

**GO KING, CUA DY, GO CIN, ANG KOK AND LEE TUNG, PETITIONERS,
VS. FRANCISCO GERONIMO, JUDGE OF MUNICIPAL COURT OF
MANILA, THE SHERIFF OF MANILA, SABINO PADILLA, AND FELIPE
AGUASIN...**

G. R. No. L-2126. August 27, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

This is a petition to prevent the Sheriff of the City of Manila from carrying out the order of execution of the Municipal Court in civil case No. 3516 specifying that the defendant Felipe Aguasin "remove the improvements he has constructed on the lots in question x x x and that upon his failure, the Sheriff proceed to demolish and remove the same, and leave the said lots clear thereof."

In said Manila litigation Sabino Padilla, owner of some lots on Echague Street, Manila, sought to eject Felipe Aguasin from the premises for his failure to comply with their lease contract whereby Aguasin was enabled to construct thereon some "barong-barongs" (temporary one-story structures widely used in post-war Manila). Judgment of eviction was in due course rendered, which in time became final and executory. It happened that the structures were occupied by some sub-lessees of Aguasin, Chinese persons operating stores therein; and when the Sheriff attempted to comply with the order and to clear the premises they appeared before the Municipal Court, through Atty. Raf. L. Arcega, and alleging that they had not been made parties to the litigation, and that consequently the eviction order could not be legally enforced as against them, they petitioned for a declaration that said order did not apply to them and their possessions. The judge denied their request. Consequently said sub-lessees instituted this proceeding and requested for a preliminary injunction. After hearing both sides, this Court declined to issue a restraining directive, because it was of the opinion that the order to vacate affected both the lessee and the sub-lessees. Nevertheless it required the respondents to answer, not only to give the parties their full day in court but also to re-examine, if need be, the principles governing the matter.

A few days thereafter, another petition reached the clerk's office involving other sub-lessees on Echague street of the same tenant Felipe Aguasin and his wife in practically identical circumstances. (Ng Siu Tam, et al. v. Hon. Rafael Amparo, et al., G. R. No. L-2139.[2]) The landlord was Jose H. Ocampo. Taking it up last April, the Baguio Special Division of this Court unanimously held the opinion that the order of eviction against the tenant affected the subtenants, even if the latter had not been sued in the detainer litigation. That opinion following, previous rulings of this Court[3] should be conclusive on the instant controversy. There seems to be no cogent reason in law or logic requiring a different view. The sub-lessees hold the premises subject to the right of the lessee: once that right disappears they have nothing to stand on. Unless they can claim an understanding or relation with the owner in which event their situation would be better than that of mere sub-lessees.

Consequently in accordance with our decision in the Ng Siu Tam litigation and the precedents therein mentioned, this petition is dismissed, with costs against the petitioner.

Paras, Actg. C. J., Feria, Pablo, Perfecto, Briones, and Tuason, JJ., concur.
Raf. L. Arcega[1] for petitioners.
Padilla, Carlos & Fernando for respondents.

[1] Resolution of August 2, 1948, granting withdrawal as counsel for petitioners.

[2] 80 Phil., 921.

[3] De la Cruz vs. Roxas, 75 Phil., 457; Gozon vs. De la Rosa, 44 Off. Gaz., 1225.

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