

SUSANO AMOR, PLAINTIFF-APPELLEE, VS. FRANCISCO GONZALEZ, DEFENDANT-APPELLANT.*G.R. No. L-223. April 12, 1946*

Ponente: HILADO, J.

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This is an ejectment case originally brought in the Municipal Court of Manila, later appealed to the Court of First Instance of said city, and lastly brought here on appeal by the defendant Francisco Gonzalez. The defendants in the Municipal Court were Shiu Che Kong (alias Tiu Tiong Iu) and Francisco Gonzalez. The municipal court ordered both defendants to restore to the plaintiff Susano Amor the house in question, No. 2248 (ground floor), Rizal Avenue, Manila, and to pay him the "rents" plus the costs.

The case having been appealed to the court of first Instance, only the defendant Shiu Che Kong (alias Tiu Tiong Iu) filed an answer to the complaint. The defendant Francisco Gonzalez, having failed to do so, was declared in default.

The facts are: that the plaintiff is the owner of the house in litigation; that the defendant Shiu Che Kong (alias Tiu Tiong Iu) about the month of March, 1945, without the knowledge nor consent of the plaintiff, entered into a contract with his co-defendant Francisco Gonzalez whereby the latter purported to lease the house to the former at the rate of P900 a month, the first defendant having paid to the second the "rents" from March to July, 1945, inclusive, without said Francisco Gonzalez having the owner's authority to let said house nor collect its rents; and that despite plaintiff's demand on defendants to vacate or surrender the possession of the premises and to pay the back "rents", they have refused and continue to refuse to do so. The foregoing facts appear proven in the transcript copied on pages 6 and 7 of the record on appeal: but the court of first instance declared that the "rent" of P900 a month was excessive and it therefore appraised the reasonable value of the use and occupation of the house at P140.00 a month, taking into account the circumstances of time and place where the house is located.

Before the court of first instance gave its decision of July 23, 1945, the defendant Shiu Che Kong (alias Tiu Tiong Iu) and the plaintiff stated to the court that they had arrived at an amicable settlement, without specifying the details thereof; but said court, in order to avoid that the parties again litigate the same questions, and without prejudice to any legal compromise which they might agree upon, gave its decision, condemning the defendants to restore to the plaintiff the house in question, No. 2248 (ground floor), Rizal Avenue, Manila; condemning the defendant Francisco Gonzalez to pay to the plaintiff the "rents" (which would more properly be called the reasonable value of the use and occupation of said house by reason of the absence of a contract of lease between the parties), at the rate of P140 a month, which said defendant had already collected from his co-defendant, and to reimburse to the latter the excess of what he had received from him from March to July, 1945, inclusive, plus legal interest; condemning the defendant Shiu Che Kong (alias Tiu Tiong Iu) to pay to the plaintiff the "rents" of said house at the indicated rate for the time elapsing after July, 1945, till complete restitution of the house to the plaintiff; ordering the defendant Gonzalez not to interfere with the possession and disposition of said house; and taxing the costs of both instances against the two defendants.

The contention of counsel for appellant Francisco Gonzalez in his first assignment of error that the municipal court lacked original jurisdiction, and the court of first instance appellate jurisdiction, over this case because the cause of action, according to him, accrued more than one year prior to the commencement of the suit in the municipal court, is untenable. The Court of First Instance, in view of the evidence, found the facts alleged in the complaint to have been sufficiently proven, and consequently gave judgment for the plaintiff. This necessarily includes the finding that the cause of action accrued about the month of March, 1945. On pages 6 and 7 of the record on appeal in this case there has been inserted by appellant's own counsel the transcript of the stenographic notes taken during the hearing of this case before the Court of First Instance, from which we find the finding of said court to be correct. The original complaint having been filed on April 23, 1945 (Record on Appeal, pp. 1-2), it is clear that the original suit was lodged only about one month after the accrual of the cause of action.

It is clear, therefore, that the judgment appealed from is in accordance with the facts and the law, for which reason it should be, as it is hereby, affirmed with the costs in the three instances against the appellant.

SO ORDERED.

Ozaeta, De Joya, Perfecto, and Bengzon, JJ., concur.

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