

ANG CHING GI, PETITIONER, VS. DIONISIO DE LEON, E.T. YUCHENGCO, AND THE SHERIFF OF CITY OF MANILA, RESPONDENTS.

G.R. No. L-1455. November 21, 1947

Ponente: FERIA, J.

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FERIA, J.:

The respondent E.T. Yuchengco filed a suit against the petitioner Ang Ching Gi in this case, who was sentenced by the Municipal Court of Manila to vacate the premises leased to him by the said respondent, and to pay the latter the sum of P700 as a monthly rental which defendant has failed to pay.

On appeal to the Court of First Instance presided by the respondent judge, the latter, on motion of the appellee for execution of the judgment of the municipal court, because of failure of the petitioner to pay or deposit the rents adjudicated by the municipal court during the pendency of the appeal, issued an order dated May 7, 1947, requiring the petitioner to deposit within five days P2,800 representing the back rents for four months up to April, 1947; and later on issued another order on May 17, 1947, giving the petitioner ten days more from the date thereof within which to deposit the same amount.

Now comes the defendant-appellant to this Court and petitions for certiorari or prohibition as petitioner calls it, against the respondents on the ground that the respondent judge acted without or in excess of his jurisdiction and with grave abuse of discretion, in rendering said orders of May 7 and 17, 1947, requiring the deposit of said amount of P2,800 which represents a monthly rental at the rate of P700 a month.

The argument advanced by the petitioner in support of his contention is that although the municipal court has sentenced him to pay P700 a month as rental, the amount of P350 agreed upon by the parties is what petitioner-appellant should deposit during the pendency of the appeal. According to the petitioner, the contract of lease between him and the respondent E. T. Yuchengco prior to the filing of the action of ejectment in the Municipal Court of Manila, was at the rate of P350 a month and without period or term of lease. But "the said respondent required an increase to the sum of P700 a month which petitioner refused and continues to refuse to pay."

Assuming that the municipal court committed an error in sentencing the defendant-petitioner to pay P700 instead of P350 a month as rental, the respondent judge did not act without or in excess of jurisdiction or with grave abuse of discretion in requiring the defendant to deposit the amount of P2,800 as monthly rental for four months at the rate of P700 a month as found by the municipal court to be due from him to the respondent Ang Ching Gi in accordance with section 8 of Rule No. 72. The respondent judge has a ministerial duty to require the deposit of the amount of rents awarded by the municipal court to the plaintiff in order to stay the execution of the judgment. The question whether the judgment of the municipal court is erroneous or not, will have to be passed upon by the Court of First Instance of Manila presided by the respondent judge in deciding the appealed case on the merits.

In view of the foregoing, it is evident that the respondent judge did not act without jurisdiction or in excess

thereof or with grave abuse of discretion in issuing the orders complained of, which is predicated upon the execution of the inferior court's judgment should the petitioner fail to do so. We can not in this case revise the decision of the municipal court nor the order of the respondent judge, and correct any error they may have committed in their decisions, orders or resolutions. In certiorari proceeding the only power of this Court is to determine whether the respondent judge has acted without or in excess of jurisdiction of the court or with abuse of the latter's discretion.

Therefore the petition is denied with costs against the petitioner.

Moran, C.J., Pablo, and Bengzon, JJ., concur.

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