

Slims Universal belongs to developer Ronald Bloomberg, who eyed the space for a ritzy nightclub and lounge minutes from Brickell and downtown Miami's luxury high-rises. It leased the roughly 15,000-square-foot warehouse at 55 NE 24th St. in 2011 but was unable to use the space for years because of a damaged roof and the landlord's failure to obtain a 40-year recertification, according to court filings. Slims claims the building was so shabby the city issued a repair or demolish order. Meanwhile, the company claimed damages of more than \$1.5 million in lost revenue.

"It's never been used to operate since the inception of the lease," tenant attorney Xavier Franco of McArdle Perez & Franco in Coral Gables said. "The tenant paid hundreds of thousands of dollars in rent and never got to use the premises, which is why we ended up in litigation."

Slims sued the landlord, which resulted in a settlement agreement under which Slims agreed to occupy the entire building, and Rosenthal gained control of about \$150,000 in rent payments deposited into the court registry. But within two years, the parties were in court again, with both sides claiming the other had violated the agreement.

"Our pleadings reflect that Slims undertook to do the roof work," said landlord attorney David Haber of Haber Slade in Miami. "The settlement agreement said that they only got to deduct from the rent what they actually spent. They failed to comply with that lease provision, and they failed to pay rent, for which we sued to evict them."

By September 2014, Rosenthal issued a five-day notice to vacate or pay nearly \$82,000 in rent, sales tax and late fees for nine months, beginning the previous January.

Slims pointed the finger in the other direction, insisting the settlement agreement allowed it to suspend rent payments.

"We were saying, 'You breached again. And not only do you have to honor the purchase options, which forces you to sell us the property, but you have to discount that purchase price because you've damaged us,'" said Franco, who teamed with partner George McArdle, attorney Andres Fernandez of Berens Fernandez & Associates, and Andrew Hall of Hall Lamb Hall & Leto.

The purchase option became the central issue of the litigation.

"The fight is because they wanted it for free, and we wanted to get rid of their option," Haber said. "They wanted to take the option price, deduct the roof costs ... and also tried to claim they had damages of \$1.5 million or more. They were trying to deduct that from the option price and get the property for nothing."

By April, the trust between the parties was so frayed, they reached a deal but didn't sign an agreement because neither expected the other would comply. Instead, they set a closing date and agreed to trade the property if both groups appeared.

A deed dated April 4 show the parties kept that appointment.

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