

VICENTE SINGSON ENCARNACION, PLAINTIFF AND APPELLEE, VS. JACINTA BALDOMAR ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-264. October 03, 1964*

Ponente: HILADO, J.

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VICENTE SINGSON ENCARNACION, PLAINTIFF AND APPELLEE, VS. JACINTA BALDOMAR ET AL., DEFENDANTS AND APPELLANTS. body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px;

Vicente Singson Encarnacion, owner of the house numbered 589 Legarda Street, Manila, some six years ago leased said house to Jacinta Baldomar and her son, Lefrado Fernando, upon a month-to-month basis for the monthly rental of P35. After Manila was liberated in the last war, specifically on March 16, 1945 and on April 7, of the same year, plaintiff Singson Encarnacion notified defendants, the said mother and son, to vacate the house above-mentioned on or before April 15, 1945, because plaintiff needed it for his offices as a result of the destruction of the building where said plaintiff had said offices before. Despite this demand, defendants insisted on continuing their occupancy. When the original action was lodged with the municipal court of Manila on April 20, 1945 defendants were in arrears in the payment of the rental corresponding to said month, the agreed rental being payable within the first five days of each month. That rental was paid prior to the hearing of the case in the municipal court, as a consequence of which said court entered judgment for restitution and payment of rentals at the rate of P35 a month from May 1, 1945, until defendants completely vacate the premises. Although plaintiff included in said original complaint a claim for P500 damages per month, that claim was waived by him before the hearing in the municipal court, on account of which nothing was said regarding said damages in the municipal court's decision.

When the case reached the Court of First Instance of Manila upon appeal, defendants filed therein a motion to dismiss (which was similar to a motion to dismiss filed there in the municipal court; based upon the ground that the municipal court had no jurisdiction over the subject matter due to the aforesaid claim for damages and that, therefore, the Court of First Instance had no appellate jurisdiction over the subject matter of the action. That motion to dismiss was denied by His Honor, Judge Mamerto Roxas, by order dated July 21, 1945, on the ground that in the municipal court plaintiff had waived said claim for damages and that, therefore, the same waiver was understood also to have been made in the Court of First Instance.

In the Court of First Instance the gravamen of the defense interposed by defendants, as it was expressed by defendant Lefrado Fernando during the trial, was that the contract which they had celebrated with plaintiff since the beginning authorized them to continue occupying the house indefinitely and while they should faithfully fulfill their obligation as respects the payment of the rentals, and that this agreement had been ratified when another ejectment case between the parties filed during the Japanese regime concerning the same house was allegedly

compounded in the municipal court. The Court of First Instance gave more credit to plaintiff's witness, Vicente Singson Encarnacion, Jr., who testified that the lease had always been upon a month-to-month basis. The Court added in its decision that this defense which was put up by defendant Lefrado Fernando during the trial had not been alleged in defendant's answer, for which reason the Court considered it as indicative of an eleventh-hour theory. We think that the Court of First Instance was right in so declaring. Furthermore, carried to its logical conclusion, the defense thus set up by defendant Lefrado Fernando would leave to the sole and exclusive will of one of the contracting parties (defendants in this case) the validity and fulfillment of the contract of lease, within the meaning of article 1256 of the Civil Code, since the continuance and fulfillment of the contract would then depend solely and exclusively upon their free and uncontrolled choice between continuing paying the rentals or not, completely depriving the owner of all say in the matter. If this defense were to be allowed, so long as defendants elected to continue the lease by continuing the payment of the rentals, the owner would never be able to discontinue it; conversely, although the owner should desire the lease to continue, the lessees could effectively thwart his purpose if they should prefer to terminate the contract by the simple expedient of stopping payment of the rentals. This, of course, is prohibited by the aforesaid article of the Civil Code. (8 Manresa, 3d ed., pp. 626, 627; Cuyugan vs. Santos, 34 Phil. 100).

During the pendency of the appeal in the Court of First Instance and before the judgment appealed from was rendered on October 31, 1945, the rentals in arrears were those pertaining to the month of August, 1945, to the date of said Judgment at the rate of P35 a month. During the pendency of the appeal in that court, certain deposits were made by defendants on account of rentals with the Clerk of said Court, and in said judgment it is disposed that the amounts thus deposited should be delivered to plaintiff.

Upon the whole, we are clearly of opinion that the judgment appealed from should be, as it is hereby, affirmed, with the costs of the three instances to appellants. So ordered.

Paras, Pablo, Perfecto, and Padilla, JJ., concur.

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