

ADOLFO RAZLAG, PLAINTIFF AND APPELLANT, VS. SANCHE BALANTACBO, DEFENDANT AND APPELLEE.*G.R. No. 7189. March 09, 1912*

Ponente: TORRES, J.

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This is an appeal from a judgment rendered by the Honorable Vicente Jocson, judge.

On May 17, 1910, counsel for Dr. Adolfo Razlag filed suit in the Court of First Instance of the Province of Laguna, against Sancho Balantacbo. The complaint alleged that, on August 18, 1903, in the pueblo of Santa Cruz of the said province, the plaintiff Razlag made with the defendant Balantacbo a contract of lease of a lot, described in the instrument, for a term of ten years, from January 1, 1905, to January 1, 1915, with the right on the part of the lessee to sublet the said lot to any other person, and that the plaintiff did sublet it to the provincial treasurer, Mr. C. H. Lamb, although this contract was canceled and the said lot was sublet by the plaintiff to the provincial board of Laguna, which last sublease became ineffective on December 31, 1909; that the defendant, Balantacbo, without previously rescinding the contract between himself and the plaintiff and having no right to rescind the same, maliciously and unlawfully occupied the said lot, on December 31, and performed acts of possession and ownership over the leased property, thereby violating the stipulations of the contract and causing great damage to the plaintiff, Razlag; and that, therefore, the latter's first cause of action was such noncompliance with the contract.

With respect to the second cause of action, to wit, that relative to an indemnity for loss and damage, each and all of the allegations set forth as grounds for the first cause of action were reproduced, and it was further alleged: That the plaintiff, beginning with the date of the lease of the lot, planted trees thereon, graded, filled, and fenced it, spending in such improvements about P8,000; that it was his intention to establish a sanitarium on the said lot, as soon as the acacia, mango, gum, and rubber trees, etc., planted in rows, to form avenues for the purposes of shade, recreation, and hygiene should be sufficiently grown; that the plaintiff Razlag, undertook a voyage from Amoy, China, where he resided, to Santa Cruz, Laguna, with the intention of taking the necessary measures and preparing the plans for the erection of a sanitarium on the leased lot, which was the principal purpose for which the lease was executed between himself and the defendant; that, with such object in view, he did in fact visit the lot about the 15th of May, 1910, and then found that a number of trees, from six to eight years old and of the necessary height and of sufficient foliage for the purposes had in view by the plaintiff upon his planting them, had been cut near the ground and torn up by the roots; that forty-one of such trees were dead and their trunks left on the ground, and holes of several meters in depth and width were dug; that such damage was done to the plantings and to the surface of the ground that the aspect, and condition of the lot, as well as the principal object of the lease, were transformed, to the prejudice of the interests of the plaintiff, who had employed considerable money in the planting and grading of the lot; that, for the reasons stated, it became materially impossible for the plaintiff to build a sanitarium and contract for the erection of a hotel on the said lot, or to lease the latter for the purpose of the construction thereon of any other building for the conduct of any kind of business, for which the site was

suitable owing to the fact that it was in front of the provincial government building, the schools and other accessory buildings belonging to the province; that the plaintiff was obliged to find attorneys and sign a contract with them in order that they might represent and defend him in this case, and to pay them the sum of P600, which was made an integral part of the damages occasioned to him; that the acts performed by the defendant caused the plaintiff losses in the sum of P2,000, through the injuries to the lot and trees, and also damages calculated at P3,000, a sum less than what the said lot might have yielded him; and that, in accordance with the provisions of paragraphs 1, 2 and 3 of section 164 of the Code of Civil Procedure, the plaintiff petitioned for the issuance of a preliminary injunction against the defendant, his family, agent, servant and attorneys, restraining them from performing the acts therein specified.

The plaintiff, therefore, asked: (1) That the said contract of lease be declared to be subsistent, effective and in force; (2) that the acts performed by the defendant be held to be violations of the said contract; (3) that the plaintiff be declared to be entitled to an indemnity for losses and damages in the total sum of P5,600; and, (4) that the defendant be sentenced to pay the costs, and, in a proper case, his prosecution ordered for the crime of estafa, if the evidence should so warrant.

The writ of preliminary injunction was issued, under a bond of P500.

The defendant, in answer to the foregoing complaint, set forth: That he admitted paragraphs 1, 2, and 3 thereof, relative to the causes of action for noncompliance with the contract; that he denied generally and specifically all the other allegations that were not explicitly admitted in the special defense; that, for the purposes of the latter, he alleged that all the rights, actions, obligations, and privileges which the plaintiff had in the land that was the subject of the contract of lease between the plaintiff and the defendant, were by the former transferred to the provincial board of Laguna; that the defendant treated with the said board in regard to all matters pertaining to the land herein concerned, in the belief that such provincial board was, by reason of the transfer aforementioned, subrogated, had acquired the rights of the plaintiff in the lease of the property, and that the defendant in good faith so believed and continued to believe; that the plaintiff, by contemporaneous and subsequent acts, had evidenced his having, transferred all his rights, actions, obligations, and privileges in the land in, question, for the reason that, since he made the said transfer, he had had no dealings whatsoever with the defendant concerning such land; and the defendant, in turn, believing that the plaintiff lessee was no longer in any manner concerned in the land in question, likewise dealt no further with the plaintiff in regard thereto, but with the provincial board, from whom he directly collected the rent; that, by virtue of the letter dated December 18, 1909, which the defendant received from the provincial treasurer, an official who, in representation of the provincial board, acquired all the rights, obligations, and privileges derived from the transfer made by the first to the second party just above mentioned, the defendant took possession of the said land, an act that rescinded the contract of lease, performed by consent of the parties under clause 4 of the original contract of lease; that the improvements, consisting of acacia trees planted on the land by the plaintiff, were sold to the provincial board by the plaintiff, upon his effecting the said transfer of his rights, obligations, and privileges; and that the plaintiff violated the terms of the contract by planting acacia trees on the said land, thus rendering the same useless for other plantings.

In counterclaim the defendant alleged that the plaintiff, Razlag, ordered the bamboo, which was growing on the land, to be cut and did not give to the defendant the part thereof which belonged to him; and that, in accordance with an amendment requested by the defendant, on account of the violation of the said contract on the part of the plaintiff and by reason of the issuance of the writ of prohibition, losses and damages were occasioned to the defendant, Balantacbo, in the amount of ₱=1,000; the latter, therefore, prayed that he be absolved from the complaint and that Adolfo Razlag, the defendant in the cross complaint, be sentenced to pay the sum of P1,000, the amount of the losses and damages occasioned by the violation of the contract of lease, and that said contract

be declared rescinded.

After the hearing, and the introduction of testimony by both parties, the exhibits being attached to the record, the court, on March 24, 1911, rendered judgment holding that the contract of lease of the lot in question should subsist until the lapse of the term stipulated by the parties thereto, and absolving the defendant, Sancho Balantacbo, from the demand made by the plaintiff for an indemnity for losses and damages. The counterclaim presented by the defendant was disallowed, and the costs were assessed against the plaintiff. From this judgment counsel for the plaintiff excepted and, by a written motion, asked for a rehearing, which was denied; exception was taken to the ruling and, the proper bill of exceptions having been presented, the same was certified, approved and forwarded, together with the exhibits and a transcript of the evidence, to the clerk of this court.

Counsel for the plaintiff demands an indemnity for losses and damages on account of the defendant's alleged violation of the terms of the contract of lease executed on August 21, 1901, and amended on the 18th of the same month of 1903.

The lessee, now the plaintiff, availing himself of the right accorded him in the said contract, sublet the land, the subject of that instrument, to the provincial government of Laguna, according to the notarial document executed by and between the lessee and the provincial treasurer of Laguna, on July 20, 1907. It was stipulated in this last sublease that the provincial government of Laguna should pay to the lessee, Adolfo Razlag, in a single payment, the sum of P200 as complete satisfaction for the expenses incurred by Razlag in the embellishment of the land sublet, and thereby the government, the sublessee, acquired, from the date of the sublease, all the rights, actions, privileges and obligations which Razlag had and could have with respect to the said land by virtue of the contract of lease between him and the owner of the same, Sancho Balantacbo, in accordance with the instruments executed on August 21, 1901, and August 18, 1903. This sublease between the plaintiff and the provincial government was to continue until the expiration of the original lease aforementioned, though the latter retained the right to terminate such sublease at will.

The existence of these contracts of lease and sublease of the land in question being premised, the first question that arises is whether the first or original contract of lease, which went into effect on January 1, 1905, and should expire on the same day of the month of January, 1915, still subsists.

A letter addressed to the owner of the land, Sancho Balantacbo, by the provincial treasurer of Laguna, Exhibit No. 1, states that, whereas by reason of the payment made by the provincial board to Dr. Adolfo Razlag for the improvements made by the latter on the land in question, all the rights and actions of the lessee under the original contract of lease were transferred to the province, the rescission of the contract of sublease, decided upon by the provincial board, would be considered as rescinding the said original contract. Nevertheless, as the defendant acquiesced in the judgment of the lower court, which held that the aforementioned contract of lease should subsist until the expiration of the term of ten years fixed by the parties thereto, counting from the 1st of January, 1905, it is not possible to discuss this point, to wit, whether the contract of lease still exists or not, for it was decided affirmatively by the trial judge, and the defendant owner of the land has accepted that decision.

There alone remains to be determined whether the lessee Razlag still holds a right in the improvements which he made on the leased land, after having conveyed such improvements to the provincial board of Laguna, together with all his rights, actions and privileges derived from the contract of lease, and collected the sum of P200 as a consideration for such conveyance.

The plaintiff, Razlag, by the said conveyance of all his rights and privileges in the improvements made on the leased land, transferred all his rights to the provincial board in exchange for the said sum; it is, therefore, unquestionable that he has no right whatever in the said improvements, and if afterwards the said board saw fit to

rescind the contract of sublease, in accordance with the stipulations made, and to return the land to its owner, when nearly all the improvements sold to the sublessee had already ceased to exist, it would neither be reasonable, just nor lawful to sentence such owner who received the return of his property, not from the original lessee, but from the sublessee, to pay an indemnity for losses and damages to the plaintiff, who ceased to be the owner of the said improvements, the destruction of which, the plaintiff claims, constitutes the losses and damages in question. The provincial board, the transferee of the improvements, would alone be entitled to demand such an indemnity, if losses and damages there really were.

The original contract provided, among other things, that the lessee might erect a building on the leased land and execute other works, provided he paid a rental of 100 pesos Mexican currency at the end of each year counting from the day when the sanitarium that Razlag intended to build, should be opened to the public; and in the instrument amending the said original contract it was further stipulated that Razlag should be liable for the payment of all land taxes levied upon the leased lot, and that the latter should be at his free disposal with the right on his part to sublet the same to any person, without being required to erect thereon the said sanitarium. So that the lessee, Razlag, must have abandoned his chief purpose, since, on July 20, 1907, or four years after the amendment or modification of the original contract, the plaintiff sublet the land to the provincial government of Laguna, converted his interests into cash and abandoned this country to reside in Amoy, China, and it was set forth in the notarial instrument, executed by the contracting parties for the purpose of the sublease just above indicated, that the said provincial government should pay to the sublessor, Razlag, in one single payment, the sum of P200 Philippine currency, in full satisfaction of the expenses incurred by the said sublessor in the embellishment of the land; that the sublessee should pay to the sublessor a rental of ₱100 at the end of each year, beginning with January 1, 1907, until the expiration of the contract, which should expire on the date of the termination of the original contract between Razlag and the owner of the land; that, from the date of the sublease, the government of the province, as sublessee, should acquire all the rights, actions, privileges, and obligations which the plaintiff Razlag, the sublessor, had or might have over the land in question by reason of the original contract of lease between himself and the owner or proprietor of the land, Sancho Balantacbo, but that the sublease should become inoperative and have no further force and effect whenever its annulment should be desired and demanded by the provincial government of Laguna.

By resolution of the provincial board of December 13, 1909, adopted in view of the fact that there were no longer any carabaos to be herded on the said land, which had been used as a corral and for various other purposes of the provincial government, and in obedience to measures of economy made necessary by the financial condition of the province, the said board saw fit to provide that the aforementioned contract of lease of the land in question should be rescinded on the 31st of December, 1909, and the resolution was communicated to the sublessor, Adolfo Razlag. By an official letter of the 18th of December of the same year, 1909, the provincial treasurer also apprised the owner of the land that the contract of sublease would be rescinded on the aforementioned date of December 31; in this letter notice was given that, in consideration of the payment made by the province to Doctor Razlag for the improvements effected by him on the land in question, the said Razlag had conveyed to the provincial board all his rights and actions under the original contract of lease, and that, therefore, the rescission of the contract of sublease should be considered as the rescission of the said original contract.

The said land was converted into a stock corral by order of the sublessee, then used for horses belonging to the Army, and afterwards placed by the provincial board at the disposal of the teachers for the use of the school children as a playground, so it is impossible that the trees planted by the plaintiff, Razlag, and the improvements made on the said land, could have been maintained intact, since, as a result of the sublease to the provincial board the property was put to the different uses aforementioned, uses which are far from being such as would make for the conservation of improved grounds.

Moreover; it is proved by the record that the government of the province, as well as the municipal president, ordered the removal of several acacia trees planted on the land and transplanted them in different places in the town, and if afterwards the defendant owner of the land exercised acts of ownership upon the property after it had been returned to him by the provincial board with the official letter, Exhibit 1 (in which the provincial treasurer informed him that the contract of sublease would be rescinded on December 31, 1909, and that all the rights and actions under the original contract of lease had been transferred to the province in consideration of the payment made by the provincial board to the sublessor, Razlag, for the improvements made by the latter on the land in litigation, and that the original contract was considered rescinded by the rescission of the contract of sublease), it can not be held that the owner of the land resumed possession in bad faith, knowing that Razlag, then absent from these Islands and in China, had not returned to that province to take any steps whatever in defense of any rights he possessed in the disputed land, after the lapse of more than four years of abandonment and when, at his own suggestion and with his consent, the provincial government, from the beginning of the sublease, treated directly with the defendant, the owner of the property, in all matters relative thereto and paid to him the stipulated rentals.

He who gives up and conveys his rights in a parcel of leased land, to a sublessee for the sum of P200 paid to him by the latter for the improvements made thereon, may not afterwards demand an indemnity for losses and damages from the owner of the property, for the disappearance of the said improvements which ceased to belong to him who made such renunciation.

If the plaintiff believed that, notwithstanding such conveyance or sale, he still held any right in the improvements or embellishments of the said land, he should also have filed claim against the provincial board, after he was informed by the latter of its resolution to rescind the contract of sublease and to deliver the land to its legitimate owner, pursuant to the stipulations contained in the contract of sublease.

It is not credible that improvements on land were maintained after it had been converted into a corral and subsequently into a playground; and if, therefore, the improvements and embellishments of the land disappeared, it was not by the defendant's fault, but through that of the plaintiff who sublet it to the provincial board which needed it for a carabao corral and for other purposes very different from those stated by the plaintiff.

Moreover, it must be borne in mind that it does not follow as a logical consequence from the statement made by the court in the judgment appealed from, that losses and damages were occasioned to the plaintiff and that an indemnity therefor, claimed by him, should be awarded, unless it should appear satisfactorily proven that the defendant failed to comply with his obligations toward the plaintiff and that it was by the former's fault that the latter suffered such losses and damages.

Article 1101 of the Civil Code prescribes:

"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 indemnity for the losses and damages caused thereby."

It is not shown to have been duly proven in this case that the defendant, in performing the obligations arising from the said contract of lease, acted fraudulently, negligently or caused delay, or that he in any manner failed to comply with the terms of the contract; and, therefore, there exists no legal or just reason to oblige the defendant to pay the indemnity demanded.

With respect to the first assignment of error, the appellant must understand that, the original contract having been declared to subsist, the injunction is to be considered as maintained, for the reason that the owner of the property is obliged to respect the decision of the court, unless the tenant should violate the said contract and give rise to ejectment proceedings. If ejectment be decreed by the court, the injunction will be dissolved, even without

express judicial declaration to such effect.

For the foregoing reasons, whereby the errors assigned to the judgment appealed from have been refuted, it is our opinion that the latter must be, and it is hereby, affirmed, with the costs against the appellant.

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

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