

CATALINO GUITARTE, PLAINTIFF AND APPELLEE, VS. LUCIA SABACO, ET AL., DEFENDANTS AND APPELLANTS.

G.R. Nos. 13688-91. March 28, 1960

Ponente: PARAS, C.J.

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PARAS, C.J.:

According to the stipulation of facts, (a) the plaintiff-appellee is the owner of the land on which the four defendants-appellants have built their residential houses; (b) the appellee has entered into oral contracts of lease with appellant Lucia Sabaco since 1943; with appellant Damasa Flores since 1939; with appellant Pedro Tacorda since 1938; and with appellant Carlos Flores since 1940; and (c) the rentals are being paid by the appellants monthly. As the appellee needed the land for the construction of the house for his children, he notified the appellants to vacate the same land. On account of their refusal, the appellee brought four separate actions before the Municipal Court of Manila which, however, ruled that it had no jurisdiction to fix the duration of the lease. Upon appeal by the plaintiff, the Court of First Instance of Manila, after the cases were submitted by the parties upon stipulation of facts, ordered the appellants to vacate the premises on December 31, 1957.

Under the first assignment of error, it is argued on behalf of the defendants-appellants that, since the Municipal Court had dismissed the cases upon a question of law and not upon the merits, the Court of First Instance of Manila could not validly render a judgment on the merits and its only jurisdiction was to affirm the dismissal if correct or reverse it if erroneous, and in the latter instance to remand the cases to the Municipal Court for further proceedings. The appellants are correct in so far as the appellate jurisdiction of the Court of First Instance is concerned. However said court may, in the absence of any objection from the parties, proceed to try the appealed cases on the merits, in the exercise of its original, not appellate, jurisdiction. In submitting the cases for decision upon a stipulation of facts, the parties thereby consented to the exercise of said original jurisdiction. Indeed, they invoked the original jurisdiction when, in the stipulation of facts, they asked the trial court to fix the term of the lease. To quote:

"Wherefore, parties pray this Honorable Court to render judgment in the above-entitled cases on the main issue of the term of the oral contract of lease mentioned above and raised by the foregoing stipulation of facts and of the pleadings, and, that therefore, to grant the relief prayed for in the Complaint or Answer, as the case maybe."

Appellants' next contention that, in the determination of the lease in question, the trial court should have applied article 1643, instead of article 1687, of the New Civil Code, is untenable. Under the stipulation of facts, the understanding between the parties as to the term of the lease was vague and uncertain, with the result that it cannot be said that a period was agreed upon. Article 1687 fixes, in the absence of a conventional period for an urban lease, the duration of the lease according to the time of paying the rental. Where, however, the lessees have been occupying the premises for more than one year, the court may fix a longer period depending upon the circumstances. Clearly, then, the trial court correctly applied article 1687 and used sound discretion in ordering the appellants to leave the premises on December 31, 1957, considering that these cases have already been

dragging on for many years.

Under their third assignment of error, the appellants argued that their counterclaims for the value of their respective houses should have been sustained, on the ground that, as they are builders in good faith, they are entitled to the benefits provided for in article 448 of the New Civil Code. This is without merit. We have ruled time and again that lessees cannot be considered in legal contemplation to be builders in good faith, because they are at the outset aware of the "precarious nature" of their possession.

Lastly, the appellants are assailing the judgment against them for the costs of suit and attorney's fees in the sum of P500.00. Suffice it to observe that, under section 11 of Article 2208 of the New Civil Code, courts are given the discretion to award attorney's fees and expense of litigation "in any other case where the Court deems it just and equitable." The award was proper.

Wherefore, the appealed decision is affirmed. So ordered with costs against the appellants.

Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.

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