

AN ACT TO MAKE MORE LIBERAL THE PRESENT LEGAL PROVISIONS GOVERNING DISPOSSESSION, AMENDING SECTIONS EIGHTY AND EIGHTY-EIGHT OF THE CODE OF CIVIL PROCEDURE AS AMENDED, RESPECTIVE...

Acts No. 4115, December 07, 1933

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Section eighty of Act Numbered One hundred and ninety, known as the Code of Civil Procedure, as amended by Act Numbered Seventeen hundred and seventy-eight, is hereby further amended to read as follows:

"SEC. 80. Forcible entry into and detainer of land or buildings.—Any one deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, and any landlord, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or determination of the right to hold possession, by virtue of any contract, express or implied, and the legal representatives or assigns of any such landlord, vendor, vendee, or other person, shall at any time within one year after such unlawful deprivation or withholding of possession be entitled, as against the person or persons unlawfully withholding or depriving of possession, or against any person or persons claiming under them, to restitution of the land, building, and premises possession of which is unlawfully withheld, together with damages and costs: Provided, however, That no landlord shall commence any action against a tenant for restitution of possession of any land for failure to pay rent or to comply with the conditions of his lease, unless the tenant shall have failed, for a period of fifteen days, or five days in the case of a building, to pay the rent due or comply with the conditions of his lease after demand therefor. The demand for payment or for the performance condition of the lease may be made upon the tenant personally, or by serving written notice such demand upon any person who may be found up the premises or by posting such notice on the premises if neither the tenant nor any other person can be found thereon at the time the landlord or his agent may have there for the purpose of making such demand."

SEC. 2. Section eighty-eight of Act Numbered One hundred and ninety, known as Code of Civil Procedure, as amended by Act Numbered Twenty-five hundred and eighty-eight, is hereby further indeed to read as follows:

"SEC. 88. Appeal.—For party may appeal from the judgment of the justice if the peace to the Court of First Instance within ten after receipt by him of notice of the rendition of the judgment, and the suit shall be conducted therein in the same manner as appeals from justices of the peace in other civil actions. If the plaintiff recovers possession of the demises in the Court of First Instance he shall have judgment for the amount of rents and damages then due. If the defendant appeals from the judgment of the justice, and desires to stay execution of the judgment pending the appeal, he shall give to the plaintiff security by an obligation, with sufficient sureties, approved by the justice of the peace, to enter the action in the Court of First Instance, and to pay rents, damages, and costs, and the defendant and the sureties shall be liable upon their obligation for damages and costs down to the time of the final judgment in the action. No stay of execution of a judgment for restitution of possession shall be allowed until such obligation has been filed with the justice. During the pendency of the appeal in any case in which a stay of execution of a judgment restoring possession, has been

allowed, it shall be the duty of the defendant to pay to the plaintiff or into the Court of First Instance, at the option of the defendant, the amount of rent due from time to time under the contract, if any, as found by the judgment of the justice of the peace to exist, or, in the absence of a contract, to pay to the plaintiff or into court, as above provided, on or before the tenth day of each calendar month, the reasonable value of the use and occupation of the premises for the preceding month at the rate determined by the judgment. All moneys so paid to the Court of First Instance shall be deposited in the provincial treasury, or in the City of Manila in the Insular Treasury, there to be held until the final disposition of the appeal. Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal, the Court of First Instance, upon the motion of the plaintiff, of which the defendant shall have notice, upon proof of the failure of the defendant to make such payments, shall order the execution of the judgment of the court which had original cognizance of the case relative to the possession of the property in litigation, Provided, That such execution shall not be a bar to the appeal taking its course in the Court of First Instance until the final decision thereof on its merits. If the case is tried on its merits in the Court of First Instance any money paid into court by the defendant purposes the appeal shall be disposed of in accordance with the provisions of the judgment of the Court of First Instance in any case wherein it appears that the defendant has been deprived of the lawful possession of land or a building ending the appeal, by virtue of the execution of the judgment of the justice of the peace, damages for such deprivation of possession may be allowed the defendant in the judgment of the Court of First Instance disposing of the appeal. The appeal bond above referred to shall be transmitted by the justice with the other papers, to the clerk of the Court of First Instance to which the action is appealed."

SEC. 3. This Act shall take effect on its approval.

Approved, December 7, 1933.

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