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[G.R. No. 427. April 15, 1902]

CO-TIONGCO, PLAINTIFF AND APPELLEE, VS. CO-GUIA, DEFENDANT AND APPELLANT.

D E C I S I O N

ARELLANO, C.J.:

From the documentary evidence introduced by both parties and admitted by both of them without objection it appears that the following facts may be regarded as the antecedents of the question in issue: (1) That on March 6, 1894, by a public instrument the Chinaman Co-Quingco leased a lot from Pedro Sy-Quia, at that time the owner of the lot, as purchaser, subject to the vendor's right of redemption; (2) that this lease was to run for ten years, the term to end on an equal date in March, 1904; (3) that the sum of 50 pesos per month had been agreed upon as the rental in this lease; (4) that in the same instrument Eugenio Guidote, the vendor, who had reserved the right to redeem, bound himself to respect this contract of lease for the period of ten years, at a monthly rental of 50 pesos; (5) that this contract of lease, signed by Co-Quingco, SyQuia, and Guidote, was recorded in the property register of the North District of Manila on March 12, 1894 (documentary evidence, pp. 20 to 23); (6) that on the 23d of January, 1901, Eugenio Guidote sold the lot in question to the Chinaman Co-Tiongco, declaring it to be free from all incumbrance or gravamen, the sale having been effected by a public instrument, which was also recorded in the property register (documentary evidence, pp. 3 to 6).

As preliminaries to the action of unlawful detainer brought by the purchaser of the land, Co-Tiongco, the following facts are also admitted by the parties: (1) That Co-Guia, on March 2, 1901, consigned in the justice court of Binondo the rental of 50 pesos a month, corresponding to the preceding February (probably meaning January), because Guidote had refused to receive the rental, without stating the motive, the consignment being made "as payment under our contract" as stated by Co-Guia; (2) that rental to the amount of 100

pesos was also consigned for the months of February and March following by Co-Guia on the 9th of April, after an unsuccessful tender of payment by notarial act to the new owner of the lot on the 6th of April. Co-Guia, "as agent of the Chinaman Co-Quingco and manager of his lumber yard," says that "the rent corresponding to the months of February and March not having been received from him at the rate of 50 pesos per month, according to the contract," he made formal tender to Co-Tiongco of payment of the rental, to which Co-Tiongco replied "he can not receive the sum mentioned, offered him by the Chinese manager, Co-Guia, inasmuch as he has no contract with the said Chinaman, nor with Co-Quingco, the owner of the lumber yard" (documentary evidence, pp. 24 to 29); (3) that on March 22 of the same year Co-Tiongco gave Co-Guia notice to vacate the premises, giving him to the end of the month in which to do this.

With these facts as antecedents, the action of unlawful detainer was instituted. The action was based solely upon the contention that Co-Guia was occupying the lot as lessee, as stated by him in the minutes of the consignment of rent; that the lease was from month to month, as Co-Guia had stated in the same document that the rental was 50 pesos per month, and consequently that the lease expired at the end of each month. In bringing this action Co-Tiongco, the plaintiff, introduced as evidence the notice of the first consignment of rental offered to Eugenio Guidote, in whose possession this document must have been.

The defendant opposed the complaint, and in his answer vigorously denied the fundamental fact alleged therein. As evidence he introduced the contract of lease entered into between Co-Quingco of the one part and Sy-Quia and Guidote of the other part.

The question presented on appeal to this court is whether or not the action of unlawful detainer can be maintained by Co-Tiongco against Co-Guia upon the facts on which the action is founded.

The purchaser, as successor to the vendor by singular title for a valuable consideration, is not, as a general rule, bound to respect obligations of a personal character contracted by his predecessor, as is an heir who succeeds by universal gratuitous title with respect to the obligations of his decedent. Hence it is that the Civil Code in article 1571 provides, as a consequence of the rule stated, that the purchaser of the leased property is entitled to terminate a lease pending at the time of the sale. But when the rights in question are not those arising from merely personal obligations, but from an express agreement or a real right affecting the property itself which is transferred by the sale, in this case the rule does not apply. The same article 1571 denies the purchaser the right to end a pending lease in

case there has been a stipulation to the contrary or if it has been forbidden by the provisions of the Mortgage Law.

The Mortgage Law provides that leases for more than six years' duration should be recorded in the register of property. (Art. 2, par. 5.) The Mortgage Law provides further that recorded acts and contracts shall be enforceable against third persons. (Art. 23.) Recordation is a species of promulgation of the private law of the act or contract producing it, a requisite as indispensable to this law to give it obligatory force as is promulgation with respect to laws emanating from the public authorities. (Moscoso, Mortgage Law.) The lease of the lot in question agreed upon between Sy-Quia and Guidote on the one hand and Co-Quingco on the other hand having been recorded, it is obligatory law for third persons, such as is, in this case, Co-Tiongco. He being bound to respect this lease for the period of ten years, he can not pretend ignorance of the right of use which was and still is in the hands of a third person. The vendor Guidote could not transmit to him any greater right than that which he himself had at the time of the sale. At this time among his rights of dominion which he transmitted to Co-Tiongco the right of use was not really—although virtually—included, as this right had been alienated in March, 1894, in consideration of the sum of 50 pesos per month, up to an equal date in the year 1904. He could only transmit to the purchaser the right to end the lease before the expiration of the term and to reacquire the use of the lot before the date stipulated by showing some resolatory cause against the present possessor of the right of use, Co-Quingco, and obtaining a final judgment resulting in the cancellation of the inscription appearing in the property register; or, in other words, the derogation of that private law which, until such time, must bind him. Until Co-Quingco, the possessor of the right of use, has had *fyis day* in court and judgment has been rendered against him, the allegation of a resolatory cause tending to produce the rescission of a bilateral contract entered into with Co-Quingco can not be effective when the allegation is made and the judgment is obtained against a stranger, such as, in this case, is Co-Guia. Co-Guia was not even a sublessee. He was, as admitted by Co-Tiongco himself, the *manager* of the lumber yard constructed on the lot of which *Co-Quingco is the owner*. So that the judgment rendered by the court below against Co-Guia can produce no effect whatever against Co-Quingco, the case not having been brought against Co-Guia as representative of Co-Quingco but against a trespasser, but a trespasser who pays rent and occupies the lot by virtue of the lease.

We therefore hold that the action of unlawful detainer brought will not lie, and dismiss the complaint against the defendant, Co-Guia, reversing the judgment below in all its parts, without special condemnation as to costs.

Cooper, Willard, and Mapa, JJ., concur.

Ladd, J., did not sit in this case.

DISSENTING

TORRES, J.:

It does not appear from the record, nor has it even been hinted, at what time and upon what conditions Co-Guia took the place of the now absent Co-Quingco in the lease of the lot. The defendant, who exhibited with his answer the instrument in which was recorded the contract of lease entered into between Pedro Sy-Quia and the said Co-Quingco, with the consent of the real owner of the lot, Eugenio C. Guidote, did nothing more than affirm that he is a mere agent (*encargado*) of Co-Quingco. He did not prove his capacity as such agent (*encargado*), or that he was in any other sense the attorney in fact or representative of the former tenant, absent in China, or why he has been paying the rental of the lot leased in the name of Co-Quingco. Co-Guia having been sued as tenant in his own right, he could not lawfully set up the contract of lease, by virtue of which Co-Quingco was tenant, because it does not appear that he has been subrogated to the rights of the latter under the terms of the contract with respect to the use and enjoyment of the lot, with the consent of the owner, Eugenio Guidote, and therefore he should be regarded as such tenant by virtue of a new verbal contract from month to month, inasmuch as the contrary does not appear to have been proven.

The lot having been redeemed from Pedro Sy-Quia and an absolute conveyance having been made by the former owner, Eugenio Guidote, to the Chinaman Francisco Saez Co-Tiongco, the latter has a perfect right to demand the termination of the lease pending in favor of Co-Guia, under the provisions of article 1571 of the Civil Code. It does not appear that any agreement to the contrary was made between the vendor, Guidote, and the purchaser, Saez Co-Tiongco. The rights accruing under the former contract of lease and its recordation in favor of the contracting parties named in the contract of lease can not be set up by the defendant Co-Guia. He was not one of the contracting parties, nor does he in any wise appear in this contract. There being no evidence to the contrary, he should be regarded as a lessee under a new verbal contract from month to month, because the payment of rent was monthly, and consequently the lease can be treated as terminated without the necessity of notice at the expiration of each month, in accordance with the provisions of article 1581 of

the Civil Code.

The burden of proof that Co-Guia has been occupying the lot not as a tenant in his own right but as sublessee of Co-Quingco, or as *encargado* or agent of the latter, rests upon him, inasmuch as he so alleges in his reply, and not upon the plaintiff, inasmuch as it is an unquestionable fact that the plaintiff, Saez Co-Tiongco, is the owner of the lot. A person who occupies a lot in consideration of the payment of a monthly rental must be presumed to occupy it as a tenant until it be shown that his occupation is in some other capacity. Against the assertion of the plaintiff no evidence to the contrary appears in the record to support the allegation of the defendant who, if he paid rent in the name of the former tenant, could have shown receipts signed by the owner so stating. He did not exhibit these receipts because they would not support his allegation, but would show that Co-Guia is a true tenant under an entirely different contract.

The tenant is entitled to use and enjoy the thing leased as long as the contract of lease continues, but he has not the legal possession of the thing, because he possesses it in the name of the proprietor, the only one who has the real legal possession as owner, with the corresponding right to bring actions of all kinds, including the action of unlawful detainer in cases authorized by law.

The defendant, Co-Guia, who denies that he is a tenant under a verbal contract entered into with the former owner of the lot, has no right to rest his defense upon the former contract of lease recorded by public instrument and upon which the rights of the former tenant, Co-Quingco, rested, because he has not shown that he is the successor of Co-Quingco, or that he has been subrogated to his rights under the contract, or that he is an agent or attorney in fact of that tenant, and because Co-Guia was not one of the parties to the contract referred to and could acquire no right to the use of the lot by virtue thereof.

The legal effects of a contract of lease recorded in a public instrument and inscribed in the property register are of no avail with respect to the enjoyment of the lot leased to one who is not a contracting party, nor a representative or sublessee of one of the contracting parties.

The contract is law between the contracting parties, and its recordation in the register is its promulgation and guaranty, and from this point of view the rights and obligations arising therefrom can only favor or affect those who have agreed to them, their representatives, or their legal successors. Co-Guia is a stranger. He is not a sublessee or a lawful

representative of the contracting tenant, Co-Quingco, and therefore can not set up the acts of the latter nor continue to hold the lot to the detriment of the rights of the present owner, Co-Tiongco.

The judgment in this case should solely affect those who took part therein as litigants. As Co-Quingco is not a party to this action it is unquestionable that it could not have affected him or prejudiced his rights. The favorable judgment which the plaintiff, Co-Tiongco, might have obtained would not have been rendered against Co-Quingco, who did not litigate and is not a party to this suit, but against the defendant, Co-Guia, who has no right as lessee to the possession of the property and should be evicted therefrom.

For the reasons stated it is irrelevant to discuss the efficacy of the contract of lease referred to, and much less the efficacy and consequences of its recordation in the register of property. These questions, if raised at the proper time by some person entitled to raise them in a suit, will be determined in accordance with law.

For the reasons stated, therefore, and accepting the conclusions of law laid down in the judgment appealed so far as the same agree with those expressed in this opinion, I believe that the judgment should be affirmed with the costs to the appellant.
