

AURELIO MONTINOLA, PLAINTIFF AND APPELLEE, VS. JOSE P. BANTUG, DEFENDANT AND APPELLANT.

G.R. No. 47896. April 08, 1941

Ponente: MORAN, J.

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MORAN, J.:

The stipulation of facts discloses that from or about November 30, 1919, defendant Jose P. Bantug had been occupying a lot of about 376.7 square meters of the "Hacienda Vito Cruz," under a contract of lease with the Philippine Realty Corporation, a subsidiary of the Roman Catholic Archbishop of Manila, at a monthly rental of P7.50, and had constructed thereon a house of strong materials worth P6,000. On or about June 29, 1938, plaintiff, Aurelio Montinola, acquired by purchase said "hacienda," and as new owner thereof, he served, on July 4, 1938, notice to the defendant to either vacate the premises within thirty (30) days or to pay a new rental of ten centavos (P0.10) per square meter. Upon refusal of the defendant to do either, an ejectment proceeding was instituted by the plaintiff in the Municipal Court of Manila, wherein judgment was rendered in his favor. On appeal to the Court of First Instance, defendant was condemned to vacate the premises and to pay plaintiff a monthly rental of P15 from June 29, 1938.

From this judgment defendant appealed, and now contends that articles 361 and 453 of the Civil Code are the laws applicable to the case and that in accordance therewith, he, as possessor in good faith, is entitled to either the retention of the land or the reimbursement of the sum of ₱6,000 representing the value of his house built thereon. We have, however, ruled that "the right of a lessee who has been holding land under a rental contract is governed not by articles 361 and 453 of the Civil Code, but by articles 1573 and 487 of the same Code. Upon termination of the lease, the lessee is entitled to remove the improvements made by him, provided he leaves the property in substantially the same condition as when he entered upon it." (*Fojas vs. Velasco*, 51 Phil., 520, 521; *Rivera vs. Trinidad*, 48 Phil., 396), but that "he will have no right for indemnification therefor." (*Alburo vs. Villanueva*, 7 Phil., 277; *Cortes vs. Ramos*, 46 Phil., 184; 3 *Manresa*, 215-216.)

Judgment is affirmed, with costs against appellant.

Imperial, Diaz, Laurel, and Horrilleno, JJ., concur.

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