

[G.R. No. 1561. April 16, 1906]

**RAFAEL ENRIQUEZ, PLAINTIFF AND APPELLEE, VS. A. S. WATSON & CO. ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

WILLARD, J.:

On the 13th day of December, 1901, the plaintiff, who was administrator of the estate of Antonio Enriquez, brought this action against the defendants in the court of a justice of the peace of the city of Manila for the purpose of ejecting them from the premises then occupied by them on the ground that they were illegally occupying the same. Judgment was entered in the court of the justice of the peace in favor of the defendants. From this judgment the plaintiff appealed to the Court of First Instance of the city of Manila.

Judgment was entered in the Court of First Instance on the 30th of April, 1903, in favor of the plaintiff and against the defendants, Watson & Co., ejecting them from the premises and ordering judgment against them and in favor of the plaintiff for the sum of 29)200 pesos. The judgment of ejectment was based upon the nonpayment of the rent due on November 1, 1901, under the terms of the contract of lease by virtue of which Watson & Co. were in possession of the premises. The money judgment was the amount of damages suffered by the plaintiff by the occupation of the premises by the defendant after the 1st day of November, 1901. Watson & Co. moved for a new trial, which was denied, and they have brought the case here by bill of exceptions.

On the 25th of January, 1901, Watson & Co. and Francisco Enriquez, the then executor of the estate of Antonio Enriquez, made a contract by the terms of which the estate leased to Watson & Co. the property in question, situated on the Escolta, in the city of Manila, for the term of twelve years, at the monthly rent of 1;200 pesos. In the case of Rafael Enriquez vs. A. S. Watson et al.,^[1] just decided, it was held by this court that that lease was valid for six years. On the 1st of November, 1901, therefore, the defendants, Watson & Co., were in

lawful possession of the premises by virtue thereof.

The rent for the month of November was not paid by Watson & Co. during that month. This action of forcible entry and detainer was commenced, as has been said, on the 13th day of December, 1901. On that day Watson & Co. deposited in court the rent for the months of November and December.

Various questions have been presented and discussed in the briefs of the respective parties, but we find it necessary to consider only one of these. It is claimed by the appellants, Watson & Co., that this action was prematurely commenced on the 13th day of December, because after the rent for November became due no demand was made upon them for the payment thereof, and that thirty days had not elapsed between any such demand that may have been made and the commencement of this action on the 13th of December.

The first question to be determined is when the rent for November was due. Paragraph 3 of the lease provides as follows:

“The rent shall be paid monthly in advance in the first days of each month, in the following form: Four hundred pesos in respect to the interior house to the agent of the administration of the Obras Pias of the Sacred Mitre, under a receipt signed by him, and the remaining eight hundred pesos to the executor-administrator of the estate who signs the present contract.”

It is claimed by the appellants that the phrase “in the first days” of each month gives to the tenants the right to pay the rent at any time during the first fifteen days of the month, and that no legal demand can be made upon them until at least the fifteenth day. This phrase is indefinite, but for the purpose of determining when the tenant was in default we adopt the meaning given to it by the plaintiff in a supplementary argument presented to this court. He there says:

“The month is divided into three equal parts, the names of which are, in the language of every country in the world, the beginning, the middle, and the end, respectively.”

We accordingly hold that in this contract the term “in the first days of the month” means from the first to the tenth day, and that the tenants have all of the tenth day in which to pay the rent. No demand was made upon the tenants for the payment of the rent on or after the

10th day of November, and consequently they were not given thirty days within which to pay the rent after such demand, prior to the commencement of this action. These facts bring the case within the rule laid down in *Francisco Saez Co-Tiongco vs. Co Quing Co*,⁽¹⁾ March 31, 1906, and the judgment must be reversed.

It is claimed by the appellee that no matter what the Jurisdiction of the court of the justice of the peace was, upon an appeal to the Court of First Instance the case became converted into an ordinary action in that court, and the question as to whether the justice of the peace had or had not jurisdiction originally, became immaterial. This question has been decided adversely to the appellee in the case of *Alonso in Municipality of Placer*.⁽²⁾

The judgment of the court below is reversed and after the expiration of twenty days let the case be remanded to the court of its origin with instructions to enter judgment for the defendants, *Watson & Co.*, with costs. No costs will be allowed in this court. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Carson JJ., concur.

⁽¹⁾ Page 84, *supra*.

⁽¹⁾ Page 46, *supra*.

⁽²⁾ 6, *Phil. Rep.*, 71.