

JULIAN SOGUECO, PETITIONER, VS. FELIPE NATIVIDAD, JUDGE OF COURT OF FIRST INSTANCE OF MANILA, AND GABRIEL DE LEON VDA. DE MENDOZA, RESPONDENTS.

G.R. No. L-1543. April 30, 1948

Ponente: TUASON, J.

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TUASON, J.:

This is a petition for certiorari to review an order of the Court of First Instance of Manila.

It appears that respondent Gabriela de Leon Vda. de Mendoza brought suit for unlawful detainer in the municipal court of Manila against Julian Sogueco to recover the possession of a house, back rents at P80.00 a month for November and December, 1946, and compensation for the use and occupation of the premises at the rate of P200 monthly from January 1, 1947. On February 6, 1947, the municipal court gave judgment for the plaintiff granting all the reliefs prayed for except that the last item—compensation for the use of the house from January 1, 1947—was reduced to P100. Having appealed from that decision to the Court of First Instance, the Honorable Felipe Natividad, Judge, acting upon a motion of the plaintiff required the defendant, now petitioner, to file a bond of P1,000 as a condition for the stay of execution of the judgment. The defendant took exception to this order contending, on the authority of *Mitschiener vs. Barrios*, L-112, 42 Off. Gaz., 1901, that the deposit by him of the rents and compensation adjudged by the court makes such a bond unnecessary.

The *Mitschiener* decision controls the case at bar. The only difference pointed out between the two cases is that here, the monthly compensation for the use and detention of the house after January 1, 1947, demanded by the lessor has been reduced, a diminution which, it is contended, is an item of lawful and recoverable damages in this jurisdiction. Under the rule laid down in the case of *Mitschiener*, the reduction is immaterial. This Court said in that case that to stay execution of the decision the defendant is only required to pay or deposit the current rents as they fall due. It was held that "the supersedeas bond * * * has in effect, the purpose of securing only the payment of rents in arrears." The Court stated that there are practically no damages "to be adjudicated except the loss of rents or their equivalent", and that "the deposits made by petitioner of the back rents * * * may have taken the place of the supersedeas bond."

The order complained of is set aside with costs against the respondent Gabriela de Leon Vda. de Mendoza.

Feria, Pablo, and Perfecto, JJ., concur.

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