

JOSE MA. PALACIOS, PLAINTIFF AND APPELLEE, VS. ARENSIO PALACIOS ET AL., DEFENDANTS-AND APPELLANTS.*G.R. No. L-8322. December 29, 1955*

Ponente: REYES, A., J.

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body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

The parties in this case are brothers and sisters and co-owners of two parcels of coconut land situate in the province of Davao and covered by a Torrens certificate of title. As three of them -- namely, Jose, Beatriz and Amelia, all surnamed Palacios -- were residing in Spain and only one -- Arensio Palacios -- was in Davao, all the four of them signed a contract in September, 1947, leasing the property for a period of five years to the brother who remained in Davao, the latter to pay as rental a certain percentage of the gross sales of copra taken from the plantation in accordance with the following schedule:

"CANON.-El Arrendador - Arrendatario, pagara a los ARRENDADORES las siguientes rentas como se estipula mas abajo y en la forma siguiente:

- 1).- Si el precio de la copra vendida es mas de P.10,00 los 100 kilos y no excede de P.10,00 por 100 kilos, 30% de la venta bruta.
- 2).- Si el precio de la copra vendida es mas de P.10,00 los 100 kilos y no excede de P.15,00 por 100 kilos, 35% de la venta bruta.
- 3).- Si el precio de la venta de la copra es mas de P.15,00 por 100 kilos y no mas de P.20,00 por 100 kilos, 40% de la venta bruta.
- 4).- Si el precio de venta de la copra es mas de P.20,00 por 100 kilos y no mas de P.30,00 por 100 kilos, 45% de la venta bruta.
- 5).- Si el precio excede de P.30,00 por 100 kilos, 50% de la venta bruta."

As to the manner in which the payment of the rental was to be made, the contract provided:

"FORMA DE PAGO DEL CANON.- EL ARRENDADOR - ARRENDATARIO, se compromete a enviar a los ARRENDADORES, en España la cantidad que les corresponda segun el percentage, juntamente con la factura liquidacion de la Compañia Compradora de la copra, paraconocimiento de los ARRENDADORES, inmediatamente despues de realizada la venta, y despues de haber deducido del importe total de la misma el 15% que le corresponde al ARRENDADOR - ARRENDATARIO, como condueño."

While the above clause provided that Arensio was to deduct, as his share as co-owner, only 15 per cent from the gross proceeds of the sales of copra, what he actually deducted was 25 per cent, thus reducing correspondingly the shares which he remitted to his brother and sisters in Spain, this on the theory, concurred in by his sisters, that the writing of 15 per cent in the said clause was the result of a clerical error and that the correct figures should be 25 per cent, this being the percentage that should pertain to him as co-owner of the land. But Jose apparently did not concur in that theory, and coming back to Davao in 1950 he hired an accountant to go over the accounts to figure out the sum that would still be due him on the basis of the 15 per cent deduction actually written in the contract, and having determined the said amount to be P2,380.14, brought the present action in the Court of First Instance of Davao, asking for the resolution of the lease insofar as he was concerned and the payment to him of the said sum of P2,380.14 with damages and also for the partition of the land in question.

Plaintiff included the two sisters as defendants on the theory that they were necessary parties. In their answer the three defendants agreed to the partition prayed for, but resisted the action for the resolution of the contract of lease, alleging that the defendant Arensio Palacios had not breached the contract as the writing of 15 per cent as the percentage to be deducted from the gross proceeds of the sales of copra was due to mere clerical error, the true percentage intended by the parties being 25 per cent, and that if the accounts of the sales of copra were not sent to plaintiff it was in obedience to the latter's own instructions. After trial, the court found for plaintiff, decreed the partition of the land as well as the resolution of the contract of lease and sentenced the defendant Arensio Palacios to pay plaintiff the sum of P6,216.27 which includes damages. From this judgment the defendants appealed and the record was elevated to the Court of Appeals. But that court has certified the case to us as involving only an interpretation of a contractual clause, which in its opinion "is purely a question of law."

The clause referred to is the one already copied above, which reads:

"FORMA DE PAGO DEL CANON.- EL ARRENDADOR - ARRENDATARIO, se compromete a enviar a los ARRENDADORES, en España la cantidad que les corresponda segun el percentage, juntamente con la factura liquidacion de la Compañia Compradora de la copra, para conocimiento de los ARRENDADORES, inmediatamente despues de realizada la venta, y despues de haber deducido del importe total de la misma el 15% que le corresponde al ARRENDADOR - ARRENDATARIO, como condueño."

It seems to us clear that the writing of the figure 15% in the above clause as the percentage to be retained by the lessee is a plain clerical mistake, the said 15% being therein described as the share of the rent corresponding to the lessee as co-owner, and there is no question that as there were four co-owners, each should be entitled to 25% of the rent. Nothing appears in the contract denoting any intention to reduce Arensio Palacios' share to 15% in consideration of the fact that the common property was leased to him, and no plausible reason has been given why such reduction should be made. We find no merit in the suggestion that the said reduction may have been due to the fact that the price of copra was high at the time the lease was made, for no such idea is intimated in the contract and the contract already provides for an automatic increase in rent to specified figures in case of rise in the price of copra. In short, a reasonable interpretation of the clause demands that the "15%" therein written should be read as "25%", this being the true percentage to be retained by the lessee as his share of the rent as co-owner.

No inference prejudicial to the lessee could be deduced from the fact that the accounts or invoices of the sales of copra were not forwarded directly to plaintiff and his two sisters in Madrid as provided in the above clause in view of defendants' explanation, supported by their Exh. "3", that the rents and the accounts were forwarded through their mother and other persons in accordance with the understanding of the parties so as to avoid paying certain taxes in Spain.

And we think it significant that two of the co-owners and lessors have concurred in the lessee's interpretation of

the clause in question that the amount the lessee was to retain from the rental was 25%, the share corresponding to him as co-owner, and not 15% as erroneously written in the said clause. This interpretation they have expressed not only in their letter to the lessee but also in their answer filed by them in court.

In view of the foregoing, the judgment appealed from is revoked except in so much as it approves the agreement of partition submitted by the parties and enjoins them to comply with the same. Costs against the appellee.

Paras, C.J., Bengzon, Padilla, Jugo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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