

SIMEONA M. VDA. DE MUYOT, PETITIONER, VS. HON. GUILLERMO CABRERA, IN HIS CAPACITY AS JUDGE, MUNICIPAL COURT OF MANILA, BRANCH II, AND LO HIANG, RESPONDENTS.

G.R. No. L-3883. July 29, 1950

Ponente: OZAETA, J.

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OZAETA, J.:

The petitioner filed a complaint for desahucio against the respondent Lo Hiang in the municipal court of Manila, alleging in substance the following facts:

Plaintiff, as lessee from the Roman Catholic Archbishop of Manila of a parcel of land of 200 square meters situated on the west side of the Santa Cruz Church compound, facing the Escolta, subleased said parcel of land to the defendant for a period of 5 years beginning December 8, 1947, in consideration of a monthly rental of P5,500, which, by subsequent agreement of the parties, was reduced to P4,300, payable in advance on or before the 5th of each month. Defendant had failed to pay the monthly rentals corresponding to the period from June 17, 1949, to January 16, 1950, aggregating P30,100, notwithstanding repeated demands.

The defendant Lo Hiang filed a written answer to said complaint, admitting certain allegations and denying others; and by way of special defense alleged in substance that the sublessor had violated certain stipulations in the contract of sublease to his damage and prejudice, and prayed the court to dismiss plaintiff's action as unfounded and to declare that the competent court to decide the rights of the parties is the Court of First Instance and that the case be remitted thereto.

After hearing the evidence adduced by both parties, the respondent Judge Guillermo Cabrera promulgated a resolution, the dispositive part of which reads as follows:

"In View of the Foregoing, and taking into account that under Article 1554 of the Civil Code, the lessor is obligated to maintain the lessee in the peaceful enjoyment of the lease during all the time of the contract; and that under Article 1556 of the same code, 'if the lessor or lessee should not comply with the obligations stated in the preceding articles, they may ask the rescission of the contract and indemnity for losses and damages,' and considering further that Article 1124 of the Civil Code provides that the right to resolve obligations is deemed implied in reciprocal ones, whenever one of the obligors does not comply with what is incumbent upon him," and inasmuch as this Court has no jurisdiction to determine the rights of the parties herein, and who of them violated the contract and it having been shown to this Court that there exists pending in the Court of First Instance of Manila a case, between the same parties herein, docketed as No. 10210 that Court, wherein the herein defendant seeks the rescission of the aforementioned contract of sublease and indemnity for losses and damages suffered by him, this Court is of the opinion and so declares that the competent court to pass on the questions involved in the present case is the Court of First Instance of Manila now taking cognizance of said case No. 10210, and in order that the rights of either party may not be prejudiced, this Court refrains from deciding the instant case and declares itself to be without jurisdiction to do so.

"Therefore, it is hereby ordered that the records of this case, together with all the documents submitted by both

parties, be transmitted to the Court of First Instance of Manila, so that the latter Court may, together with that Case No. 10210 mentioned above, finally dispose of the instant case as the law and evidence may warrant."

Civil case No. 10210 of the Court of First Instance mentioned in the foregoing resolution was filed by the herein respondent Lo Hiang against the herein petitioner for the rescission of the contract of lease between said parties on the ground that the sublessor had violated certain conditions thereof.

We find that the respondent judge of the municipal court has exclusive original jurisdiction under Rule 72 to try and decide the desahucio case instituted by the petitioner and that in refusing to decide it and in endorsing it to the Court of First Instance he neglects to perform a duty specifically enjoined by law, for which the remedy of mandamus applied for by the petitioner lies.

Let the writ issue as prayed for by the petitioner, with costs against the respondent Lo Hiang.

Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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