

**VIRGINIA STA. MARIA-GARCIA AND VITALIANO GARCIA,
PLAINTIFFS AND APPELLEES, VS. GUSTAVO SANCHO, DEFENDANT
AND APPELLANT.**

G.R. No. L-226. July 30, 1947

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by the defendant from a judgment of the Court of First Instance of Manila, ordering him to vacate house No. 207 Gastambide, Manila, and to pay the plaintiffs, as reasonable compensation for its use, the sum of P100 per month from February 5, 1945, until the house shall have been vacated.

The complaint alleges, and the evidence for the plaintiffs tends to show, that the defendant on or about February 5, 1945, taking advantage of the confusion and disorder resulting from the battle for the liberation of the City of Manila, entered and took possession of the house in question without the knowledge or consent of its owner, plaintiff Virginia Sta. Maria-Garcia (wife of other plaintiff Vitaliano Garcia), and that notwithstanding demands made by said owner, through her mother, the defendant has refused to vacate the same. The defendant, in his answer and through his evidence, tries to show that he occupied the property with the knowledge and upon permission of one Antonio de Zuzuarregui, who was authorized by the plaintiffs to take care of and lease the same to anybody; that said defendant saved the house from further looting after its former lessee, a Japanese, was killed by the guerrillas on February 4, 1945; and that, as a matter of fact, the said Antonio de Zuzuarregui gave him Exhibit 1 which reads as follows:

"With reference to the verbal answer given to my note, notifying the owner of the house adjoining mine, located at Gastambide Street of the death of the Japanese tenant, whereof I was encharged of the vigilance, I hereby authorize Mr. Gustavo Sancho to take charge of same to avoid further depredations at the premises and if he feels like occupying the house as a tenant he may pay the rent in accordance with the law of home rent.

"Otherwise he will be given an adequate time to vacate the building should he not be inclined to continue in the premises as a tenant.

"I also told him to fix the slight damages already caused in the premises."

The trial court found that Antonio de Zuzuarregui was never authorized by the plaintiffs to lease the house in question; that the latter merely entrusted to him the task of watching and taking care of said house, with a view to protecting the same against looters; and that, even on the assumption that said Antonio de Zuzuarregui was authorized to lease it, the lease relied upon by the defendant had to be on a month-to-month basis.

We have examined the record and found that the appealed judgment is correct. Even under the document invoked by the defendant, there is nothing to show in a positive manner that Antonio de Zuzuarregui was ever authorized by the plaintiffs to lease the house. At most, it indicates that he was charged with its vigilance. Said document (Exhibit 1) is evidence of the fact that Antonio de Zuzuarregui authorized the defendant "to take charge of same to

avoid further depredations at the premises and if he feels like occupying the house as a tenant he may pay the rent," but it cannot serve to prove that he was in turn given the power by the plaintiffs to give the house in lease.

Even assuming, however, that Antonio de Zuzuarregui had such authority, we agree with the trial court that the lease was monthly. Under defendant's Exhibit 1, the lease, if any, was not for a fixed or stipulated duration and, according to his own testimony, he was ready to pay a monthly rental of P90 or P100. Hence by virtue of article 1581 of the Civil Code, said lease, which is deemed monthly, may be terminated at the end of every month.

The defendant cannot avail himself of the benefits afforded by the Rental Law (Commonwealth Act No. 689) since, as hereinabove stated, he does not hold any lease, and since the plaintiffs in this case need the premises for themselves. It is thus needless to dwell further on the significance of the circumstances that the defendant is actually occupying another house located right in front of the premises in question, and that he has been subletting the latter property, or a part thereof, to other persons.

The appealed judgment will therefore be, as the same is hereby, affirmed. So ordered, with costs against the defendant.

Moran, C.J., Feria, Pablo, Perfecto, Hilado, Bengzon, Hontiveros, Padilla, and Tuason, JJ., concur.

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