

ONG KIM PAN (ALIAS PABLO ONG) AND ONG WA, PETITIONERS AND APPELLANTS, VS. FRANCISCO GERONIMO, JUDGE OF MUNICIPAL COURT OF MANILA, AND BENITO GONZALES, RESPONDENTS AND APPELLEES.*G.R. No. L-2850. December 29, 1949*

Ponente: REYES, J.

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This is an appeal from a decision of the Court of First Instance of Manila dismissing an action for prohibition directed against a municipal judge.

It appears that appellants are, and for some time have been, tenants of certain accesorias comprised in a building located at Muelle de Binondo, Manila, and belonging to the appellee, Benito Gonzales. Early in 1947 the tenants were required to pay higher rent, but as they refused to do so, the landlord chose to terminate the lease with notice for them to vacate the premises. Thus faced with imminent ouster, but before they could be taken to court, the tenants stole a march on their landlord by interposing, each of them, an action in the Court of First Instance to compel him to accept a lesser amount consigned in court as tendered rent, followed shortly thereafter by a joint action for declaratory relief to have the leased premises declared residential in nature for the purposes of the rent thereof. All these actions were dismissed by the trial court and are now on appeal.

After the tenants had filed their actions, the landlord, on his part, instituted proceedings in the municipal court to eject them from the leased premises on the ground that their lease, which was from month to month, had already terminated. Trial of these cases for ejection was, at first, suspended pending the outcome of the actions for consignment and declaratory relief. But, following the dismissal of these actions the suspension was lifted, and trial was about to be resumed when herein appellants sought to restrain it through an action for prohibition in the Court of First Instance. It is the dismissal of this action by that court that is now before us for review.

Appellants' claim to stay of trial in the actions for ejection is predicated on the existence of other pending cases between the same parties and relating to the same subject-matter. But we note that the issue is not the same in all the actions. Whereas the ejection cases pose the issue of the alleged termination of the lease, the question for adjudication in the consignment and declaratory relief cases refers merely to the amount of lawful rent. It is obvious that the decision in the cases last mentioned will not necessarily dispose of the issue in the others and conclude the controversy between the parties. It is, of course, within the sound discretion of a court to hold one lawsuit in abeyance to abide the outcome of another where the parties and the issues are the same. But it is equally within the court's discretion to refuse a stay "where it appears that whatever may be the result of the first action, a trial of the second will be necessary." (53 Am. Jur., 36.) As was said in a case, "it is only where the decision in one action will determine all the questions in the other action, and the judgment on one trial will dispose of the controversy in both actions, that a case for a stay is presented." (Rosenberg vs. Slotchin [1917], 181 App. Div., 137, 168 N. Y. S., 101; 81 Law. ed., 168.) Under this salutary rule of practice, appellants' claim to a stay cannot

successfully be urged.

It should also be borne in mind that the practice of allowing a stay in one action pending the outcome of another is not of universal application. In every case the court will consider whether justice will be done by granting the stay, always mindful of the possibility that it may work damage to someone else. (53 Am. Jur., 36.) In the present case, the suspension of proceedings in the ejection cases would work injustice to the landlord with the paralization of his summary remedy for the ouster of tenants who insist on occupying his property against his will beyond the period of their lease.

As we see it, the whole controversy between landlord and tenant in the present case may be resolved in the actions for desahucio so that if any stay should be granted at all it should be in the consignment and declaratory relief cases. A contrary ruling would allow a circumvention of the rules by frustrating the purpose of desahucio as a summary remedy. Such a result should be avoided.

We are, therefore, of the opinion that the respondent judge made a good use of his discretion in denying the suspension of trial of the desahucio cases, so that the petition for prohibition was properly denied by the Court of First Instance.

The decision appealed from is, therefore, affirmed with costs against the appellants.

Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Torres, JJ., concur.

CONCURRING

MORAN, C.J.:

I concur in the result upon the rule that the pendency of another action may be pleaded "only when the judgment to be rendered in the action first instituted will be such that, regardless of what party is successful, it will amount to res adjudicata against the second action." For instance, a pending action to annul a mortgage is not a bar to an action for foreclosure of the same mortgage, for the reason that, although the parties are or may be the same, if the decision in the first action upholds the validity of the mortgage, then it is no obstacle to the prosecution of the action for foreclosure. (Manuel vs. Wiggett, 14 Phil., 9; Hongkong & Shanghai Banking Corp. vs. Aldecoa & Co., 30 Phil., 255; see also Viuda de Hernaez vs. Jison, 40 Off. Gaz., 3646.)^[1] In other words "it is not sufficient that the result of the first action may be determinative of the second in a certain contingency; the situation must be such that the result of the first will be determinative of the second in any event." (Italics ours.) For instance, an action brought by the holder of an insurance policy to reform the contract, and in the alternative, if the granting of this relief be found impracticable, to rescind the same, constitutes no obstacle to the maintenance of an action by the general agent of the insurance company to recover on the note given for the first premium. (J. Northcott & Co. vs. Villa-Abrille, 41 Phil., 462.)

It is obvious that in the instant appeal the consignment and declaratory relief cases which have reference merely to the amount of lawful rent do not bar the ejection cases, because if it is adjudged in the former cases that the rent agreed upon by the parties is reasonable then the ejection cases may go on.

[1] 72 Phil., 203.

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