

[ G.R. No. 2377. April 23, 1906 ]

**TEODORO S. BENEDICTO, ADMINISTRATOR OF THE ESTATE OF TEODORO BENEDICTO, DECEASED, PLAINTIFF AND APPELLANT, VS. JOHN H. GRINDROD, LIQUIDATOR OF CASSELS, BUCHANAN & CO., DEFENDANT AND APPELLEE.**

**D E C I S I O N**

**WILLARD, J.:**

On the 18th day of September, 1893, Teodoro Benedicto and Trinidad Serra made a contract by the terms of which the former leased to the latter a sugar estate in Occidental Negros. The contract of lease provided, among other things, as follows:

“First. Don Trinidad Serra y Brosa leased for a term of six years—that is to say, for six consecutive crops from the aforesaid date—the above-mentioned land which he received in the same condition in which it is now, and bound himself to pay to the owner, Mr. Benedicto, 2,000 pesos as annual rent—that is to say, for each crop—payable in the month of April of each year, the first payment to be made in April, 1895, and so on until the expiration of the six years stipulated in the lease.

“The said buildings and machinery shall be completed before the grinding of the cane planted by the lessee—that is to say, during the months of October and November, 1894. The lessee shall hasten with the construction of the buildings and the mounting of the mills and fire boxes at the expense of the lessor, who shall supply the necessary materials.”

The firm of Buchanan, Cassels & Co. bound themselves as surety for the payment of the rent, and later, in 1898 and 1899, this firm, by an arrangement with Serra, the lessee, took possession of the estate. The firm went into liquidation, and the defendant, Grindrod, acting

for the firm, was in 1899 and 1900 engaged in winding up its affairs. The rent due under the terms of the lease was paid six times, the last payment having been made in April, 1900. The defendant in October and November of the year 1900 gathered and ground the crop of sugar cane which had been planted upon the estate in the corresponding months of the year 1899. Benedicto, the lessor, died in 1896, and his executor brought this action to recover, among other things, the sum of 2,000 pesos, the rent for an additional year claiming that by the occupation of the property in October and November, 1900, there had been a tacit renewal of the lease for one year. Judgment was rendered in the court below in favor of the defendant. The plaintiff moved for a new trial, which was denied, and he has brought the case here by bill of exceptions.

The first question to be determined is, When did the original lease expire? The tenant by the terms of the lease was entitled to possession of the property for six crops' We think the evidence shows that the first crop was put in in the fall of 1894. That this was in accordance with the intention of the parties is apparent (1) from that clause in the lease which provides that the first payment of rent should be made in April, 1895, and (2) from the other clause, which provides that the buildings which the landlord agreed to construct upon the property should be completed before the grinding of the crop which was to be planted in the fall of 1894. The last crop which the defendant either planted or gathered and ground was the crop which he planted in the fall of 1899. It is thus apparent that the crop planted in 1899 was the sixth crop. It is very clear that the term "crop" as used in the lease referred not to the planting of the crop but to its gathering and grinding, so that the lease did not expire until the crop planted in 1899 was in condition to be gathered and ground. The evidence in the case shows that it was not in such condition until October or November of the year 1900. The lease did not therefore expire until that time. It appears from the evidence that neither one of the parties were of this opinion in 1900. In March of that year the defendant wrote a letter to the executor of the estate of Benedicto stating that the lease expired on the 30th day of April, 1900, and that he was desirous of making a delivery of the estate to the executor at that time. In pursuance of this letter an interview was had between the then executor and the defendant. The defendant wished to sell to the executor the crop of sugar cane then standing upon the estate, amounting to 4,500 piculs. The executor was not willing to buy it. The executor testified that he told the defendant that he could gather the crop, but it must be taken before the 18th day of September, 1900, which, according to the claim then made by him, was the time when the lease expired. The defendant testified that it was agreed that the defendant might go on and gather the crop and not incur any responsibility except that provided in the original lease. The evidence does not show that the parties

arrived at any agreement upon this occasion. In other words, no new contract was then made which in any way modified the terms of the original lease. The mistaken idea which each party had as to the time when the lease expired is therefore of no consequence in the determination of this suit. As we have construed the lease it did not expire until October or November, 1900, and the erroneous belief of the parties that it expired at some different time, so long as that erroneous belief did not lead to any change or modification of the contract, can not in any way effect their rights.

The evidence shows that after the crop had been gathered in October or November of 1900 the defendant undertook to deliver the estate to the plaintiff. He went so far as to petition the authorities of the pueblo in which the estate was situated that they should receive it and take charge of it, and on the 14th day of December, 1900, he wrote a letter to the executors of the estate, stating the attempts which he had made to deliver the estate and notifying them that the expenses incurred by him thereafter in the care of the stock and other property upon the estate would have to be paid by them. The executors, while professing a willingness to receive delivery of the hacienda, declared that the defendant was liable for another year's rent, because he had remained upon the hacienda after the 18th of September, 1900. Under the view which we take of the contract the defendant had the right to remain there until October or November of 1900, and as he undertook to deliver the estate upon the termination of the lease there was no tacit renewal thereof, and he is not liable for the rent for the additional year.

There is some evidence in the case to show that some of the employees of the manager of the estate, who was acting for the defendant, gathered and ground sugar in February and March, 1901, but it also appears that they did this upon their own account, without any authority from the defendant, and appropriated the proceeds thereof to their own use, to the payment of wages alleged by them to be due from the defendant. Under these circumstances the unauthorized acts of these employees can not prejudice the defendant.

By the terms of the lease the lessor delivered to the lessee fifty carabaos and a certain number of carts, and also agreed to return the same number, any loss by reason of death or robbery to fall upon the tenant. The executors did not take possession of the estate until some time in August, 1901. At that time all of the carabaos were dead except four, they having died during an epidemic in May, June, and July of that year. The plaintiff in this action seeks to recover the value of the carabaos that died. It appeared from the testimony of the plaintiff's Own witness, and also from other evidence in the case, that in November, 1900, and as late as April, 1901, the carabaos were all alive and in good condition, and that

the other material on the estate, the property of the plaintiff, was also in the same condition in which it was when it was delivered by the landlord to the tenant. If the executors had received delivery of the estate in December, 1900, when they should, they would then have received all the personal property in good condition. The subsequent loss caused by the death of the carabaos must fall upon the executors and not upon the defendant.

We have referred to a letter written by the defendant on the 14th day of December, 1900. Objection was made to the introduction of a copy of this letter on the ground that the executors never had received any such letter. The court admitted the evidence, and to this ruling the plaintiff excepted. We think the evidence in the case was sufficient to warrant the admission of the copy of the letter. That such a letter was written is made certainly a subsequent letter written on January 15, 1901, by the defendant to the then executor of the estate, in which the defendant inclosed a copy of his letter of the 15th of March, 1900, and also a copy of this letter of the 14th of December of the same year.

The judgment of the court below is affirmed, with the costs of this instance against the appellant. After expiration of twenty days let final judgment be entered in accordance herewith and ten days thereafter let the case be remanded to the lower court for proper procedure. So ordered.

*Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.*

*Mapa, J., disqualified from sitting in this case.*