

5 Phil. 577

[G.R. No. 2387. January 31, 1906]

**OLIVER & TRILL, PLAINTIFFS AND APPELLANTS, VS. W. E. SHERMAN,
DEFENDANT AND APPELLEE.**

D E C I S I O N

JOHNSON, J.:

On the 5th day of February, 1904, the plaintiffs commenced an action in the court of the justice of the peace of the city of Manila to recover a certain piano, No. 16059, and marked "Chassaigne Freres." After hearing the evidence, the said justice of the peace decided that the plaintiffs were entitled to the possession of the said piano. From this decision the defendant appealed to the Court of First Instance of the city of Manila. On the 21st day of September, 1904, the judge of the Court of First Instance of the city of Manila reversed the judgment of the said justice of the peace and declared that the said piano was the property of the defendant and charged the plaintiffs with the costs. From this decision the plaintiffs appealed to this court.

The plaintiffs claimed that on the 6th day of July, 1901, they delivered to the defendant, under a contract of rent, the said piano and as proof of that fact presented the following contract as evidence during the trial.

"ALMACEN DE MUSICA DE OLIVER Y TRILL,
"Carriedo 90, Manila.

"El que suscribe asegurando bajo su responsabilidad hall arse en el pleno goce de sus derechos para contratar y obligarse, ha recibido de los Sres. Oliver y Trill en calidad de alquiler un piano marca 'Chassaigne Freres' designado en el No. 16059, por el precio de catorce pesos, mensuales, a pagar por adelantado, segun costumbre, bajo las condiciones siguientes:

"1.^a Que pagaro los gastos de conduccion a domicilio.

"2.^a Caso de devolverlo antes de tres meses correra igualmente a mi cargo la conduccion de vuelta.

"3.^a No podre trasladarlo de una casa a otra sin previo consentimiento de dichos Sres.

"4.^a Siempre que el mencionado piano me fuese reclamado por los Sres. Oliver y Trill por haber efectuado su venta o convenir a sus intereses podran retirarmelo al vencimiento de la mensualidad.

"5.^a En el caso de no satisfacer puntualmente las mensualidades de alquiler a su vencimiento devolved tambie'n el piano a los Sres. Oliver y Trill.

"6.^a Los Sres. Oliver y Trill tendran tambie'n el derecho de inspeccionar el piano siempre que lo juzguen conve^ niente.

"7.^a Si transcurridos tres dfas desde el vencimiento del alquiler diere aviso de retirar el piano, deber6 pagar por completo la mensualidad principiada.

"8.^a Me obligo a devolver el piano en el buen estado en que lo he recibido sin otro detrimento que el que pueda sufrir por su uso comprometie'ndome a indemnizar cualquier desperfecto, incluso los de incendio, bagoio, terremoto, etc.

"Manila, *6 de Julio* 1901.

"(Con banquito.)

"W. E. SHERMAN.

"OLIVER Y TRILL.

"SR. D. W. E. SHERMAN,

"*Domicilio: Calle Muelle dc la Reina No. 259.*"

This contract, upon its face, is clearly a contract of rent for the said piano.

Article 7 of said contract provides that the plaintiffs might recover possession of the said piano after the lapse of three days after the time the monthly payment should be made. The

plaintiffs claim that the defendant refused to make the monthly payments in accordance with said contract and that therefore they were entitled to recover possession of said piano. Under the contract the defendant promised to pay in advance the sum of 14 pesos monthly for the use of said piano. The plaintiffs testified that the defendant had paid in monthly payments the sum of 434 pesos which, at the rate of 14 pesos per month, would cover a period of thirty-one months. The defendant admitted in his answer, and so testified, that he had paid to the plaintiffs the sum of 406 pesos, at the rate of 14 pesos per month. This admission shows that the defendant had made monthly payments to the plaintiffs for a period covering twenty-nine months.

The defendant alleges and undertook to prove that he had purchased the said piano for the sum of 400 pesos, to be paid in monthly payments, in the sum of 14 pesos per month. The defendant claims that he and certain members of his family, together with an interpreter, went to the store of the plaintiffs some time before the date of the said contract, for the purpose of buying a piano; that he had no intention of renting a piano; that he did not understand Spanish; that the plaintiffs did not understand English, and all that was said between them was interpreted by the interpreter whom the defendant had taken with him. The said interpreter testified that the plaintiffs and defendant on that occasion discussed both the question of renting and purchasing the piano.

The defendant claims that the conclusion of the conference was that he was to purchase the said piano for the sum of 400 pesos and that he was to pay for the same at the rate of 14 pesos per month and that the piano was to be delivered by the plaintiffs at the house of the defendant.

The plaintiffs claim that the conclusion of the conference was that the defendant was to rent the said piano for an indefinite period, and to pay for the use of the same the sum of 14 pesos per month, and accordingly the piano was delivered to the defendant and the above contract was signed in the manner indicated by the said contract.

One of the plaintiffs, Mr. Oliver, with whom the negotiations were carried on, testified that he understood more or less English, and that there was no doubt in his mind at the time of the conclusion of the said conference that the agreement between the plaintiffs and the defendant was to rent the piano in accordance with the terms of the contract, which the respective parties signed.

The defendant admits that he signed the above contract. He alleged in his answer that at

the time he signed it that it was represented to him to be a receipt for said piano. If that representation had been made by the plaintiffs and the defendant had been induced to sign a receipt which later turned out to be a contract, he might have had a legal defense to his liability under the document signed. This allegation, however, of the misrepresentation is not sustained by the evidence. One of the plaintiffs, who presented the document to be signed by the defendant, testified that the contents of the document were read to the defendant at the time it was signed.

If there was any misunderstanding with reference to the terms or nature of the contract signed by the defendant, it must have been due to the fault of the interpreter whom he himself had selected.

The fact that the defendant paid in monthly installments 406 pesos, instead of refusing to pay more after he had paid the sum of 400 pesos, the price that he claims he was to pay for the piano, is evidence to us that he believed until that time that he was holding the piano under a contract of rent; furthermore, the fact that some months had elapsed after the payment of the 406 pesos before he made any claim to the plaintiffs that the contract between them was a contract of purchase and not a contract of rent, has much weight in favor of the contention of the plaintiffs.

We are convinced from the evidence adduced during the trial that the above contract which was signed by the respective parties represents the real contract which existed between the said parties. Therefore it is the judgment of this court that the decision of the inferior court be reversed and that the plaintiffs herein are hereby declared to be the owners of the said piano and entitled to the possession of the same.

The judgment of the inferior court is reversed and judgment should be entered in favor of the plaintiffs for the possession of the said piano, with costs. After the expiration of twenty days let judgment be entered in accordance herewith, and the cause remanded to the court of its origin for execution thereof. So ordered.

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

