

MARY BURKE DESBARATS AND ANTONIO T. CARRASCOSO, JR., THE LATTER IN HIS CAPACITY AS EXECUTOR OF THE ESTATE OF W. J. B. BURKE, DECEASED, PLAINTIFFS AND APPELLANTS, VS. TOMAS DE VE...*G. R. No. L-2525. May 21, 1951*

Ponente: BAUTISTA ANGELO, J.

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On December 10, 1947, plaintiffs filed in the Municipal Court of the city of Manila a complaint against Tomas de Vera for ejectment relative to a four-story building known as the "Burke Building" situated at the corner of calles David and Escolta, Manila. After trial, the court rendered judgment ordering the defendant to vacate the premises subject of the complaint, and to pay to the plaintiffs the sum of P10,000 representing the rentals due from June 1, to November 30, 1947, with legal interest thereon from December 10, 1947, until fully paid, and to pay likewise the rentals at the rate of P19,000.00 a month from December 1, 1947, until the premises shall have been actually vacated and surrendered to the plaintiffs, plus the costs of suit. Defendant appealed to the Court of First Instance.

In this instance, after due trial, at which parties presented their respective evidence, the court rendered decision ordering the defendant to vacate the premises and to pay to the plaintiffs the rentals due from June 1, 1947, until the premises are vacated, at the rate of P10,400 a month, deducting therefrom the amounts collected or may be collected by plaintiffs from the subleases of the property in question. From this decision, both parties appealed, each assigning several errors in their briefs.

The errors assigned will be discussed in the order they are presented, consolidating those that refer to the same issues, and omitting those which, by their nature, are but mere sequel to points already discussed for the sake of brevity and to avoid repetition.

Plaintiffs-appellants contend that the lower court, after finding that there was no verbal understanding between Carrascoso and the defendant regarding the installation of an elevator in the building subject of the lease contract, erroneously reduced the monthly rental of the leased property to P10,400, not only for the time that might elapse before its surrender but even retroactively, notwithstanding the fact that in the contract of lease it was expressly agreed upon that the monthly rental is P19,000.

There is merit in this contention. While we agree with the lower court in its finding that between Carrascoso and defendant no verbal understanding was actually had regarding the installation of an elevator, and that what actually took place was that Carrascoso merely promised the defendant to intercede and make representations to the owner as to the necessity of installing such elevator, as may be gleaned from the letters that were exchanged between the two, we do not consider this circumstance enough justification to reduce the rentals there being a clear specific agreement on the matter. There being no actual agreement regarding the installation of an elevator, there is no point nor logic to lay the blame on the owners for the failure of the defendant to lease every available space in the building as he had expected because that was a contingency which he should have foreseen taking

into account the then existing condition of the building. He took the building under a written contract of lease and was at liberty to include therein the terms and conditions he considered necessary to promote his interest, yet instead of inserting in it a provision on that matter, he merely relied on the promise of help of Carrascoso who was at best acting in a representative capacity. By relying on the promise of Carrascoso, he took the risk and must suffer the consequences. We must respect the legal truism that the contract is the law between parties. No matter how plausible is the purpose of the lower court in ameliorating the situation of the defendant in view of the adverse factors that had supervened as a result of the lack of an elevator in the leased premises, we cannot allow equity to prevail in the face of an express agreement whose provisions are clear and undisputed:

Plaintiffs-appellants next contend that the trial court erred in allowing the defendant to occupy a portion of the leased premises from August 1, 1948, to March 20, 1949, paying only a rental of P2,000 a month, considering the fact that the portion so occupied was twice as much in size than that occupied by each of the Indian tenants of the same property who were paying a monthly rental of P2,000 each. We find, however, that this question was determined by the lower court after considering the spaces or rooms occupied by the other sublessees of the property, who all in all were paying a monthly rental of around P10,400 and that the rental of P2,000 was found reasonable considering the prevailing circumstances. If to this we add that in the early part of 1949, the rentals of houses in Manila and other places had begun to decline due to the increase of housing facilities, it would be unfair to base the rental the defendant is required to pay on the monthly rental of P19,000 originally fixed in the lease agreement which was concluded two years ago. We feel that this finding of the lower court should be left undisturbed even if its order of September 24, 1948, was found null and void by this Court.

We now come to the errors assigned by the defendant-appellant. He claims that the trial court erred in not holding plaintiff Carrascoso legally responsible for the uncollected rentals due from the subtenants during the period covered by the lease, the reason being that, as Carrascoso has written to the subtenants telling them not to pay the rentals of the rooms occupied by them to defendant, but to him (Carrascoso), the defendant "should thereby be considered released and discharged from any further responsibility" (p. 8, defendant's brief). In other words, defendant claims that, because of such interference, Carrascoso alone should be made responsible for the rentals which the subtenants had failed to pay on the premises occupied by them.

It should be noted that Carrascoso wrote to the subtenants requiring them to pay to him direct the rentals of the rooms they were occupying under article 1552 of the Civil Code, which provides that "the sublessee shall also be bound with regard to the lessor for the amount of the price agreed upon in the sub-lease which is due at the time of demand." This is a right which the defendant himself has recognized (p. 8, defendant's brief). If Carrascoso has intervened, it was only to protect the interest of his principals who were not receiving from the defendant the rentals agreed upon. If Carrascoso's intervention is authorized by law, there is no point to make him responsible for rentals he has failed to collect through the fault of the subtenants. This is more so when the collection was made by Carrascoso with the express conformity of defendant (Exhibit "M"). It is obvious that this claim is untenable.

The claim that with the intervention of Carrascoso a virtual assignment of the rents from defendants to Carrascoso has been effected, is also untenable, it being a fact that, in so interfering, Carrascoso merely exercised the rights granted him by article 1552 of the Civil Code. In fact, when defendant wrote to his subtenants telling them that he had assigned to Carrascoso the rentals that were due from them, Carrascoso at once wrote a letter to defendant making it clear that he was not assuming any responsibility for the collection of said rentals, his purpose being merely to help in collecting them and to credit their proceeds to what defendant then owed to the lessors as back rentals of the property.

The next error assigned refers to the claim that defendant is entitled to reimbursement for the cost of the

improvements he has introduced on the leased property. It is claimed that these improvements cost defendant around P100,000, and this should be reimburse to him. A perusal of the lease agreement belies this contention. Thus, the lease agreement (Exhibit "D") contains the following provision: "upon the termination of this agreement, or a renewal thereof, the said alterations and improvements will become the property of the lessors without payment of any compensation therefor to the lessee." It is therefore plain that under the contract defendant cannot claim any right to reimbursement for improvements he may introduce on the leased property, and it is strange that he should now ask for reimbursement. It is true that in the meantime some regrettable factors have intervened which have made defendant suffer losses quite beyond his expectation, but those events, regrettable as they are, furnish no justification for departing from the expressed provisions of the lease agreement. Equity cannot prevail when there is a clear stipulation to the contrary.

But defendant claims that the trial court should have at least extended his contract of lease for a reasonable period as a matter of equity to enable him to recover the losses he had sustained through the fault of the plaintiffs. However, the trial court cannot possibly grant the extension requested, first because under the lease contract the period of lease can only be renewed for another year upon mutual agreement of the parties, which is sadly lacking here, and, second, because defendant himself volunteered to return the Burke Building to the plaintiffs, reserving to himself only that portion which he was actually occupying. This attitude is hardly consistent with his pretense now, for which reason this Court held in its resolution of April 26, 1949, the following:

"* * * It appears that the contract of lease in favor of the defendant admittedly expired on December 31, 1948; and there seems to be absolutely no reason for conceding to the defendant any extension, especially in view of the circumstance that he had delivered the greater portion of the building 'in accordance with the decision of the Court of First Instance' something obviously inconsistent with any pretense that the defendant would seek in this appeal an extension of his lease, which covers the entire 'Burke Building'." * * * (Italics supplied.)

As regards the claim that the trial court should have allowed defendant's counterclaim in the sum of P10,000 as attorney's fees, it suffices for us to state that defendant could collect such fees only if the trial court had declared plaintiffs at fault and responsible therefor as required in the lease agreement, and defendant had set up such claim in the Municipal Court. Neither however was done in this case, and so no such fees can be collected.

"* * * If the action or controversy which must be submitted to the appellate court must be essentially identical with the question submitted in the justice of the peace court, the nature of which is determined by the pleadings duly filed with that court, it is right to conclude that in the Court of First Instance, where the case is to be heard upon appeal, no pleadings can be allowed which raise a question essentially distinct from that raised in the justice of the peace court.

"From the foregoing, the inevitable conclusion is that under the provisions of the law on the subject, upon appeal to the Court of First Instance, the parties cannot file any pleading which raises questions essentially distinct from those lawfully and duly raised in the court of origin; and that while sections 75 and 112 of the Code of Civil Procedure provide that the parties shall file new pleadings and the case will be tried and decided in the Court of First Instance as though same had been originally there commenced, it does not mean that the proceedings had in the justice of the peace court are to be disregarded but that as no record is there kept of the proceedings, in the Court of First Instance, as a court of record, the proceedings must be recorded for which it is necessary that the parties should file new pleadings, that new trial should be held and the case should be decided as though the same had not been previously heard in the justice of the peace court, but essentially the Same questions, duly raised, discussed and decided in the justice of the peace court, must be there raised, discussed and decided." (Yu Luy vs. Galmes, 40 Phil., 651).

Wherefore, the decision appealed from is hereby modified in the sense that the defendant is ordered to pay to the plaintiffs the sum of P19,000 as monthly rental from the date of default until he vacated the leased building, with

legal interest thereon from the date of demand, deducting therefrom the amounts directly received by the plaintiffs from defendant's sublessees during the said period; said decision being affirmed in all other respects. No special pronouncement as to costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor and Jugo, JJ., concur.

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