

MAYON TRADING CO., INC., PLAINTIFF AND APPELLANT, VS. CO BUN KIM, DEFENDANT AND APPELLEE.*G. R. No. L-11251. July 31, 1958*

Ponente: FELIX, J.

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Cesar Ledesma, Inc., was the owner of various parcels land situated at Teodora Alonso St., Sta. Cruz, Manila, among which were Lots 1 and 22, Block 2109 of the cadastral survey of Manila, covered by Transfer Certificate of Title No. 36559 (Exhibit E), and Lot No. 2 covered by Transfer Certificate of Title No. 6460 (Exhibit 2).

Dr. Co Bun Kim erected in 1946 a 3-story building and an annex thereto (Nos. 731-733 and 735, Int., Teodora Alonso St.) occupying a combined area of 120 square meters covering not only Lot No. 2 but also a part of the contiguous Lot No. 1, with an area of 28.35 square meters.

On December 5, 1950, Co Bun Kim entered into a contract with the landowner for the lease of the land occupied by his said 3-story building (Nos. 731-733, and 735 Int., Teodora Alonso, the last number being on Lot No. 1), and said contract provided, among other things, that the lease would be for a period of one year from December 1, 1950; that the rental for the occupancy of the property would be P600 payable within the first 15 days of every month; that upon the termination of the contract for any reason whatsoever, all improvements that the lessee may have built on the leased property would automatically become the property of the lessor without any further consideration, except in the case of sale of the premises, in which event, it would be made a condition of the sale that the rights of the lessee would be respected by the purchaser; that during the lifetime of the lease, the lessee may not sell, assign, convey transfer or in any way dispose of the buildings erected thereon or those to be erected; that in case of violation of the terms of said contract the aggrieved party may terminate the same without notice, and to guarantee the payment of all the rentals stipulated and the faithful compliance by the lessee of the obligations created therein, a first mortgage in favor of the lessor was constituted on the aforesaid buildings (Exhibit 2).

On July 2, 1954, the lessor Cesar Ledesma, Inc., sold to the Mayon Trading Corporation Lots Nos. 1 and 22 of the consolidation and subdivision plan Pcs-3694 with an area of approximately 825.60 square meters together with the improvements thereon, free from any charge, lien or encumbrance, save "the two buildings at the rear which are situated partly on Lot 1 and Lot 18 (the last lot must be lot No. 2) which buildings do not belong to the vendor" (Exhibit E). Apparently, the structures referred to are the buildings owned by the lessee Co Bun Kim.

On July 3, 1954, the purchaser informed Co Bun Kim that the annex to the latter's building, which was being utilized as stairway, dining room and kitchen, occupied as part of Lot No. 1 purchased by said corporation from Cesar Ledesma, Inc., and invited him to a conference for the purpose of fixing the rental therefor. As said invitation was not heeded by Co Bun Kim, the corporation sent another communication this time fixing the rental for the use of the premises at P100 a month starting July 1, 1954, which was followed by another letter dated August 13, 1954, demanding payment of the same. As Co Bun Kim continued to ignore these notices, the

corporation sent another letter dated August 21, 1954, requiring payment of the rental and notifying him to vacate the premises in 5 days. On August 30, 1954, a complaint for ejectment against Co Bun Kim was filed with the Municipal Court of Manila (Civil Case No. 24557) praying that defendant be ordered to vacate the premises and to pay rentals for the occupancy thereof at the rate of P100 a month from July 1, 1954, until the same was finally vacated.

On October 1, 1954, the Municipal Court of Manila rendered judgment ordering defendant to vacate the parcel of land described in the complaint; to pay plaintiff the rents from July, 1954, until he finally leaves the premises at the rate of P100 a month; and the costs of the suit. From this judgment, defendant elevated the case to the Court of First Instance of Manila, but to stay execution of the aforementioned judgment, he filed a supersedeas bond in the amount of P400 to cover the rentals from July to October, 1954, at the rate of P100 a month. In that instance, defendant contended that he had been occupying the premises since 1946 in virtue of a contract of lease duly annotated at the back of the certificate of title of the land on which the buildings were located; that plaintiff was fully aware of the existence of said contract of lease and therefore was bound to respect the same; and that the reasonable rental for the use of the premises was only P20.00 a month, the amount he used to pay its previous owner Cesar Ledesma, Inc. In praying for the dismissal of the complaint, defendant expressed willingness to sign another lease agreement with plaintiff on a just or reasonable rental should the latter be adjudged lessee of the portion being claimed by that corporation.

In reply thereto, plaintiff alleged that while it was aware of the existence of the contract of lease, it was also cognizant of the fact that the aforesaid agreement was violated by defendant which precipitated the filing by the lessor, Cesar Ledesma, Inc., of an action for ejectment with the Court of First Instance of Manila (Civil Case No. 10101), wherein the latter obtained favorable judgment; that in accordance with the contract of lease aforementioned, defendant was paying Cesar Ledesma, Inc., a monthly rent of P600.00 for the occupancy of the property, with an area of 120 square meters or at the rate of P5 per square meter. As the portion of Lot No. 1 occupied by defendant had an area of approximately 30 square meters, it was contended that the reasonable rental therefore should have been P150 which was even higher than P100 which plaintiff demanded.

In a decision dated August 4, 1956 the Court, finding that defendant's building and its annex were there since 1945 and that plaintiff was aware of the existence thereof, ruled that although the lease contract did not appear on the certificate of title covering Lot No. 1, actual knowledge thereof amounted to registration and should therefore be respected. The Court likewise fixed the rental over the said property at P80 a month, effective July 1, 1954, until the expiration of the lease on November 30, 1960. And in case of nonpayment thereof, it was provided that defendant should vacate the premises. From this decision plaintiff appealed directly to this Court for the reason that it was raising purely questions of law. Thus it assigned as errors committed by the lower Court the following, to wit:

- The court erred in its failure to take judicial notice in accordance with law, of the proceedings and court decision in Civil Case No. 10101, Court of First Instance of Manila, because of its close connection with the matter in controversy before making the conclusion that "plaintiff is bound to respect the contract of lease executed between Cesar Ledesma, Inc., its predecessor and Co Bun Kim, dated December 5, 1950, which would expire on December 6, 1960"; and
- The lower court erred in its failure to observe the law in evidence governing compromise, before making the conclusion that "as shown by, the record of this case, on September 19, 1955, both parties agreed to fix P80 as the reasonable rental for the space of 28.35 square meters but their difference lies on the effectivity of that rental, it being the desire of defendant to have the rental of P80 a retroactive effect, to commence from July of 1954, while the plaintiff wanted P100 a month as shown by the order of the court of September 19, 1955.

There is no controversy as to the transfer of ownership of that portion of Lot No. 1 occupied by defendant's stairway, dining room and kitchen, nor as to the existence of the proviso in the lease contract (registered and annotated in TCT No. 6460, covering Lot No. 2, as defendant's claim to that effect was not disputed), that the lessee's right thereunder would be respected by the purchaser. But while much stress has been laid on the probative force of the lease contract entered into by defendant and plaintiff's predecessor-in-interest, We find this matter not decisive in the instant action the second assignment of error notwithstanding. The records bear out the fact that from the start, plaintiff Mayon Trading Corporation of its own accord manifested its amenability to the execution of a lease contract over that portion of Lot No. 1 occupied by defendant's building, and for that matter, the parties even tried to reach an amicable settlement while the action was already pending trial in the lower court. And although the parties were said to have agreed to fix the rent at P80 a month, they only failed to come to an agreement as to the date of effectivity of the compromise; plaintiff maintained that it should be made applicable only to prospective rentals and insisted on collecting the rentals at the rate of P100 a month from July, 1954, up to the date of such agreement or sometime in April, 1956, whereas, defendant asserted that it should be given retroactive effect. It is obvious, therefore, that since defendant is willing to pay the sum of P80 a month for the occupancy of the premises, an amount acceptable to plaintiff, the aforementioned contract of lease has no materiality to the instant case, for the new owner and the occupant of the premises are not in any way disqualified to enter into agreement or execute an entirely new and independent contract to govern their relations. Actually, the only question raised by the present appeal is whether or not the lower court erred in fixing the date when the rental acceptable to both parties and which the Court found to be just and reasonable may take effect. We find no plausible reason why the lower court's ruling should not be affirmed, for considering that the court has authority to fix the just and reasonable rental of a property (*Roman Archbishop of Manila vs. Ver*, 73 Phil. 373), it follows that it equally has the power to determine the date when it should take effect.

We will now proceed with the disposition of the mutual accusations for contempt filed by both parties with this Court. It appearing that defendant-appellee's charge against Cesar Arieta, president of Mayon Trading Corporation for having demolished the structure at 735 Int., Teodora Alonso, subject of the instant action, was duly filed with the lower court, and was dismissed in its order of January 12, 1957, We can no longer pass upon the same. On the other hand, plaintiff-appellant likewise charges Co Bun Kim with violating the decision in Civil Case No. 10101 of the Court of First Instance of Manila ejecting him from the buildings at 731 Teodora Alonso St., by entering 735 Int., Teodora Alonso the lot involved in this case and constructing a 3-story building thereon. It is noteworthy to mention that appellant charges appellee with violating the decree in Civil Case No. 10101, which is different from the instant action, and thus such citation for contempt cannot be filed and entertained herein. Furthermore, it appears that at the instance of appellant, a demolition permit was issued by the City Engineer's Office on the strength of appellant's allegation that it was an illegal construction, and as a consequence thereof, the said building was actually dismantled and demolished. How could defendant be indicted for contempt, granting that this Court may legally take cognizance thereof, if the order of the lower Court was already accomplished with the demolition of the building subject of said order?

In this connection, it must be remembered that to stay execution of the decision of the Municipal Court of Manila, defendant filed a supersedeas bond and made monthly deposits of P100 with the Court of First Instance of Manila for the use of the premises. As plaintiff, equipped with an order from the Office of the City Engineer, had demolished on December 27, 1956, the building erected on the lot belonging to the former and barricaded the same thereby preventing him from using it, defendant prayed this Court that he be relieved from making a deposit of the rentals therefor, which motion was opposed by appellant. We find merit in defendant's argument. Rule 72 of the Rules of Court requiring the occupant of the property, where the decision is adverse to him, to make a deposit of the rentals adjudged by the court, contemplates of instances when defendant is still in possession of the

property subject of the litigation, the purpose being to compensate the owner for having been deprived of such possession of his premises. Otherwise, the reason behind such deposit ceases. To require defendant to continue depositing in Court the rentals for the use of the property, when he is no longer in occupancy of the same, does not only run counter to the spirit behind the law but is also highly unfair and unreasonable.

Wherefore, and on the strength of the foregoing considerations, the decision appealed from is hereby affirmed, with the understanding that the payment of the rental that defendant should make for the occupancy of part of Lot No. 1 shall be up to the date of the demolition of the building erected thereon. With costs against appellant. It is so ordered.

Paras, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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