

**ALFONSO PAGKALINAWAN AND MANUEL PAGKALINAWAN,
PETITIONERS, VS. SOTERO RODAS, JUDGE OF FIRST INSTANCE OF
MANILA, JOAQUIN GARCIA, SHERIFF OF THE COURT OF FIRST
INSTANCE OF MANILA,...**

G.R. No. L-1806. February 25, 1948

Ponente: PARAS, J.

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PARAS, J.:

In an ejectment suit between Manuel Tambunting, plaintiff, and Alfonso Pagkalinawan and Manuel Pagkalinawan, defendants, appealed from the municipal court to the Court of First Instance of Manila, the latter court, after trial, rendered a decision dated July 3, 1947, sentencing the defendants to vacate the house in question and to pay to the plaintiff the rentals from November, 1946, at the rate of P45 a month, plus the costs. Acting upon a motion for reconsideration filed by the defendants, the Court of First Instance of Manila issued an order dated July 26, 1947, granting said motion, setting aside the decision of July 3, 1947, and absolving the defendants from the complaint. On motion for reconsideration in turn filed by the plaintiff, an order dated August 16, 1947, was issued in which the same court "dicta de nuevo sentencia en esta causa, ordenando al Escribano pague al aqui demandante los alquileres depositados por los demandados hasta la fecha, y que en adelante dichos demandados paguen al demandante directamente los alquileres, en caso contrario, el Juzgado ordenara su lanzamiento de la finca en cuestion y les condenara al pago de las costas." This decision appears to have become final, as a result of which, upon petition of the plaintiff, the Court of First Instance of Manila ordered the issuance of a writ of execution. The defendants sought to stay the execution on the ground that they had in the meantime filed with the same court an interpleader suit against the plaintiff and one Angel de Leon Ong, praying that the latter two be ordered to litigate their conflicting claims to the rentals due from the defendants for the premises in question, it appearing that said defendants received a notice from the attorney of Angel de Leon Ong advising the defendants to stop paying rentals to the plaintiff. The Court of First Instance of Manila acceded to the motion for stay of execution, but, at the instance of the plaintiff, it issued an order on November 1, 1947, directing that execution be proceeded with. Failing to obtain a reconsideration of the latter order, the defendants instituted the present petition for certiorari and prohibition, seeking from us an order directing Hon. Sotero Rodas, Judge of the Court of First Instance of Manila, and Joaquin Garcia, sheriff, to desist from carrying out the writ of execution.

There is merit in the petition. It is true that the decision of the respondent judge of August 16, 1947, orders the petitioners to pay the rentals directly to the respondent Manuel Tambunting and provides for their ejectment in case of default. But it appears that, in connection with the interpleader suit filed by the herein petitioners in the Court of First Instance of Manila, said rentals were deposited with the clerk of court, of which fact the respondent judge was informed by the petitioners in their constancia dated October 15, 1947. Such deposits, in our opinion, constitute a bona fide compliance with the decision of the respondent judge, since it is undeniable that the petitioners were warned by Angel de Leon Ong not to pay rentals to the respondent Manuel Tambunting. That there is really a conflicting claim between Angel de Leon Ong and respondent Manuel Tambunting is evidenced

by the fact that there are pending in the Court of First Instance of Manila civil case No. 815, between Manuel Tambunting, plaintiff, and Angel de Leon Ong and Ong Hoa, defendants, for the annulment of a contract of sale involving the premises in question, and civil case No. 2690, between Angel de Leon Ong, plaintiff, and Manuel Tambunting, defendant, for the ejectment of Tambunting from the property located at Nos. 329 to 339 Tanduary Street, Manila, which includes the premises held by the petitioners. Under the law, the latter have a right to file the interpleader suit in view of the claim for rentals of Angel de Leon Ong; and if the respondent Tambunting believes that he is legally entitled to said rentals, he is free to move for the withdrawal of the deposits made by the petitioners.

Wherefore, the petition is hereby granted and the respondent judge and sheriff are ordered to desist from carrying out the writ of execution issued in civil case No. 1489. So ordered, with costs against the respondent Manuel Tambunting.

Perfecto, Hilado, Briones, and Tuason, JJ., concur.

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