

MARIQUITA LUNA, PLAINTIFF-APPELLANT, VS. GERONIMO CARANDANG, DEFENDANT-APPELLEE.

G.R. No. L-27145. November 29, 1968

Ponente: CAPISTRANO, J.

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CAPISTRANO, J.:

Appeal from the Court of First Instance of Batangas to the Supreme Court on questions of law.

On March 6, 1962, Mariquita Luna and Geronimo Carandang entered into a contract of lease for a period of 10 years involving a parcel of agricultural land containing an area of 158.7713 hectares situated at Calapan, Oriental Mindoro. The stipulated rent was P4,500 a year payable semi-annually for the first five years and P5,000 yearly beginning January 1967, to the end of the period of the lease. The lessee, Carandang, failed or refused to pay in full the stipulated rent during the first two years of the contract such that as of March 26, 1964, he owed the lessor unpaid rents in the amount of P4,156.63.

On May 26, 1964, the plaintiff-lessor commenced an action in the Court of First Instance of Batangas against the defendant-lessee for rescission, with damages, of the contract of lease above referred to. The rescissory action was grounded, principally, on the failure or refusal of the lessee to pay in full the stipulated rent for about two years. After trial, the lower court rendered its decision holding that plaintiff had made out a case for rescission with damages, but that the court could not order the defendant to vacate the leased premises because the land is situated at Calapan, Oriental Mindoro, where it had no jurisdiction. Accordingly, judgment was rendered in favor of the plaintiff granting rescission of the contract of lease, with damages, consisting of unpaid rents as well as future rents. Plaintiff appealed to the Supreme Court on questions of law and in due time filed her brief as appellant. No brief was filed for the defendant-appellee.

Appellant contends that the lower court erred in finding that since the leased land is situated at Calapan, Oriental Mindoro, it had no jurisdiction to order the defendant, appellee here, to vacate the leased premises. The contention is tenable in view of the following considerations:

(1) A Court of First Instance has jurisdiction over suits involving title to, or possession of, real estate wherever situated in the Philippines, subject to the rules on venue of actions (*Manila Railroad Company vs. Attorney-General, etc., et al.*, 20 Phil. 523; *Central Azucarera de Tarlac vs. De Leon, et al.*, 56 Phil. 169; *Navarro vs. Aguila, et al.*, 66 Phil. 604 *Lim Cay et al. vs. Del Rosario, etc., et al.*, 55 Phil. 692);

(2) Rule 4, Section 2, of the Rules of Court requiring that an action involving real property shall be brought in the Court of First Instance of the province where the land lies is a rule on venue of actions, which may be waived expressly or by implication. In the case at bar, there was an implied waiver of improper venue of the action because the defendant answered and went to trial without objecting to the improper venue; and

(3) Rescission of the contract of lease necessarily requires, as a consequence thereof, the return of the thing leased to the lessor. Hence, the judgment granting rescission of the contract of lease should also have ordered the lessee to vacate and return the leased premises to the lessor. The lower court having jurisdiction over the

case for rescission of the contract of lease and the restoration of possession of the land leased to the lessor, and the defendant having impliedly waived the improper venue of the action, said court could properly not only grant rescission of the contract of lease but also order the defendant to vacate and return the leased premises to the plaintiff.

The contract of lease contained a stipulation "that the parties herein agreed that the Court of Batangas shall have the exclusive jurisdiction to any case that may arise in this contract. * * *". This stipulation is void because the jurisdiction of the courts is conferred by law and cannot be the subject-matter of contracts. However, as pointed out, the Court of First Instance of Batangas had, in accordance with law, jurisdiction over the case, and there was implied waiver of improper venue by the defendant.

Appellant contends that the lower court erred in not ordering payment of the stipulated rent of P5,000 yearly from January, 1967, up to the time the leased land is returned to the plaintiff. The contention is technically untenable, for the reason that rescission and performance are incompatible with each other. To order payment of P5,000 as annual rent beginning January, 1967, up to the time the land leased is returned to the plaintiff would amount to performance and would be incompatible with rescission. The action for rescission having been filed on May 26, 1964, the damages to which the plaintiff-appellant is entitled are the unpaid rents from January 1, 1962, up to the filing of the action for rescission on May 26, 1964, for the reason that in an action by the lessor for rescission of the lease under Article 1659 of the Civil Code, the Court has no discretion to grant the lessee a longer period for performance but must decree the rescission demanded. Thereafter, the yearly reasonable rental value of the land which contains an area of 158.7713 hectares must be paid by the former lessee as long as possession thereof is retained by him. We fix the reasonable rental value at P4,500 per year from May 26, 1964, up to the time the land is vacated and returned to the appellant.

IN VIEW OF ALL THE FOREGOING, the judgment of the lower court, granting rescission of the contract of lease is affirmed with the following modifications: 1. The appellee is ordered to vacate and return the leased premises to the appellant; 2. The appellee is ordered to pay the appellant the unpaid rents from January 1, 1962, to May 26, 1964, in the sum of P4,156.63 with legal interest from the time of judicial demand until fully paid and, there-after, the sum of P4,500 annually as reasonable rental value of the land up to the time the land is vacated by the appellee and returned to the appellant.

Costs against the appellee in this instance.

Dizon, Makalintal, Zaldivar, Castro, and Fernando, JJ., concur.

Concepcion, C.J., and Sanchez, J., in the result.

Reyes, J., took no part.

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