

ADELA G. ESTRELLA AND LUCIANO ESTRELLA, PLAINTIFFS AND APPELLEES, VS. BRAULO SANGALANG, DEFENDANT AND APPELLANTS.*G.R. No. L-65. February 06, 1946*

Ponente: OZAETA, J.

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Plaintiffs and appellees are the owners of the house located at 963 Billbid Yiejo, Manila, which defendant has been occupying and using for residential and business purposes since January 15, 1943, paying a monthly rent. On March 12, 1945, they gave said tenant fifteen days within which to vacate the premises for the reason that they were going to live therein, but he refused to do so. Hence this suit of unlawful detainer, commenced in the municipal court of Manila and appealed by the tenant to the Court of First Instance, in which the only defense alleged is that he is not in arrears in the payment of rents and that his "right to hold possession of the property has not yet expired."

At the commencement of the trial de novo in the Court of First Instance, the attorney for the defendant proposed the following agreement, which was accepted by the attorney for the plaintiffs: "We agree that the pre-war rental of the property in question was P30 monthly, plus 25 per cent increase, plus the gas, water consumption, which the Metropolitan Water District may charge, from October 1944 up to the time the defendant will leave the premises." The defendant did not present any evidence in his behalf.

The Court of First Instance rendered judgment ordering the defendant to vacate the premises, to pay to the plaintiffs a monthly rental of P30 plus 25 per cent, plus legal interest from the date of the filing of the complaint until full payment, plus the cost of the water consumption from October 1944, and the costs. From that judgment the defendant appealed to this Court.

Upon appellant's first assignment of error we find that he has been unlawfully withholding from the appellees the possession of the premises in question. There being no agreement as to the duration of the lease and the rent being paid monthly, it is understood that the term is from month to month (first paragraph, article 1581, Civil Code), in which case "the lease shall terminate without necessity of a special notice, upon the expiration of the term" (second paragraph, *id.*). There could be no implied renewal of the lease after March 1945, under article 1566 of the Civil Code, because in that month the lessors gave the lessee notice to vacate.

In his second assignment of error appellant questions the correctness of the judgment of the lower court as, to the amount of the rent, the legal interest thereon, and the cost of water consumed in the leased premises since October 1944. The amount of rent fixed by the lower court based on the pre-war rental of P30 a month plus 25 per cent is not unreasonable. It is also just and reasonable that the tenant should pay for the water consumed by him, especially when he agreed, in effect, during the trial that to the monthly rental should be added "water consumption which the Metropolitan Water District may charge "from October 1944 up to the time the defendant will leave the premises." Although the first part of the agreement refers to the pre-war rental, it is apparent that the

water consumption "from October 1944 up to the time the defendant will leave the premises" had no relation at all to the pre-war rental, and therefore its inclusion in the latter part of the agreement would be meaningless unless it be interpreted as an agreement of the defendant to pay for it. We think the trial court did not err in so interpreting it.

With regard to the interest, the defendant is not liable therefor for the reason that he was not in default in the payment of the monthly rents as fixed by the trial court.

Appellant's third assignment of error, in which he contends in effect that in view of the post-war housing conditions in the city of Manila no ejectment should be ordered, has no legal basis and cannot be sustained. Commonwealth Act No. 689, entitled "An Act to Penalize Speculation on Rents of Buildings Destined for Dwelling Purposes," is not applicable to this case because the building in question is admittedly used for business purposes.

The judgment is affirmed with the sole modification as to legal interest on the monthly rentals, which is hereby eliminated. With costs against the appellant.

De joya, Perfecto, Hilado, and Bengzon, JJ., concur

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