

SATURNINO A. TANHUECO, PETITIONER, VS. HON. ANDRES AGUILAR, PRESIDING JUDGE, BRANCH II, COURT OF FIRST INSTANCE OF PAMPANGA, ROSARIO SORIANO VDA. DE GUIAO, ET AL., RESPONDENTS.

G.R. No. L-30369. May 29, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This petition for review by certiorari is directed against the order issued by respondent Judge on November 18, 1968, in its Civil Case No. 3128. The case has been submitted for decision with neither answer nor brief having been filed by the respondents.

The petitioner's statement of the case and of the facts is uncontroverted, and hence merely reproduced herein, as follows:

"1. On 18 June 1964 petitioner filed with the City Court of Angeles City a complaint for unlawful detainer against Julian Guiao, now deceased, praying that the latter be ordered to vacate the building being leased by him from the former and to pay the rentals in arrears from March 1964 at the rate of P400.00 monthly.

"2. To said complaint Julian Guiao filed his answer on 23 June 1964 and amended answer on 4 June 1965, alleging as defenses that petitioner did not introduce certain repairs on the leased premises and that said Julian Guiao did not deal with petitioner, and putting up a counter-claim for damages against the latter.

"3. On 17 February 1967 the City Court rendered its Decision ordering said Julian Guiao to vacate the leased premises and to pay the rentals in arrears from March 1964 with interest.

"4. On 3 March 1967 Julian Guiao appealed from said Decision to the Court of First Instance of Pampanga, putting up the required supersedeas bond in the amount of P15,732.00 covering the unpaid rentals plus interest; the case was docketed in the Court of First Instance as Civil Case No. 3128.

"5. On 18 November 1967 Julian Guiao died.

"6. On 18 December 1967 petitioner filed a motion with the Court of First Instance praying that Julian Guiao's counsel, Atty. Filemon Cajator, be ordered to furnish the Court the names and addresses of the legal representatives and/or heirs of said deceased so that they could be substituted as parties-defendants.

"7. On 27 December 1967 Atty. Cajator filed a "MOTION FOR SUBSTITUTION", alleging the death of Julian Guiao and stating the names and addresses of his heirs and praying that the latter be substituted as parties-defendants.

"8. On 6 February 1968 the respondent Judge issued an Order ordering the substitution of the other respondents in lieu of deceased Julian Guiao as parties-defendants.

"9. On 11 March 1968 the new defendants vacated the leased premises.

"10. On 14 June 1968 the pre--trial in Civil Case No. 3128 was held.

"11. On 24 June 1968 respondents filed a motion to dismiss, alleging that all rentals that accrued during the pendency of the appeal in the Court of First Instance had been paid, that what remain to be litigated are the unpaid rentals that accrued during the pendency of the case in the City Court, that consequently the remaining issue has been reduced to a mere claim for money, that the Court of First Instance has no jurisdiction in Civil Case No. 3128 to hear and decide a claim for money, and that jurisdiction belongs to the corresponding probate court.

"12. On 22 July 1968 petitioner filed his opposition to the motion to dis-miss, stating that respondents were estopped from seeking dismissal, having previously filed a motion for substitution which was granted by the Court, and that the claim involved is not mere claim for money but is in the nature of damages arising from the unlawful withholding of the possession of real property.

"13. On 18 November 1968 the respondent judge issued an Order, a copy of which is embodied in this brief as an appendix, dismissing the case on the ground that an action for unpaid rentals, which is a claim for a sum of money, can-not be maintained against the heirs of a deceased defendant; a copy of said Order was received by undersigned counsel on 5 December 1968."

x x x x

The following facts are undisputed:

"1. The rentals from March 1964 up to February 1967, in the amount of P15,732.00 (including interest), which are covered by a supersedeas bond, remain unpaid.

"2. The rentals from March 1967 up to October 1967 were deposited with the Clerk of the Court of First Instance and later withdrawn by peti-tioner upon orders of the Court.

"3. The rentals for the period 1 November 1967 to 18 November 1967, when Julian Guiao died, remain unpaid.

"4. The rentals from 19 November 1967 to 11 March 1968, when respondents vacated the premises, were paid by respondents directly to petitioner.

"5. Up to the present time, no settlement proceedings has been instituted in court over the estate of Julian Guiao."

The principal issue is whether or not the unpaid rentals for the period from March 1964 to February 1967 (which are covered by a supersedeas bond) and those for the period from November 1 to November 18, 1967 (on which latter date Julian Guiao died) are "money claims" within the meaning of Section 21 of Rule 3, which provides that "when the action is for recovery of money, debt or interest therewith, and the defendant dies before final judgment in the Court of First Instance it shall be dismissed to be prosecuted in the manner especially provided in these rules." The reference is to the corresponding testate or intestate proceeding for the settlement of the estate of the deceased, wherein all his creditors may appear and file their claims so that the same may be paid proportionately out of the said estate.

Section 1 of Rule 87 states:

"No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; but actions to recover real or personal property, or an interest therein, from the estate, or to enforce a lien thereon, and actions to recover damages for an injury to person or property, real or personal, may be commenced against him."

If the unpaid rentals in question here are "money claims" under the foregoing rules, they do not survive, but must

be presented against the estate in the probate court. However, in a case of ejectment, or unlawful de-tainer, the main issue is possession of the property, to which the right to recover damages for the withholding of such possession after the right thereto has terminated is only incidental; and the rents accrued and unpaid are simply the measure for the determination of such damages. The action for ejectment itself is not abated by the death of the defendant, but must continue until final judgment, in which the question of damages must be adjudicated. The fact that the occupants of the tenement subject of the action vacated the same during the pendency of the case on appeal does not divest the recoverable damages of their character as an incident in the main action and convert them into simple claims for money which must be prosecuted against the estate in the administration proceeding. The issue concerning the illegality of the defendant's possession is still alive, and upon its re-solution depends the corollary issue of whether, and how much, damages may be recovered.

On the other hand, if the respondents' act of vacating the building subject of the case be construed as abandonment of their appeal, then the judgment appealed from would acquire the character of finality, and thus preclude the necessity of filing the claim for unpaid rentals before the probate court.

In view of the foregoing, the order complained of is set aside, and the case is remanded to the trial court for further proceedings, with costs against private respondents.

Concepcion, C.J., Reyes, Dizon, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.
Castro, J., on leave.

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