

GREGORIO BALVERAN AND MERCEDES CABANA, PETITIONERS, VS. THE COURT OF APPEALS, TEOFILA ZABALLERO VDA. DE UNSON ET AL., RESPONDENTS.*G.R. No. L-1811. December 29, 1949*

Ponente: PARAS, J.

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On June 26, 1945, the herein respondents, Teofila Zaballero Vda. de Unson and Amando Zaballero, instituted in the justice of the peace court of Lucena, Tayabas, an action to eject the herein petitioners, Gregorio Balveran and Mercedes Cabana, from the western portion of a house situated in the corner of Zamora and Gardiner Streets, on the ground that the respondents needed the same to establish a store therein. The petitioners set up the defense that they are lessees of the premises paying a monthly rental of P75, and that the true purpose of the action is to enable the respondents to lease the property to a Chinaman at a higher rental. After trial, the justice of the peace court rendered judgment in favor of the respondents and against the petitioners. The latter appealed to the Court of First Instance of Tayabas which, after trial, rendered judgment also in favor of the respondents, ordering the petitioners to vacate the premises in question, to pay a monthly rental of P75 from May 15, 1945, and the sum of P100 as attorney's fees, plus the costs. The petitioners again appealed to the Court of Appeals which in turn affirmed the decision of the Court of First Instance of Tayabas except as to the portion requiring the petitioners to pay attorney's fees.

The petitioners have elevated the case to this Court on appeal by certiorari, contending that the use of the premises in question intended by the respondents (to open a store) is not a ground for ejectment contemplated by the Rental Law, Commonwealth Act No. 689, as amended by Republic Act No. 66, and that although the petitioners themselves are using said premises both as a dwelling and as a store (their lease is nonetheless protected by section 1 of Commonwealth Act No. 689, as amended by Republic Act No. 66, which provides that "Building used both as dwelling of the lessee and also as place of business of the latter for home industries intended for the support of the family shall be deemed included in the provisions of this Act." It is unnecessary to pass upon the contention of the petitioners because the period covered by the Rental Law expired on October 15, 1949 (*Estrada vs. Casada*, G. R. No. L-1560, decided on October 25, 1949), and the same, therefore, is now of no avail to the petitioners.

Wherefore, the decision of the Court of Appeals is affirmed, and it is so ordered with costs against the petitioners.

Moran, C.J., Ozaeta, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Torres, JJ., concur.

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