

JOSE L. MOYA, DEMANDANTE Y APELADO, CONTRA JOHN BARTON, DEMANDADO Y APELANTE.*G.R. No. L-745. August 27, 1947*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b501be4f116e/>**PABLO, M.:**

Condenado por el juzgado de paz de San Juan, Rizal, el demandado apelo, y el Juzgado de Primera Instancia del distrito, despues de la vista correspondiente, le condeno a desalojar la casa situada en la calle 2 Lactaw, San Juan, Rizal, y a pagar los alquileres desde el mes de noviembre de 1944 hasta el 30 de septiembre de 1945 a razon de P20 al mes, y desde el primero de octubre del mismo año hasta que desaloje la casa, P40 mensual con las costas.

Contra esta decision el demandado apelo para ante este Tribunal señalando tres errores en que, segun el, incurrio el Juzgado inferior: (1) al no aplicar la orden de moratoria, (2) al fijar en P40 mensual el alquiler justo y razonable de la casa, y (3) al ordenar el desahucio del demandado.

La contencion del demandado en cuanto al primer señalamiento de error esta bien fundada. (Cruz y Gumatoy contra Avila, 76 Phil., 133; De la Fuente y Teodoro contra Borromeo, 76 Phil., 442; Vda. de Ordoñez contra Angkiangco, 77 Phil., 387.) Pero seria molesto al mismo demandado si el demandante incoase otra accion para cobrar los alquileres debidos hasta el 10 de marzo de 1945. Ambas partes tendran que someterse a las molestias innecesarias de una segunda vista. Es practica bien establecida el evitar multiplicidad de acciones que "es odiosa ante la ley y no se permite ni en equidad ni en justicia."

Hay varias maneras de poner en practica la moratoria: una ley que limita la jurisdiccion de los juzgados durante cierto periodo de emergencia para ver solamente causas que no versan sobre el pago de obligaciones monetarias; una ley que suspende todos los procedimientos durante una invasion militar sobre cobro de obligaciones monetarias; una ley que prohíbe, durante el tiempo de emergencia, la ejecucion de las sentencias sobre cantidad de dinero; una ley que suspende todos los procedimientos judiciales contra personas que estan en el servicio militar y naval por un tiempo limitado y razonable fueron declaradas constitucionales en Estados Unidos. La ley inglesa sobre moratoria de 1914, tal como fue enmendada por la de 1916, disponia que ninguna persona pedira la ejecucion de una sentencia u orden judicial sobre el pago de alguna cantidad de dinero. El fin primordial de la medida es evitar el completo colapso de la economia nacional, ya dislocada por la guerra. Si las palabras "temporary suspension of the enforcement of payment" de la orden de moratoria significan o (a) la suspension de la presentacion de toda accion o (b) la suspension de la vista de la causa o (c) la suspension de la ejecucion de la sentencia, puede dar lugar a una honrada divergencia de opinion; pero cuando, como en la causa que se esta ventilando, la obligacion objeto de litigio, esta en parte protegida por la moratoria y en parte, no, no seria injusto dictar sentencia por el pago de toda la obligacion, sin perjuicio de ordenar que no se ejecutara la sentencia en cuanto a las cantidades debidas antes del 10 de marzo de 1945 mientras no se decrete el levantamiento de la orden de moratoria.

Dos causas de accion alego el demandante en su demanda: (a) que a sus varias invitaciones al demandado para que convinieran sobre el alquiler razonable de la casa, el demandado no presto atencion, y (b) que el necesitaba la casa para su uso.

Cuando el demandante invito al demandado a una entrevista para tratar sobre el alquiler de la finca, el demandado no presto atencion; por tal motivo, no llegaron a un acuerdo. Segun el mismo demandante, la finca esta amillarada en P1540; el veinte por ciento de esta cantidad asciende a P308 y la duodecima parte de P308, a P25.67. No debe exceder a esta cantidad el alquiler mensual, de acuerdo con el articulo 3, Ley del Commonwealth No. 689, enmendada por la de la Republica No. 66.

No se ha presentado prueba alguna de que el demandante tuviese necesidad de la casa para su uso personal. Al contrario, como testigo declaro que invito al demandado a que le viera en su casa situada en la calle Eloisa No. 51, Sampaloc, Manila, para tratar del alquiler de la casa. Tampoco hay pruebas de que el demandado deliberadamente y sin motivo justificado, no haya querido pagar el alquiler; si no pago los P50 mensuales que exigia el demandante fue porque creia que eran excesivos. Las pruebas justifican su contencion. Erro el Juzgado a quo al ordenar el desahucio del demandado. Este puede continuar ocupando la casa. Ningun arrendatario sera desahuciado a menos que (1) voluntaria y deliberadamente no pague los alquileres o (2) que el arrendador tenga necesidad de ocupar la finca arrendada o (3) que el arrendatario subarriende la finca sin el consentimiento por escrito del arrendador. (Secs. 2 y 11, Ley del Commonwealth No. 689, tal como fue enmendada por la Ley No. 66 de la Republica.)

Creemos que es insostenible la teoria de que el demandante tiene derecho a desahuciar al demandado aun despues de aprobada la Ley del Commonwealth No. 689, tal como fue enmendada por la Ley de la Republica No. 66. El articulo 1581 delCodigo Civil dispone que "Si no se hubiese fijado plazo al arrendamiento, se entiende hecho por años cuando se ha fijado un alquiler anual, por meses cuando es mensual, por dias cuando es diario. En todo caso cesa el arrendamiento, sin necesidad de requerimiento especial, cumplido el termino." Para comprender el alcance de esta disposicion legal no esta de mas decir que bajo la teoria de libre contratacion, sobre que descansa elCodigo Civil, el arrendador y el arrendatario pueden convenir libremente por la duracion del arrendamiento. Y ese convenio es ley entre ellos. Pero si no hay convenio sobre la duracion y la renta se paga de mes en mes, se entendera que el arrendamiento dura solamente un mes. A la expiracion del mes, termina el contrato. En el caso presente, a falta de convenio expreso, el demandado tenia derecho a ocupar la casa solamente un mes. Al terminar el primer mes en que comenzo a ocupar la finca terminaba el convenio; pero, por tacita reconduccion, se renovaba el arrendamiento de mes en mes. En ese concepto continuo ocupando la finca.

Al aprobarse la Ley de la Republica No. 66 en 18 de octubre de 1946, la presuncion supletoria establecida por el articulo 1581 delCodigo Civil ha quedado modificada. "La sentencia del Tribunal Supremo de España de 26 de octubre de 1918 declara que la disposicion del presente articulo 1581 es puramente supletoria para el caso de que las partes no hayan fijado plazo de arriendo." (10 Manresa, 4.[a] Ed., 635.) La presuncion legal de que el arrendamiento dura de mes en mes ha sido sustituida por la de la Ley de la Republica No. 66, durante los cuatro años en que estara en vigor: que en vez de quedar renovado por tacita reconduccion el arrendamiento a un mes mas, segun el articulo 1581 delCodigo Civil queda renovado a un año.

Lo que modifiko la Ley No. 66 es la presuncion legal de la duracion del nuevo contrato de arrendamiento, a falta de termino convenido. Y esta ley no violo el contrato de arrendamiento vigente durante el mes de octubre de 1946 entre las partes. El nuevo arrendamiento que comenzo en primero del mes de noviembre de 1946 es completamente nuevo: ya esta regulado por la Ley No. 66 y no por el articulo 1581 delCodigo Civil. La razon que tuvo el Congreso al adoptar esta ley la hemos tratado en el asunto de Kalaw Ledesma y Ledesma contra Pictain, pagina 95, post.

Dos razones tiene el demandado para no estar obligado a desalojar la finca: 1.a porque el demandante no necesita la casa para su uso y 2.a porque exigia al demandado una renta irrazonable e injusta.

Se confirma la sentencia en cuanto condena al demandado a pagar al demandante los alquileres desde el primero de noviembre de 1944 hasta el 30 de septiembre de 1945 a razon de P20 al mes, y desde el primero de octubre del mismo año la cantidad de P25.67 mensual; pero la sentencia sobre los alquileres debidos hasta el 10 de marzo de 1945 no podra ser ejecutada hasta que se haya decretado el levantamiento de la orden de moratoria. Se revoca la sentencia en cuanto ordena el desahucio del demandado.

Moran, Pres., Paras, Briones, Hontiveros y Tuason, MM., estan conformes.

FERIA, M.:

Conforme con la parte dispositiva.

BENGZON, M.:

Conforme con el resultado.

DISSENTING

PERFECTO, J.:

The lower court found, upon plaintiff's evidence, that in 1942, defendant occupied the house of plaintiff located at 2 Lactaw Street, San Juan, at a monthly rent of P20; that in July, 1945, plaintiff sent a letter to defendant asking him to pay the rents from November, 1944; that upon seeing that the backstairs of the house had disappeared, plaintiff requested defendant to vacate the premises and to restore the stairs.

Defendant alleges that no agreement has been entered into between plaintiff and defendant as to the payment of rents; that on one occasion he paid P240 to Rosita de la Paz, who alleged that she was a cousin of plaintiff; that the backstairs was destroyed by termites.

There being no evidence that plaintiff had ever authorized Rosita de la Paz to accept payments in his name, the lower court decided that the payment made to said Rosita de la Paz cannot be credited against plaintiff.

The lower court sentenced defendant to vacate the premises and to pay the rents from November, 1944, to September, 1945, at a monthly rent of P20, and from October, 1945, at the rate of P40, which he found reasonable.

Defendant assigns as a first error of the lower court the fact that the latter failed to grant him the benefits of the moratorium provided in Executive Order No. 25, as amended by Executive Order No. 32, and in conjunction with Presidential Proclamation No. 6. The assignment is well taken. (*Palacios vs. Daza*, 75 Phil., 279.) The lower court erred in ordering defendant to pay the rents due before March 10, 1945.

Defendant questions the reasonableness of the monthly rent of P40, alleging that it must be reduced to P20. Defendant invokes the provisions of section 3 of Republic Act No. 66. Defendant's contention is untenable, because it is based on the assumption that Republic Act No. 66 has a retroactive effect, which is erroneous. There is nothing in said act giving it a retroactive effect.

In the third and last assignment of error, defendant invokes again Republic Act No. 66 in support of his contention against his ejectment. We cannot agree with such proposition.

The complaint initiating this case was tiled on September 29, 1945. Commonwealth Act No. 689 was put into effect only on October 15, 1945, while Republic Act No. 66, amending it, went into effect more than a year after,

that is, on October 18, 1946. Plaintiff is right in his contention that laws have no retroactive effect unless an unmistakable intent to the contrary appears, and in the case of Commonwealth Act No. 689 and Republic Act No. 66 there are specific provisions making both exclusively prospective, as the first shall be effective for a period of two years "after its approval" and the second "for a period of four years after its approval." There should not be any question that defendant cannot now invoke the benefits of said acts, and that plaintiff is entitled to recover the possession of the house in question. This position is in accordance with the invariable one taken by this Supreme Court in a long line of cases decided after liberation, (*Estrella and Estrella vs. Sangalang*, 76 Phil., 108; *Domingo Vda. de Buhay vs. Cobarrubias*, 76 Phil., 213; *Roque vs. Cavestani de los Santos*, No. L-218, Aug. 8, 1946; *De Guzman vs. Moreno*, No. L-257, Oct. 2, 1946; *Ramirez vs. Reyes*, 77 Phil., 1030; *Licaucó vs. Reyes Estaniel*, 77 Phil., 1092, unreported; *Inquimboy and Pelay vs. Juachon*, 78 Phil., 873, unreported; *Phil. Sugar Estates Development Co. vs. Prudencio*, 76 Phil., 111; art. 1581, Civil Code.)

On the question of the retroactivity of Commonwealth Act No. 689 and Republic Act No. 66, we reproduce here what we have said in our opinion in *Santos vs. De Alvarez*, (78 Phil., 503). We also concur in the dissenting opinion of Mr. Justice Hilado in this case.

For all the foregoing, we are of opinion that the decision of the lower court must be modified by eliminating thereof the order to defendant to pay the rents due before March 10, 1945, the remainder to be affirmed.

DISSENTING

HILADO, J.:

I dissent from the foregoing judgment which condemns the tenant to pay the rents from November 1, 1944 to March 10, 1945, (although suspending execution of the judgment therefor) despite the fact that Executive Order No. 32 suspends the enforcement of payment of such debts. Under the debt moratorium decreed in said Executive Order, it would have been prohibited for the lessor even to extrajudicially demand payment of the rents covered thereby; which means that he would have had no cause of action to file a suit demanding it; and this, in turn, carries with it the corollary that no court of justice had, as this Court now lacks, the power to render a judgment for such payment. How could the court have the power to render a judgment ordering payment when the creditor has no cause of action to demand such payment? The Executive Order suspends the "enforcement of payment." This must mean that the creditor cannot even extrajudicially require his debtor to pay. If so, he neither has the right to sue him on the debt. How could the courts render a judgment on it in his favor? The mere suspension of execution can clearly not create the denied power to render the judgment. In my opinion, what is prohibited is the giving of the judgment at all, not only its execution.

I also dissent from the foregoing judgment which denies the ejection of the tenant from the house in question. The majority decision invokes section 2 of Commonwealth Act No. 689, as amended by Republic Act No. 66. It is undisputed, however, that the contract of lease under which the tenant herein occupied and lived in said house antedated by several years the enactment of these post-war laws. It is likewise unquestioned that said contract did not fix a term for the lease, but provided for a monthly rental. When said contract was entered into article 1581 of the Civil Code was in full force and effect. It stipulates:

"ART. 1581. In default of an agreement as to the duration of the lease, it is understood as being from year to year, when an annual rent has been fixed; from month to month, when the rent is monthly; and from day to day when it is daily.

"In either case the lease shall terminate without necessity of a special notice, upon the expiration of the term."

This article—there is no showing nor pretense that its provisions were excluded by the contracting parties—became a part of the contract by virtue of the principle that the applicable laws existing at the time and place of the making of a contract, and where it is to be performed, form a part thereof, just as much as if the parties had bodily incorporated said laws into their agreement, in the absence of a stipulation excluding such laws.

"As this court often has held, the laws in force at the time and place of the making of a contract, and which affect its validity, performance, and enforcement, enter into and form a part of it, as if they were expressly referred to or incorporated in its terms. *Von Hoffman vs. Quincy*, 4 Wall., 535, 550; 18 Law. ed., 408, 409; *Walker vs. Whitehead*, 16 Wall., 314, 317; 21 Law. ed., 357, 358; *Edwards vs. Kearzey*, 96 U. S., 595, 601; 24 Law. ed., 793, 796." (*Northern Pacific Railroad Co. vs. Wall*, 241 U. S., 87; 60 Law. ed., 905, 907.)

"It is also settled that the laws which subsist at the time and place of the making of a contract, and where it is to be performed, enter into and form a part of it, as if they were expressly referred to or incorporated in its terms. This principle embraces alike those which affect its validity, construction, discharge, and enforcement. Illustrations of this proposition are found, in the obligation of the debtor to pay interest after the maturity of the debt, where the contract is silent; in the liability of the drawer of a protested bill to pay exchange and damages, and in the right of the drawer and indorser to require, proof of demand and notice. These are as much incidents and conditions of the contract as if they rested upon the basis of a distinct agreement. *Green vs. Biddle*, 8 Wheat., 92; *Bronson vs. Kinzie*, 1 How., 319; *McCracken vs. Hayward*, 2 How., 612; *People vs. Bond*, 10 Cal., 570; *Ogden vs. Saunders*, 12 Wheat., 231." (*Von Hoffman vs. Quincy*, 4 Wall. [U. S.], 535, 550; 18 Law. ed., 408, 409.)

"The laws which exist at the time and place of the making of a contract, and where it is to be performed, enter into and form a part of it. This embraces alike those which affect its validity, construction, discharge, and enforcement.

"Nothing is more material to the obligation of a contract than the means of its enforcement. The ideas of validity and remedy are inseparable, and both are parts of the obligation which is guaranteed by the Constitution against impairment;

"The obligation of a contract 'is the law which binds the parties to perform their agreement;'

"Any impairment of the obligation of a contract, the degree of impairment is immaterial, is within the prohibition of the Constitution;

"The states may change the remedy, provided no substantial right secured by the contract is impaired. Whenever such a result is produced by the act in question, to that extent it is void. The states are no more permitted to impair the efficacy of a contract in this way than to attack its vitality in any other manner. Against all assaults coming from that quarter, whatever guise they may assume, the contract is shielded by the Constitution. It must be left with the same force and effect, including the substantial means of enforcement which existed when it was made. The guaranty of the Constitution gives it protection to that extent. *Von Hoffman vs. Quincy*, 4 Wall., 535; 18 Law. ed., 403." (*Walker vs. Whitehead*, 16 Wall., 314, 317; 21 Law. ed., 357, 358; italics supplied.)

Another provision of the Civil Code which in the same way formed a part of that contract was article 1569 thereof, providing:

"ART. 1569. The lessor may dispossess the lessee by suit for any of the following causes:

"1. The expiration of the conventional period or the one fixed for the duration of lease by articles 1577 and 1581;

"2. Default in the payment of the rent agreed upon;

"3. Breach of any of the conditions stipulated in the contract;

"4. The use of the thing leased for purposes or services not stipulated and which diminish its value, or the failure of the lessee to comply, with respect to its use, with the provisions of paragraph 2 of article 1555."

The obligation of that contract, therefore, as regards the term of the lease was that, the rent being payable monthly, the lease was from month to month, and terminated at the end of each month without need of special demand, in accordance with said article 1581; and as to the right of the lessor to eject the lessee, the former had the right to do so at the end of any month, under paragraph 1 of article 1569, leaving aside the causes enumerated in paragraphs 2, 3, and 4. The obligation of that contract was inviolable and protected from impairment by the Bill of Rights of the Constitution.

"The obligation of a contract includes every thing within its obligatory scope. Among these elements nothing is more important than the means of enforcement. This is the breath of its vital existence. Without it, the contract, as such, in the view of the law, ceases to be, and falls into the class of those 'imperfect obligations,' as they are termed, which depend for their fulfillment upon the will and conscience of those upon whom they rest. The ideas of right and remedy are inseparable. 'Want of right and want of remedy are the same thing.' 1 Bac. Abr., tit. Actions in General, letter B.

"In *Von Hoffman vs. Quincy*, 4 Wall., 535, 18 Law. ed., 403, it was said: 'A statute of frauds embracing pre-existing parol contracts not before required to be in writing would affect its validity. A statute declaring that the word "ton" should, in prior as well as subsequent contracts, be held to mean half or double the weight before prescribed would affect its construction. A statute providing that a previous contract of indebtedment may be extinguished by a process of bankruptcy would involve its discharge; and a statute for bidding the sale of any of the debtor's property under a judgment upon such a contract would relate to the remedy.'

"It cannot be doubted, either upon principle or authority, that each of such laws would violate the obligation of the contract, and the last not less than the first. These propositions seem to us too clear to require discussion. It is also the settled doctrine of this court, that the laws which subsist at the time and place of making a contract enter into and form a part of it, as if they were expressly referred to or incorporated in its terms. This rule embraces alike those which affect its validity, construction, discharge and enforcement. *Von Hoffman vs. Quincy* (supra); *McCracken vs. Hayward*, 2 How., 608.

"In *Green vs. Biddle*, 8 Wheat., 1, this court said, touching the point here under consideration: 'It is no answer, that the Acts of Kentucky now in question are regulations of the remedy, and not of the right to the lands. If these Acts so change the nature and extent of existing remedies as materially to impair the rights and interests of the owner, they are just as much a violation of the compact as if they overturned his rights and interests.'

" 'One of the tests that a contract has been impaired is, that its value has by legislation been diminished. It is not by the Constitution to be impaired at all. This is not a question of degree or manner or cause, but of encroaching in any respect on its obligation—dispensing with any part of its force.' " *Bk. vs. Sharp*, 6 How., 301. (*Edwards vs. Kearzey*, 96 U.S., 595, 601; 24 Law. ed., 793, 796; *Italics supplied*.)

It is certainly dispensing with a most vital part of the force of the contract between the parties if the lessor should be deprived of his right thereunder to terminate the lease at the end of a month and to compel him to wait for four years from the approval of Republic Act No. 66 (October 18, 1946) before he can recover his building even without any rent being paid for all that period, so long as the non-payment is not willful and deliberate, or so long as the said lessor should not need to occupy the building himself, and so long as the lessee does not sub-lease the building without the written consent of the proprietor, (Section 2 of Commonwealth Act No. 689, as amended by section 1 of Republic Act No. 66.)

In such a case, if as a result of the war both lessor and lessee had become impoverished, although the leased

building had been saved, and the lessee, thru sheer poverty but not willfully nor deliberately, became unable to pay any rent for the entire period of four years provided in Republic Act No. 66, the lessor would be compelled to virtually let his lessee live in his building free although said equally impoverished lessor may not have any other income than the rent of that building. Obviously, neither lessor nor lessee intended this when entering into their agreement since said Acts were not yet in existence then. The injustice of retrospectively applying them to said agreement cries to high heaven. Such injustice would not ensue, on the other hand, if the new law were applied only to leases subsequent thereto, for then the parties would contract in view of the new law and, if unwilling to abide by its provisions, would have the choice not to enter into the contract.

And let it not be said that the post-war enactments are emergency measures adopted in the exercise of the police power of the State. Firstly, it is well settled that the police power gives way to the Bill of Rights. And this is as it should be, since the police power is a legislative function (12 C.J., p. 904, section 412), and its exercise has either to take the form of a law or derive its sanction from law; and by the Bill of Rights the people have expressly withheld from the legislature the power to enact laws impairing the obligation of contracts.

"Bill of Rights. The police power of a state is subject to the 'Bill of Rights' of both the federal and state constitutions, and must not violate its inhibitions." (16 C.J.S., p. 567; italics supplied.)

"* * * The bill of rights contains the political aphorisms, general principles, and fundamental ideas of free government, and is usually made a part of the constitution of the state and reserved from legislative action so that the people themselves shall retain the exclusive right either to modify or disregard it." (Eason vs. State, 11 Ark., 481, cited in note 58, p. 1181, 7 C. J.; italics supplied.)

Secondly, neither Commonwealth Act No. 689 nor Republic Act No. 66 has retroactive effect, there being no provision therein for such retroactivity. Article 3 of the Civil Code ordains that laws shall have no retroactive effect unless they provide the contrary. This is, indeed, a settled principle of law.

Section 11 of the Revised Administrative Code provides that laws passed by the legislature shall, in the absence of special provision, take effect at the beginning of the fifteenth day after the completion of the publication of the statute in the Official Gazette, the date of issue being excluded.

Thirdly, and be it said to the credit of the legislator, both acts by their very terms unequivocally reveal that the legislator recognized that he was not above the Constitution, and intended to promulgate said measures, although admittedly emergency in character, with due respect for the immunities reserved by the people to themselves in the Bill of Rights. The very terms of section 1 of Commonwealth Act No. 689, as amended by section 1 of Republic Act No. 66, refer to a lease which does not specify any term. This section cannot possibly be applied to a renewal lease under article 1581 of the Code, because in such a renewal lease the term is specified therein as yearly, monthly, or daily, as the case may be. And in the case at bar, just as in all similar cases involving month-to-month leases entered into at least one month prior to the new legislation, the original contract between the parties had already expired before the new enactment and what is involved in each of said cases is the renewal thereof.

Moreover, the last section of Commonwealth Act No. 689 expressly and categorically confines the effects of the act in these words:

"SEC. 14. This Act shall be in force for a period of two years after its approval." (Italics supplied.)

Republic Act No. 66 amending the same section, in turn establishes the boundaries of the law's effectivity in no less certain terms thus:

"SEC. 14. This Act shall be in force for a period of four years after its approval." (Italics supplied.)

If the effectivity of one and the other act commenced after their approval, it goes without saying that they were not to operate retroactively; which is only one way of saying that they were not to affect leases, original or renewal, existing before such approval. The renewal lease in question herein was such a one.

Moreover, to the specific case of a pre-existing lease with a monthly rent but without a fixed term, where the first month had already expired before the taking effect of the new law, as in the case at bar, said law (whether Commonwealth Act No. 689 before its amendment or Republic Act No. 66 which amended it), would be impossible of application by its very terms read in the light of the law existing not only at the time the contract was made but also when the new law was enacted. Section 1 of Commonwealth Act No. 689 before its amendment, and the same section after its amendment by Republic Act No. 66, speaks of "a lease for the occupation as dwelling of a building or part thereof, * * *." That the provision refers to a contract of lease is self-evident. It cannot correctly be construed to comprise the "implied renewal" ("tacita reconduccion") mentioned in article 1566 of the Civil Code for the simple reason that said article is only applicable where the contract of lease has expired—it says: "If, on the expiration of the contract" (see also 10 Manresa, 2d edition, p. 598, 3d par.). The illuminating commentaries of Manresa on article 1566 found on page 600 of the cited volume of his work incontrovertibly prove that the rule of "implied renewal" does not consider it as a voluntary contract of lease, as it may exist under the cited provision despite the lack of consent on the part of the lessor—that the rule is an imposition of the law based upon reasons which were considered justifying. Manresa says:

"* * * En cuanto al arrendador, el consentimiento puede en realidad no existir, pero la ley lo presume siempre que se reunan las expresadas circunstancias. Su acquiescencia puede obedecer a un desouido, una ausencia, enfermedad, etc., suya o de sus representantes voluntarios o legitimos, y sin embargo, la ley aun asi presume el consentimiento. Y asi debe ser, porque en otro caso podria alegarse y aun probarse despues de mas o menos tiempo el hecho de la enfermedad, ausencia, etc., en suma, la no existencia del consentimiento, y al faltar este o faltar la capacidad para el caeria por tierra todo el edificio fundado por el legislador, en perjuicio de los intereses del agricultor, de la agricultura en general, y aun del mismo dueño, que por cualquier circunstancia no pudo oportunamente tener otro labrador, o atender al cuidado y produccion de sus fincas." (Italics supplied.)

Article 1566 of the Code, therefore, in cases where the rent is monthly considers the lease itself terminated at the end of the first month, and only provides, as Manresa explains, that the law conclusively presumes its renewal under certain specified circumstances.

Another anomaly which will ensue from the majority decision is that, while section 1 of Commonwealth Act No. 689, as amended by Republic Act No. 66, limits the term of the lease therein spoken of to one year counted from the date of occupation by virtue of said lease at the option of the lessee, the majority decision would hold him, under section 2 of the same amended act, immune from ejection for a period of four years from the date of the approval of Republic Act No. 66 (October 18, 1946). In other words, as interpreted by the majority, in section 1 the law in effect tells the lessee that under the circumstances therein stated his leasehold shall be for one year counted from the date of his occupation, but in section 2 it tells the lessor that under the conditions therein mentioned he cannot eject his lessee for four years from October 18, 1946 (i. e. till October 18, 1950). To more graphically show the absurdity of the theory, let us suppose that the lease and the lessee's occupation began on October 18, 1946, date of the approval of Republic Act No. 66, and that the circumstances of sections 1 and 2 of the act exist. According to the majority opinion, in section 1 the law in effect tells the lessee that his leasehold shall last till October 18, 1947, but almost in the same breath it turns around and warns the lessor that he cannot eject his lessee till October 19, 1950. Here is a case of a lessee who for three entire years will occupy the premises without right but yet immune from ejection.

With all due respect, I have to disagree with an interpretation of the law which leads to such an absurd result. In my humble opinion, the rental law in its present state, besides being merely prospective in its effects, affecting

only leases made after its approval, makes the immunity from ejection of lessees provided for in said section 2 co-extensive with the duration of one year provided for in the cases covered by section 1, or in cases of leases with fixed terms, with the term agreed upon by the parties. Under this construction, we would avoid the impossible situation of a lessee holding over for so long as three years, or, in some cases even more, despite the expiration of his leasehold of one year in the cases governed by said section 1. And as thus construed, the law would then mean (1) that where the lease does not fix a term it shall be for one year from the date of occupation; (2) that during that year the lessee shall not be ejected except where he maliciously and deliberately refuses or fails to pay the rent, or where the lessor needs the premises for himself, or where the lessee sublets the premises without the written consent of the lessor. Let it not be said that in this case section 2 of the law would be unnecessary. It would still be necessary to achieve the aim pursued therein, for without it the lessee may be ejected under the Civil Code even when the non-payment of the rent is not willful or deliberate; and also because under the Civil Code the need of the lessor is not a ground for ejecting the lessee during the life of the lease, neither is the subletting of the premises by the lessee unless expressly prohibited in the contract of lease. (Civil Code, article 1550.)

In my opinion the four-year provision of section 14 of the amended law simply means that all leases of the class described in the law entered into during the four years following its approval, which do not specify any term, "shall be considered of one year's duration counted from the date of occupation" (section 1); and that during said year the lessee shall not be ejected except in the cases already enumerated above (section 2). At the end of said four-year period (i. e. on October 18, 1950) the law will expire, and will consequently not affect leases entered into thereafter.

I am of the considered opinion that defendant should be ordered ejected and to pay all rents due after March 10, 1945, with costs of all instances against him, reserving to plaintiff the right to collect the rents due up to March 10, 1945, upon the lifting of the moratorium.

PADILLA, J.:

I concur in the foregoing dissent as far as it does not conflict with my dissenting opinion in G.R. No. L-597, Kalaw Ledesma and Ledesma vs. Pictain.[1]

[1] *Infra*, page 106.

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