

**MARGARITA CACO, THRU HER SURVIVING HEIR, CARLOS CACO,
PETITIONER-APPELLANT, VS. THE COURT OF APPEALS AND
BENIGNO SALAO, RESPONDENTS-APPELLEES.**

G.R. No. L-46205. December 29, 1977

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition for certiorari to review the decision of the Court of Appeals in CA-G. R. No. 54471-R,[1] entitled "Margarita Caco versus Benigno Salao", affirming the judgment of the Court of First Instance of Rizal, Branch XXXII, in Civil Case No. C-2428, the dispositive part of which reads:

"For all the foregoing con-siderations, judgment is hereby rendered in favor of defendant and against the plaintiff and ordering the plaintiff:

- (1) To pay defendant the sum of FIVE THOUSAND PESOS (P5,000.00) as moral damages;
- (2) To pay defendant the sum of TWO THOUSAND PESOS (P2,000.00) for actual expenses and other expenses of litiga-tions;
- (3) To pay the defendant the sum of THREE THOUSAND PESOS (P3,000.00) as and for attorney's fees;
- (4) The complaint is dis-missed with costs against the plaintiff.

SO ORDERED.

Kalookan City, October 8, 1973.

(Sgd.) ALBERTO Q. UBAY

Judge"[2]

On May 30, 1972, Margarita Caco instituted against Benigno Salao Civil Case No. C-2428 in the Court of First Instance of Rizal at Caloocan City, seeking the rescis-sion of a contract of lease and the recovery of the pos-session of the leased premises and the recovery of unpaid rentals as well as attorney's fees, actual and incidental expenses and moral damages.

The complaint[3] alleged that on February 13, 1958, the plaintiff and defendant entered into a lease contract of a parcel of land located in Santolan, Malabon, Rizal, containing an area of 2,638 square meters, more or less, declared under Tax No. 27013 in the name of Martin Buena-ventura and valued at P2,870.00; that the contract of lease was for a period of five (5) years at a yearly rental of P400.00; that on May 3, 1958, the parties exe-cuted another contract of lease over the same parcel of land extending the period of lease for fifteen (15) years to end on February 28, 1978 at an increased annual rental of P600.00; that in accordance with the terms and conditions of the amended lease agreement; the defendant obli-gated himself to pay the yearly rental for said lot in the amount of P600.00 on the first day of the month of March of every year payable in advance; that the defendant failed to

pay the yearly rental for 1972 and despite repeated demands, he still failed to comply with his obligation; that aside from having failed to pay the yearly rental, the defendant violated the terms of the lease contract by (a) assigning the lease to one Amelia S. Antonio without the knowledge and consent of the plaintiff; and (b) allowing the present occupants of the leased premises to devote the same to the purpose not intended by the parties; that on April 7, 1972, the plaintiff made a written demand to the defendant to vacate the premises but the latter has ignored and chosen not to make any reply to said demand, but instead allowed a Chinaman to start a new construction inside the premises; that the plaintiff received a letter from the assignee, Amelia S. Antonio, who offered to pay the rental, which offer, however, was rejected by the plaintiff by returning the three (3) money orders to said Amelia S. Antonio; that as a consequence of these acts of the defendant, the plaintiff was constrained to engage the services of counsel for P2,000.00 to bring this suit, and that the plaintiff, furthermore, suffered actual and moral damages in the sum of P10,000.00.

In his answer^[4] filed on August 7, 1972, the defendant averred as affirmative and special defenses that because of his advanced age and weakened physical condition, he had requested and authorized his granddaughter, Amelia S. Antonio, to administer the improvements which he had put on the leased lot; that as such representative of the defendant, Amelia S. Antonio had, for the past several years, remitted the annual rentals on the leased lot to the plaintiff, who, without objection and unquestioningly, received and acknowledged such remittances with the exception of the last one, corresponding to the annual rental for the current period, March 1972 to March 1973, which plaintiff unjustifiably, unreasonably and arbitrarily returned to the defendant; that defendant's remittance of the annual rental for the period from March 1972 to March 1973 is valid, binding and sufficient, and plaintiff's rejection thereof and returning the same to the defendant is unjustified, arbitrary and illegal; that the plaintiff is estopped from complaining against the alleged violation of the contract by the defendant as plaintiff had long been informed of and had abetted and tolerated and condoned defendant's manner of using the leased lot; that plaintiff's complaint is filed with malice and bad faith aforethought, and is motivated by plaintiff's selfish desire to recover possession of the leased lot even before the expiration of the agreed period of lease in expectation of higher income or more lucrative returns from the property; that the plaintiff had invested not less than P60,000.00 for improvements on the leased lot, which capital constituted his life savings and hard earned income; that plaintiff's action had lapsed and had been lost by prescription and laches; that the complaint fails to state a cause of action; and that the court has no jurisdiction over the case. The defendant interposed a counterclaim for damages and attorney's fees.

The trial court dismissed the complaint and ordered the plaintiff to pay the defendant damages and attorney's fees in a decision dated October 8, 1973.

The plaintiff appealed to the Court of Appeals where the appeal was docketed as CA-G. R. No. 54471-R.

The Court of Appeals promulgated on February 15, 1977 its decision affirming the judgment of the Court of First Instance of Caloocan, Branch XXXII.

The petitioner raised the following issues:

"1. The award of moral, actual and compensatory damages to the private respondent in the total amount of P10,000.00 should not have been granted due to the following reasons:

- a. The filing of the complaint was done without malice and was not capricious. It was done in the noblest purpose of seeking redress in our courts of justice for the correction of a violation of a contract of lease;
- b. Such award is not the one contemplated as an 'analogous case' as provided under Article 2219 of our Civil Code;

c. Such award is contrary to established jurisprudence and public policy.

2. The respondent Court of Appeals exceeded its appellate jurisdiction by issuing the Orders dated July 4, 1974 and July 28, 1976 which in effect off-set the rental against damages awarded to private respondent.

3. By reason of law and equity rescission of the Contract of Lease would have been proper and just and damages claimed by petitioner would have been fairly awarded if not for abuse of discretion by the respondent court involved in the case at bar."^[5]

Anent the issue of whether or not Benigno Salao assigned his rights over the lease contract to Amelia S. Antonio, the pertinent portion of the contract in question reads:

"IKATLO. - Na, alang-alang sa halagang ISANG LIBONG PISONG PILI-PINO (P1,000.00) na isinasaysay na tinanggap ng UNANG BAHAGI SA IKALA-WANG BAHAGI sa kasulatang ito, sa pamamagitan nito ay INILILIPAT AT ISINASALIN ng UNANG BAHAGI sa IKA-LAWANG BAHAGI at sa kaniya'y mag-mamana ang lahat ng karapatan sa pangungupahan sa lupang nababanggit sa talatang UNA ng kasulatang ito, sa ilalim ng kasunduan ang IKALAWANG BAHAGI na ang siyang tutupad ng mga kaisahang na-sasaad sa dalawang kasulatan ng pangungupahan na nilagdaan ng UNANG BAHAGI sa kasulatang ito at ni Gng. Margarita Caco. (Exhibit F, paragraph 3)."^[6]

It is to be noted that the private respondent transferred not only all rights over the lease contract but the assignee Amelia S. Antonio assumed all the obligations imposed on the lessee in said contract. It is clear that the intention was for Benigno Salao to disassociate himself completely from the lease contract he had entered into with the petitioner. This agreement is an assignment of the lease and not a mere sub-lease of the leased premises.^[7]

The Court of Appeals held that the assignment made by Benigno Salao in favor of his granddaughter, Amelia S. Antonio, does not constitute a ground for the rescission of the contract of lease because there is no provision in the lease contract prohibiting the assignment of the lease.

The issue on the rescission of the contract of lease will become academic on February 28, 1978 when the period of said contract expires.

As regards the issue on the damages, while it is true that the assignment of the contract without the consent of the petitioner does not constitute by itself a ground for the rescission of the lease contract, it may be considered as a justification of the filing of the action for rescission by the plaintiff.

There is no showing that the original petitioner acted maliciously and in bad faith in instituting the action for rescission against the private respondent. The said petitioner apparently believed in good faith that the assignment of the lease contract by Benigno Salao in favor of his grand daughter, Amelia S. Antonio, is a ground for rescission. The original petitioner was not a lawyer. At the time she instituted the action, she was old and sickly. She cannot be expected to know correctly the effect of the assignment of the contract of lease by Benigno Salao to his grand-daughter Amelia S. Antonio. Hence, by analogy with the third paragraph of Article 526, Civil Code of the Philippines, her mistake in filing the action for rescission of the lease contract may be the basis of good faith.

In view of the foregoing, the petitioner is not liable for any kind of damages and for attorney's fees.

It appears that the private respondent has not been paying the rentals since the decision of the lower court was rendered. He should pay all rentals in arrears.

WHEREFORE, the decision appealed from is hereby modified in that the petitioner shall not be liable to pay any damages, expenses of litigation, attorney's fees or costs to the private respondent and the private respondent is

ordered to pay the petitioner all the rentals in arrears. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Guerrero, JJ., concur.
Martin, J., took no part.

[1] Rollo, pp. 39-53. The decision was written by Justice Conrado M. Vasquez and concurred in by Justice Delfin Fl. Batacan and Justice Jose B. Jimenez.

[2] Record on Appeal, pp. 73-74, Rollo, p. 60.

[3] Ibid., pp. 1-18, Rollo, p. 60.

[4] Ibid., pp. 18-24, Rollo, p. 60.

[5] Memorandum for Petitioner, Rollo, p. 97.

[6] Rollo, p. 44.

[7] Manlapat vs. Salazar, 98 Phil. 356.

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