

EMILIA TENGCO, PETITIONER, VS. COURT OF APPEALS AND BENJAMIN CIFRA, JR., RESPONDENTS.

G.R. No. L-49852. October 19, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

Review on certiorari of the decision* rendered by the Court of Appeals in CA-G.R. NO. SP-08182, entitled: "Emilia Tengco, petitioner, versus Court of First Instance of Rizal, etc., et al, respondents," which dismissed herein petitioner's "Appeal by Way of Certiorari" from the judgment of the Court of First Instance of Rizal in Civil Case No. C-6625 which affirmed the decision of the Municipal Court of Navotas, Metro Manila, in Civil Case No. 2092, entitled: "Benjamin Cifra, plaintiff, versus Emilia Tengco, defendant," ordering the herein petitioner (as defendant) to vacate the premises at No. 164 Int., Gov. Pascual St., Navotas, Metro Manila, and to pay the herein private respondent (as plaintiff) the arrears in rentals and attorney's fees; and the Resolution denying the herein petitioner's motion for reconsideration of the said Court of Appeals decision.

The record of the case shows that on 16 September 1976, the herein private respondent, Benjamin Cifra, Jr., claiming to be the owner of the premises at No. 164 Int., Gov. Pascual St., Navotas, Metro Manila, which he had leased to the herein petitioner, Emilia Tengco, filed an action for unlawful detainer with the Municipal Court of Navotas, Metro Manila, docketed therein as Civil Case No. 2092, to evict the petitioner, Emilia Tengco, from the said premises for her alleged failure to comply with the terms and conditions of the lease contract by failing and refusing to pay the stipulated rentals despite repeated demands. After trial, judgment was rendered against the petitioner. The decretal portion of the decision reads, as follows:

"WHEREFORE, Judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the defendant and any and all persons claiming rights under her to vacate the premises occupied by her at No. 164 Int., Gov. Pascual Street, this town and to surrender possession thereof to the plaintiff, condemning the defendant to pay the plaintiff the amount of THREE HUNDRED SEVENTY SIX (P376.00) PESOS, as rentals in arrears and the sum of TWELVE PESOS (P12.00), a month from October, 1976 until the premises is fully vacated. To pay the plaintiff the sum of TWO HUNDRED (P200.00) PESOS as and for attorney's fees and costs of suit."

From this judgment, the herein petitioner appealed to the Court of First Instance of Rizal where the appeal was docketed as Civil Case No. C-6625. On 18 May 1978, the Court of First Instance of Rizal rendered judgment affirming the decision of the municipal court, the dispositive part of which reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered affirming in toto the judgment of the lower court dated September 20, 1977 without pronouncement as to costs."

Not satisfied, the herein petitioner filed with the respondent Court of Appeals an "Appeal by Way of Certiorari" which was docketed as CA-G.R. NO. SP-08182.

On 29 August 1978, the respondent Court of Appeals promulgated a decision, with the following disposition:

"WHEREFORE, finding that the Decision of the lower Court is supported by substantial evidence and that its conclusions are not clearly against the law and jurisprudence, the instant Petition is hereby denied due course and is dismissed outright."

The petitioner filed a motion for reconsideration of the decision but her motion was denied on 16 January 1979.

Hence, the present recourse.

The petitioner contends that the respondent Court of Appeals erred in sustaining the decisions of the appellate and trial courts which are allegedly contrary to the evidence and applicable jurisprudence. The petitioner more particularly claims that (1) the private respondent Benjamin Cifra, Jr. is not the owner of the leased premises; (2) the lessor was guilty of mora accipiendi; (3) the petitioner's version of the facts is more credible than private respondent's; (4) laches had deprived the lessor of the right to eject her; and (5) the private respondent failed to establish a cause of action against the petitioner.

We find no merit in the petition. The reasons advanced by the petitioner to support her petition are the same reasons given by her to the Court of Appeals in support of her "Appeal by Way of Certiorari" and we find no ground to adopt a different course from that of the respondent appellate court. In disposing of the petitioner's contentions, the Court of Appeals said:

"Petitioner claims that private respondent had failed to establish his ownership of the lot in question for while the Certificate of Title presented by him refers to a parcel of land situated at Bo. Almacen, Navotas, the premises in question, on the other hand, is situated in Bo. Sipak, Navotas; that it was not with private respondent that she entered into the lease agreement but with his mother; that her failure to pay the rentals on the premises was due to the refusal of the collector to accept her tender of payment; and that laches had deprived private respondent of whatever right he had against her considering that the Complaint was filed only in September, 1976 whereas his cause of action arose sometime in February, 1974 when she defaulted in the payment of rentals.

"We find this 'appeal', which We consider as a Petition for Review, to be without merit.

"It should be noted that petitioner admits that she is a lessee on the premises in question and that she had been in default in the payment of the rentals thereon since February, 1974 allegedly because of the refusal of the collector to accept her tender of payment. However, she claims that the lease agreement was not with private respondent, but with his mother. The question as to who is the real lessor of the premises is one of fact and the findings of the lower court that it was private respondent is entitled to the highest respect by appellate Courts barring any material evidence to the contrary. Neither can petitioner question private respondent's claim of ownership of the leased premises. The tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation of landlord and tenant between them.

"Petitioner's excuse for her non-payment of the rentals on the premises deserves scant consideration. If, indeed, her offer to settle her obligation was refused by private respondent, she should have resorted to the judicial deposit of the amount due in order to release her from responsibility.

"Petitioner's claim that private respondent's cause of action is barred by laches is untenable. While it is true that petitioner's arrearages date back to February, 1974, however, a tenant's mere failure to pay rent does not ipso facto make unlawful his possession of the leased premises. As held by respondent Court of First Instance, it is the failure to pay rents after a demand therefor is made that entitles the lessor to bring an action of Unlawful Detainer. Moreover, the lessor has the privilege to waive his right to bring an action against his tenant and give the latter credit for the payment of the rents and allow him to continue indefinitely in the possession of the premises. During such period, the tenant would not be in illegal possession of the premises and the landlord can not maintain an action until after he has taken steps to convert the legal possession into an

illegal possession. Thus, in the case at bar, the demand on petitioner to vacate the premises for failure to pay the rentals thereon was made by private respondent only on August 23, 1976 and the Complaint against petitioner was filed on September 16, 1976.

"Consequently, petitioner's non-payment of the rentals on the premises, notwithstanding demand made by private respondent, and her failure to avail of the remedy provided for in Article 1256 of the Civil Code, entitles private respondent to eject her from the premises."

Indeed, the question of whether or not private respondent is the owner of the leased premises is one of fact which is within the cognizance of the trial court whose findings thereon will not be disturbed on appeal unless there is a showing that the trial court had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the result of the case. And since the petitioner has not presented sufficient proof that the leased premises is not the same lot registered in the name of the private respondent, the findings of the lower courts on the fact of ownership of the leased premises will not be disturbed.

The maps attached by the petitioner to her Reply to the Comment of the private respondent which would tend to show that Almacen and Sipac are two (2) different barangays or sitios, cannot offset the findings of the trial court for lack of proper identifications; in fact, these maps do not even indicate where the property at No. 164 Int., Gov. Pascual Street is located.

The petitioner's contention that the provisions of Section 1, Commonwealth Act No. 53, should be applied in this case in determining the credibility of witnesses, is untenable. The said law provides:

"Sec. 1. Where a covenant or contract made between the owner of land and a lessee or tenant on share thereof has not been reduced to writing or has not been set forth in a document written in a language known to the lessee or tenant, the testimony of such lessee or tenant shall be accepted as prima facie evidence on the terms of a covenant or contract."

As can be seen, the cited law can be invoked only when there is a dispute between the owner of the land and the lessee or tenant on share tenancy as to the terms of an unwritten contract or where the contract is written in a language not known to the lessee or tenant. In the instant case, there is no dispute as to the terms of the contract of lease. Hence, the cited law cannot be invoked to support the petitioner's claim that the private respondent is not the owner of the leased premises or that the petitioner's version of the facts of the case is more credible than that of the private respondent.

Besides, the petitioner's contention that the private respondent is not the owner of the leased premises is inconsistent with her claim that she had tendered payment of the rentals for the month of January 1976 to the private respondent.[1]

There is also no merit in the petitioner's contention that the lessor is guilty of mora accipiendi. The circumstances surrounding the alleged refusal of the lessor (private respondent) to accept the proffered rentals, according to petitioner, are as follows:

"Sometime in 1942, petitioner entered into a verbal lease agreement with Lutgarda Cifra over the premises in question which belonged to the latter. Aside from the amount of rentals, no other condition or term was agreed upon. The rentals were collected from her residence by the lessor's collector who went to her house to demand and collect payment from time to time, with no fixed frequency (Cf., t.s.n. July 28, 1977, pp. 2-6).

"Sometime in 1974, the lessor's collector stopped going to the petitioner's residence to collect her rentals, as she had done in the past. The defendant-appellant waited for the collector to come but the latter never showed up again in her neighborhood. Since no demand for payment was made upon her, the petitioner decided to keep the money until the collector comes again to demand and collect payment.

"Sometime in May, 1976, petitioner received a letter (Exh.1) from Aurora C. Recto, sister of private respondent, informing the former that the latter, was the owner of the property in question, was offering the same for sale.

"Sometime later, or in August 1977, petitioner received another letter, this time from the private respondent, demanding the surrender of the possession of the premises in question, also claiming to be the owner of the property.

"Upon receipt of this letter, petitioner forthwith went to the residence of the collector, another sister of the private respondent to whom she had been paying her rentals, and there tendered payment but this was refused without any justification (t.s.n. July 26, 1977, p. 7)."[2]

Under the circumstances, the refusal to accept the proffered rentals is not without justification. The ownership of the property had been transferred to the private respondent and the person to whom payment was offered had no authority to accept payment. It should be noted that the contract of lease between the petitioner and Lutgarda Cifra, the former owner of the land, was not in writing and, hence, unrecorded. The Court has held that a contract of lease executed by the vendor, unless recorded, ceases to have effect when the property is sold, in the absence of a contrary agreement.[3] The petitioner cannot claim ignorance of the transfer of ownership of the property because, by her own account, Aurora Recto and the private respondent, at various times, had informed her of their respective claims to ownership of the property, occupied by the petitioner. The petitioner should have tendered payment of the rentals to the private respondent and if that was not possible, she should have consigned such rentals in court.

Finally, we find no merit in the petitioner's contention that the private respondent is guilty of laches. As the Court of Appeals had stated, the demand for the petitioner to vacate the premises and to pay arrears in rentals was made on 23 August 1976 and the complaint seeking her ejectment was filed a few days thereafter, or on 16 September 1976.

For reasons aforesaid, the judgment of the Court of Appeals appears to be in accord with the evidence and the law.

WHEREFORE, the petition is hereby DENIED. Without pronouncement as to costs. This decision is immediately executory.

SO ORDERED.

Paras, Sarmiento, and Regalado, JJ., concur.

Melencio-Herrera, J., (Chairman), no part, Court of Appeals judgment penned by me.

* Penned by Justice Ameurfina A. Melencio-Herrera and concurred in by Justices Lorenzo Relova and Simeon M. Gopengco

[1] Brief for the Respondent, p. 5

[2] Brief for the Petitioner, pp. 1-2

[3] *Saul vs. Hawkins*, 1 Phil. 275

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