

[G.R. No. 1633. April 29, 1905]

NICOLAS CEPILLO CRUZ, PLAINTIFF AND APPELLEE, VS. THE CHINAMAN CO-CUACO, DEFENDANT AND APPELLANT.

D E C I S I O N

TORRES, J.:

On March 12, 1900, a contract of lease for a warehouse with four doors situated on Calle Santo Cristo, No. 43, district of Binondo, was entered into between Nicolas Cepillo Cruz and the Chinaman Co-Cuaco, the latter as lessee and the former as husband and legal representative of Maria Casas, owner of said warehouse, as lessor. The stipulations contained in the lease were as follows: The term of the lease was for three years beginning with January 1 of said year, the tenant being already in possession of said warehouse; the rent was 60 pesos per month; the tenant, Co-Cuaco, was to pay the expenses of cleaning the vault; that the tenant would not require of the owner, for any repairs he might make as a result of a fire which had occurred in the building, any reimbursement in excess of 400 pesos, and on this amount the plaintiff, Cepillo, had already paid 155 pesos, and of the balance of 245 pesos the tenant was to be reimbursed in partial payments by retaining 30 pesos per month of the 60 pesos he was obligated to pay per month as rental, beginning with the month of March, and until said sum of 245 pesos, the balance due of the said indemnification of 400 pesos, had been retained from the rent.

The term of the lease having expired on January 1, 1903, the plaintiff, Nicolas Cepillo Cruz, instituted an action against Co-Cuaco for the recovery of the possession of the premises and the rent due and

unpaid, together with the costs.

The case having come on for hearing in the justice of the peace court and the defendant being present at same on February 12 of that year, judgment was rendered in favor of the plaintiff. This judgment was appealed to the Court of First Instance, where, after a new hearing having been had of the case on August 22, 1903, judgment was rendered in favor of the plaintiff, declaring that the defendant be ousted from the premises and ordering him to pay the rent due and unpaid at the rate of 60 pesos per month until such time as he should leave the premises, together with the costs. The term of the lease stipulated in the contract having expired and this fact not being denied, but, on the contrary, expressly acknowledged by the defendant, the latter having been furthermore advised to leave the premises on account of the expiration of the term agreed upon, he has no right to legitimately continue in the use and enjoyment of the premises and can be ousted judicially (art. 1569, Civil Code). Article 1565 of the Civil Code states that if the lease has been made for a definite period it ends on the appointed day without the necessity of demanding possession, and in the second paragraph of article 1581 of the same code it is furthermore stated that at any rate the lease ceases without need of special notice after the expiration of the term. The lessor, as it has been stated, asked the lessee, at the expiration of the term of three years stipulated, to leave the premises according to the agreement, and, the defendant not having done so immediately gave cause for suit. The lessee, Co-Cuaco, having acknowledged that the term of the lease expired on January 1, 1903, the obligation or duty he had to quit the storehouse from that day, or at least from the time he was required to do so, arose, and he had no right to retain the premises on the ground that he had not reimbursed himself in the sum of 245 pesos, the balance of what he had spent for repairs on the storehouse.

Nothing appears proven or even alleged by the defendant in the Court of First Instance that the contract was not complied with as regards this special stipulation, and under the agreement he should have ceased to retain the 30 pesos from the monthly rent, having begun with March, 1900, to reimburse himself for the said sum of 245 pesos, since after

eight months and some days, or, at most, in nine months—that is to say, November, 1900, he was reimbursed in full—and therefore from the month of December following, the lessor began to receive the rent for the house in full.

The appellant not having asked that the judgment be reversed and not having asked for a new trial, this court is not in a position to review the evidence adduced at the trial, and by virtue of the recourse through the bill of exceptions we should only limit ourselves to the present case to decide the questions of law raised in the case and decided in the judgment appealed from.

The lessor, the representative of the owner of the premises, never refused and never could have refused to pay the sums stipulated, and which the lessee has already reimbursed himself from the rent, and therefore the defendant never had nor could he have any right to retain the premises relying on article 502 of the Civil Code.

This case has already been passed upon definitely and there is no legal reason to require from the defendant the increase of the bond as asked by the plaintiff, since the only thing that remains to be done at present is to execute the judgment.

By virtue, then, of the reasons stated, the judgment appealed from is affirmed, with the costs in this instance, and the motion presented by the plaintiff is overruled.

After the term of twenty days have expired from the date of the filing of this decision let judgment be rendered in accordance herewith and the case returned to the court of origin for the execution thereof.

Arellano, C. J., Mapa, Johnson, and Carson, JJ., concur.

