

PRICE, INC., PETITIONER, VS. HON. EMILIO RILLORAZA, JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, PRESIDING THE BRANCH AT PASAY CITY, SEVERO ABELLERA, CLERK OF COURT AND SHERIF...

G.R. No. L-8253. May 25, 1955

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an original action for certiorari. Upon the filing of the corresponding bond, a writ of preliminary injunction was issued by this Court, soon after the institution of the case.

It appears that, on March 20, 1951, respondent Manuel S. Camus and petitioner Price, Inc. - hereafter referred to as Camus and price, respectively - entered into a contract, whereby the former leased to the latter, for a period of ten (10) years, from April 1, 1951, the property described in the deed of lease, Annes A, the pertinent parts of which provide:

"1. That the said party of the first part Lessor, hereby grants, demise and let unto the said party of the second part Lessee, for lawful business purposes, all that certain strong stone material building with the lot and parcel of land, with an area of 1,700 square meters, situated, lying and being at No. 60 C. Arellano Street, Malabon, Rizal, covered as Lots No. 15 and No. 16, Block No. 1, Tambobong Estate, Psd. - 11759 of the Rural Progress Administration, to have and to hold the same for the full term of ten (10) years from April 1st, 1951 to March 31, 1960, inclusive, at the monthly rental of P300.00 Philippine Currency, for the above-mentioned building, to be paid without the necessity of express demand therefor on the 1st five (5) days of each ensuing month at the residence of the party of the first part Lessor at Malabon, Rizal; and also at the monthly rental of One Hundred Pesos (P100.00) Philippine Currency, for the use of the leased premises, payable beginning when the construction of the factory is already finished, and likewise payable at the time and place aforementioned;

"2. That the party of the second part Lessee, shall have or cause to erect, build or construct a Factory Building and Warehouse of strong materials appropriate to or in furtherance of the business of the party of the second part Lessee, on the said lot the plan as to the form and size and other specifications thereof being subject to the joint approval of both parties concerned, at the expense of the party of the second part lessee; and that the buildings thereon constructed shall be insured with a competent Insurance Company by the party of the second part Lessee, in an amount equal to the insurable interest of the party of the first part Lessor, in the sum of at least Fifty Thousand Pesos (P50,000.00) Philippine Currency, for himself, his heirs and/or administrators as his , beneficiary; and that the insured buildings (Factory Building and Warehouse) hereinbefore mentioned shall automatically become, without cost, the property of the party of the first part Lessor, immediately upon the termination of this contract;

"3. That the party of the second part Lessee agrees and covenants that, in case the aforementioned Factory Building and Warehouse are destroyed by fire during the life-time of this lease, the proceeds or money to be paid by and to be collected from the insurance company shall be utilized in erecting a new set of Factory Building and Warehouse, exactly as those destroyed; and in case the money to be paid by the insurance

company will not be sufficient for the purpose, the party of the second part Lessee shall put in additional funds with which to build the said now set of Factory Building and Warehouse, and no extension of the life-time of this lease as a consequence thereby is contemplated;

X X X X

"5. That the party of the first part Lessor, likewise covenants and agrees to cause or make the necessary filling, at his sole expense, within a year from the signing of this contract, the vacant portion of the lot along the river with an area of about 500 square meters to increase its elevation and enable the party of the second part Lessee, to facilitate or make use of the whole lot; as well as to construct, build or cause to erect the necessary concrete stone walls provided with barbed wire on top thereof and all expenses incurred or to be incurred incident to the filling as well as to the construction, building and erection of the stone walls, one (1) meter high, with barbed wire to be borne solely by the party of the first part Lessor." (Annex A, pp. 1-3) (Underscoring supplied.)

On January 19, 1954, Price instituted Civil Case No, 2582 of the Court of First Instance of Rizal, against Camus, for specific performance, damages, and extension of the period of said lease, upon the ground of non-compliance with the provisions of the above-quoted paragraph 5 of Annex A. About three (3) days later, or on or about January 22, 1954, Camus, in turn, commenced Civil Case No. 1159 of the Justice of the Peace Court of Malabon, Rizal, against Price, for forcible entry and detainer, upon the ground of non-payment of the rentals from February 16, 1953. In his answer therein, Price denied the main allegations of the complaint and averred, by way of special defenses, the aforesaid breach of contract by Camus, and

"R. That as a result of all the foregoing facts, showing that plaintiff refuses to comply with the obligations imposed upon him by the contract of lease, herein defendant on January 20, 1954 filed a civil action in the Court of First Instance of Rizal, where it is docketed as Civil Case No. 2582, against the herein plaintiff for specific performance and damages. This case is now pending in the said Court of First Instance.

"S. That actually the matter litigated in this present suit is included among the issues raised in Civil Case No. 2582, CFI-Rizal, the essence of which calls for an interpretation of a contract with reciprocal obligation.

"T. That this Honorable Court with limited jurisdiction is not competent to decide on issue properly raised and included in a civil case already pending in the Court of First Instance of Rizal, and which court is that of competent jurisdiction." (Annex D, p. 5) (Underscoring supplied.)

In due course, the justice of the peace court rendered, in said case No. 1159, a decision - dated February 10, 1954, copy of which, according to Price, was received on March 2, 1954 - in favor of Camus and against Price,

"x x x condemning the said defendant to pay to the plaintiff the sum of FOUR THOUSAND SIX HUNDRED (P4,600.00), with interest thereon at the legal rate from the date of the filing of the complaint, for arrears in rentals from February 16, 1953, to January 31, 1954, and the sum of FOUR HUNDRED PESOS (P400.00) a month thereafter until the premises are vacated; to pay to the plaintiff the sum of ONE THOUSAND PESOS (P1,000.00) as liquidated damages according to the terms of the contract Annex A'; to pay to the plaintiff the sum of FIVE HUNDRED PESOS (P500.00) as attorney's fees also according to the terms of the contract Annex 'A', and to pay the costs of the suit. Defendant is also hereby condemned to vacate the premises mentioned in the complaint and to turn over the possession thereof to the plaintiff." (Annex E.)

Price duly appealed from this decision, seasonably paying the corresponding docket fees and filing the requisite notice of appeal and cash bond, as well as a surety bond for the aggregate sum of P6,900, covering:

"a. P4,600.00 for alleged rentals from February 16, 1953 to January 31, 1954;

"b. P1,000.00 for alleged liquidated damages;

"c. P500.00 for alleged 1 attorney's fee;

"d, P400.00 for rental for February, 1954;

"e. P400.00 for rental for March, 1954." (Annex G)

Instead of paying to Camus, or depositing in court, the amount of the rentals for the succeeding months, at 400 each, Price filed, on or about April 8, 1954, a bond for P1,200 "to answer for the rentals for the month (of April, May and June, 1954, inclusive, in the event the plaintiff secures a final judgment in his favor," (Annex H.) Hence, on May 29, 1954, Camus filed, with the Court of First Instance of Rizal - before which the ejectment case was then pending on appeal, as Civil Case No. 2650 of said court - a petition for the execution of the decision of the justice of the peace court. Price objected thereto upon the ground

"First, that defendant's bond posted since April 6, 1954 in the amount of P1,200.00 covering rentals for April, May and June, 1954 is sufficient compliance with the provisions of Rule 72, Section 8, of the Rules of Court; second, that plaintiff has waived the right to an immediate execution based on the claim that the rentals for April and May, 1954 have not been paid or deposited, because he has not objected to the bond posted and offered to him since April 8, 1954; and third, that even supposing, without admitting, that the bond is not a compliance with the payment provided for in Rule 72, Section 8, still the error, if any, is a case of innocent mistake and excusable negligence, which, under the jurisprudence cited above, make the delay in payment under the circumstances not a ground for immediate execution, and that under such circumstances defendant should be afforded an opportunity to make the payment or deposit in cash if the court so desires." (Annex I, pp. 6-7.)

and prayed:

"That the plaintiff's petition should be denied; and if this Honorable Court should rule that the bond posted is not sufficient compliance with the law, the defendant should be given a period of 3 days from notice within which to make the deposit in cash in lieu of the posted bond." (Annex I, p. 7.)

Acting upon said petition of May 29, 1954, the Court of first Instance, presided over by Hon. Emilio Rilloraza, Judge, issued, said Case No. 2650, an order (Annex J), dated July 24, 1954 - copy of which is said to have been received by Price on September 10, 1954 - directing the execution of the aforementioned decision of the justice of the peace court. On September 11, 1954, the Clerk of Court of Rizal issued the writ of execution (Annex K), which said officer, as ex-officio Provincial Sheriff, threatened to enforce. Hence, Price instituted the present action for certiorari, with the prayer.

"That the order of respondent judge, directing the immediate execution of the judgment of the Justice of the Peace Court of Malabon, Rizal, be annulled, the same having been rendered with grave abuse of discretion and without jurisdiction and in wanton disregard of the facts and circumstances of the case, and that pending these proceedings, a writ of preliminary injunction be issued against the respondents restraining them from carrying out the order of the respondent judge, Annex 'J', as well as the writ of execution issued pursuant thereto on September 11, 1954, Annex 'K', with costs against respondents."

As already adverted to, the writ of preliminary injunction prayed for was issued upon the filing of a bond for P1,000.00.

In their answer, respondents admit some of the allegations of the petition and deny other allegations thereof. Among other things, they, moreover, allege that the obligations of Camus, under the contract of lease, are independent of those of Price; that the filling and construction provided in said contract, have "already been totally" completed; and that the order of July 24, 1954, and the writ of execution were duly issued, for Price had failed, either to pay, or to deposit, the amount of the rentals for April, May and June, 1954.

At the outset, it should be noted that the very pictures submitted by respondents, as Annexes 9 and 10 to their

answer, dated October 11, 1954, show that the stone wall constructed by Camus is of "adobe", and has no barbed wire fence, whereas the contract of lease provides for "concrete stone walls x x with barbed wire." Furthermore, although the portion of the leased property reproduced in Annex 9 appears to have been filled, there is evidence (which has not been contradicted) to the effect that the elevation of said portion is lower by 40 centimeters than the average elevation of said property (see Annex L) . Moreover, the pictures Annexes M, N and O, taken on February 16, 1954, reveal that said portion was then unfilled and even under water, Anyhow, it is not even claimed that said filling and construction had been completed within the year, which expired on March 20, 1952, stipulated in the contract of lease. In fact, the answer filed by respondents before this Court impliedly admits the failure of Camus to make the filling and construction within said period. This admission is even clearer in his answer in Case No. 2532, dated February 4, 1954, for he alleged in said pleading:

"3. That sometime in 1951, after signing the aforesaid Contract of Lease, an agreement was entered into by and between plaintiff and defendant that the filling up of the aforesaid portion of the said lot would be done as soon as the dredger of the Bureau of Public Works would be taken to Malabon River to fill up the market site of Malabon, Rizal, in which event the said dredger would then be contracted and utilized by defendant to do the filling up of the said portion, but the said dredger was not as yet been brought to Malabon River up to the present;

"4. That defendant has begun filling up the said portion of the promises in question with adobe stones since May, 1951, and as matter of fact, the base of the stone wall along the Malabon River of the said lot has already been erected and finished since October, 1951, in order to contain the fillings to be made by the aforementioned dredger, and defendant has already spent for this purpose more than P1,200, and for this reason, plaintiff could not now complain, and is now in estoppel from demanding the completion of the filling up of the portion of the said premises, and the construction of the stone wall with barbed wire on top, in accordance with the said Contract of Lease." (annex 3, pars. 3 and 4) (underscoring supplied.)

Incidentally, this paragraph (4) tends to weaken, or, even, refute, the allegations of paragraph (3), for, if, as therein stated, it had been agreed - although, it would seem, orally - after the execution of the contract of lease,

"that the filling x x x would be done as soon as the dredger of the Bureau of Public Work would be taken to Malabon river to fill up the market site of Malabon, Rizal, in which event the said dredger would then be contracted and utilized by the defendant (Camus) to do the filling xxx but the said dredger has not as yet been brought to Malabon river up to the present time"

then there would seem to be no reason for Camus to begin the filling "since May, 1951 " as averred in paragraph 4 of his aforementioned answer in Case No. 2582,

At any rate, there is prima facie, if not strong, evidence that Camus had not complied with some of his obligations under the contract of lease, and that this breach of contract dates back to March 20, 1952, or about eleven (11) months prior to the alleged default of Price in the payment of rentals (or from February 16, 1953). In this connection, the last paragraph of Article 1169 of the Civil Code of the Philippines provides:

"In reciprocal obligation, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfills his obligation, delay by the other begins."

It should be noted, also, that respondent Judge, as well as the Justice of the Peace of Malabon, were aware of the pendency of Civil Case No. 2582 of the Court of First Instance of Rizal, for specific performance of the contract of lease. Said action was explicitly pleaded by Price, in the answer filed with the justice of the peace court, which answer formed part of the record before respondent Judge, when he issued the order complained, of. He knew, or must have known, therefore, that Camus was charged with non-performance of his (Camus') obligations as lessor;

that this was, and is, the basis of the action and the main issue in Case No. 2582 of the court of first instance, for specific performance of said obligations; that the court of first instance has jurisdiction to decide said issue and action; that the jurisdiction of said court of first instance is, either exclusive, or concurrent with the justice of the peace court; that, if exclusive, the justice of the peace court would not be competent to pass upon said issue; that, neither would the latter court have authority to determine said issue, if it had concurrent jurisdiction with the court of first instance, this being the court which first assumed authority over said case, for Case No. 2582 was filed therein several days before the ejectment case in the justice of the peace court; that the determination of said issue in Case No. 2582 is essential to the settlement of the dispute in Case No. 1159; that, accordingly, the issue in Case No. 2582 constitutes a prejudicial question, as regards the subject matter of the controversy in Case No. 1159; and that, consequently, the justice of the peace court should have, at least, deferred the hearing and determination of Case No. 1159, until after the rendition of judgment in Case No. 2582.

Indeed, the situation confronting the court may be likened to that which would obtain if a person instituted a detainer case to secure possession of a land - to which he claims to be entitled as owner thereof - held, under claim of title in fee simple, by another who has already sued the former in order to quiet title. Since the right of possession asserted by the plaintiff in the detainer case depends upon his alleged dominion, which is controverted in the action to quiet title, the justice of the peace court must dismiss said detainer case for want of jurisdiction to settle the question ownership, upon which plaintiff's claim is based. (*Torres v. Peña*, 44 O.G. 2699; *Peñalosa v. Garcia*, 44 O.G. 2709; *Cruz v. Garcia*, 45 O.G. 227; *Canaynay v. Sarmiento*, 45 O.G. 252). Similarly, the forcible entry and detainer case instituted by Camus, is predicated upon the alleged default of Price in the payment of rentals. Pursuant to Article 1169 of our Civil Code, Price would not be in default, even in case of non-payment of the rentals, if Camus had not fulfilled his obligations as a lessor, as intended by Price in the action for specific performance already commenced by him. Price, therefore, cannot be guilty of unlawful detainer, unless Camus is exonerated, in the action for specific performance, from the charge of breach of the contract of lease. By analogy with the former illustration, it could be argued, therefore, that the justice of the peace court cannot pass upon the right of possession invoked by Camus in the ejectment case, for the same depends upon whether Camus had complied or not with his part of the contract of lease, which, in turn, is the issue in Case No. 2582. In other words, respondent Judge had, before him sufficient facts to doubt the propriety, if not the validity, of the decision of the justice of the peace court.

Again, Price has established and is operating on the leased premises a candy factory, which would have to be closed, with the corresponding injury to the business of Price, if said decision were executed. Moreover, Price would then be divested of the possession of a building, which must be worth not less than P50,000, it has constructed on the leased premises, in accordance with the contract of lease. Pursuant thereto, Price is the owner of said building for the duration of the lease. Hence, the deprivation of said possession would violate the dominical rights of Price, which include the enjoyment, and consequently, the possession and use of said building.

It is true that, pursuant to paragraph 14 of the contract of lease,

"x x x in case of a breach of any of the covenants on the part of the party of the second part Lessee, herein contained, the party of the first part Lessor, may, while the default shall continue, and notwithstanding any waiver of any prior breach of conditions, without notice or demand, enter upon the premises and thereby terminate this lease and may thereupon expel and remove the party of the second part Lessee." (Underscoring supplied.)

As a corollary thereof, title to said building would pass from Price to Camus upon the termination of the lease. However, said right of Camus to terminate the lease could be exercised only "while the default (of Price) shall continue," and Price is not in default as long as - in the words of Article 1169 of our Civil Code - Camus "does

not comply or is not ready to comply in a proper manner with what is incumbent upon him" and there is prima facie proof of breach of contract by Camus, Anyhow, this is, as above stated, the issue in Case No, 2582, wherein it must be decided, together with all the issues incidental thereto, or necessarily included therein, such as the termination of the lease, the extinction of the title of Price over said building and its acquisition by Camus (Rule 39, Section 45, Rules of Court), which are, clearly, beyond the jurisdiction of the justice of the peace court. If these questions were eventually decided, in Case No. 2582, in favor of Price, Case No, 1159 and the decision of the justice of the peace court in favor of Camus, would become untenable. Apart from this, Price might seek to recover damages for the injury occasioned by his ejectment, and Camus might be unable to indemnify said damages. In short, the execution of the decision of the justice of the peace court would ruin the business of Price, deprive it of the possession of building probably worth not less than P50,000, which is its property, until otherwise declared in Case No. 2582 - and this has not been done as yet - and may cause irreparable injury to Price,

Upon the other hand, although the rentals for April, May and June, 1954, have not been paid or deposited in cash, a bond has been given to guarantee its payment. Besides, Price has offered to make said cash deposit, if authorized by the court to do so. It may not be a[^]iss to add that Price, is, to all appearance, more than sufficiently solvent to pay the sum of P1,200 represented by said rentals, and must have been paying or depositing the amount of the rentals for the months following June, 1954. Hence, Camus would suffer no possible damage if Price were now allowed to deposit in cash said sum of P1,200.

In conclusion, in issuing the order complained of as well as the writ of execution, despite the strong equities in favor of Price and the dubious legality or prop of the decision of the justice of the peace court, respondent Judge has committed a grave abuse of discretion. Wherefore, (1) the writ prayed for is hereby granted, (2) the order of respondent Judge, dated July 24, 1954, and said writ of execution, are set aside and annulled, (3) the writ of preliminary injunction issued herein is hereby made permanent and (4) petitioner Price, Inc. is given three (3) days, from entry of judgment in this case, within which to deposit in court the amount of the rentals for April, May and June, 1954. Respondent Manuel S. Camus shall pay the costs.

IT IS SO ORDERED.

Pablo, Bengzon, Padilla, Montemayor, Reyes, Bautista Angelo, Labrador, and Reyes, J.B.L., JJ., concur.

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