

PUAHAY LAO, PETITIONER, VS. DIMTOY SUAREZ AND ALEJANDRO SUAREZ, RESPONDENTS.

G.R. No. L-22468. January 29, 1968

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Certiorari to review and set aside the decision of the Court of Appeals in its case CA-30691-R.

The material antecedent and background facts, as disclosed by the record are the following:

The spouses Alejandro Suarez and Dimtoy T. Suarez had leased a parcel of land (Lots 1 and 2, Block TS-39-R) in Tulay, Jolo, Sulu, covered by their Original Certificate of Title No. 108-TSA, to Puahay Lao, by a written contract of lease (attached to the Stipulation of Facts). The essential provisions of the contract provided that (Rec. of Appeal, pp. 71 to 73) ?

"That the Lessors shall grant and the Lessee shall accept a lease of a portion of the above described property for an indefinite period of time under the following terms and conditions:

"(a) That at the signing of this contract, the Lessee shall start to construct on said portion mentioned above a two-story building consisting of two (2) doors (ground floor) for store purposes and the upper floor for residence at his own expense and for his own use and benefit;

"(b) That Lessee, his heirs, assigns or successors shall pay the Lessors, their heirs or assigns, a monthly rental for the use of said portion of land in the sum of Fifty-Four (P54.00) Pesos, Philippine Currency at the end of every month from the time that the construction of the building commences;

x x x x x

"(g) That in the event that Lessee will fail to pay the rental for three (3) consecutive months, the amount due or that may be due is demandable and in addition Lessee will pay Lessors 20% of the amount due as liquidated damages. Should the amount due be indorsed to an attorney for collection, Lessee agrees to pay an additional sum of P500.00 for attorney's fees;

x x x x x x

"(j) That any violation of the terms and conditions stipulated in this contract on the part of the Lessee, his heirs or assigns, shall be sufficient ground for termination of this lease and the Lessee agrees to pay the sum of Six Hundred (P600.00) Pesos, as liquidated damages in addition to Five Hundred (P500.00) Pesos for attorney's fees."

On December 14, 1961 the lessors filed suit against the lessee in the Justice of the Peace Court of Jolo, averring non-payment of monthly rentals from July to October 1960, amounting to P216.00; that for such reason plaintiffs had given the lessee notices of termination of lease, on November 7 and 14, 1960; and prayed for judgment to order the lessee to vacate, and pay unpaid rentals with interest, P500.00 attorneys' fees and P600.00 liquidated

damages. In answer, the defendant lessee denied violating the contract and pleaded that he had tendered rentals due for September and October, 1960, and upon refusal, consigned them in Court; that he had every month thereafter consigned the rentals (for November and December) as they fell due; and counterclaimed for damages. After trial the Court gave judgment for the plaintiffs, and the lessee appealed to the Court of First Instance.

After, a motion to dismiss had been filed and denied, the lessee filed an answer practically reiterating his original defenses, and pleading consignment of rentals from October, 1960 to March 1961. The Court of First Instance affirmed the judgment of the Municipal Court upholding the lessors' right to rescind the lease, and recover the land leased. It therefore sentenced the tenant to vacate, pay the rentals due plus liquidated damages and attorneys' fees. The lessee resorted to the Court of Appeals. The latter once more affirmed, and the case was finally brought to the Supreme Court on certiorari.

We find the appeal without merit.

Two points are urged by the appellant against the decisions of the Courts below:

1) That the landlords (appellees) could not eject the tenant under section 2, Revised Rule of Court 70, unless

"the tenant had failed to pay such rent or comply with such conditions (of the lease) for a period of 15 days after demand therefor," (sec. 2, Rule 70)

and no such failure was chargeable to the lessee appellant, because he had deposited in Court the overdue rentals on November 6, 1960;

2) That the lease being expressly for an indefinite period, the tenant had the right to continue in possession so long as he paid the rentals on time.

On the first point, it should be adverted that the rentals were payable at the end of every month, so that when appellant failed to pay the rentals from July to October on the 30th of the latter month, the landlords *hic et nunc* became entitled, under paragraph g of the contract of lease (already quoted), to an additional 20% of the sum due by way of liquidated damages. The Court of Appeals found that the tenant never tendered or consigned in court these 20% damages, and his failure to do so was a breach that entitled the lessors to rescind (more properly, to resolve) the contract and terminate the lease, as expressly provided in paragraph j of the contract. In fact, even without such stipulation, it would be the right of the landlords to terminate the lease under Article 1673 of the Civil Code of the Philippines, paragraph 3, prescribing that the lessor may judicially eject the lessee for violation of any of the conditions agreed upon in the contract. Hence, when the lessors notified the lessee on November 7 and 14 that they were terminating the contract, they acted within their strict rights (*Avila vs. Veloso*, 69 Phil. 357). The lessors were not in law required to bring first in action for rescission, but could ask the court to do so and simultaneously seek the ejection of the lessee in a single action for illegal detainer (*Pamintuan vs. Tiglao*, 53 Phil. 1).

The preceding discussion renders it unnecessary to consider the issue predicated on the alleged indefinite duration of the lease. Definite or indefinite, the lessors have the right to terminate the contract upon violation of its terms or conditions. Parenthetically, it may be observed that in *Singson vs. Baldelomar*, 77 Phil. 724 this Court rejected the theory that a lease could continue for an indefinite term so long as the lessee paid the rent, because then its continuance and fulfillment would depend solely on the free and uncontrolled choice of the tenant between continuing to pay rentals or not, thereby depriving the lessors of all say in the matter; as it would be contrary to the spirit of Article 1256 of the Civil Code of 1889 (Art. 1308 of the Civil Code of the Philippines) that validity or compliance of contracts can not be left to the will of one of the parties.

FOR THE FOREGOING REASONS, the judgments appealed from are affirmed. Costs against appellant in all

instances.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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