

JUAN CALVO, PLAINTIFF AND APPELLANT, VS. FELIPE PAGUD ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 4224. March 26, 1908

Ponente: CARSON, J.

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CARSON, J.:

WRONGFUL DETAINER; LANDLORD AND TENANT.—From the Court of First Instance of Ilocos Sur. The evidence of the plaintiff, considered in connection with the fact that the defendants on at least one occasion paid rent to the plaintiff, held sufficient to show the relation of landlord and tenant. Judgment reversed; writ of possession granted.

Per Carson, J.

For appellant: Antonio M. Jimenez.

For appellees: Jose Singson.

DECISION

This is an action for unlawful detainer. The only question raised by the pleadings is whether the relation between the plaintiff and defendants was that of landlord and tenant created by virtue of a rental contract.

The trial court was of opinion that the evidence introduced by the plaintiff does not sustain his allegations in this regard. The majority of this court, however, are of opinion that the testimony of the plaintiff, taken together with evidence that on at least one occasion the defendants paid the rental claimed by the plaintiff, is sufficient to sustain a finding of the existence of the rental contract as alleged in the complaint. It was alleged that the amount of rent agreed upon by each of the defendants was ten cents per month for their respective dwelling places. The amount is so small, and the evidence is so uncertain as to the time of occupation under the contract, that the court does not deem it necessary to make a finding as to damages or rent due in arrears, especially as plaintiff does not appear to lay stress upon his claim therefor.

The judgment of the trial court is reversed with the costs of this instance de oficio.

After twenty days let judgment be entered in accordance herewith and ten days thereafter let the record be returned to the court below where judgment will be entered for possession in accordance with the prayer of the complaint.

It is so ordered.

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