

FELIPE DORADO AND ANTONIA VISTA, PLAINTIFFS AND APPELLANTS, VS. AGRIPINO VIRIÑA, HIS WIFE PETRA CUENTO, AND VIVENCIO ZULAIBAR, DEFENDANTS. AGRIPINO VIRIÑA AND PETRA CUENTO, APPE...*G.R. No. 10354. March 17, 1916*

Ponente: TORRES, J.

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This appeal by bill of exceptions was raised by both plaintiffs and defendants from the judgment of January 27, 1914, in which the judge of the Court of First Instance of Laguna partly sustained the complaint by decreeing (1) as null, void and without effect the proceedings of the justice of the peace court of the municipality of Nagcarlan, Laguna, by virtue of which plaintiffs were deprived, on October 3, 1904, of the lands described in the complaint; (2) as null, void, and in bad faith the possession of said lands by defendants Agripino Viriña and Petra Cuento, from the date last mentioned until February 3, 1906, and ordering them to pay to plaintiffs the sum of P1,666, the value of the fruits unlawfully collected by defendants, with interest from the date of the judgment; (3) that the restitution to plaintiffs of the lands, the subject matter of the complaint, be denied; and (4), finally, that Vivencio Zulaibar, ex-justice of the peace of the said pueblo of Nagcarlan, be absolved from the complaint filed by plaintiffs, without special finding as to costs.

By a written complaint of June 10, 1913, amended on November 13 of the same year, counsel for Felipe Dorado and Antonia Vista commenced proceedings in the Court of First Instance of Laguna against Agripino Virina, his wife Petra Cuento, and Vivencio Zulaibar, justice of the peace of Nagcarlan in the year 1904, alleging as the first cause of action that by virtue of the document Exhibit 1, which was made a part of the amended complaint, plaintiffs on February 3, 1902, sold to the defendant spouses under right of repurchase, without stipulated term for redemption and for the sum of P100, three parcels of coconut land situated in that barrios of Buenavista and Lawaguin of the pueblo of Nagcarlan, the area and boundaries of which are set forth in the complaint; that the contracting parties agreed that plaintiffs should continue to administer and hold said lands in usufruct upon payment to defendants of a quarterly rent of P15, the defendant spouses to have the right to take possession of said lands in case the plaintiff-vendors failed to pay the stipulated rent; that the defendant Agripino Virina, conspiring with his codefendant Vivencio Zulaibar, filed suit in the justice of the peace court of Nagcarlan, on September 9, 1904, against said Felipe Dorado to recover rent of said lands for a period of nine months; that said Virina made certain allegations in his complaint of which the then defendant Felipe Dorado was not advised, which allegations are false; and that, after a hearing of the case, in which Felipe Dorado acknowledged the legality of the debt for the nine months' rent, said justice of the peace rendered judgment ordering the ejectment of Felipe Dorado and his wife from the lands in question—a judgment which was executed by the sheriff of the municipality of Nagcarlan on October 11, 1904— putting in possession of the property the defendants in the present suit, Agripino Virina and his wife Petra Cuento. Plaintiffs' counsel therefore prayed the court to render judgment holding that, as on September 9, 1904, Agripino Virina had no cause whatever to bring an action of

forcible entry and detainer against Felipe Dorado, the judgment rendered in said suit by the justice of the peace of Nagcarlan was illegal, and that the possession of the parcels of land described in the complaint should be restored to the plaintiff Felipe Dorado and his wife. As a second cause of action plaintiffs' counsel set forth that, as said complaint was filed by Agripino Virina against Felipe Dorado before the justice of the peace of Nagcarlan on September 9, 1904, and as it was therein alleged that the said Virina had rented said lands to Felipe Dorado on March 25, 1903, for P10 per month, since which date the lessee Dorado had failed to fulfill his obligation to pay said rent, it not appearing in the complaint as required by law, that demand had been made upon the delinquent tenant before filing the same, and, as more than a year had elapsed from March 25, 1903, the date of the alleged lease, till September 9, 1904, when the said complaint was filed, the justice of the peace court of Nagcarlan lacked jurisdiction to try the case and had no jurisdiction over the property in litigation to convey the possession thereof to the plaintiff Agripino Virina wherefore the judgment obtained by Virina in that suit was null and void. And so said counsel prayed the court to render judgment holding that the complaint filed by Virina against Dorado was improper, for the reason that no demand had previously been made upon the defendant Dorado for the payment of the rental owing; that the justice of the peace of Nagcarlan lacked jurisdiction to try the case brought by Agripino Virina against Felipe Dorado, because more than one year had passed since the cause of action arose; that the proceedings had and the judgment rendered by the justice of the peace in that case were null and void and worthless and did not serve to justify the possession of said real properties by Agripino Virina; and, finally, prayed that there be returned to Felipe Dorado and Antonia Vista the parcels of land which were delivered to Virina and his wife under that null and void judgment rendered by the justice of the peace of Nagcarlan. As a third cause of action, counsel alleged that the said Agripino Virina, knowing that he had no right whatever to demand the possession of said real properties, and the judgment rendered by his codefendant Vivencio Zulaibar in said action being null and void and of no force or effect, the said Virina had come into possession of said lands in bad faith and had caused the spouses Felipe Dorado and Antonia Vista, during those nine years of unlawful possession of said properties, loss and damages to the extent of P21,600; and that in any case, as said suit was commenced and prosecuted by Virina in fraudulent conspiracy and sly collusion with the justice of the peace Vivencio Zulaibar, these latter are responsible jointly and severally to the spouses Dorado and Vista for the sum of P10,000 as punitive damages for their illegal action. Therefore counsel prayed the court to pronounce judgment holding Agripino Virina a possessor in bad faith of the lands in question, without right to collect their fruits, ordering defendants to pay to said spouses Felipe Dorado and Antonia Vista the sum of P21,600 for the fruits which plaintiffs have failed to collect through the fault of Agripino Virina, and that the latter and Vivencio Zulaibar jointly and severally pay to plaintiffs the sum of P10,000 as punitive damages; that the defendants Agripino Virina and Petra Cuento pay to plaintiffs the sum of P2,340 for each year dating from October 11, 1913, as well as the costs of the action; and that such other relief be granted as justice and equity demand.

On January 11, 1914, Vivencio Zulaibar answered the aforementioned complaint by making a general and specific denial of each and all of the allegations therein contained, and prayed to be absolved therefrom with the costs against plaintiffs.

By another writing of the same date, counsel for the spouses Viriña and Cuento, answered the complaint by a general and specific denial of each and all of its allegations, except such as were admitted in their special defense, which set forth that the lands described in the complaint had been sold by the plaintiff Felipe Dorado and his wife Antonia Vista, under right of repurchase, to the defendant Agripino Virina; that, at plaintiff's request, Agripino Virina leased to him the lands in question; that as the said Felipe Dorado failed to pay the stipulated rent, the lessor Virina brought an action of forcible entry and detainer against him in the justice of the peace court of Nagcarlan, which fact was freely and voluntarily admitted by the then defendant Felipe Dorado; that in view of the circumstances the justice of the peace had to render judgment in favor of Agripino Virina, plaintiff in that

action, putting the latter in the possession of the disputed lands on October 11, 1904; that the plaintiff Felipe Dorado was estopped from challenging the nature, consideration and object of the contract of sale of said lands, set forth in the document Exhibit A, inasmuch as the said Felipe Dorado judicially recognized that said contract expressed the true will of the parties; that, even granting that there were grounds for asking for the annulment of the contract Exhibit A, such action had prescribed; and that the plaintiffs Felipe Dorado and Antonia Vista were likewise estopped from challenging the legality of the judgment rendered by the justice of the peace court of Nagcarlan, mentioned in Exhibit B which was made a part of said answer, because they had not availed themselves of their right of appeal from said judgment, or of any other legal remedy against the same, having accepted and admitted the validity not only of the judgment referred to but also of its effects. For the reasons expressed defendants' counsel prayed the court to absolve his clients from the complaint filed against them by plaintiffs, with the costs against the latter.

After trial and consideration of the evidence presented by both parties, the court rendered the judgment aforementioned, to which both parties excepted and in writing moved for a reopening of the case and a new trial. These motions were denied, exception was taken by appellants and, upon presentation of the proper bills of exceptions that had been prepared by both parties with the permission of the court, said bills were approved and forwarded to the clerk of this court.

The following facts are shown by the record to have been proved and are, therefore, indisputable:

- On February 3, 1902, the husband and wife Felipe Dorado and Antonia Vista sold to the married couple Agripino Virina and Petra Cuento, under right of repurchase, three parcels of land planted with coconuts, for the sum of P100. (Exhibit A.)
- The contract of sale provided for no stipulated period for redemption, for which reason, pursuant to article 1508 of the Civil Code, the right of redemption could be exercised until February 3, 1906.
- It was stipulated between the contracting parties that the vendors should keep the management and usufruct of the real properties sold, paying to the purchasers a quarterly rent of P15 until the repurchase was effected, and that in case the vendors should fail to pay said rent, the purchasers should be authorized to take the possession and benefit of the said coconut lands. (Exhibit A.)
- According to the document of March 1, 1902, the vendors Felipe Dorado and Antonia Vista received from the purchaser spouses Agripino Virina and Petra Cuento an additional sum of P50 as an increase in the price of the sale of the said lands, and on this account the quarterly rent had to be raised to P22.50 in order that the vendors might continue to occupy said lands. (Exhibit B.)
- Because the vendors failed to pay the quarterly rents stipulated by and between themselves and the purchasers, on September 9, 1904 (that is to say, two years and seven months after the execution of the aforementioned contract), Agripino Virina brought suit against the vendor Felipe Dorado in the justice of the peace court of Nagcarlan, presided over by Vivencio Zulaibar. The complaint read as follows:

"Now comes the plaintiff and sets forth: (1) That the defendant, on March 25th of last year, 1903, rented from the petitioner for ten pesos (P10) per month, the three parcels of coconut land described as follows: The first parcel is situated in the barrio of Buenavista of this district and is bounded on the N., E. and W. by a creek, and on the S. by the coconut land of Vicenta Artiaga; the second is in the same barrio and is bounded on the N. by the land of Martin Tobana, on the E. by the coconut land of Eulalio Reyes, on the S. by a creek and the coconut land of Maximo Pinuela, and on the W. by the land of Honorio Tobana; and the third parcel is in the barrio of Lawaguin, also of this district, and is bounded on the N. by the land of Isidoro Dorado, on the E. by the coconut land of Vicente Ortiz, on the S. by a creek, and on the W. by the coconut land of Damiana Corra; (2) that since the said date of the lease the defendant has failed to fulfill his obligation of paying the monthly rent; (3) that plaintiff prays the court to render judgment restoring to the plaintiff the possession of the leased lands,

and likewise ordering the defendant Felipe Dorado to pay the sum of P174, the amount of rent retained by the defendant, together with the costs of the proceeding and other losses and damages." (See Exhibit B, p. 16.)

- On being served with summons the defendant Felipe Dorado personally appeared in the said justice of the peace court, on September 13, 1904, and, without making either verbal or written objection to the complaint filed by Agripino Virina, stated in answer that he had no objection to make to plaintiff's claim, merely saying that he could not pay the rent demanded by plaintiff as he had no money, but if he was favored with good luck he would do so. After this the hearing was closed and the justice of the peace Vivencio Zulaibar rendered judgment on the same date in favor of Agripino Virina for recovery of possession of the lands described in the complaint and for the sum of P174 as rent and loss and damage, together with the costs. The defendant Felipe Dorado was notified of this judgment.

- On October 11, 1904, the aforementioned judgment was executed and the plaintiff Agripino Virina was placed in possession of the lands in litigation, which are those described in paragraph two of the amended complaint and in the agreement. (Stenographic notes, p. 3.)

Thereupon, Felipe Dorado and Antonia Vista brought suit against Agripino Virina and Petra Cuento and prayed the court to order defendants to return to them the possession of the parcels of land sold by them to defendants in 1902, under right of repurchase, and for this purpose asked that the judgment rendered by the justice of the peace of Nagcarlan on September 13, 1904, in the action of forcible entry and detainer prosecuted by Agripino Virina against Felipe Dorado, be declared null and void and of no effect.

The questions to be decided are, therefore, whether plaintiffs still have any right to the possession of said three parcels of land; whether the judgment rendered by the justice of the peace of Nagcarlan on September 13, 1904, is null and void by reason of the lack of jurisdiction of said justice to try and decide said suit; and, consequently, whether it is a legal or illegal possession which defendants have been enjoying in the said coconut lands.

From a careful examination of the evidence adduced by both parties, it is clear that plaintiffs have no right whatever to demand the restitution of the three parcels of land they sold, under right of redemption without fixed period, to defendants on February 3, 1902, inasmuch as there was not specified in the contract of sale the duration of the right of redemption reserved by the vendors, and therefore the case must be governed by the provision of article 1508 of the Civil Code, according to which, in default of an express agreement, the right to recover the thing sold shall lie for four years computed from the date of the contract. The record discloses no proof that plaintiffs have repurchased, or that they have even tried to repurchase the said properties; on the contrary, it is an indisputable fact that from February 3, 1902, the date of the contract of sale under right of repurchase, until the date of the filing of this action, June 10, 1913, plaintiffs did not in any way whatever try to recover the lands sold.

So that according to the legal provision aforecited, the defendant spouses, on February 3, 1906, consolidated their ownership in the lands in litigation, since which date the sale of said property to Agripino Virina and Petra Cuento became irrevocable and absolute and the ownership thereof was definitely conveyed to them. (Domenech vs. Montes, 3 Phil. Rep., 412; Albert vs. Punsalan, 9 Phil. Rep., 294; Lichauco vs. Berenguer, 20 Phil. Rep., 12.)

The ownership of the defendant spouses having been consolidated in said three parcels of land sold to them under right of repurchase in 1902 by plaintiffs, from whom defendants took possession on October 11, 1904, without plaintiffs having even tried to repurchase them, we do not see on what legal grounds plaintiffs can rely for claiming the restitution of said lands which were definitely sold.

However, plaintiffs allege that when defendants entered into the possession of the disputed lands on October 11, 1904, they did so as possessors in bad faith, wherefore plaintiffs claim they are entitled to be reimbursed for loss and damage caused them thereby, inasmuch as the judgment of the justice of the peace of Nagcarlan giving

defendants possession of the property is null and void and of no force or effect; that in the complaint for "detainer of real property" filed by Agripino Virina against the plaintiff Felipe Dorado on September 9, 1904, it was set forth that the alleged detainer commenced on March 25, 1903, so it is evident that between these two dates there had elapsed more than one year. On this account the case fell within the jurisdiction of the Court of First Instance; and the judgment rendered by the justice of the peace in those proceedings was null and void because the case did not fall within his jurisdiction, and said judgment did not establish the possession given to defendants of the aforementioned coconut lands, in October of 1904.

The trial court held null and void the proceedings in the justice of the peace court of Nagcarlan, by means of which defendants, Virina and Cuento, took possession of said lands on October 11 (not on October 3, 1904), and that for this reason defendants were in possession in bad faith from that date until February 3, 1906, the date of the expiration of the period for redemption. The lower court, therefore, ordered defendants to pay to the plaintiff spouses the sum of P1,666, with legal interest thereon, for the natural and industrial fruits which plaintiffs failed to collect.

Defendants obtained possession of the lands in question on October 11, 1904, by virtue of said judgment rendered by the justice of the peace of Nagcarlan before the expiration of the period fixed by law for the redemption of the lands sold, according to the terms of the contract of sale of February 3, 1902, Exhibit A. The vendors Dorado and Vista, recognizing the fact that the purchasers were entitled to take immediate possession of the lands sold, inserted in this contract the condition that they, the vendors, might continue in possession of the property upon payment of a quarterly rent of P15, and it was expressly covenanted that if the vendors should fail to pay the stipulated rent, the purchasers Virina and wife would be authorized to take possession of the said coconut lands. (Exhibit A.)

From the moment the vendor Felipe Dorado failed to pay the required rent for the property according to the terms of the contract of sale, the right to the possession of the lands contracted for accrued to the purchaser Agripino Virina and nothing could be more natural than that the person who believed himself entitled to that right should resort to the courts. That is why, on September 9, 1904, Agripino Virina filed the complaint in forcible entry and detainer proceedings in the justice of the peace court, within the year counting from the date when the demand was made upon the debtor Dorado for the payment of the rents which he owed to the owner of the lands.

The provision of article 1572 of the Civil Code, invoked by counsel for Felipe Dorado and wife (page 3 of his brief) is not applicable to the case at bar, because the limitation contained in the above-cited article refers to the tenant or lessee who contracts with the vendor, who has no relation whatever with the purchaser under right of redemption, and who is a third person with respect to said vendor and purchaser. Against this third person the law limits the right of the purchaser, whose ownership is revokable during the period for redemption, because, if the vendor should recover the realty sold, the lessee would again be entitled to the enjoyment of the lease. For this reason said limitation is very just and proper and is inapplicable to the vendor who, notwithstanding the sale, continues in possession of the alienated property, not as owner, but as the owner's tenant by the payment of rent.

During the hearing of this case the plaintiff Felipe Dorado testified that it was true that in September, 1904, he was owing Virina the sum of P100, as rent of the said lands for nine months, but denied that he had received a copy of the complaint filed against him, although he affirmed having admitted before the justice of the peace that he was owing Agripino Virina the sum claimed. He denied, however, that before the filing of that complaint any demand had been made upon him by Virina for the payment of said sum.

Vivencio Zulaibar, the justice of the peace of Nagcarlan in 1904, who tried and decided the case hereinbefore referred to, testified that the defendant Dorado acquiesced in the petition made by Virina in his complaint and

neither demurred nor objected thereto; that a copy of the complaint was furnished the defendant when the summons was served on him; that Felipe Dorado himself stated at the trial that his creditor Viriña had made demand upon him for the payment of the rent since and during Lent, 1904, which must have occurred during the months of February, March and April; that as a year had not elapsed since the said demand up to September, 1904, when the complaint was filed, the case went forward to judgment; and that, as Felipe Dorado did not appeal from the judgment, it was duly executed.

Agripino Virina stated that from March until August, 1904, he repeatedly demanded from Felipe Dorado payment of what the latter was owing him as rent of the lands sold, and that moreover the said debtor made no attempt to repurchase the lands in litigation.

The demand upon the debtor for the payment of the rent owing is an indispensable requisite in order that the lessor may bring an action for detainer against the lessee, who thenceforth is considered a deforciant. Furthermore, the computation of the year fixed by law as determining the jurisdiction of the justice of the peace to try a summary proceeding for detainer, must be counted from the date on which such demand was made. It is proven that on various occasions from Lent, February to April, 1904, Agripino Viriña demanded of Felipe Dorado the payment of the rents owing, and therefore when Virina filed the action for detainer in September of the same year, he did so within the year required by law. Consequently the justice of the peace of Nagcarlan clearly acted within his jurisdiction when he heard and decided the action for detainer.

It is to be noted that the judgment rendered by the justice of the peace of Nagcarlan on September 13, 1904, did not prejudice the plaintiff Felipe Dorado in his rights, nor did it prevent him from redeeming the lands sold within the four years; he had more than sufficient time, until February 3, 1906, to effect their redemption and thus prevent the consolidation of ownership of the spouses Virina and Cuento over the lands they had acquired. Plaintiffs cannot be heard to allege rights derived from the covenanted lease, for they themselves violated it without reason.

Furthermore the purchasers were unquestionably entitled to, but did not collect, the products of the lands they acquired, in exchange for the stipulated rents. Therefore the vendor lessees who failed to pay the rents and kept said fruits, proposed to enrich themselves at the expense of the owners of the lands in litigation, and this the law cannot permit.

For the foregoing reasons it is decreed that the defendants are not obliged to restore to plaintiffs the lands in litigation, and both the defendants and Vivencio Zulaibar are hereby absolved of the complaint. So modified, the judgment appealed from, is affirmed, in so far as it is in accord with this decision, and reversed in so far as it is not, without special finding as to costs. So ordered.

Johnson, Trent, and Araullo, JJ., concur.
Moreland, J., concurs in the result.

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