

**VICTORINA A. DE GAERLAN AND SALVADOR GAERLAN,
PETITIONERS, VS. HON. FELIX MARTINEZ, JUDGE OF THE COURT OF
FIRST INSTANCE OF MANILA, JULIANA R. DE SANTOS, AND
SIMPLICIO SANTOS, R...**

G.R. No. L-3282. January 28, 1950

Ponente: OZAETA, J.

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OZAETA, J.:

On August 23, 1941, Juliana R. de Santos purchased at public auction from the Bureau of Lands a lot of 120.9 square meters located on Barbosa street, Quiapo, Manila, which was patrimonial property of the Commonwealth of the Philippines, for the sum of P15,112.50, paying then and there the sum of P1,511.25 and obligating herself to pay the balance in not more than ten equal annual instalments. The balance was fully paid on August 1, 1944. One of the conditions of the sale was that the buyer should commence the construction of improvements appropriate for the purpose for which the land was purchased within six months and should complete said construction within eighteen months from the date of the sale. Because of the war the buyer was unable to comply with that condition; and after the liberation the city authorities would not approve her application for a permit to construct a permanent improvement on the land pending approval of a plan for the beautification of Manila. In view of these reasons, upon recommendation of the Director of Lands, the Secretary of Agriculture and Natural Resources, on March 17, 1948, allowed the buyer "to commence the construction of her building on the said lot within six (6) months from the date that the city authorities will permit the construction of a permanent building on the land and to finish the same within eighteen months from the same date of the permit."

In the meantime, and in March, 1945, the buyer Juliana R. de Santos leased the lot in question to the herein petitioners Victorina A. de Gaerlan and Salvador Gaerlan, who constructed a building thereon and who paid her a rent of P20 a month up to August, 1945; P40 a month from September to November, 1945; P100 a month for December, 1945, and January, 1946; and P150 a month from February, 1946.

In September, 1947, the herein respondents Juliana R. de Santos and Simplicio Santos commenced an action of desahucio in the municipal court of Manila against the herein petitioners Victorina A. de Gaerlan and Salvador Gaerlan, alleging among others the following:

"7. That sometime in December, 1946, and for the purpose of advising the said defendants to vacate the land because she needs the same, the plaintiff went to the premises and then and there discovered the reason the defendants have repeatedly, spontaneously and voluntarily increased the rents was that instead of the makeshift shelter (barong-barong) which she permitted them to construct, they have erected thereon a building of strong materials, consisting of four doors;

"8. That in view of the open violation made by the defendants of their undertaking when they received the lot from the plaintiff Juliana R. de Santos, and because she needs the premises for her own use, she then advised them to vacate and surrender the same to her, but that said defendants requested the plaintiff to permit them

until April, 1947, to continue occupying the premises and thereby be enabled to recover the capital they have invested in constructing the said building; and the plaintiff, acceding to said request, did in fact permit them to hold the land until said month of April, 1947, upon the expressed condition that if they did not then vacate the premises, they shall be liable to the plaintiff for all damages that she might suffer by reason of their failure to disoccupy the same;"

On February 5, 1948, the municipal court rendered judgment ordering the defendants to vacate the premises in question and to pay the plaintiffs P150 a month until said premises are completely vacated.

At the instance of the herein petitioners (defendants below) the Secretary of Agriculture and Natural Resources revoked his order of March 17, 1948, canceled the sale of the lot in question to Juliana R. de Santos, and declared the forfeiture of the purchase price paid by her for said lot, at the same time ordering that said lot be again sold at public auction and that pending the oral public bidding Victorina A. de Gaerlan be required by the Director of Lands to pay the necessary occupation fee for occupying and utilizing the land in question. The validity of said order is the subject of a separate litigation now pending in the Court of First Instance of Manila.

During the pendency of the *desahucio* case on appeal in the Court of First Instance of Manila, the herein petitioners made two unsuccessful attempts before two different judges to be exempted from depositing the rent in court on the ground that by virtue of the order last above mentioned of the Secretary of Agriculture and Natural Resources the plaintiffs were no longer the owners of said land.

The present incident arose out of the third attempt of the petitioners to secure such an order from the respondent judge, Honorable Felix Martinez, who on November 20, 1948, entered an order relieving the petitioners from the obligation to deposit the monthly rentals provided they filed a bond of P1,800. When such bond was presented for approval, the respondents opposed it and moved for the reconsideration of the order of the respondent judge of November 20, 1948.

On August 1, 1949, the respondent judge entered an order giving the defendants three days within which to deposit the accrued rentals in lieu of the bond, otherwise writ of execution would be issued.

On August 6, 1949, the petitioners moved to reconsider the order last above mentioned, but during the hearing of the motion counsel for the petitioners prayed in the alternative for an extension of ten days to comply with the order, which extension was granted by the respondent judge in an order dated August 13, 1949, which reads as follows:

"A peticion del abogado Sr. Jesus Ocampo, se le concede otro plazo de diez (10) dias a contar desde esta fecha para que deposite todos los alquileres vencidos y por veneer; de otro modo se ordenara la ejecucion."

On August 23, 1949, counsel for the petitioners filed a motion asking for an additional extension of twenty days from August 23 "within which to deposit all the accrued rentals with the Clerk of this Honorable Court." On August 28 the respondent judge granted said petition in an order which reads as follows:

"A peticion del abogado Sr. Jesus Ocampo, y sin objecion del abogado Diokno, se le concede un plazo adicional de quince (15) dias a contar desde esta fecha para cumplir con la orden de este Juzgado de fecha 13 de los corrientes."

The petitioners now ask for the annulment of the above-mentioned orders of the respondent judge on the ground that Rule 72, requiring the deposit of the rentals in court during the pendency of an appeal in a *desahucio* case, is not applicable because "plaintiffs" title has been canceled and the property reverted to the ownership of the Government."

We find the petition for certiorari to be completely devoid of merit for the following reasons:

The order of the Secretary of Agriculture and Natural Resources canceling the sale of the lot in question and ordering the forfeiture of the purchase price is not final, it being contested by the purchaser in civil case No. 7336 of the Court of First Instance of Manila, which has not yet been decided.

The petitioners as tenants of the respondent Juliana R. de Santos are estopped from denying the title of their landlord at the time of the commencement of the relation of landlord and tenant between them. (Rule 123, sec. 68, paragraph [b].) Moreover, the orders complained of were issued by the respondent judge not only with the consent but upon petition of the petitioners themselves.

Wherefore, the petition is denied, with costs against the petitioners, and the writ of preliminary injunction issued herein on September 9, 1949, is hereby dissolved.

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

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