

FLAVIANO ROMERO, PETITIONER, VS. SOTERO RODAS, LADISLAO PASICOLAN, AND DOLORES P. DE ESPIDIDO, RESPONDENTS.

G.R. No. L-1792. January 28, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

The petitioner began this special civil action of *cetiorari* to impede his ejectment from the premises at 1547 Rizal Avenue, Manila, which was decreed by the Honorable Sotero Rodas, in civil case No. 328O of the Manila Court of First Instance.

It appears that in a detainer litigation between Dolores P. de Espedido and Flaviano Romero, — petitioner here — in the judge of the municipal court of this city rendered, on July 23, 1947, a decision ordering the defendant therein Romero to return the aforesaid premises to plaintiff espedido, and to pay her "as reasonable compensation for the use and occupation of said commercial premises and by way of damages, the sum of P200 a month from February 1, 1947." The defendant appealed, and filed a supersedeas bond for one thousand pesos.

During the pendency of the suit in the municipal court the defendant Romero deposited therein the amount of P240 for rents. After appealing to the Court of First Instance he failed to make any other deposit for rents. Wherefore, on October 17, 1947, the landlord (Espedido) prayed for execution in accordance with Rule 72, section 8; and her prayer was granted by Judge Rodas, notwithstanding the vigorous opposition of said tenant, who immediately resorted to this Court for a preliminary injunction and a writ of *cetiorari* annulling the ouster decree.

Romero's objection, formulated in the lower court and repeated here, may practically be reduced to four propositions:

- (a) The amount of P200 ordered by the municipal court to be paid monthly was composed of P120 as rent and P80 as damages;
- (b) The tenant is obliged to deposit during the pendency of his appeal the monthly amount of rents — not the damages;
- (c) Inasmuch as the tenant (herein petitioner) had deposited P240 and filed a bond for P1,000 or a total of P1,240 (sic), he had in effect deposited the rent for ten months from February to November, 1947; and
- (d) Consequently, when the motion for execution was filed in October, 1947, the tenant was not yet in arrears.

After considering the arguments on both sides, we reach the conclusion that the order of execution was properly issued under the Rules of Court and the pertinent decisions. The second proposition of petitioner is undeniable. The first may be accepted for the purposes of argument only, although there is good reason to doubt it. But the inference in the third and the conclusion in the fourth must be disputed and overruled, because we have heretofore held that besides the supersedeas bond the tenant-appellant in ejectment cases must deposit every month the rents adjudicated[1], and that appellant's failure to pay such monthly charges will entitle the plaintiff-landlord to

immediate execution of the ouster decree of the municipal court.[2]

True it is that Republic Act No. 66 directs that no tenant shall be ejected for non-payment of rents unless such non-payment is deliberate or intentional; but that law is inapplicable here, according to some members because the building is commercial, and according to others because it may not be invoked at that stage of the proceedings.

Petition denied. With costs.

Moran, C.J., Feria, and Pablo, JJ., concur.

[1] Vda. de Mendoza vs. Palacio, L-658, Oct. 25, 1946, 43 Off. Gaz., 4637.

[2] Igama vs. Soria, 42 Phil., 11; Guillena vs. Borja and Sumampan, 53 Phil., 379.

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