

SEVERING MANOTOK, PLAINTIFF AND APPELLEE VS. ELADIO GUINTO, DEFENDANT AND. APPELLANT.*G. R. No. L-9540. April 30, 1957*

Ponente: PARAS, C.J.

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The appellee filed against the appellant a complaint for ejectment in the Municipal Court of Manila, which in due course rendered judgment in favor of appellee. The appellant elevated the case to the Court of First Instance of Manila wherein the pleading in the inferior court were reproduced with special emphasis on the allegation that the judgment was rendered without jurisdiction because the appellee's complaint was filed more than one year after he had asked the appellant to vacate the property in question. After the parties had agreed to submit the case for decision on the pleadings without trial, the court upheld the right of appellee to eject appellant and ordered the latter to pay to the former the monthly rental of P6.25 effective April, 1953.

In the decision appealed from and now under review by this Court, the Court of First Instance of Manila found that "the plaintiff is the owner of the parcel of land situated in Calle Juan Luna, Manila, and occupied by the defendant on the agreed monthly rental of P6.25. This monthly rental was fixed by the plaintiff and represents an increase therein because of the fact that the land tax in the City of Manila has been increased considerably within the last two years. The defendant refused to pay the increased monthly rental and insisted in paying the same rental previous to the increase in the land taxes in the City of Manila."

The appeal having been taken directly to this Court, the only question that arises and calls for resolution is whether or not the court of origin had jurisdiction over the case.

In appellant's "Answer" to appellee's "Complaint", the former alleged that in March, 1953, the latter notified him that effective April, 1953, unless he agreed to pay the increased rental of P6.25, he should vacate the leased premises. In appellee's "Complaint", it is alleged that demand to vacate was made on July 12, 1954, after appellant had refused to pay the new rate. It is now contended by appellant that the notice given in March, 1953, for the appellant to pay the increased rental or to vacate the premises, should be the starting point of the one-year period within which to file the summary action for ejectment; that after appellant's failure to pay the increased rental since April, 1953, appellee's right of action had commenced to accrue, so that the complaint instituted in the Municipal Court only in August, 1954, was outside the jurisdiction of said court.

We shall assume that in March, 1953, appellant received the notice giving him the alternative either to pay the increased rental or otherwise to vacate the land. We, however, do not find such notice to be the demand contemplated by the Rules of Court in "unlawful detainer" cases. When after the notice the appellant elected to stay, he thereby merely assumed the obligation of paying the new rental and could not be ejected until he defaulted in said obligation and necessary demand was first made.

"A demand is a prerequisite to an action for unlawful detainer, when the action is 'for failure to pay rent due or to comply with the conditions of his lease', and not where the action is to terminate the lease because of the

expiration of its terms." (Go Tiam Co. vs. Boom Sim, 43 Official Gazette, No. 5, p. 1665.) The demand to vacate was made on July 12, 1954, from which the one-year period must be computed. The complaint filed on August 27, 1954, in the Municipal Court was therefore well within its jurisdiction.

Wherefore, the judgment appealed from is hereby affirmed with costs against the appellant. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia, and Felix, JJ., concur.

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