

FRANCISCO DE LA CRUZ ET AL., PETITIONERS,, VS. MAMERTO ROXAS ET AL., RESPONDENTS.

G.R. No. L-100. November 16, 1945

Ponente: PERFECTO, J.

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PERFECTO, J.:

On July 15, 1945, respondent Judge Mamerto Roxas rendered judgment ordering petitioners to vacate the premises at No. 1135 Avenida Rizal, Manila, on or before October 15, 1945, in accordance with an agreement entered into between the petitioners and respondent Eugenio Quesada.

Petitioner Agustin Alonzo has no place to which he can transfer, his house, belongings and furniture having been burned on February 11, 1945, and seeks to be given a period of three months after October 15, during which the order of execution should not be issued in order to give him sufficient time for locating a vacant house or a vacant room where he can transfer himself and his family. In view of the expiration of the period within which petitioner should vacate the premises in question as ordered in the judgment rendered by respondent judge, in accordance with an agreement entered into between the petitioners and respondent Eugenio Quesada, Judge Roxas issued the writ of execution. Petitioner alleged that respondent judge, in ordering the execution of his judgment, committed a grave abuse of discretion, considering the fact that it is of common knowledge that there is now a housing problem in Manila and, therefore, prays that respondent judge be ordered to desist from ordering the execution of the judgment in question.

Respondent Quesada answered, alleging that the decision rendered by respondent judge was based on a gentleman's agreement by which petitioners were given a period of three months and six days to vacate the premises in question from the date of the decision rendered on July 9, 1945.

Quesada alleges also that petitioners were required to vacate the premises in question as early as February 15;

That they were ordered to vacate the premises by the municipal court 15 days after March 31, the date of mid court's decision;

That petitioners have had more than seven months within which to get another house;

That petitioner Francisco de la Cruz has long since vacated the premises in question, leaving therein his house guest Agustin Alonzo, who is unknown to and has never been a lessee of Quesada;

That Francisco de la Cruz has a residential house of his own at No. 1218 Felix Huertas, big enough to accommodate his house guest Agustin Alonzo;

That petitioners have leased the basement floor of the property in question to some Chinese merchants for business purposes;

That respondent Quesada, being a well-known local manufacturer of chemical products bearing his name, has since July 24 secured a license to resume his business, and needs the basement floor in question as a display room

for his chemical products, and the upper floor of the premises in question to accommodate the big family of Dr. Joaquin Maraño, of the Bureau of Science, whose house, formerly at No. 552 Pennsylvania, was shelled and burned during the liberation of the City of Manila and who now temporarily lives in a very congested house at No. 651 Lipa;

That respondent Quesada has no other suitable house for the storage and display of his chemical products and to accommodate the family of aforesaid Dr. Joaquin Mararion;

That to grant the petition would nullify the practical use of, and exposing to public ridicule, the otherwise wholesome agreements arrived at voluntarily by parties in court chambers during pre-trials, and would inevitably encourage bad faith and dilatory tactics on the part of many bad-intentioned parties.

In an affidavit presented by respondent Quesada as part of his answer, Deputy Sheriff Getulio Pantoja of Manila deposes that on October 22, when he personally served the writ of execution upon petitioner Agustin Alonzo, he found that the family of said petitioner was occupying the upper floor of the premises in question, while the basement floor was being occupied by some Chinese merchants, who refused to give their names and to inform since when they have been occupying the premises and how much they are paying therefor.

The facts alleged in the answer were not denied by petitioners.

Upon the facts shown in the petition and in the answer of respondent Quesada, we are of opinion that the petition has absolutely no merit. Francisco de la Cruz, the real tenant, has left the premises already. His house guest, petitioner Alonzo, from the point of view of owner Quesada, is no more than a mere intruder. If he has any right to stay in the house that right was subsidiary to that of tenant Francisco de la Cruz, he being a mere house guest of the same. After Francisco de la Cruz left the house, Alonzo has absolutely no legal standing to remain, in the house.

In this question, besides the legal aspect, there is a moral aspect that should not be left without some comment from us.

Alonzo had more than seven months within which he could look for another place. If he failed to locate another place after such a long time, there is absolutely no reason for him to impose upon owner Quesada, after said Alonzo entered into a gentleman's agreement to vacate the premises not later than October 15, agreement which was the basis of the decision rendered by Judge Roxas. The fact that the basement floor of the house is occupied by Chinese merchants, does not strengthen the moral position of petitioner Alonzo, as it gives rise to the respondent conjecture that he insists in remaining in the premises in order to continue profiting by the rents the unknown Chinese merchants might have been paying and may him.

We cannot be unmindful of the hardships of tenants in Manila under present circumstances and we are willing¹ to grant said tenants, who might come to us for relief, any liberal concession compatible with law. But we revolt against the idea of being a party to a violation of a gentleman's agreement, and of trampling upon the word of honor of honorable citizens. We cannot countenance the breach of a voluntary promise given with all the judicial and gentlemanly solemnities by petitioner Alonzo in the present case.

We cannot grant the petition without violating the legal and moral principles which are of primary importance for the orderly intercourse in human society. Those are principles that spring from the very essence of personal dignity.

Petition dismissed with costs.

Momn, C. J., Ozaeta, Jaranitta, and Hilado, JJ., concur.

Paras, Feria, De Joya, and Bengzon, JJ., concur in the result.

PABLO, M., Concurrente y Disidente:

Conformo con el sobreseimiento de la solicitud; pero no por las razones expuestas en la decision, sino porque hay remedio ordinario faeil y expedite: la Ley No. 689.

DISIDENTE

BRIONES, M.,

No estoy conforme con la decision de la mayoria por los siguientes fundamentos:

- (1) Creo que se comete una injusticia con el peticionario Agustin Alonzo con la insinuacion de que trata de lucrarse con los alquileres que le pagan sub-arrendatarios chinos que ocupan la planta baja de la casa. A falta de prueba positiva e inconcusa en autos sobre este respecto, no solo estimo superflua tal insinuacion, sino que la considero injustincada.
- (2) La infraccion del llamado convenio de caballeros no tiene para mi la importancia que se le atribuye en la opinion de la mayoria. La escasez de viviendas en Manila resultante de la devastation causada por la guerra ha creado un problema de proporciones tan tremendas que no creo deba indignarse nadie cuando un pobre inquilino se ve obligado a faltar a su palabra por no encontrar inmediatamente un cobijo para el y su familia. El recurrehte acude a nosotros en demanda de un plazo razonable para cumplir la sentencia del tribunal inferior. Creo que no hay motivo para dudar de su buena fe.
- (3) La mejor prueba de que lo solicitado por el recurrente tiene buen fundamento en derecho y en equidad es que eso mismo se halla estatuido ahora en la ley sobre alquileres aprobada recientemente por el Congreso.

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