

VICENTE STO. DOMINGO BERNARDO, GUADALUPE R. BERNARDO, FILOMENA R. BERNARDO, VICENTE R. BERNARDO, SUSANA R. BERNARDO, NATIVIDAD R. BERNARDO AND DOMINGO R. BERNARDO, PETITIONERS, ...

G.R. No. L-15022. August 31, 1962

Ponente: REGALA, J.

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REGALA, J.:

On May 21, 1958, the herein petitioners commenced ejectment proceedings against the herein respondent Westminster High School, with the Municipal Court of Manila, alleging that on November 15, 1946, both parties, the respondent represented by Elizabeth Kho, entered into a contract of lease whereby the latter leased from the former a parcel of land owned in common by them, located at Tondo, Manila, at a monthly rental of P1,200.00, subsequently reduced to P1,000.00 a month; that as provided in the lease contract, the monthly rentals were to be paid by the lessee to the lessors "at the end of each month"; and that since the commencement of the lease on January 16, 1947, respondent had been paying the stipulated rental up to March 15, 1958, but has defaulted in the payment thereof since then.

In its answer, respondent admitted the basic allegations of the complaint, including the existence of a contract of lease between the parties, but interposed the defense that during the summer months of April and May of every year the practice had been to allow deferred payment of the rentals.

Before hearing, respondent deposited with the said court the rentals in arrears and on July 9, 1958, after trial, the court rendered the following judgment:

"Upon confession of the defendant thru counsel to the effect that the amount of P3,000.00 deposited in this Court shall be applied to the rental of the premises in issue for the period covering March 16 to June 15, 1958, inclusive;

"JUDGMENT is hereby rendered for the plaintiff against the defendant to pay the sum of P1,000.00 on or before July 31, 1958 as rental of the said premises for the period covering June 16 to July 15, 1958, and, the sum of P1,000.00 every end of the month thereafter as long as defendant shall continue to occupy the premises; the sum of P200.00 as and for attorney's fees and costs. Otherwise, ejectment execution shall issue.

"Let the sum of P3,000.00 in check deposited with this Court be withdrawn by the plaintiffs and applied accordingly.

Within the reglementary period, respondent perfected an appeal from the aforesaid judgment to the Court of First Instance of Manila where the suit was docketed as Civil Case No. 37014. The complaint in the court of origin was reproduced, while respondent filed an answer thereto alleging similar defenses.

In the Court of First Instance, respondent deposited with the Clerk of Court the rentals for June 16 to September 15, but not at the end of each month as stipulated in the lease contract. The June 16 to July 15 rental was

deposited not on July 31, 1958, when it became due and payable, but on August 1, 1958; the July 16 to August 15 rentals was deposited not on August 31, 1958 but on September 12, 1958; and the rental for August 16 to September 15 was deposited not on September 30, 1958 but on October 1, 1958. From the foregoing, it is quite evident that the defendant was always late in the deposit of the rentals.

Consequently, on October 1, 1958, the petitioners filed with the Court of First Instance an urgent motion for execution of the judgment rendered by the municipal court on July 9, 1958, "on the ground that the respondent had not paid, on September 30, 1958, either to the plaintiffs or the said court the rental of P1,000.00 corresponding to the period from August 16, 1958 to September 15, 1958." This motion was defined by the court in an order dated December 2, 1958, pertinent portion of which reads:

"However, the Court thinks that to constitute an exception to the way of payment as interpreted by the Supreme Court, the existence of said contract of lease must be stated in the judgment of the Municipal Court, as prescribed in said Rule 72, Section 8, * * *. But the judgment of the Municipal Court, which is the one appealed from in this case, does not contain any statement about the existence of any contract of lease, and therefore, the way of payment agreed upon in said contract should not be followed by the defendant during the pendency of this appeal but that way of payment as interpreted by the Supreme Court in the case of *Teofila Salvador vs. Hon. Hermogenes Caluag, et al.*, *supra*.

"Consequently, the deposit made by the defendant on October 1, 1958, for the rentals corresponding to the period from August 16 to September 15, 1958, is within the period prescribed in said Rule 72, Sec 8, as interpreted by the Supreme Court and, therefore, the motion for execution is hereby denied for being groundless." (Italics supplied).

Motion for reconsideration of this order was likewise denied on January 16, 1959.

Hence, the petitioners filed the present action for certiorari and mandamus, praying for the annulment of the order denying petitioner's motion for immediate execution and that a writ of mandamus be issued commanding the respondent judge to order the immediate execution of the decision of the municipal court of Manila, dated July 9, 1958, to eject respondent Westminster High School from the premises in question.

The main issue hinges on the proper interpretation and construction of Section 8, Rule 72 of the Rules of Court, which reads as follows:

"SEC. 8. Immediate execution of judgment. How to stay same.—If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution files a sufficient bond approved by the justice of the peace or municipal court and executed to the plaintiff to enter the action in the Court of First Instance, and to pay the rents, damages, and costs down to the time of the final judgment in the action, and unless, during the pendency of the appeal, he pays to the plaintiff or to the Court of First Instance 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 or municipal court to exist, or, in the absence of a contract, he pays to the plaintiff or into the court, 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. * * * 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 motion of the plaintiff, of which the defendant shall have notice, and upon proof of such failure, shall order the execution of the judgment appealed from, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on its merits. * * *"

The above-quoted provision prescribes two modes of payment of the rents during the pendency of an appeal, to wit: (1) payment of the rent as stipulated in the lease contract, or (2) in the absence of a contract, payment of the reasonable value of the use and occupation of the premises on or before the tenth day of each calendar month, for

the preceding month at the rate determined by the judgment.

The respondent, apparently, has followed the second mode of payment, having deposited its August-September rental on October 1, 1958. We held in *Salvador vs. Caluag*, 98 Phil., 313; 52 Off. Gaz. No. 3 p. 1437, that in cases of monthly rents which could be paid from a given day of a month up to a given day of the following month, the calendar month within which the rent could be deposited or paid should be that following the month when the rent matured, i.e., if the rent matures on any day of the month of September, the calendar month referred to in section 8, Rule 72, within which the rent should be paid to avoid execution of the decision, would be the month of October and so on. Under the second mode, respondent had until October 10, 1958 to make the deposit or payment of the August-September rental in question, and it appearing, as already mentioned, that the deposit was made on October 1, 1958, there is no question that there was proper compliance with said mode.

We think, however, after a careful analysis of the above-quoted section of Rule 72, that the procedure followed in the *Caluag* case (*supra*), which gives an interpretation of the phrase "on or before the tenth day of each calendar month" is not applicable to the case at bar, because the provision allowing payment or deposit of rental within such a period applies only "in the absence of a contract."

An examination of the record reveals that the complaint filed with the municipal court alleged three basic facts which were expressly admitted by the respondent in its answer, to wit: (1) that there exists a written contract of lease; (2) that the monthly rent is P1,000.00; and (3) that the said rent is to be paid at the end of each month pursuant to the terms of the contract. Copy of the alleged contract was attached to the complaint. Again, when this complaint was reproduced in the Court of First Instance, the respondent, in its answer, reiterated its admission of these three basic allegations. As between the parties, therefore, there is no dispute as to the existence of a lease agreement between them.

It is worthy to note that the judgment of the municipal court in question is not entirely devoid of any indication of the existence of a lease contract between the parties. The statement as to the amount of rent and the date of payment thereof, which fully coincides with the terms of the contract, is enough suggestion that the inferior court has been aware of the existence of a lease agreement. However, there was no express finding of this regard.

In denying the motion for execution, the lower court has made capital of the participial phrase "as found by a judgment of the justice of the peace or municipal court to exist." But the phrase applies only when there is doubt as to the presence of a contract and the inferior court declares its existence. It would be unnecessary for the justice of the peace or municipal court to make such a finding, if, as in the present case, it is quite clear from the pleadings of the parties that there is a lease agreement.

Section 15, Rule 4, of the Rules of Court, provides that the judgment of the justice of the peace or municipal judge need not contain findings of fact or conclusions of law. If Section 8, Rule 72, is to be construed in the sense that the inferior court judge must, in all cases, make a finding as to the existence of a lease contract, so as to give effect to said contract between the parties, then, in ejectment cases, whenever the justice of the peace or municipal judge chooses not to make findings of fact in its judgment, the second mode of payment, as above discussed, would always be followed in cases of appeal and immediate execution is justified. In other words, the giving effect to the terms of the contract of lease, even if not the subject of dispute between the parties, would depend upon the option of the inferior court judge—a very dangerous interpretation because, as a result, the inferior court could unjustifiably render nugatory or ineffectual the terms of a lease agreement.

This Court feels that the judgment in an ejectment case, where the relationship of the parties is admittedly governed by a lease contract, need not contain an express statement of the existence of such contract, and that payment or deposit of the rents during the pendency of the appeal should be in accordance with the pertinent

provisions of the lease agreement. It appearing that defendant in this case failed to pay the rents within the stipulated time, execution of the decision should have been issued.

Wherefore, the instant petition is granted. The orders of the Court of First Instance of Manila in Civil Case No. 37014, dated December 2, 1958 and January 16, 1950, denying the motion for execution, are hereby set aside, and the respondent judge is hereby directed to order the immediate execution of the decision of the Municipal Court of Manila in Civil Case No. 58405, dated July 9, 1958.

Bengzon, C. J., Bautista Angelo, Labrador, Paredes, Dizon, and Makalintal, JJ., concur.
Padilla, Concepcion, and Barrera, JJ., concur in the result.

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