

**BENITO LEGARDA Y TUASON, PLAINTIFF AND APPELLANT, VS.
MARIANO B. ZAEATE, DEFENDANT AND APPELLANT.***G.R. No. 11437. January 16, 1917*

Ponente: TORRES, J.

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This appeal by bill of exceptions was raised by counsel for the plaintiff and counsel for the defendant, from the judgment of October 15, 1915, in which the court held that the defendant lessee, Mariano B. Zarate, is liable only for the payment of the rents at the rate of 5 per cent per annum of the assessed valuation of the leased properties, which is equivalent to P583.32 for the period from January, 1914, to May, 1915, inclusive and sentenced the defendant to pay this sum to the administrator of the estate of the plaintiff, Benito Legarda y Tuason, deceased, without special finding as to costs.

On June 4, 1915, counsel for Benito Legarda y Tuason filed a written complaint in the Court of First Instance of this city against Mariano B. Zarate, alleging as a cause of action that on April 23, 1910, the plaintiff's attorney in fact leased to the women Kami Yunioka, Turu Kaneko, and Lamasta Kima lots Nos. 9, 25, and 23, respectively (Exhibits A, B, and C attached to the complaint), of Parcel F of the lands belonging to the plaintiff and which formed a part of the Nagtajan Hacienda; that each of the said lots contained an area of 600 square meters; that the annual rental of the property that was the subject matter of each contract, was 10 per cent of the assessed valuation thereof; that subsequently, to wit, on September 5, 1910, the said lessees, with the plaintiff's consent and approval, conveyed to the defendant Mariano B. Zarate their respective rights derived from the said contracts of lease, and all their interests in the buildings erected on the said lots; that since that date the defendant had been paying the rents due, within the periods stipulated, always on the basis of 10 per cent of the assessed valuation of the property, with exception of the rents corresponding to the whole of the year 1914 and to the months from January to May, 1915, which he had refused to pay. Therefore the plaintiff's counsel prayed the court to enter judgment by sentencing the defendant to pay to the plaintiff the rents in arrears amounting to P1,166.65, in addition to those that might be owing by him subsequently and up to the time decision be rendered, on the basis of 10 per cent per annum of the present assessed valuation of the property, and to pay the costs of the suit.

On June 29, 1915, counsel for the defendant filed his written answer to the above mentioned complaint; he denied the essential parts thereof and added that on the date of the transfer of the said contracts of lease to the defendant, on September 5, 1910, no building of any kind stood on the land in question. In special defense he alleged that prior to and at the time of the execution of the contracts Exhibits A, B, and C, by and between the plaintiff and the original lessees, it had been decided and stipulated that the 10 per cent of the assessed valuation which these latter should pay as annual rental should be based on an assessment not in excess of one peso per square meter; that at the time the leases were transferred to the defendant the land was used solely for raising rice-grass, and that it was agreed between the contracting parties that the defendant should spend labor and money in the improvement of the said land; that the defendant filled in this land and erected buildings thereon, but that he did this only after it had been clearly agreed between himself and the plaintiff that the rental of the said properties should be based on

their assessed valuation which should not exceed one pesos per square meter, for, were it not for this agreement, the defendant would not have accepted such a contract; that in 1911, even after the opening of a street through the lands in question, these properties were assessed only at one peso per square meter, which valuation was raised to P2 in 1914, when the plaintiff, without notifying the defendant, protested against the said increased valuation and appealed before the board of tax revision, which saw fit to fix the valuation of the said properties at P4 per square meter, which facts became known to the defendant for the first time when the plaintiff tried to collect from him the annual rental on the basis of 10 per cent of P4 per square meter, which the defendant refused to pay; that, by reason of the protest made by the lessees and the owners of properties comprised within the said lands, the tax valuation corresponding to the year 1915 was reduced to P3 per square meter; that, notwithstanding the plaintiff's claim that he was entitled to collect from the defendant 10 per cent of the assessed valuation of P4 per square meter, in 1913 and 1914 the plaintiff accepted rents for similar lands leased by other persons, under contracts identical to that made with the defendant, at the rate of 10 per cent of the assessed valuation of P1 per square meter; and, finally, that the defendant is willing at any time to pay to the plaintiff the rents for the said lands at the rate of 10 per cent of the assessed valuation of P1 per square meter, as was stipulated between the parties, but that the plaintiff, notwithstanding the several tenders of payment made by the defendant, had refused and still refused to accept the same. Therefore said counsel prayed the court to absolve the defendant from the complaint, with the costs against the plaintiff.

After the hearing of the case and the introduction of evidence by both parties, the court rendered the decision aforementioned, to which both the plaintiff and the defendant excepted and in writing moved for a reopening of the proceedings and a new trial. These motions were overruled, exception was taken by the appellants, and, upon presentation of a single bill of exceptions, in accordance with a stipulation made between both parties, the same was approved and forwarded to the clerk of this court.

The point at issue in this suit is in regard to the amount of the rents that the defendant, Mariano B. Zarate, should be obliged to pay to the administrators of the estate that belonged to the owner of the three parcels of land occupied by the defendant's buildings on Plaza Gardenia, of the district of Sampaloc, Manila.

For the proper determination of this suit, it is necessary to declare what construction must be given to paragraph 3 of the contracts of lease A, B, and C, of the date of April 23, 1910, all of the same tenor, by virtue of which three Japanese women leased for a term of 25 years, extendible for an equal length of time at the will of the parties, the lots of land described in the complaint. This paragraph 3 of the contract reads as follows:

"The price of the lease shall be ten per cent (10%) per annum, net, of the assessed valuation of the property specified in this contract. These rentals shall be payable monthly, in advance and within the first ten (10) days of each month, at the domicile of the lessor or in any other place he may designate, and such payments shall be made in Philippine currency."

The contract was executed by Dr. Benito Valdez, who, on the said date, was the attorney in fact and general administrator of the entire estate of the deceased Benito Legarda y Tuason (Exhibit A), but the person who negotiated directly with the prospective lessees of the lands was a man named Ramon Gavito, a subagent or administrator of the said lands. On the date of the contracts, the assessed valuation of the leased lands was six centavos and a half per square meter (record, p. 54) and this valuation continued in force until 1911, when it was raised to P1 per square meter (record, p. 55). A few months subsequent to the execution of the said contracts, to wit, on September 5, 1910, the original lessees, with the consent of the attorney in fact, Valdez, ceded and transferred their interests in the said parcels of land to the defendant Mariano B. Zarate, who constructed houses thereon, and, by reason thereof and because of the opening of streets in that locality, the assessed valuation of the Legarda lots was increased from year to year until in 1914 it was P4 per square meter (record, p. 58), and as the

rental price of the properties had thus considerably increased, the defendant refused to pay the rents on the basis of the new assessment rate.

In effect, the defendant lessee refused to pay the rents corresponding to the year 1914 and the following years, if the rate on which they were to be computed should be greater than P1 for each square meter. The defendant alleged that at the time he accepted the transfer of the contracts by the Japanese women, the administrator of the hacienda, Ramon Gavito, and Tomas Arguelles, who took part in the transaction, assured him that the amount of 10 per cent of the "assessed valuation" of the said properties, which he was to pay as rent, would be computed on a valuation not in excess of P1 for each square meter.

However, the plaintiff contends that paragraph 3 of the contracts under discussion clearly enough signifies the intention of the parties that the lessee should pay as an annual rent 10 per cent of the valuation for which the said properties be assessed, whether such valuation be increased or decreased, and that no limitations whatever were set on the valuation and the amount that should be paid as rental.

Such was the testimony of Dr. Benito Valdez, who executed the said contracts. This witness stated that "the expression 10 per cent referred to the assessed valuation of the land in any period of time;" that he was the general administrator of the estate of the deceased Legarda and was vested with the exclusive right to make contracts in regard to that estate, wherefore Ramon Gavito was not authorized to enter into any contract with regard thereto, as he was a mere agent of the witness and only executed the orders the latter gave him. Valdez further testified that the construction of the defendant's houses on the Nagtajan Hacienda was detrimental to the interests of the Legarda estate in that locality, inasmuch as, by reason of the few improvements on a small part of the hacienda, the whole of the latter was obliged to bear an increase in tax, which would not have been the case had it not been for the houses that stood there; and that the said hacienda was then assessed at more than P300,000 (record, pp. 56-57) and produced in rentals no more than about P12,000 per annum.

Laureano Benavides, a clerk in the service of the administrator of the Legarda estate, testified that the defendant Zarate paid the rents pertaining to the months from April to December, 1910, on the basis of 6 1/2 centavos per square meter; that he paid those pertaining to the years 1911, 1912, and 1913 on the basis of P1 per square meter, for this was the assessed valuation of the property at that time; and that when, in 1914 and 1915, the assessment rate was raised to P4 and P3, respectively, per square meter, the defendant failed to pay the said rents.

Tomas Arguelles, who, in representation of the member of the municipal board, McDonald, had taken a hand in the laying out of the new barrio of Gardenia and in the transfers of the contracts of lease from the Japanese women to the defendant, testified that the meaning of the said paragraph 3 in the contracts aforementioned did not seem clear to him, for if the 10 per cent mentioned in this paragraph referred to the assessed valuation of the land at any period, the amount required as rent was excessive; that, consequently, he consulted Ramon Gavito, who stated to him that the land "is assessed at one peso per square meter," and hence that the rent to be paid would be only P6 or P7 per annum—a price which appeared reasonable to witness—but the latter did not understand that the rate of the lease price was to be modified in accordance with the increase or decrease in the assessed valuation of the land, and added that when it was raised to P2 per square meter, in 1914, Gavito filed a protest with the board of tax revision, requesting a reduction, and that this board, by resolution of March 17th of the same year, 1914, deciding the protest, raised the valuation of said lands to ₱4 per square meter, and that the defendant was not informed of these steps nor of the increase until the board had unfavorably decided the protest, about the month of March, 1914.

The defendant testified that he had availed himself of the services of Arguelles in the transactions carried on with the administrator of the estate, for the transfer of the contracts held by the Japanese women and that he had

gleaned therefrom that the defendant would be obliged to pay a rent of only 10 centavos for each square meter of land occupied by him (record, p. 70), although the assessed valuation should be greater than P1 per square meter (record, pp. 72-73). The defendant added that he was ever willing to pay to the plaintiff the amount of the rentals in arrears, provided that the rate of payment did not exceed 10 centavos for each square meter of land occupied by him.

S. C. Choy, a Chinaman, another owner of houses in the same district where those that belong to defendant are situated, and who also had obtained by transfer the lease rights of a Japanese woman in a certain lot of land pertaining to the Nagtajan Hacienda, testified at the trial that he had dealt exclusively with Ramon Gavito, who was in charge of the said hacienda, and that from the conversations he had with the said Gavito before accepting the transfer he, the witness, was convinced that he would have to pay rent only at the rate of 10 per cent on an assessed valuation of P1 and that if the cost of the lease had exceeded this amount, he would not have accepted the transfer of the contract.

In rebuttal Mauro Prieto, another of the administrators of the estate of the deceased Benito Legarda, testifying with respect to the allegation made in the defendant's answer, in regard to the payment of the rent on the 10 per cent basis, stated that it was true, as aforesaid, that the administration of the estate had received from the lessees S. C. Choy and Go Chioco payments of rentals pertaining to the year 1914, at the rate of 10 per cent on an assessed valuation of one peso, but that this was done through an oversight, and that afterwards a claim was made on these lessees for payment of the difference (record, p. 81).

The record also discloses that on December 28, 1905, Ramon S. Gavito was appointed administrator of the Nagtajan Hacienda, by the late Benito Legarda, according to the notarial instrument Exhibit 8 (record, p. 87), with right to lease parcels of land pertaining to that hacienda, for such rentals, and on such terms and conditions as he might deem proper, but with a proviso that all the contracts of lease executed by him should produce no effect whatever until they had been approved by the signature of the lessor Legarda. That the said Gavito continued to act in such capacity and with that power appears to be proven by the fact that the receipts for rentals paid for the lands pertaining to the Nagtajan Hacienda were signed by Ramon Gavito, as may be seen by the receipts 1, 2, 3, 5, 6,

and 7 (record, pp. 23-32) in which Gavito styles himself "administrator," and the most recent of them bears the date of May 7, 1914, as corroborated by Valdez (record, p. 53). However this power and authority granted to Gavito in the document of December 28, 1905, should be deemed to be revoked by reason of the full and unlimited power conferred by the said Benito Legarda upon his son Benito Legarda y de la Paz and his sons-in-law Mauro Prieto y Gorricho and Benito Valdez, by means of the notarial document of December 20, 1907, which was amplified by another such instrument of November 12, 1909 (record, pp. 99-107).

Similar contracts, copied into the bill of exceptions as Exhibits. A, B, and C (as assigned and transferred, without any modification, by the lessees, the Japanese women Kami Yunioka, Turu Kaneko, and Lamasta Kima, to Mariano B. Zarate, who substituted these lessees, with the knowledge and consent of Dr. Benito Valdez in his capacity of attorney in fact for Benito Legarda y Tuason) were not challenged by the defendant, and remain in full force and effect; consequently paragraph 3 of the said contracts, which specifies the rental for each of the three lots 9, 23, and 25 of parcel F of the Nagtajan Hacienda, which are now occupied by the substituted lessee Mariano B. Zarate, produces its due effects and natural consequences originating from the stipulated agreements; and as the words and terms employed in the said paragraph 3 of the said contracts of lease, are clear and positive, their phraseology cannot be charged with being unintelligible, ambiguous or doubtful, nor as precluding a true and right understanding of the true meaning intended to be conveyed by the said paragraph 3.

It was understood by both contracting parties, as recognized by the trial court in the judgment appealed from, that

the rents of the lands occupied by the lessee would assessed valuation of the property on the date of the contract, but on the basis of such valuation as might be fixed by the Government in accordance with appraisements made from time to time during the course of the 25 years stipulated as the term of the lease. This fact is corroborated by the further fact that on the date of the contract the property was appraised at 6¢ centavos per square meter, and when this valuation was raised to P1 per square meter the defendant Zarate, notwithstanding that no stipulation was made in regard to the said basis of 10 per cent of P1, did not protest against the payment of the taxes pertaining to the years 1911, 1912 and 1913, on the basis of 10 per cent on a valuation of P1 per square meter. This acquiescence on the defendant's part shows that he was informed and knew that the rental of the land occupied by him was 10 per cent of the assessed valuation of the property as fixed by the Government for the payment of the land tax.

The defendant lessee was not ignorant of the fact that the assessment rate was raised proportionally as the property acquired greater value, and he must have taken these circumstances into consideration when he substituted himself for the three Japanese lessees in the contracts of lease of the three lots now occupied by him, for, as it appears to have been stipulated in paragraph 3 of the three said contracts of lease, the rental was to be 10 per cent, payable annually, of the assessed valuation of the property, that is, of the valuation which each year might be given to the leased property on its appraisal for the purpose of taxation, and it can not be understood that the 10 per cent of the assessed valuation of the land on the date of the contract, April 23, 1910, was fixed as the rate of the lease price, inasmuch as this was not so stipulated by and between the contracting parties.

The words used in the said paragraph 3 demonstrate that the intention of the parties was that the rental of the leased lands should be 10 per cent per annum of the assessed valuation of the property, and as this valuation might be increased or decreased during the 25 years of the life of the contract, it is evident that the stipulation made was that the rental should be 10 per cent of such valuation as on assessment might be given to the leased property. Furthermore, it does not appear to have been stipulated that this 10 per cent per annum was to be a fixed amount in the contract, nor that the rental was not to be affected by the natural fluctuations in the appraisal of the property, according to the rate of assessment. Therefore, it is undeniable that the defendant, in accepting the contracts executed by and between the plaintiff and the said three Japanese women, and in assuming the liabilities contracted therein by these latter, bound himself to pay 10 per cent per annum of the assessed valuation of the leased lands in accordance with the assessment rate in force each year.

Article 1281 of the Civil Code prescribes that, "If the terms of a contract are clear and leave no doubt as to the intentions of the contracting parties, the literal sense of its stipulations shall be observed."

The phraseology employed in paragraph 3 of the said contracts is explicit and positive; it reveals precisely and clearly the respective, and, at the same time, unanimous intention of the contracting parties to the effect that the rental of each one of the leased portions of land should be 10 per cent of the assessed valuation of the property, and that if during the course of the stipulated twenty-five years the valuation of the land should be raised the said 10 per cent should be computed on the basis of the valuation fixed on assessment. No other construction outside of the proper and genuine meaning of the words used in the said paragraph 3 of the three contracts aforementioned may be understood.

Besides, it can not be deduced from the said paragraph 3 that the words therein employed do not convey the intention of the contracting parties, inasmuch as it does not appear in this paragraph, or in the others contained in the said contracts, that any agreement whatever was made that the 10 per cent per annum was to be calculated on any fixed amount other than the fixed assessed valuation of the property ; if its valuation, as determined by its assessment, had decreased, the price of the lease would also have decreased, and the defendant has acquired no right to refuse to pay the rent which the plaintiff is entitled to collect from him pursuant to the terms of the

contract, simply because the assessed valuation of the leased property was increased.

Article 1278 of the Civil Code says: "Contracts shall be binding, whatever may be the form in which they may have been entered into, provided that the essential conditions required for their validity exist."

The three contracts aforementioned contain the three requisites prescribed by article 1261 of the Civil Code, and if the defendant lessee bound himself to pay 10 per cent per annum of the assessed valuation of the lands occupied by him, and if this valuation has been increased, he can find no valid reason in support of his contention that he should pay only 10 per cent per annum on an assessed valuation of P1 per square meter, which was not the assessed valuation per square meter of the leased property in 1914 and 1915. The defendant lessee is obliged, pursuant to the contract, to pay 10 per cent per annum of the assessed valuation of the properties according to the respective appraisements made by the Government in each of those two years, or according to such appraisalment as may be made in the future, during the course of the stipulated contract.

"The validity and fulfillment of contracts can not be left to the will of one of the contracting parties." (Art. 1256, Civ. Code.)

Section 285 of the Code of Civil Procedure prescribes, "When the terms of an agreement have been reduced to writing by the parties, it is to be considered as containing all those terms, and therefore there can be, between the parties and their representatives or successors in interest, no evidence of the terms of agreement other than the contents of the writing, except in the following cases."

None of the cases mentioned in the section just cited are applicable to the contracts, which have not been assailed as false, either criminally or civilly.

For the foregoing reasons the judgment appealed from should be reversed and the defendant, Mariano B. Zarate, should be, as he is hereby, sentenced to pay to the plaintiff the sum of P1,166.65, as rentals owing, and to pay those he may owe in the future on the basis of 10 per cent per annum of the assessed valuation of the land occupied by him. No special finding is made in respect to the costs of both instances. So ordered.

Carson, Moreland, Trent, and Araullo, JJ., concur.

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