

CAYETANO DE LA CRUZ, PLAINTIFF AND APPELLEE, VS. EL SEMINARIO DE LA ARCHIDIOCESIS DE MANILA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 5402. January 28, 1911

Ponente: TRENT, J.

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TRENT, J.:

The appellee, Cayetano de la Cruz, was a member and the president of a Methodist Episcopal religious association at Dinalupijan, Province of Bataan, Philippine Islands. The members of this association, including Cayetano de la Cruz, having decided to lease a building site and erect thereon a chapel, made voluntary contributions for that purpose, Cayetano de la Cruz being among those who contributed. Cayetano de la Cruz, as such member and president, was then authorized by the association to lease a certain building site and to use the funds contributed for the purpose of constructing a chapel. So on the 17th of May, 1907, he leased from one J. C. Miller, the agent of the appellant, His Grace Jeremiah J. Harty, Archbishop of Manila and administrator of the hacienda of Dinalupijan, for a period of two years, a certain lot or parcel of land, being a part of that hacienda and which is fully described in the written contract of lease, agreeing to pay as rental P2 per year, the first year's rent to be paid in advance. On the execution of this lease Cayetano de la Cruz, as member and president of the Methodist Episcopal association, was placed in possession of this lot or building site and proceeded to construct thereon a chapel for the use of the said religious association. About the time this chapel was completed an action of forcible entry and detainer was commenced by one Raymundo Sinsuangco in the justice of the peace court of Dinalupijan, in which Cayetano de la Cruz, as lessee of the lot upon which the chapel was constructed, and J. C. Miller, as agent and representative of the appellants, who, in such capacity executed said lease, as lessor, were made defendants. Judgment was rendered against the defendants in that action. The appellants in the case at bar were duly notified of the judgment of the justice of the peace and were requested to appeal to the Court of First Instance. No appeal was taken and the judgment becoming final was executed in such a manner that the above-mentioned chapel was completely destroyed. Subsequently thereto, and on the 21st of October, 1907, Cayetano de la Cruz commenced this action in the Court of First Instance of the city of Manila against the appellants to recover the sum of 2,000 as damages for a breach of the rental contract. To this complaint the appellants, through their attorneys, presented a demurrer, based upon the following grounds: (1) That the Court of First Instance of the city of Manila was without jurisdiction to try and determine this action for the reason that damages for injuries caused to real property situated in the Province of Bataan is sought to be recovered; and (2) the complaint fails to allege facts sufficient to constitute a cause of action. This demurrer was overruled, the appellants duly noting their exception.

After all the evidence had been submitted by both parties, the appellee, after due notice to the appellants, presented an amended complaint, to conform, as he alleged, with the agreed statement of facts and the admissions made by the appellants in their answer. This amended complaint was admitted by the court without objection on the part of the appellants. The amended complaint is the same as the original complaint, with the following

exceptions: (1) A number of unnamed person were made parties plaintiff; (2) in paragraph 2 of the amended complaint it is alleged that Cayetano de la Cruz was the president, agent, and member of the Methodist Episcopal religious association; and (3) a judgment for only P402 was asked.

The court below on the 29th of March, 1909, rendered judgment in favor of the appellees and against the appellants for the sum of P402, P2 being the rent for the first year paid in advance, and the P400 being the agreed value of the chapel which was destroyed by the sheriff in executing the judgment rendered by the justice of the peace.

The appellants after noting their exception to this judgment and making a motion for a new trial, which motion was overruled and exception thereto noted, appealed to this court, and now insist:

- That as this action is one for damages to real estate situated in the Province of Bataan, under the provisions of section 377 of the Code of Civil Procedure the Court of First Instance of the city of Manila had no jurisdiction;
- The court below erred in admitting the amended complaint by which the other members of the religious association, jointly interested with Cayetano de la Cruz, were made parties plaintiff; and,
- That the appellants are not liable for the consequences of the judgment of the justice of the peace.

The demurrer was properly overruled. This is not an action to recover damages to real estate; it is an action for breach of covenant in a lease. The fact that the damages to real estate are involved, as an incident to the breach of the contract, does not change the character of the action. Such an action is personal and transitory. The rule is well stated in the case of Neill vs. Owen (3 Tex., 145), wherein the court said (p. 146):

"If the action is founded on privity of contract between the parties, then the action whether debt or covenant, is transitory. But if there is no privity of contract and the action is founded on privity of estate only, such a covenant that runs with the land in the hands of the remote grantees, then the action is local and must be brought in the county wherein the land lies.

"In an action on a covenant contained in a lease, whether begun by the lessor against the lessee, or by the lessee against the lessor, the action is transitory because it is founded on a mere privity of contract. (Thursby vs. Plant, cited in vol. 5, Ency. Plead. & Prac, p. 362.)

"In genera], also, actions which are founded upon contracts are transitory. In an action upon a lease for non-payment of rent or other breach of covenants, when the action is founded on the privity of contract it is transitory and the venue may be laid in any county. (22 Ency. Plead. & Prac, pp. 782-783.)"

Therefore, section 377 of the Code of Civil Procedure, which provides, among other things, that actions to recover damages for injuries to real estate shall be brought in the province where the land, or a part thereof, is situated, is not applicable. (Molina vs. De la Riva, 6 Phil. Rep., 12.) The amended complaint clearly states facts sufficient to constitute a cause of action. (Sec. 90, Code of Civil Procedure.)

The defendants in the second assignment of error assert that the plaintiff ought not to have been allowed to amend his complaint so as to make him the representative of all the persons interested in the subject matter of this action. We are of the opinion that such amendment was properly allowed. Section 110 of the Code of Civil Procedure is exceedingly broad in its terms and there is no disposition in this court to narrow its terms or meaning. We are also of the opinion that this is particularly the class of action to which section 118 of the Code of Civil Procedure refers. It would be exceedingly difficult and expensive to require that all persons interested be made parties plaintiff. To avoid this was the very purpose in enacting section 118. The plaintiff, as appears from the record, is the person chosen by the members of the association in question to look after and represent their interest and it is correspondingly appropriate that he should represent and act for them in this action. In permitting this the court is

not thwarting their will or endangering their interest, but, rather, is carrying out their desires and purposes as they have already expressed them.

In the third assignment of error it is insisted that the appellants are not liable for the consequences of the judgment of the justice of the peace, for the reason that according to that judgment the plaintiff, in violation of the rights of Raymundo Sinsuangco, entered upon the lot in question. It is argued that the plaintiff should not have entered into possession of this lot in violation of the rights of Sinsuangco, but that he should have acquired possession by due judicial process, and that having entered into possession in this manner he must suffer the consequences of his illegal acts. In this we can not agree. When this rental contract was executed the lot in question was vacant. The agent, Miller, led the plaintiff to believe that he could place him in legal possession of the lot. It was upon this theory that the plaintiff entered into this contract and paid the rent for the first year. The record does not affirmatively show that Miller placed the plaintiff in possession of this lot, but in the absence of proof to the contrary we think it fair to presume that this occurred. Miller then placed the plaintiff in possession of this lot, but not in the legal possession of same. He himself did not have the legal possession as was shown by the proof before the justice of the peace. Sinsuangco was the person who was in the actual possession and Miller should have known this and he should have known at the time he entered into the contract with the plaintiff that he could not place the plaintiff in legal, peaceful, and quiet possession of this lot. The plaintiff took possession under these circumstances and proceeded to construct the chapel, which was afterwards destroyed in the execution of the judgment of the justice of the peace. In the contract entered into between Miller and the plaintiff, it was Miller's duty to place the plaintiff legally in possession of this lot and maintain him in the peaceful and quiet possession of the same during the entire period of the contract.

The rights and obligations of lessor and lessee are treated in articles 1554 to 1574, inclusive, of the Civil Code. Article 1554 provides:

"The lessor is obligated:

* * * * *

"3. To maintain the lessee in the peaceful enjoyment of the premises for the entire period of the contract."

Article 1568 is as follows:

"If the thing leased is lost or any of the contracting parties do not comply with what has been stipulated, the provisions of article 1182 and 1183 shall be respectively observed."

Article 1101 provides:

"Those who in fulfilling their obligations are guilty of fraud, negligence, or delay, and those who in any manner whatsoever act in contravention of the stipulations of the same, shall be subject to indemnify for the losses and damages caused thereby."

Under this contract of lease it was the duty of the defendants to give the plaintiff the legal possession of the premises. This they did not do.

The defendants failed in the performance of their contract, and, as we have seen by article 1101 of the Civil Code, the person who fails in the performance of his obligations shall be subject to indemnify for the losses and damages caused thereby. "The true measure of damages for the breach of such a contract is what the plaintiff has lost by the breach." (Lock vs. Furze, L. R. 1, C. P., 441; Dexter vs. Manley, 4 Cush. (Mass.), 14.)

The sum of P402, in our opinion, not being excessive damages for the injuries caused by the breach of contract on the part of the defendants, the judgment should be and the same is hereby affirmed, with costs against the

appellants. So ordered.

Arellano, C. J., Mapa, Carson, and Moreland, JJ., concur.

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