

## **BERNARDA DE VASQUEZ, PETITIONER, VS. ALFONSO DIVA, RESPONDENT.**

*G.R. No. L-1370. April 27, 1949*

Ponente: TUASON, J.

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### **TUASON, J.:**

This is an appeal from a decision of the Court of Appeals by Bernarda de Vasquez, defeated defendant in a case for unlawful detainer.

It appears that Alfonso Diva brought this action in the municipal court in June, 1945. There, the case was dismissed, and the plaintiff appealed to the Court of First Instance. The latter court rendered judgment ejecting the defendant from the premises in question and ordering her to pay the plaintiff rents at the rate of P25 a month from March 11, 1945, "sin perjuicio de cualquier accion que quiera interponer para discutir la cuestion de propiedad sobre dicha finca." Not satisfied with that decision, the defendant took the case to the Court of Appeals.

The Court of Appeals found as did the Court of First Instance that the husband of the defendant, now deceased, acquired by purchase on the installment plan in 1927 the property in litigation; that the deceased must have sold the land and the house erected thereon, in which the defendant and her husband lived, to Geronimo Santiago, when the latter was able to secure a Transfer Certificate of Title thereto in his name; that on September 30, 1944, Alfonso Diva, the plaintiff, in consideration of P10,000, bought the house and lot from Santiago.

The defendant-appellant points out two alleged errors in the decision, namely:

I

"That the Court of Appeals failed to consider and pass upon the question of ownership under which the contract of lease could only be hand, which is the only cause of action that the present case was premised.

II

"That the Court of Appeals cannot in effect hold that ejectment may be ordered or decided under article 1569 of Section 3 of the Civil Code in relation with Rule 8 Section 1 sub-section F of the Rules of Court."

It has been seen that the Court of Appeals found that the property in question was sold by the defendant's husband to Geronimo Santiago and that Santiago afterward conveyed it to the plaintiff. Although it did not make a categorical finding on whether there was a lease contract between the plaintiff on the one hand and the defendant and her husband on the other, we gather from the tenor of its decision that it recognized the existence of such agreement. This conclusion is inferrable not only from its analysis and discussion of the evidence and the allegations but also from its affirmance of the Court of First Instance's decision "in all its parts," decision wherein the latter court expressly found that the plaintiff at the behest of the defendant and her husband let them continue occupying the premises at a rental of P25 a month.

The relation of lessor and lessee between the plaintiff and the defendant being established, the plaintiff has a

cause of action for unlawful detainer upon the defendants failure to pay the stipulated rents and after demand to vacate the property. Defendant's attempt to inject the question of ownership into the case in the face of the plaintiff's allegations and the proof could not defeat the court's jurisdiction, a lessee is not allowed to deny his lessor's title. The Court of First Instance and the Court of Appeals were right in disregarding the defendants asserted ownership to the property except in so far as it might throw light on the right of possession. The validity of the sale of the house and lot by defendant' husband to Santiago and by Santiago to plaintiff may and should be litigated in an appropriate suit, as both courts indicated.

The decision of the Court of Appeals is affirmed with costs against the appellant.

Moran, C.J., Paras, Feria, Pablo, Perfecto, Bengzon, Montemayor, and Reyes, JJ., concur.

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