

MANILA GAS CORPORATION, PLAINTIFF AND APPELLEE, VS. ALFREDO B. CALUPITAN, DEFENDANT AND APPELLANT.

G.R. No. 46378. December 17, 1938

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

The defendant, Alfredo B. Calupitan, appeals to this court from the decision of the Court of First Instance of Manila, the dispositive part of which reads:

"Judgment is therefore rendered, sentencing the defendant to return the stove and the gas water heater described in the complaint, and to pay for the use of the gas water heater the sum of P5 a month from June, 1934, and for the use of the Krefft Stove the sum of P4 a month from January, 1934, until they are returned, with costs of suit."

In support of his appeal the appellant assigns six errors allegedly committed by the trial court in its decision, on which we shall dwell in the course of this decision.

From the evidence of record are gathered the following facts:

On May 3, 1933, the Manila Gas Corporation and the defendant-appellant, Alfredo B. Calupitan, entered into a contract (Exhibit A), containing the following pertinent recitals:

"LEASE AGREEMENT

"This agreement, made in the City of Manila, P. I., this 3rd day of May, 1933, between the Manila Gas Corporation, a domestic corporation duly organized and existing under and by virtue of the laws of the Philippine Islands, and having its principal place of business therein in the City of Manila, with its main office at Calle Otis, Paco, in said City of Manila, hereinafter called the 'owner', and Alfredo B. Calupitan, of age and a resident of No. 9 Baldwin, Sta. Cruz, P. I., hereinafter called the 'LESSEE'

"WITNESSETH: That

"1. The Owner hereby leases unto the Lessee and the Lessee hereby hires from the Owner, for a term of..... months, which term may be extended at the will of the Owner, the following described personal property, to wit:

"1. No. 234 Krefft stove of 4 brs. S. H. which the Lessee acknowledges having received in good state and condition, and the value of which is hereby mutually agreed to be P60, subject to and under the terms and conditions hereinafter specified.

"2. The Lessee hereby agrees—

"(a) To pay to the Owner, at its office above stated, for the use of the above described property, the sum of P5, upon the signing of this agreement, and a monthly rental of P4, on, or before the 5th day of each succeeding month, beginning with the month next ensuing the date thereof.

* * * * *

"4. The Owner agrees that at any time before the expiration of the terms of this lease, the Lessee may purchase the said property by paying to the owner, in cash, the full value thereof as above fixed, less all payments theretofore made under this agreement, for the use of said property."

On March 3, 1934, that is, ten months after the execution of the contract Exhibit A, above-quoted, the same parties entered into another contract (Exhibit B) of the same tenor, except with respect to the article and the terms of payment, which are as follows:

"1. No. 400 Piccolo Inst. Water Heater which the Lessee acknowledges having received in good state and condition, and the value of which is hereby mutually agreed to be P95, subject to and under the terms and conditions hereinafter specified.

"2. The Lessee hereby agrees—

"(1) To pay to the Owner, at its office above stated, for the use of the above described property, the sum of P5 upon the signing of this agreement, and a monthly rental of P5, on or before the 5th day of each succeeding month, beginning with the month next ensuing the date thereof."

In accordance with the terms of both contracts, the said defendant paid to the plaintiff, when the latter delivered to him the stove, the sum of P5, and another sum of P5 when the water heater "Piccolo Inst. Water Heater" was delivered to him, and monthly thereafter, the total of said payments amounting to P42: P27 by virtue of the contract Exhibit A and "P15 by virtue of the contract Exhibit B, for which receipts were issued in the following form (Exhibit 1):

"Received from Mr. Alfredo Calupitan pesos (P.....) as partial payment on Gas appliance Bill No.....leaving a balance thereon of T.....

"MANILA GAS CORPORATION

"Cashier

"Collector"

Notwithstanding repeated demands to pay alleged rentals, due and unpaid for months, or to return the stove and the water heater, the said defendant paid no heed to said demands and continued to make use of the said articles for more than five years without compensation of any kind.

Inasmuch as the said defendant neither paid what he owed to the plaintiff for the stove and the water heater nor returned them to the latter, the said plaintiff filed the re-amended complaint found in the bill of exceptions, with the following prayer:

"Wherefore, the plaintiff demands judgment against the defendant for the delivery to the plaintiff of said stove and Piccolo Water Heater above described and for the sum of 9267 as rentals for the use of the same by the

plaintiff, or for their values in the total sum of P155 in case delivery cannot be made, and for costs of this suit and for such further and other relief as this court may deem just and equitable."

Being one of procedure, we shall first consider the question raised in the fourth assignment of error, wherein it is alleged that the trial court erred in taking cognizance of the present case and in not dismissing the same despite the fact that the amount involved in each contract is within the exclusive jurisdiction of the municipal court of Manila.

Upon the said ground the defendant interposed a demurrer which was overruled¹ by the lower court, this action of the court being the subject matter of the assignment of error under consideration.

By the filing of the said demurrer the defendant admitted hypothetically that the contract entered into between him and the plaintiff is one of lease of personal property; that the kitchen stove and the water heater belong to the said plaintiff; and that he has neither paid the stipulated rentals nor returned the said goods.

The complaint has to do not only with the collection of rentals, but also, implicitly, with the rescission of the two contracts of lease of personal property for non-compliance with the obligation to pay rentals (art. 1124, Civil Code), and the personal delivery thereof (sec. 262, Act No. 190). With respect to the complaint for the rescission of the contract of lease of personal property and the personal delivery thereof, the Court of First Instance of Manila has original exclusive jurisdiction to take cognizance thereof irrespective of the amount of the due and unpaid rentals.

The trial court, therefore, had original jurisdiction to take cognizance of the complaint.

As to the first assignment of error, wherein it is alleged that the trial court erred in holding that the two contracts Exhibits A and B are contracts of lease and not of sale of personal property on installment, we have seen above that in both contracts the defendant, Alfredo B. Calupitan, paid in advance P5 for the kitchen stove (Exhibit A) and another P5 for the water heater (Exhibit B), plus P4 and P5 every month for said stove and water heater, respectively. The price of the stove is P60 and that of the water heater, P95, the said defendant being able to purchase said goods at said prices, respectively, before the expiration of the period of the alleged lease, deducting in each case the amounts already paid therefor. The periods of the alleged leases have not been fixed in the contracts; but considering the prices of the goods and monthly payments to be made, said periods are the number of months which would result by dividing P60 by P4, which is the supposed monthly rental of the stove, and P95 by P5, which is supposed to be the monthly rental of the water heater, that is, 15 and 18 months, respectively. In the accounts Exhibits A-1 and B-1 of the said defendant, which the plaintiff carries, the monthly payments made by the former to the latter for said goods were made to appear as paid upon the account of their values and were deducted therefrom, stating the balances after each monthly payment; and in the receipt issued to the said defendant on March 8, 1935 (Exhibit 1) there was noted the payment of P3 made by him as "partial payment on Gas Appliance Bill No. 63781 leaving a balance of 933." None of the advance and monthly payments made by Alfredo B. Calupitan has been stated as having been made by way of advance payment of rentals, or of deposit to secure said payment, or of monthly rentals. The P5 which the plaintiff demanded of the defendant to pay upon signing the contract Exhibit A could not be by way of advance payment of rentals, inasmuch as the rental for the use of the stove was P4. Neither could it be by way of deposit to secure the payment of rental, as it does not appear that such was the intention of the parties. Moreover, according to the contracts, in case the defendant should elect to purchase the goods, the said amount of P5 would be deducted from the cost of the stove and that of the water heater, together with the alleged monthly rentals which had been paid for each of them. The P4 which the defendant should pay on or before the 5th of each month for the stove and the P5 for the water heater, while they are said to be for rentals in the respective contracts, are in reality part payments of the prices of the respective kitchen and bathroom articles, as shown by the lists of payment Exhibits A-1 and B-1 and the receipt Exhibit 1

which we have above described.

What has gone before shows that the contracts entered into between the plaintiff and the defendant with respect to the kitchen stove and the water heater are those of sale on installment rather than of lease.

The first assignment of alleged error is, therefore, well-founded.

Having reached this conclusion, we do not find it necessary to discuss the remaining assignments of error which have been impliedly resolved.

For the foregoing considerations, we are of the opinion and so hold, that when in a so-called contract of lease of personal property it is stipulated that the alleged lessee shall pay a certain amount upon signing the contract, and on or before the 5th of every month, another specific amount, by way of rental, giving the alleged lessee the right of option to buy the said personal property before the expiration of the period of lease, which is the period necessary for the payment of the said amount at the rate of so much a month, deducting the payments made by way of advance and alleged monthly rentals, and the said alleged lessee makes the advance payment and other monthly installments, noting in his account and in the receipts issued to him that said payments are on account of the price of the personal property allegedly leased, said contract is one of sale on installment and not of lease.

Wherefore, the appealed decision is reversed and it is held that the contracts Exhibits A and B, entered into between the plaintiff, Manila Gas Corporation, and the defendant, Alfredo B. Calupitan, are those of sale on installment; and the said defendant having failed to comply with the terms of payment, the plaintiff may elect between compliance with or rescission of the obligation, with indemnity for damages and interest in either case, without special pronouncement as to the costs. So ordered.

Avanceña, C. J., Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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