

TY LACO CIOCO, PLAINTIFF AND APPELLANT, VS. ARISTON MURO ET AD., DEFENDANTS AND APPELLEES.*G.R. No. 3532. October 21, 1907*

Ponente: CARSON, J.

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This is an appeal from a judgment of the Court of First Instance of Samar, in an action to recover the sum of P1,370, which came into the possession of the defendants by virtue of a judgment rendered in favor of Justo Mendoza, one of the said defendants, and against Ty Laco Cioco, the plaintiff in this action, for rent of a certain house in Guiuan, Samar, and damages for the Unlawful detention thereof. The latter judgment was rendered in the court of the justice of the peace of Guiuan, but was set aside by the Court of First Instance of Samar in certiorari proceedings.

The defendants in this action admitted that they received the sum of P1,370, as alleged in the complaint; one of them, the said Justo Mendoza, by way of counterclaim, alleged that the plaintiff was lawfully indebted to him in the sum of P989.99, damages for the unlawful detention of the house in question during its occupancy by the plaintiff.

There was no dispute as to the occupancy of the house in question by the plaintiff for the period of two years and twenty-three days, nor as to the just rental value thereof; nor is it alleged that payment of rent had been made to the defendant, Mendoza, except the payment made by virtue of the said judgment in the court of the justice of the peace, which was set aside in certiorari proceedings.

The principal question at the trial was the right of ownership of the defendant, Mendoza, in the said house, and his right arising therefrom to damages for its occupation by the plaintiff. The trial court was of opinion that the evidence of record established Mendoza's right of ownership, and sustained his counterclaim for damages, which were fixed at an amount equal to the rental value of the property during its occupation by the plaintiff, together with interest thereon at the legal rate until paid. Judgment was rendered in favor of the plaintiff for the sum of P319.34, that being the difference between the amount received by the defendants by virtue of the judgment of the justice of the peace which was set aside in certiorari proceedings and the amount of the rental value during the term of the occupancy of the house by the plaintiff, with interest.

We think the evidence of record fully sustains the finding of the trial court, that the defendant, Mendoza, was the owner of the house in question and entitled to recover from the plaintiff an amount equal to the rental value thereof during¹ the term of its occupancy by him. No question having been raised by the appellant as to the action of the court in allowing interest upon the rent, and in imposing the costs upon the plaintiff, we have not found it necessary to review its action in these matters.

Counsel for the appellant contends that the right of the defendant, Mendoza, to recover the rental value of the property, and his right to the possession during the term of its occupancy by the plaintiff is *res judicata*, because, in a certain action in the court of the justice of the peace of the town of Guiuan, brought by Mendoza against the

plaintiff in this action, Ty Laco Cioco, for the recovery of the possession of the house in question and damages for its occupation and use, judgment was rendered in favor of Ty Laco Cioco and against Mendoza, which judgment became final, no appeal having been taken therefrom. It appears that this judgment was rendered prior to the above-mentioned judgment in the same court in favor of Mendoza and against Ty Laco Cioco, which was set aside in certiorari proceedings.

We think that the contention of *res judicata* relied upon by the appellant is completely disposed of by the provisions of section 87 of the Code of Civil Procedure, which is as follows:

"A judgment rendered in a suit of unlawful entry and detainer, either for the plaintiff or defendant, shall not bar an action in the Court of First Instance between the same parties respecting title to the land or building; nor shall any judgment given therein be held conclusive of the facts found in another action between the same parties."

The reason for these provisions becomes obvious when we consider the nature of the summary remedies of forcible entry and wrongful detainer, and the limitations imposed by law upon the evidence which may be submitted in such actions.

The question to be determined in these summary actions is not whether the plaintiff is entitled to possession upon submission of proof of ownership and the lawful right to possession of the property. The true question submitted is, whether he is entitled to be restored to the bare physical natural possession which he had at the time when it is alleged the defendant deprived him thereof; and section 80 of the Code of Civil Procedure provides that judgment for restitution shall be rendered in favor of the plaintiff in these summary actions (without regard to the question whether he is or is not lawfully entitled to the possession of the property in question as owner, or otherwise) where it appears that, having been in possession, lawfully or otherwise, he has been deprived thereof by force, intimidation, fraud, strategy, or stealth, or where it appears that a tenant, vendor, vendee, or other person unlawfully with-holds possession from him after the expiration of such person's right thereto by virtue of a contract, *cwpress* or implied.

In determining the questions to which summary actions for forcible entry or unlawful detainer are limited, the right of ownership and the right of possession arising from the right of ownership can have no bearing, as the plaintiff is entitled to "restitution of possession" if he can show that he has been deprived of the bare physical possession by any of the methods set out in that section—and this even though it should afterwards develop that the defendant was the owner of the property, and as such clearly entitled to possession as against the plaintiff. Hence, evidence of ownership, and of the right of possession of the property in question, is not admissible at the trial of these summary actions (*Evangelista vs. Tabayuyong*, 7 Phil. Rep., 607; *Alonso vs. Municipality of Placer*, 5 Phil. Rep., 71; 8 Mont., 305) ; and it would be a manifest injustice that a judgment in such a summary action, wherein this proof is not admissible, should be held to be conclusive of the facts found in another action between the same parties, where such evidence may be introduced, or be a bar to the recovery of damages when it is made to appear in another action that the possession to Avhich the party was restored, or in which he was confirmed, in the summary action, was, in fact, an unlawful possession.

The judgment of the trial court is affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, Willard, and Tracey, JJ., concur.

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