

MARIA MACABENTA, PETITIONER AND APPELLEE, VS. EMMA H. VER-REYES, ET AL., RESPONDENTS. EMMA H. VER-REYES, RESPONDENT AND APPELLANT.

G.R. No. L-14898. September 19, 1961

Ponente: DIZON, J.

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DIZON, J.:

On July 31, 1957 the spouses Emma H. Ver-Reyes and Ramon Reyes filed an action for unlawful detainer in the Municipal Court of Manila against Maximo Umali and Maria Macabenta to recover from them the possession of a parcel of land located at Tiago St., Sampaloc, Manila (Civil Case No. 48160). The main defenses interposed by said defendants were that under the contract of lease entered into between them, on the one hand, and plaintiffs' parents, on the other, they could occupy the property in question as long as they wanted, provided they paid the rent promptly, and that plaintiffs' parents had given them an option to buy the property. After due trial upon these issues, the Municipal Court of Manila found that the property in question was inherited by the plaintiff Emma H. Ver-Reyes from her parents; that the only contract of lease entered into by and between the latter and the defendants was oral and on a month-to-month basis; that the defendants had not paid rents for several months when the action was filed; that plaintiffs had notified defendants to vacate the property for the additional reason that they intended to build thereon their own house. The judgment of the court was as follows:

"In view of the foregoing consideration, the Court renders decision for the plaintiffs, ordering the defendant Maximo Umali to pay the amount of P80.00 as rentals in arrears up to January 31, 1956, and defendant Maria Macabenta the amount of P140.00 as rentals in arrears up to January 1957; plus the sum of P10.00 every month for Umali from February 1956, until he finally vacates the place: and Macabenta the sum of P20.00 a month beginning February 1957 up to the time she finally vacates the place, plus an attorney's fees in the amount of P50.00 and the costs of the suit."

There is no question that the above decision became executory and that thereafter, upon motion of the prevailing party, the Municipal Court of Manila caused to be issued the corresponding writ of execution, the pertinent portion of which reads as follows:

"Now therefore, you are hereby commanded to cause the defendant aforesaid to forthwith remove said premises, and that the plaintiff aforesaid have restitution of the same; also that you collect the rents due as stated hereinabove, and upon failure of said defendant levy upon his goods and chattels for the payment of the said due and back rents as judgment ordered and the above-mentioned costs aside of your lawful fees for this execution, and collect from him the rent due at the rate of P10.00 for Umali and P20.00 for Macabenta a month from the 1st day of February, 1957 until the day of his vacating said premises, damages in the sum of P50.00 as attorney's fees and the costs hereinabove-mentioned, and costs of this execution and service hereof, in due form of law."

To prevent the execution of the above-mentioned writ, petitioner Maria Macabenta filed in the Court of First Instance of Manila a verified petition for prohibition claiming that the same was materially at variance with the

decision rendered in the case and that, therefore, in issuing the writ, the respondent judge, Ramon H. Ycasiano, had acted without or in excess of his jurisdiction or with grave abuse of discretion. Upon her petition a writ of preliminary injunction was issued to restrain enforcement of the writ complained of.

After answer to the petition for prohibition had been filed by the respondents, the lower court tried the case and thereafter found that there was "a clear variance" between the decision of the Municipal Court in Civil Case No. 48160 and the writ of execution issued therein. As a result, it rendered judgment granting the writ prayed for in the petition. Hence, this appeal.

It is beyond question that Civil Case No. 48160 was for unlawful detainer and that plaintiffs therein prayed for judgment ordering the defendants: to vacate the property subject-matter of the action; to remove their improvements therefrom; to surrender possession of the property to plaintiffs, and to pay the latter the monthly rents due and unpaid, besides attorney's fees and costs of suit.

While it is true that the dispositive part of the decision rendered by Judge Ycasiano did not provide with the desired clarity and definiteness that the defendants in the case should vacate the property in question and deliver its possession to the plaintiffs, it is likewise undeniable that the granting of such relief is clearly inferable from that portion of the dispositive part requiring herein petitioner to pay the rents in arrears as well as "the sum of P20.00 a month beginning February 1957, up to the time she finally vacates the place" (*Italics supplied*). That the decision had really such meaning and was so intended was subsequently shown by the fact that the respondent judge issued the writ of execution complained of.

Having arrived at the conclusion that there is no material variance between the decision rendered by the Municipal Court in Civil Case No. 48160 and the writ of execution issued therein, judgment is hereby rendered reversing the decision appealed from and dismissing the petition for prohibition, with costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, De Leon, and Natividad, JJ., concur.

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