

ELISA R. VDA. DE TUAZON, PLAINTIFF AND APPELLEE, VS. CRISTETA JIMENEA DE JAVELLANA, ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. L-321. September 19, 1946

Ponente: PERFECTO, J.

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PERFECTO, J.:

During the battles for the liberation of Manila, plaintiff lost by fire her residential house at Sampaloc, Manila. The house was burned due to the shelling by the Japanese. Plaintiff moved to the house of Jose Cruz at Metrica street, where she remained from February 12 to April 16, 1945.

Defendants, who were occupying the second floor of the house at Quezon Blvd. No. 546, as plaintiff's tenants on a monthly rent of P88, were requested by plaintiff to vacate the premises because the latter needs it for her residence. Defendants refused, and plaintiff had to live in the clinic of her son, Dr. Juan Tuazon, in the ground floor of the same building at Quezon Blvd., where there is no enough space for seven persons-plaintiff, her son, her daughter-in-law, one niece, one cousin, and two servants-to live in.

Defendants were requested to vacate the upper floor in question not only verbally but also in writing through Exhibits A and A-I. Upon defendants' refusal to vacate the place, complaint for ejectment was filed in the Municipal Court of Manila on July 24, 1945.

On August 11, 1945, the municipal court rendered decision as prayed for in the complaint. On August 25, a motion for reconsideration was filed. Instead of simply denying the motion, the municipal court rendered again on September 5 another decision as prayed for in the complaint.

On November 28, 1945, Judge Mariano de la Rosa, of the Court of First Instance of Manila, on appeal, rendered decision ordering defendants to vacate the upper floor of house no 546 of Quezon Blvd. and to pay rents at the rate of P88 a month, plus costs.

Defendants again appealed. We do not find any merit in the appeal. The closest scrutiny of appellants' brief does not disclose any legal ground to support it.

Appellants insist that appellee has not shown that she needs the premises. Taking aside the fact that Dr. Tuazon's testimony appears enough to disprove appellants' contention, the same can not any how affect the legal issue in this case, that is, whether plaintiff is entitled or not to recover the possession of the property.

As no definite period of duration was agreed upon in the contract of lease, it appearing that defendants are paying rents on a monthly basis, plaintiff is, under the Civil Code, entitled to terminate the contract at any given month by requiring defendants to vacate the premises, which she did before filing the complaint. (Article 1581 and 1566, Civil Code; Villanueva vs. Canlas, p. 381, ante.)

The lower court's decision is affirmed, with costs against appellants.

Paras, Pablo, Hilado, and Padilla, JJ., concur.

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