

THE BACHRACH MOTOR CO., INC., PLAINTIFF AND APPELLANT VS. UNIVERSAL TRADING CO., INC., ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 13064. June 29, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On October 12, 1928, the Bachrach Motor Co., Inc., entered into a contract of lease with the Government of the Philippine Island over a parcel of land containing an area of 3,570 sq. m. known as Block No. 184, Reclamation No. 1, Port Area, Manila. It was agreed that the lessee should pay to the lessor an annual rental of P2,106.50, equivalent to 3% of the appraised value of the land, plus 1% of the value of the improvements to be paid annually in advance, or on July 24 every year. The period of the lease was for 25 years beginning July 24, 1928, renewable for another period of 25 years at the option of the lessee.

Pursuant to the 5th clause of the contract of lease and within the period therein specified, the company erected on the leased property a permanent reinforced concrete building with galvanized iron roof which the company has used as its shop for the repair of its fleet of buses, taxicabs, automobiles and auto-calesas during the period from 1929 to 1941, said shop having been known as "Bachrach Motor Company Shop."

During the battle for the liberation of Manila this building was greatly damaged while the buses, taxicabs and other properties belonging to the company were lost, and not having immediate need for the use of said damaged building because it had reconstructed another building on an-other parcel of land situated also in the Port Area, the company, on April 10, 1946, entered into a contract of sublease covering said building with the Universal Trading Co., Inc., for a period of five years beginning April 10, 1946 with an option on the part of the lessee to renew the lease for an additional period of three years, the lessee having agreed to pay to the lessor a monthly rental of P4,500.00 payable on the first day of each calendar month during the period of the lease.

Thereafter, the Universal Trading Co., Inc. took possession of the leased property, repaired the same to suit its purpose as agreed upon at a cost of P151,608.00, and paid the rental stipulated until May 1, 1947 when it ceased to pay the same because of the objection raised by the Director of Lands when it came to know of the sublease contract contrary to the contract of lease entered into with the Government of the Philippine Islands.

On September 15, 1947, the Director of Lands, with the approval of the Secretary of Agriculture and Natural Resources, claiming that the contract of sublease entered into between the Bachrach Motor Co., Inc. and the Universal Trading Co., Inc. was made in violation of the 7th clause contained in the contract of lease the former had entered into with the government in that said contract of sublease was executed without the previous written consent of the aforesaid Secretary, issued an order cancelling the contract of lease entered into between the Bachrach Motor Co., Inc., and the government and forfeited in favor of the latter the buildings and other improvements erected on the lease premises. In due time, the Bachrach Motor Co., Inc. filed with the Director of Lands a petition for reconsideration, which was denied. The appeal taken by the company to the Secretary of

Agriculture and Natural Resources was also of no avail. And on January 14, 1949, the company took the case on appeal to the President of the Philippines where the case remained for sometime until September 5, 1949 when the Director of Lands awarded the right to lease the same parcel of land to the Universal Trading Co., Inc. at an annual rental of P13,710.00 and authorized the sale of the improvements existing thereon for the consideration of P141,000.00; and, in pursuance of this authority, a contract of lease embodying the above terms was executed on the same date, September 5, 1949.

As a consequence of the forfeiture of the improvements as above-stated and of the refusal of the government to act favorably on its motion for reconsideration, the Bachrach Motor Co., Inc. commenced this action on June 29, 1950 before the Court of First Instance of Manila praying that the Universal Trading Co., Inc. be ordered to pay the stipulated rentals it has failed to pay to plaintiff and that the order issued by the Director of Lands, as approved by the Secretary of Agriculture and Natural Resources, which cancelled the contract of lease entered into by the plaintiff and the government and forfeited the buildings erected thereon, be declared null and void, and praying likewise that the abovementioned officials be required to respect the leasehold right of the plaintiff over said parcel of land in accordance with the terms and conditions embodied in the lease contract entered into between the parties.

After the parties had submitted a partial stipulation of facts, as well as the additional evidence they were allowed to present, oral as well as documentary, the court rendered judgment the dispositive part of which reads as follows:

"WHEREFORE, judgment is hereby rendered dismissing the complaint of the plaintiff Bachrach Motor Company, Inc., against the defendants, the Honorable Secretary of Agriculture and Natural Resources. and the Director of Lands; and, in favor of the plaintiff Bachrach Motor Company, Inc., against the defendant Universal Trading Company, Inc., ordering the Universal Trading Co. Inc., to pay to the Bachrach Motor Company, Inc., a rental of P4,500.00 a month from June 1, 1947 to March 16, 1948, inclusive, with interest at the rate of 6% per annum, from June 29, 1950, the date of the complaint, until the total amount of the aforesaid rental shall have been fully paid, without pronouncement as to costs."

From the above decision, both the Bachrach Motor Co., Inc. and the Universal Trading Co., Inc. appealed; the former from that portion of the decision which dismisses its complaint, and the latter from that portion which orders it to pay to plaintiff a rental of P4,500.00 a month from June 1, 1947 to March 1948, inclusive with interest at the rate of 6% per annum from June 29, 1950, the date of the filing of the complaint. But because the amount involved exceeds the sum of P200,000.00, the Court of Appeals certified the appeal to this Court for adjudication.

The issues posed by plaintiff-appellant may be boiled down to the following: (1) that the contract of sublease executed by it in favor of the Universal Trading Co., Inc. on April 10, 1946 was not made in violation of the 7th clause of the contract of lease executed by the Bureau of Lands in favor of said plaintiff-appellant on October 12, 1928; and (2) even if said sublease be considered as a violation of that portion of the contract of lease, it was error for the court a quo to hold that the government was justified in declaring the forfeiture in favor of the government of the improvements existing on the leased property.

1. Said 7th clause provided as follows:

"Seventh: That the said Party of the Second Part shall not sublet the whole or any part of the premises herein described, or assign, encumber or mortgage the improvements thereon, assign this lease, or encumber the rights thereunder, without permission in writing", of the Secretary of Agriculture and Natural Resources, first had and obtained: Provided, that assignment, encumbrance or sub-letting for purpose of speculation shall not be permitted in any case; and it is expressly understood that this lease shall terminate and expire on the 23rd day of July 1953, unless sooner terminated under the provisions hereof, and that no presumption of renewal or

continuance beyond that day can arise, the PARTY OF THE SECOND PART hereby waiving all rights in this respect conferred by Article 1566 of the Civil Code;"

There is no dispute that the sublease of the property in question in favor of the Universal Trading Co., Inc. was made without first obtaining the approval in writing of the Secretary of Agriculture and Natural Resources as required in the clause above-quoted. It is, however, urged that, notwithstanding the absence of such approval, the sublease is not a violation of the contract of lease because the sublease refers particularly to the improvements on the land which is allegedly not prohibited by the said 7th clause as long as the sublease does not amount to an incumbrance thereon. In this connection, it is pointed out, the sublease was never registered and so it does not constitute an incumbrance on the land.

This contention is untenable, for, as aptly observed by the trial court, "No amount of academic discussion would justify the conclusion that the plaintiff Bachrach Motor Company, Inc., leased to the defendant, The Universal Trading Company, Inc., only the building known as 'The Bachrach Motor Company, Inc., Shop,' without including in said lease the land on which the said building stands." Indeed, the sublease does not merely cover a part of the building, or a few rooms therein, but the entire edifice the exclusive use of the entire premises leased. What was in fact subleased, it is claimed, was not the building alone, but the land also, and while the contract makes reference, in its preamble, to the building, it does so only as a blind. In effect, in the contract of sublease the building is described as covering 3,715 sq. m. which obviously cover the entire land leased from the government which is described as having an area of 3,570 sq. m. Not a piece of the land in question remained in the possession of the Bachrach Motor Co., Inc.

Moreover, paragraph 6 of the contract of sublease provides that "the LESSEE shall repair the roof and shall make such alterations in, additions to, or improvements upon, the premises hereby leased" which proves that it was not only the building that was subleased but the land as well, as shown by the fact that it authorizes the sub-lessee not only to make repair or alteration in the building but also to make any addition thereto. Certainly, under this provision, the sublessee could make use of any available space in the land if it chooses to make additions to the building.

2. Anent the second issue, an analysis of the provisions of the contract of lease between the Bachrach Motor Co., Inc. and the government becomes necessary. While the 7th clause is silent as regards the effect of any violation or infringement thereof on the improvements in question, 'such clause however should be considered in the light of the provisions of the 11th clause which we quote as follows:

Eleventh: It is further covenanted and agreed by and between the parties hereto that for a breach of any of the covenants herein by the said Party of the Second Part, save those covenants for breach of which special provision is made, the said Party of the first Part may elect to declare this lease forfeited and void and after having (given thirty (30) days notice in writing, to the said Party of the Second Part, may enter and take possession of the said premises and all improvements actually existing thereon, and said Party of the Second Part hereby covenants and agrees to give up the possession thereof;"

It should be noted that under the above-quoted clause the government may elect to declare the lease forfeited and enter and take possession of the premises and all improvements actually existing thereon. This can only mean that the improvements are also subject to forfeiture. If the intention of the parties was to respect the ownership of the lease over the improvements even after the infringement they should have included therein a provision clarifying the disposition of said improvements as they have done with regard to the improvements referred to in the 14th clause dealing with the cancellation of the lease when public interest so requires or when the improvements will have to be administered by the Republic of the Philippines. [1]

This is the only clause of the contract which contains a provision obliging the government to pay to the lessee the

value of the improvements upon the cancellation of the lease. Considered in connection with the other clause in the contract we may draw the inference that it is only under the circumstances mentioned in the 14th clause when the lessees are given the right to demand the value of the improvements.

Coming now to the issue raised by defendant-appellant Universal Trading Co., Inc., we find no error in the order of the trial court requiring said appellant to pay to plaintiff a rental of P4,500.00 a month from June 1, 1947 to March 16, 1948, with the corresponding interest, it appearing that there is nothing in the record to show that defendant was ordered by the Director of Lands to pay the above rentals beginning June 1, 1947 directly to said Bureau, or that the defendant has actually made such payment as it claimed, and so it is not correct to state that said defendant is no longer obligated to pay to the plaintiff said rentals as ordered by the court a quo. Indeed, the facts proven in the case bear out this conclusion.

Thus, it appears that although the order of the Director of Lands which, among other things, directs the defendant to pay to said Bureau the stipulated rental pertaining to the building in question was dated September 15, 1947, the truth however is that said order was only released on February 5, 1948, and as a matter of fact, copy thereof was received by defendant-appellant only on February 27, 1948, while the plaintiff received its own copy on March 16, 1948. If such is the case, it could not have been possible for defendant to have paid the rentals demanded by the Director of Lands in his order as contended by defendant. In this connection, we find tenable the following argument of plaintiff's counsel:

"In other words, the aforementioned order of the Director of Lands was not known to the defendant-appellant until February 27, 1948, In view thereof, how is it possible for the: defendant-appellant to contend now that it paid to the Bureau of Lands the Stipulated rental beginning June 1, 1947. How it is possible for the defendant-appellant to have paid to the Bureau of Lands tho rentals for the months of June, July, August, September, October November and December, 1947, as well as the rentals for the months of January and February, 1948. when during the said period of nine months, it had not yet known of said order, not having received as yet copy of the said order until February 27, 1948?

"Moreover, an examination of the fifth paragraph of the dispositive portion of the said order, which is reproduced at the bottom of page 15 of defendant-appellant's brief, will disclose that it is not true, as contended by the defendant-appellant, that the Director of Lands ordered the defendant-appellant to pay to the Bureau of Lands the aforementioned rental beginning June 1, 1947.

What was ordered there (borrowing the language used by the Director of Lands) was that "hereafter, the Universal Trading Company * * * are hereby required to pay to the Bureau of Lands directly all rentals which may become due on their sublease agreements, subject to the further negotiations such as may be entered into by and between them and the said Bureau * * * ". There was no order from the Director of Lands that the payment to the Bureau of Lands should begin specifically oh June 1, 1947, as now contended by the defendant-appellant. What was ordered was that the defendant-appellant should, after receipt of the copy of the said order, made such, payment to the Bureau of Lands directly and the defendant-appellant should, after receipt of the copy of the said order, make such, payments to the Bureau of Lands directly and the defendant-appellant received copy of said order on February 27, 1948, and not earlier.

"Furthermore, there is no evidence of record that the defendant- appellant actually paid to the Bureau of Lands the stipulated rentals for the period from June 1, 1947 to March 16, 1948. The evidence of record (see Exhibit I and Appendix 6 of the Partial Stipulation of Facts), on the other hand, shows that what the defendant-appellant actually paid to the Bureau of Lands were occupation fees for the period from April 5 1949 up to September 15, 1949, and, thereafter, rental on the same leased premises from September 16, 1949, in pursuance with its own illegal lease contract with Secretary of Agriculture and Natural Resources. Except for these occupation fees recited in the documents. Exhibit I as well as in the document Appendix 6 of the Partial Stipulation of Facts, and except for the rentals which the defendant-appellant paid to the Bureau of Lands in pursuance with

its own illegal contract of lease, the records do not show that the defendant-appellant actually paid to the Bureau of Lands the rentals on plaintiff-appellee's building during the period from June 1, 1947 to March 16, 1948."

Wherefore, the decision appealed from is affirmed. No pronouncement as to costs.

Padilla, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1] "Fourteenth: That if at any time during the existence of this lease, or at any time when the lessee has obligation pending with the Government, in accordance with Act 2874, it appears that the leased land or any portion thereof is necessary, in the public interest, for the protection of any source of water, or for any work for the public benefit that the Government wishes to undertake, the Secretary of Agriculture and Natural Resources may order the cancellation of the lease, or the exclusion therefrom of such portion or portions thereof as may be needed by the Government, upon payment of the value of the improvements if any made thereon by the lessee;"

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