

YSABEL B. VDA. DE PADILLA ET AL., PETITIONERS, VS. RAFAEL DINGLASAN, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, AND HEMANDAS UDHARAM, RESPONDENTS.

G.R. No. L-1010. August 27, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

On June 15, 1946, the Municipal Court of Manila rendered judgment in the ejectment case instituted by petitioners against Jesus Hiponia, Hemandas Udharam and Tiu Sam, the dispositive part of which is as follows:

"Judgment is rendered in favor of the plaintiffs and against the defendants ordering the latter to vacate the premises described in the complaint, and to pay jointly and severally the plaintiffs all the unpaid rentals due from February, 1946, up to and including April, 1946; when the complaint was filed, at the rate of P2,000 a month, less the amount of P4,000 already paid by the defendant Tiu Sam. And for the use and occupation of the premises from May, 1946, until they shall have completely vacated the same, the said defendants are likewise sentenced to pay jointly and severally the plaintiffs the sum of P3,000 a month, which, in view of the evidence adduced, is found by the Court to be fairly just and reasonable. The defendants are likewise sentenced to pay the costs of this suit."

On June 21, petitioners filed a motion for execution of the judgment, which was granted on June 27. On June 26, defendant Hemandas Udharam filed his notice of appeal. The other two defendants did not appeal.

On August 16, appellant Udharam filed with the Court of First Instance of Manila a motion praying for refund to him of the sum of P1,000 he deposited as supersedeas bond, notwithstanding which he was ejected from the premises on July 6. Plaintiffs opposed the motion, alleging that as of July 6, 1946, movant was liable, jointly and severally with his co-defendants, under the decision of the municipal court, to pay to plaintiffs the sum of P8,600, representing back rents and reasonable compensation and that the deposit of P1,000 in question is liable for the payment of said rents, and damages and costs.

On September 9, Judge Dinglasan granted Udharam's motion in an order which reads as follows:

"It appearing that the amount of P1,000 was deposited as supersedeas bond independently of the deposit of P500 as rent for the period from June 10, 1945 to July 19, 1946, and it further appearing that the Court in accordance with section 8 of Rule 72 of the Rules of Court immediately issued an execution order instead of staying execution of the judgment, notwithstanding the filing of the supersedeas bond of P1,000, thus in effect disapproving said bond as insufficient, the Court finds that the motion filed by Attorneys Monsod, Montesa and Manikan for the defendant Hemandas Udharam is in order insofar only as the refund of the sum of P1,000 prayed for therein is concerned, but not as to the refund of P216 out of the deposit of P500 monthly rent is concerned.

"Wherefore, the Clerk of Court is hereby ordered to refund to the defendant Udharam or his attorneys the supersedeas bond deposit of P1,000, as evidenced by official receipt No. 758239."

On September 12, petitioners moved for the reconsideration of the order, but the motion was denied on September 25.

Complaining that respondent acted in evident excess of his jurisdiction and/or with grave abuse of discretion by issuing his orders of September 9 and 25, petitioners filed the petition for certiorari at bar, seeking the annulment of said orders.

The facts stated above constitute the material allegations of the petition.

Petitioners' contention is based on the following provisions as quoted in their petition:

" * * * All moneys so paid to the Court of First Instance shall be deposited in the provincial treasury, or in the City of Manila in the Insular Treasury, and shall be held there until the final disposition of the appeal.' (Rule 72, section 8, Rules of Court.)

" ' * * * If the case is tried on its merits in the Court of First Instance, any money paid into court by the defendant for the purposes of stay of execution shall be disposed of in accordance with the provisions of the judgment of the Court of First Instance.' (Rule 72, section 8, Rules of Court.)"

Respondents maintained that the above provisions are not applicable to the deposit in question for the following reasons: (1) Because the above provisions refer to money "paid to the Court," while the delivery to the court of the P1,000 in question was made not as a payment, but as a mere deposit; (2) Because said deposit, made as supersedeas bond as one of the means of staying the execution of the municipal court's judgment, was never accepted by the court which proceeded notwithstanding, to order the execution of the judgment, as a result thereof Hemandas Udharam was in fact ousted from the premises on July 6, 1946; and (3) Because, in view of the decision of this in *Mitschiener vs. Barrios* (76 Phil., 55), there was not even the necessity for Udharam to make the deposit as supersedeas bond to stay execution of the judgment in view of the fact that he has deposited on June 20, 1946, the sum of P500 as his monthly rent for June 19 to July 18, 1946, under the contract of lease.

Respondents' allegation as to the non-acceptance of the deposit is supported by the statement made by Judge Dinglasan in his order of September 9, to the following effect: "It appearing that the court in accordance with section 8 of Rule 72 of the Rules of Court immediately issued an execution order instead of staying execution of the judgment, notwithstanding the filing of the supersedeas bond of P1,000, thus in effect disapproving said bond as insufficient."

There seems to be no doubt that the rule provisions invoked by petitioners are inapplicable to the deposit in question. The moneys mentioned by section 8 of Rule 72 include only the rent due from time to time under the contract or, in the absence thereof, the reasonable value of the use and occupation of the premises as adjudged by the justice of the peace or municipal court. The sum of P1,000 in question was delivered by Udharam, not as a payment for the rents or reasonable value of the use and occupation of the premises but as a purported supersedeas bond which, by its insufficiency, was rejected by the court. The deposit having been made for a specific purpose, cannot be used for a different one. The deposit having been rejected, it stands to reason that it should be returned to the depositor. We conclude that the respondent judge acted according to law in issuing its orders of September 9 and 25.

Petition denied, with costs against petitioners.

Moran, C.J., Feria, Hilado, Briones, and Tuason, JJ., concur.

DISSENTING

PARAS, J., with whom concur PABLO and BENGZON, JJ.:

The respondent Hemandas Udhamam, one of the three defendants in a detainer case, has appealed from the decision of the Municipal Court of Manila in favor of the herein petitioners, which sentenced all the defendants to pay jointly and severally some P8,000 for back rents. Said respondent, who is the only appellant, deposited P1,000 in lieu of a supersedeas bond. Inasmuch as the amount was utterly insufficient, an order of execution was duly issued and carried out.

The respondent Hemandas Udhamam tiled a petition to withdraw the aforesaid deposit, and the respondent judge granted the same in his order of September 9, 1946. The herein petitioners seek the annulment of this order and allege that the deposit should be kept until the appeal shall have been decided on the merits.

There is a judgment for back rents much exceeding the amount deposited; and the respondent Hemandas Udhamam may be held liable for the whole thereof. As the deposit was made to secure the payment of rents in arrears, the same has to be maintained until the final termination of said respondent's appeal, regardless of the fact that, due to its insufficiency for which the petitioners cannot be blamed, execution was ordered. Let us suppose that execution was suspended upon the filing of a sufficient supersedeas bond, but the respondent has failed to continue depositing or paying the monthly rents. There is no doubt that, in such case, execution may upon motion be issued as a matter of course. I do not think that the respondent will be entitled to the withdrawal of the deposits he had already made, or even to the cancellation of the supersedeas bond. Otherwise, a tenant lacking in good faith may, after depositing or paying the current rents for many months and without desisting from his appeal, stop doing so and disregard execution, as long as he gets back what he had deposited, especially when he is at any rate ready to vacate, in which case the winning landlord may probably lose the only chance of ever collecting the rents that had accrued prior to execution.

I therefore vote for the granting of the petition.

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