

**NG SIU TAM ET AL., PETITIONERS, VS. RAFAEL AMPARO ET AL.,
RESPONDENTS.***G.R. No. L-2139. May 12, 1948*

Ponente: BENGZON, J.

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When on March 7, 1948, the sheriff of Manila took steps to execute the decision of the court of First Instance in civil case number 3527 ordering Felipe Aguasin and his wife to leave the premises in Echague Street belonging to Jose M. Ocampo, and to cause all "tenants thereon" to vacate the same, the herein petitioners Ng Siu Tam et al., — all sublessees of Aguasin occupying the premises, — appeared before the court, argued that, not being parties to the aforesaid civil case they were not bound by that decision and moved for a declaration to that effect. The court denied their motion in an order dated March 13, 1948, which, gave them thirty days to remove their goods or merchandise or to take further steps for the protection of their rights. A motion to reconsider was likewise denied. Hence this petition for certiorari with preliminary injunction.

It is undisputed that Jose M. Ocampo, the owner of the premises, has obtained a judgment of eviction — which has become final— against his tenants, the Aguasins. The latter had subleased the same to herein petitioners, owning and operating stores therein. And the sole question is whether the eviction order affects them too. We have heretofore decided such question in the affirmative (*De la Cruz vs. Roxas* 42 Off. Gaz. 458; *Gozon vs. De la Rosa*, L-506 January 30, 1947 44 Off. Gaz., 1225). And very recently we overruled a petition for injunction in a quite identical situation (*King Sins vs. Geronimo et al.*, L-2126). There is one particular circumstance, which apparently induced one member of this court to issue a temporary injunction: the allegation that petitioners had concluded an agreement with Ocampo to let them retain the premises under the same conditions given to the Aguasins and that said petitioners had instituted, in the Court of First Instance of Manila, an action to compel Ocampo to abide by his covenant aforementioned. But apparently no written contract exists; and respondents, denying the agreement, submitted a sworn statement of three of the petitioners expressly admitting, that no such contract had ever been made by respondent Jose M. Ocampo. It is, therefore our opinion that, as in the *King Sing* case, herein petitioners may not in this proceeding enjoin the execution of Jose M. Ocampo's Judgment.

On the equitable side we observe that petitioners knew the pendency of the ejectment proceedings (*Annex C*) and were actually heard in their two motions — wherein, strangely enough, they never mentioned their alleged understanding with the owner. They have furthermore been accorded fair treatment in the form of extension of time to pack up their possessions, and carry them away.

The petition is dismissed and the preliminary injunction will immediately be dissolved. Costs in favor of respondents.

Parás, Actg. C. J., Feria, Pablo, Perfecto, and Tuason, JJ., concur.

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