

**JOSEFINA RUBIO VDA. DE LARENA, PLAINTIFF AND APPELLEE, VS
HERMENEGILDO VILLANUEVA, DEFENDANT AND APPELLANT.***G.R. No. L-21706. March 26, 1924*

Ponente: OSTRAND, J.

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This action is brought by a lessor against her lessee for the rescission of the contract of lease on the ground that the lessee has violated the terms of the contract by failing to pay the rent therein specified. The plaintiff also asks judgment for overdue and unpaid rent in the sum of P6,278.68, as well as for rent which may have become due during the period between the filing of the complaint and the execution of the judgment to be rendered, together with the costs and the sum of P2,000 for attorney's fees. The defendant's amended answer denies that he has breached the contract and sets up a counterclaim in the sum of P2,051.52 for money advanced to the plaintiff in excess of the rent due under the contract.

The trial court rendered judgment in favor of the plaintiff for the rescission of the lease, for the unpaid balance of the rent for the agricultural year 1920-1921 in the sum of P5,949.28, with interest from August 26, 1922, the date of the filing of the complaint, and for the rent for the agricultural year 1922-1923, with costs. From this judgment the defendant appeals to this court.

The decision turns upon the interpretation of the contract in question which was executed on August 2, 1920, and which reads as follows:

"Este contrato de arrendamiento es sostenido por una parte por la arrendadora D.[a] Josefina Rubio, Viuda de Larena, dueña y propietaria de la Hacienda Tacgajan, ubicada en este Municipio de Bais, Negros Oriental, I. F., y por otra parte por los arrendatarios Hermenegildo Villanueva y Mateo Montenegro, todos mayores de edad y vecinos de este municipio, con capacidad legal para contratar y otorgar el presente contrato de arrendamiento, y solemnemente manifiestan que de comun acuerdo pactan lo siguiente:

"1.º Que D.a Josefina Rubio, Vda. de Larena, cede en arriendo a los Sres. Hermenegildo Villanueva y Mateo Montenegro por un periodo consecutivo de cinco años, o sea, cinco cosechas completas, su hacienda cana dulce denominada Tacgajan con todos sus terrenos, edificios, mejoras, tranvia, ganado de labor, cerros, aperos de labranza y demas implementos agricolas, especificado todo en el inventario que se acompanara a la presente escritura, incluyendo todas las siembras existentes asi como una parcela de terreno, o sea la parte de que la arrendadora es propietaria situada al lado del riachuelo que circunda la Hacienda Tacgajan. No se entiende incluidos en este contrato la tractora, huerta y cementerio.

"2.º Que los Sres. Hermenegildo Villanueva y Mateo Montenegro aceptan este contrato bajo el pago anual de ocho mil pesos (P8,000) pagando cada cual la parte que le corresponde, o sea cuatro mil pesos (P4,000) que paga Mateo Montenegro, y cuatro mil pesos (P4,000) Hermenegildo Villanueva, ambos se entenderan directamente con la arrendadora.

"3.º La duracion de este contrato sera de cinco años o sea cinco cosechas completas, contando con la cosecha actual de 1920-1921, hasta la cosecha de 1925-1926.

"4.º Inmediatamente despues de firmado el presente contrato, la arrendadora dara posesion a los arrendatarios de la Hacienda libre de toda carga y gravamen, hactendose estos cargo de todas las cosas inventariadas con la obligacion de cuidarlas con la diligencia conveniente y devolverlas a la arrendadora, a la expiracion del arriendo tal como han sido recibidas, excepto aquellas cosas que por deterioro natural hiciera inutil todo esfuerzo que los arrendatarios emplearen por conservarlas, pero los referidos arrendatarios seran sin embargo responsables de la reposicion de todo ganado mayor de labor incluido en el inventario, despues de que han sido asegurados inmediatamente bajo la Ley de Seguros de Animales de Labor.

"5.º Los arrendatarios respetaran el contrato que la arrendadora tiene con la central como si la Hacienda Tacgajan continuara en poder de ella. Asimismo permitiran a la continuacion en sus respectivas aparcerias a D.a Agneda Somosa y Demetrio Larena.

"6.º Los arrendatarios no podran traspasar sus derechos de tales sin el consentimiento de la arrendadora.

"7.º Todas las mejoras permanentes que dejaren los arrendatarios a la expiration del presente contrato quedaran en beneficio de la Hacienda a libre disposition de la arrendadora D.[a] Josefina.

"8.º El incumplimiento de cualquiera de las dos partes contratantes dara derecho a la otra a la rescision del presente contrato.

"Asi han convenido y pactado todas las partes contratantes que firman el presente contrato con las copias necesarias para cada interesado."

Subsequently to the execution of the contract quoted, the defendant, with the consent of the plaintiff, assumed the obligations of Mateo Montenegro under the lease.

It will be noted that paragraph 3 of the contract contains an apparent contradiction inasmuch as it fixes the term of the contract at "five years, that is to say, five complete crops, beginning with the present crop 1920- 1921 until the crop of 1925-1926." It may also be noted that the land in question is used for the cultivation of sugar cane and the years are counted by agricultural years and not by calendar years. If the duration of the lease is for five annual crops, beginning with the crop of 1920-1921, the term will expire with the crop of 1924-1925 and not with the crop of 1925-1926. The plaintiff maintains that the number of crops controls in computing the term of the lease and that the insertion of the figures "1925-1926" in the third paragraph of the lease is due to a miscalculation and should read "1924-1925."

It is conceded that sugar cane requires at least fourteen months from the time of planting for its full development, so that cane planted in the fall of 1920 would not be ready for harvest until in the last month of 1921 and the early part of 1922. It is also fully established that the crop of 1920-1921 on the land in question was a ratoon crop (sprout or second growth). The defendant therefore contends that this crop was not a complete crop and therefore not the kind of crop referred to in the contract of lease; that the first complete crop was that planted by him immediately after the execution of the contract in the fall of 1920 and which was harvested in 1921-1922; and that he therefore should not be required to pay rent for the agricultural year which embraces the crop of 1920.

We agree with the trial court that the defendant's position is untenable. As stated, if his interpretation of the contract were adopted, the plaintiff would receive no rent for the agricultural year 1920-1921 and we cannot assume that she would have paid the taxes on the property for that year and still have allowed the defendant to use the land, including machinery, tools, work animals, etc., and to carry off the crop without any compensation

whatever to her.

It may well be conceded that the ratoon crop was not as valuable as a first crop after planting would have been, but the testimony of the plaintiff, as well as of the witness Montenegro, the defendant's original cotenant under the lease, shows that in the fall of 1920 the crop in question was estimated at from 2,000 to 3,000 piculs. The lower court also found as a fact that in the same year sugar sold at P45 per picul. The plaintiff's estimate of the yield is probably exaggerated; the defendant testifies to a much lower figure and the mill receipts presented by him in evidence indicate that the crop actually harvested amounted to 899.27 piculs, of which he was entitled to one-half and which was sold at only P16 per picul. But as against the plaintiff's estimate, it appears that after taking possession of the land he destroyed a large portion of the ratoon crop by constructing a road through the cane fields and by taking ratoons for seeds for another hacienda.

It is therefore safe to suppose that at the time of entering into the contract the parties had in mind prospects of a yield considerably greater than that actually obtained and that they did not at that time foresee the violent decline in the price of sugar. Taking into consideration that the ratoon crop did not involve any expense for planting and that it was ready for harvest within a few months after the execution of the contract, we may reasonably conclude that the parties considered that the rental value of the property for the year 1920-1921 would easily amount to P8,000.

The fact that the defendant paid the plaintiff P4,000 in January, 1921, and another P4,000 in November of the same year, materially strengthens the plaintiff's contention. The defendant's explanation that these payments were advances on the rent for the year 1921-1922 is flatly contradicted by Exhibit E, a letter written by him to the plaintiff on August 7, 1921, and which reads as follows:

"Sra. JOSEFINA R. VDA. DE LARENA,

"MI APRECIABLE PINANG: No tengo inconveniente en pagar con el arriendo tu eta. con la Tabacalera como son los deseos pero debe ser de acuerdo con las fechas del vencimiento que hemos estipulado. Por ejemplo, yo pagare a la Compania los 4,000 pesos que tengo que pagar por el arriendo correspondiente al mes de junio pasado, arriendo perteneciente al ano 1920 y 1921. Con respecto al arriendo que corresponde al ano 1922 yo pagare a la Compania 4,000 pesos el plazo que corresponde al mes de noviembre proximo como pago del primer plazo del arriendo que pertenece a dicho aiiio 1922 y para junio de 1922 el ultimo pago del arriendo del mismo ano, y asi sucesivamente.

"Solo espero tu aviso para escribir a la Tabacalera.

"Dodong esta algo mejor pero es una enfermedad cuya curacion es lenta.

"Asuncion y yo le enviamos nuestros afectos.

(Sgd.) "BINDOY"

Considering further the admitted fact that the lease was prepared by the defendant, or under his direction, and therefore must be construed in favor of the plaintiff, there can be no question but that the judgment appealed from is entirely in conformity with the law and the established facts.

Said judgment is therefore affirmed, with the costs against the appellant. So ordered.

Araullo, C. J., Street, Avancena, Johns, and Romualdez, JJ., concur.

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