

DOMINADOR L. JISON AND REMEDIOS JAVELLANA, PLAINTIFFS AND APPELLEES, VS. PEDRO C. HERNAEZ, DEFENDANT AND APPELLANT.*G.R. No. 47632. December 31, 1942*

Ponente: OZAETA, J.

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- LEASES; ACCRUAL OF RIGHT OF ACTION TO RECOVER POSSESSION OF LEASED PROPERTY; ARTICLE 1578 OF THE CIVIL CODE.—The contract of lease here in question did not expire until the sugar crop year 1938-1939, which ended in February of the latter year. It provides, however, that towards the end of the lease the lessee shall deliver the vacant fields to the lessor and that those still planted with sugar cane shall be delivered as fast as the sugar cane is harvested, the lessee being under obligation to leave for the benefit of the lessor all the cane points or seedlings as well as the ratoon plantings, free of charge. The hacienda in question has an area of 192½ hectares, about one-half of which is planted to sugar cane each year so that the other half may be properly cultivated and prepared for the succeeding crop. In August, 1938, when this action was commenced, there was a vacant area of about 80 hectares, the cultivation of which should have been begun before that month for the 1939-1940 crop. Held: That under article 1578 of the Civil Code and the stipulation in the contract of lease above-mentioned, the appellees' right of action to demand and take possession of the vacant fields had already accrued at the time their original complaint was filed on August 6, 1938.

- ID.; ID.; ID.—When appellee commenced this action, appellant had refused to deliver the vacant portions of the hacienda unless the liens constituted on the property were fully paid—a condition not stipulated in the contract of lease. Subsequently appellant, claimed the right to hold on to the hacienda as owner because the appellees refused to recognize the validity of said liens. Thus even if appellees had waited until the end of February, 1939, appellant would not have delivered the hacienda to them anyway. Under these circumstances, to dismiss this action and require the appellees to begin it anew would be a travesty on justice. The law never requires the performance of a vain act or idle ceremony. Appellant's anticipatory breach of his contract of lease justified the acceleration of this action.

- ID.; POSSESSION IN BAD FAITH; ARTICLE 433 OF THE CIVIL CODE.—Inasmuch as appellees' action to recover possession of the leased hacienda was commenced on August 6, 1938, summons of which had been served on appellant, the latter cannot say that he was unaware of any flaw in his title when, in October, 1938, he had planted the vacant portions of the hacienda with sugar cane for the 1939-1940 crop. (Article 433, Civil Code; *Tacas vs. Toben*, 53 Phil., 356, 361, and cases, therein cited.) Indeed, regardless of the commencement of this action, appellant knew when he planted sugar cane on the vacant portions in October, 1938, that he had no right to do so under his contract of lease, which, according to his own interpretation, could not extend beyond February, 1939. His subsequent claim of ownership over the property of which he had been the lessee for several years could not and did not convert him into a possessor in good faith, even if such claim were not so absurd on its face.

- ID.; ID.; ID.; REIMBURSEMENT FOR EXPENSES INCURRED IN PRODUCTION, GATHERING AND PRESERVATION OF CROPS; ARTICLES 356 AND 363 OF THE CIVIL CODE INTERPRETED AND

HARMONIZED.—If at the time possession of the disputed property is returned to the owner thereof the crops planted by the person losing possession have already been separated from the land, the owner is under obligation to reimburse the person from whom he obtains the possession for the expenses of production, gathering, and preservation of the fruits, in accordance with article 356; but if at the time the owner obtains possession the crops have not yet been gathered, the person who planted them in bad faith loses them without the right to any reimbursement in accordance with article 362. (See 3 Manresa, 3d ed., 214, 215.) Appellant in the case at bar is not entitled to any such reimbursement because it was not he who gathered said crops but the receiver appointed by the trial court on the same date the judgment was rendered, October 6, 1939. The acts of the receiver of the property in litigation inure to the benefit of the prevailing party, who in this case is the appellees. To all legal intents and purposes the crops in question were gathered by the appellees.

APPEAL, from a judgment of the Court of First Instance of Negros Occidental. Rodas, J,

Decision penned by Associate Justice Roman Ozaeta.

Vicente J. Francisco and Eduardo P. Atboleda for appellant.

Claro M. Recto, Nolan & Manaloto for appellees.

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