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[G.R. No. 2220. April 04, 1906]

W. M. TIPTON, PLAINTIFF AND APPELLANT, VS. MARIANO VELASCO CHUA-CHINGCO, DEFENDANT AND APPELLEE.

D E C I S I O N

MAPA, J.:

The doctrine laid down by this court in the case of W. M. Tipton vs. Roman Martinez y Andueza,[1] No. 2070, decided January 2, 1906, is applicable to the case at bar. Both cases turn upon the same question—i. e., whether a certain lease executed by the administrator of the San Lazaro Hospital for a term of ten years without special authority therefor was void. The terms of the lease in each case are substantially the same in so far as the question raised by the parties is concerned. We refer, therefore, to that part of the decision of this court in that case which relates to the intrinsic validity or nullity of the contract in question.

The only point to be considered is that relating to the alleged ratification of the lease by the Government whom the parties have apparently recognized as the owner of the property pertaining to the San Lazaro Hospital.

It was alleged as an act of ratification of the lease that the lessor had received from the lessee the rent due for the various years following the execution of the contract. Upon this point the court below found that "the Government at the time this action was brought had collected rent for a period of five years without raising any objection as to the validity of the lease." The appellant contends that the lower court erred in making this finding because there is no evidence in the case to support it.

We think that appellant's contention is correct. Both parties waived their right to introduce any evidence and instead agreed upon a written stipulation of facts. There is nothing in the said stipulation having any connection with the finding in question, nor was such fact admitted by the pleadings. The plaintiff in his complaint expressed his willingness to return

to the defendant the rent already collected. This could not have been construed as an admission of the fact found by the court. Nowhere does it appear whether the Government received the money. So far as the record shows, the administrators of the San Lazaro Hospital, and not the Government, received the rent due for the years 1900, 1901, 1902, and 1903. It is so expressly stated in the first paragraph of the answer. It also appears from the answer that the various administrators of the hospital (not the Government) had recognized the validity of the contract. There is, therefore, no evidence that the government ever collected rent or that it at any time ratified the lease. Whatever the administrator of the San Lazaro Hospital did in this connection could not have had the effect of making the lease valid. It was not even shown that the administrators were duly authorized to ratify the contract. A contract which is void because of the absence of authority on the part of one of the contracting parties may be ratified by the person in whose behalf it was executed or by his duly authorized agent and not by any other person not so empowered. (Art. 1259 of the Civil Code.)

It is also alleged by the appellee that more than four years had elapsed since the execution of the contract and that plaintiff's action to.have the lease declared void was therefore barred by the statute of limitations (art. 1301 of the Civil Code), which provides that "an action to have a contract declared void must be brought within four yews." This provision is applicable to the contracts referred to in article 1300 of the Civil Code—that is to say, to contracts which, although having all of the elements required by article 1261, have some defect which renders them void according to law. It is not, however, applicable to contracts executed in the name of another without his authority, as was the case with the lease now under consideration in so far as the administrator of the San Lazaro Hospital exceeded his authority. Article 1259 of the Civil Code applies to such contracts. It provides that they shall be considered void unless subsequently ratified by the person in whose behalf they were executed. The nullity of these contracts is of a permanent nature and it will exists long not give efficacy to such contracts. The defect is such that it can not be cured except by the subsequent ratification of the person in whose name the contract was executed.

The judgment appealed from should be reversed, and it is declared that the lease in question was valid only for six years from the 1st of January, 1899, to the 31st of December, 1904, and void as to the last four years of the contract term—that is to say, the effects of its nullity should date from the 1st day of January, 1905. The defendant shall return the land in the form and manner provided for in the lease together with the proceeds derived from its possession since the last-mentioned date. The plaintiff will return to the defendant the rent received during the same period, provided the rent has in fact been paid to him, with legal

interest thereon at the rate of 6 per cent per annum. No costs will be allowed to either party in either instance. After the expiration of twenty days let judgment be entered in accordance herewith and let the case be remanded to the trial court for proper action. So ordered.

Arellano, C. J., Torres, Carson, and *Willard, JJ.,* concur.

Johnson, J., concurs in the result only.

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[1] 5 Phil. Rep., 477.

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