

QUINTIN CHAN, PLAINTIFF AND APPELLEE, VS. JUAN B. ESPE, DEFENDANT AND APPELLANT.

G.R. No. 16777. April 20, 1961

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On August 24, 1957, a house belonging to Juan B. Espe was sold at public auction by virtue of an order of execution issued by the Court of First Instance of La Union. It was bought by Quintan Chan. The land where the house is erected also belonged to Espe. Espe failed to redeem the house within the period of one year from the date of sale hence, on August 27, 1958, the sheriff executed a certificate of definite sale of said house in favor of Chan. During the redemption period of one year, Espe collected from the tenants of the house the sum of P2,340.00 representing rentals that accrued during the year, and notwithstanding the demands made by Chan for the delivery of said amount, Espe failed to pay the same to Chan.

Whereupon, on September 12, 1958, Chan commenced the present action before the Court of First Instance of La Union praying that Espe be ordered to pay him the sum of P2,304.00, plus P500.00 as attorney's fees, and that a period be fixed for the lease of the lot on which the house is erected belonging to Espe, as well as the rental to be paid therefor.

Defendant filed a motion to dismiss on the ground of insufficiency of cause of action, and when the same was denied he filed an answer praying for the dismissal of the complaint. Thereupon, the parties agreed to submit the case for decision upon the pleadings. On January 1, 1959, the court rendered judgment the dispositive part of which reads:

"(1) Ordering the defendant to pay to the plaintiff the sum of P2,304.00 with legal rate of interest from August 27, 1958 until the same shall have been fully paid, plus attorney's fees in the sum of P170.00 and costs;

"(2) Fixing the period of three years from August 27, 1958, within which the plaintiff shall remove the house or building from the lot of the defendant;

"(3) Fixing the amount of FIFTY (P50.00) PESOS as the monthly rental for the lot of the defendant, effective from August 24, 1957, until the said building shall have been removed by the plaintiff, and for this purpose, the total amount of the rentals for the lot from August 24, 1957 up to the present shall be deducted from the amount due the plaintiff in accordance with this decision."

Defendant has appealed.

The question to be determined is: Who is entitled to the rentals of the house bought by plaintiff during the one year period of redemption? Is it the purchaser or the judgment-debtor?

The law governing the matter are Sections 29 and 30, Rule 39, which in part provide:

"SEC. 29. Manner of using premises pending redemption. Waste restrained.—Until the expiration of the time allowed for redemption, the court may, as in other proper cases, restrain the commission of waste on the

property by injunction, on the application of the purchaser or the judgment creditor, with or without notice: but it is not waste for the person in possession of the property at the time of the sale, or entitled to possession afterwards, during the period allowed for redemption, to continue to use it in the same manner in which it was previously used; or to use it in the ordinary course of husbandry; or to make the necessary repairs of buildings thereon; or reasonably to use wood or timber on the property therefor, or for fuel for his family, while he occupies the property."

"SEC. 30. Rents and profits pending redemption. Statement thereof and credit therefor on redemption.—The purchaser, from the time of the sale until a redemption, and a redemptioner, from the time of his redemption until another redemption, is entitled to receive the rents of the property sold or the value of the use and occupation thereof when such property is in the possession of a tenant. But when any such rents and profits have been received by the judgment creditor or purchaser, or by a redemptioner, or by the assignee of either of them, from property thus sold preceding such redemption, the amounts of such rents and profits shall be a credit upon the redemption money to be paid, * * *."

Commenting on the import of the two sections quoted above, former Chief Justice Moran says the following in the light of the decisions rendered by this Court:

"From the wording of these two sections, it is clear that, during the time in which a redemption may be made, if the judgment debtor is in possession of the property sold, he is entitled to retain it and receive the fruits, the purchaser not being entitled to such possession.[1] It is, on motion of the purchaser or the judgment creditor, that an injunction may be issued to avoid waste, according to section 29, and certainly the purchaser "would not have to file such motion if he is entitled to possession. If the property is in the hands of the judgment debtor, the purchaser has no right to collect from him the rents or the reasonable value of the use and occupation thereof.[2] It is only when the property is in possession of a tenant that the purchaser, or a redemptioner, is entitled to receive from him the rents or the reasonable value of the use and occupation thereof, according to section 30; but even in such case, the purchaser or redemptioner is accountable for the amount he has thus received if requested by the judgment debtor or a later redemptioner wishing to redeem." [3] (Moran, Comments on the Rules of Court, 1957 ed., Vol. 1, pp. 596-597.)

The rule, therefore, is clear that if during the period of redemption the judgment-debtor is in possession of the property sold, he is entitled to retain it and to receive its fruits, the purchaser not being entitled to its possession; but if the property is in the possession of a tenant, it is only then that the purchaser is entitled to receive its rents or the reasonable value of its use and occupation. In such a case, the purchaser is accountable for the amount thus received to the judgment-debtor when he effects the redemption. Since in the instant case the house in question is leased to different tenants and was not possessed by appellant, it follows, that, following the above rule, appellee is entitled to the rentals that had accrued during the period of redemption, and is not accountable therefor to appellant because of the latter's failure to redeem it within said period. ' The lower court, therefore, committed no error in adjudicating said rentals to appellee.

Wherefore, the decision appealed from is affirmed, with costs against appellant.

Bengzon, Acting C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

[1] Riosa vs. Verzosa, 26 Phil., 86; Velasco vs. Rosenberg's, Inc., 32 Phil., 72; Pabico vs. Ong Pauco, 43 Phil., 572; Powell vs. Philippine National Bank, 54 Phil., 54.

[2] De la Rosa vs. Revita Santos, 10 Phil., 148; Riosa vs. Verzosa, supra; Velasco vs. Rosenberg's Inc., 32 Phil., 72.

[3] See Vda. de Syquia vs. Jacinto, 60 Phil., 861, 863.

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