

G. VIOLA FERNANDO, PETITIONER AND APPELLANT, VS. CRISANTO ARAGON, JUDGE OF MUNICIPAL COURT OF MANILA, GREGORIO NIEVA, AND MARIA A. DE NIEVA, RESPONDENTS AND APPELLEES.

G.R. No. L-209. April 30, 1946

Ponente: OZAETA, J.

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OZAETA, J.:

This certiorari proceeding commenced in the Court of First Instance of Manila arose out of an unlawful detainer case now pending in the Municipal Court of Manila in which the herein petitioner G. Viola Fernando is one of the defendants and the respondents Gregorio Nieva and Maria A. de Nieva the plaintiffs.

The complaint for unlawful detainer alleged in substance that on the 21st of April, 1945 the plaintiffs leased to the defendant G. Viola Fernando one of the three houses located in a compound at 2966 Herran, Santa Ana, Manila, on a month-to-month basis beginning May 1, 1945, at a monthly rental of P200 payable in advance during the first five days of each month, with the parties reserving the right of terminating the lease agreement upon thirty days' notice; that under the terms of paragraph 5 of the contract of lease the defendant undertook and agreed that the premises leased shall be used by him as a residential house and for no other purpose nor could he transfer his rights to said lease contract to any other person or persons without the written conformity of the plaintiffs; that the defendant violated said paragraph 5 of the lease agreement in that he converted part of the premises into an automobile repair shop, with the result that a great deal of filth and rubbish accumulates and much noise is caused every day, causing the rental value of the other two buildings belonging to the plaintiffs and located in the same compound to decrease greatly; that the defendant G. Viola Fernando has furthermore subleased portions of the premises to other persons without the written conformity of the plaintiffs; that on May 25, 1945, the plaintiffs notified the defendant in writing of their intention to terminate the lease agreement as of June 30, 1945, in view of such violations by him of the contract of lease; that at said defendant's request for additional time within which to find quarters elsewhere the plaintiffs, on June 30, 1945, granted him an additional period of thirty days, or until July 31, 1945, within which to vacate the premises; and that notwithstanding the said written notices given by plaintiffs to defendant G. Viola Fernando on May 25, 1945, and June 30, 1945, the said defendant had failed and refused and still failed and refused to vacate the premises and return the same to the plaintiffs.

During the trial of the cause before the respondent judge of the municipal court, the latter announced that he had just dismissed a similar case for failure of the plaintiff to allege demand upon and failure of the defendant to pay the rent as required by section 2 of Rule 72. Thereupon counsel for the plaintiffs asked and obtained leave of the court to amend the complaint by adding to the allegation of paragraph 8 thereof that the defendant refused to vacate the premises, the following phrase: "despite several requests made on him since July 31, 1945, and until the date of the filing of this action."

This certiorari proceeding was thereafter commenced in the Court of First Instance of Manila to vacate the proceedings before the respondent municipal judge on the ground that he had "no jurisdiction to take cognizance

of the same," it being contended by the petitioner that there is no rule authorizing the municipal court to allow an amendment to the complaint.

The lower court denied the petition, holding that the respondent judge did not exceed his jurisdiction in permitting the amendment of the complaint.

We find this certiorari proceeding to be totally devoid of merit.

In the first place, the disputed amendment to the complaint was unnecessary and a mere surplusage. The allegations in the original complaint that under the written contract of lease between the parties either of them had the right to terminate it upon thirty days' notice; that the plaintiffs, in view of defendant's violation of the terms of said contract, notified him in writing on May 25, 1945, of their intention to terminate the lease agreement as of June 30, 1945, which period was extended upon request of the defendant to July 31, 1945; and that notwithstanding such notices the defendant had failed and refused and still failed and refused to vacate the premises, were sufficient to constitute a cause of action for unlawful detainer against the defendant. Moreover, being on a month-to-month basis the lease could be terminated at the end of any month even if any of the conditions thereof had not been violated.

In the second place, although Rule 17, providing for amended and supplemental pleadings in Courts of First Instance, has not expressly been made applicable to the justice of the peace and municipal courts, such omission cannot be interpreted as a prohibition to said courts from allowing a plaintiff to amend his complaint in a proper case "to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding." (Section 2, Rule 1.) The obvious reason for the omission in the Rules of a provision regarding amendment of pleadings in the justice of the peace and municipal courts was that proceedings before said courts are summary and require no formal or elaborate pleadings like those in the Courts of First Instance. The defendant in the justice of the peace or municipal court is not required to file a written answer to the complaint. It was evidently to cover such possible omission that in section 6 of Rule 124 it was provided that if the procedure to be followed in the exercise of the jurisdiction conferred on a court "is not specifically pointed out by these rules, any suitable process or mode of proceeding may be adopted which appears most conformable to the spirit of said rules."

The judgment is affirmed, with costs against the appellant.

De Joya, Perfecto, and Bengzon, JJ., concur.

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