

[G.R. No. 1511. July 26, 1905]

**MIGUEL PASCUAL, PLAINTIFF AND APPELLANT, VS. MACABIO ANGELES,
DEFENDANT AND APPELLEE.**

D E C I S I O N

TORRES, J.:

On January 15, 1903, Miguel Pascual brought this action to recover the possession of a certain tract of land unlawfully occupied by the defendant, Macario Angeles, and for the payment of rent due, damages, and costs. It was alleged in the complaint that the defendant, Angeles, then held under a lease a certain tract of land 15 yards square in the barrio of Uaua, municipality of San Jose de Navotas; that the land formerly belonged to Ciriaca Pascual, his sister, from whom he inherited it; that the defendant owed him 30 pesos for the use of the land during the years 1899, 1900, and 1901 under the terms of the lease written in Tagalog and attached to the complaint; that, demand having been made upon the defendant for payment of the rent due for the first two years, he asked for and obtained an extension; that by virtue of this extension the lease was continued in force; that a subsequent demand was made upon the defendant about the end of the year 1901 for the payment of rent due and for the possession of the land; that the defendant refused to do either; and that he had since been in the wrongful possession of the land.

The defendant, Angeles, entered a general denial to the complaint. He denied specifically under oath the genuineness and due execution of the lease attached to the complaint, alleging as a special defense that he was the actual occupant of the land claimed, and had been in adverse, quiet, peaceful, public, and uninterrupted possession of the

same for more than thirty years, having during that period built houses and planted trees thereon.

The court, after hearing the evidence, rendered judgment June 20, 1902, in favor of the defendant, with costs to the plaintiff. To this judgment the plaintiff excepted on the ground that the findings of fact and the conclusions of law contained in the judgment were against the law and the weight of evidence, and thereupon presented a motion for a new trial, alleging in support thereof that it was not necessary to show that the land in question had been allotted to the plaintiff in the partition of the estate of the deceased Ciriaca Pascual, since it satisfactorily appeared that Macario Angeles had paid rent to plaintiff under the lease in question, thus recognizing him as the lawful heir and successor of Ciriaca Pascual. That there was no conflict between the testimony of his witnesses Agustin Siangyo and Mariano Sengco, because the rent paid in 1901 was due from previous years; that he had sufficiently proved the identity of the land described in the complaint with that referred to in the lease, both being in the same barrio of Uaua, Navotas; that it had been shown that the camarin belonging to the defendant was built upon the land involved in this case; that it did not appear that another lease existed between the parties; that no question had been raised during the trial as to the identity of the land referred to in the complaint with that which was the subject of the lease; that this point accordingly was not discussed. He finally gave notice of his intention to appeal in case the motion for a new trial was denied.

The motion for a new trial being denied, appellant excepted and presented his bill of exceptions, which was settled and certified to this court by the court below.

In the lease of January 2, 1886, written in Tagalog (p. 15, bill of exceptions), it is stated, among other things, that Ciriaca Pascual thereby leased to Macario Angeles a tract of land 15 yards square in the barrio of Uaua, San Jose de Navotas, for the sum of 10 pesos per annum, from January to December; that the lessee could build thereon a nipa but not a stone house, and could not devote the land to any but

residential purposes nor inclose the same with a stone wall without the written consent of the owner; that the lessee could neither sell, mortgage, sublet, nor make any alterations or improvements upon the lot; that the wife and children of the lessee could not succeed him in the occupation of the land under the lease; and that if the lessee failed to comply with any of the provisions stipulated in the lease he should forthwith return the land and in case of litigation pay the expenses thereof. This lease appears to have been signed in the presence of two witnesses, by Miguel Pascual in behalf of the owner, Ciriaca Pascual, and by the lessee, Macario Angeles. As appears on page 10 of the bill of exceptions, Angeles admitted that his signature in the lease was genuine.

The existence of the lease under which Macario Angeles held the land in question having been proved, and it appearing that he failed to pay rent for several years, a sufficient cause existed for the ejectment of the tenant. (Judgments of the supreme court of Spain of April 19, 1873; November 3, 1881; May 5, 1893, and others.)

This action arises out of the contract of lease and presupposes in the lessor a right to the ownership or possession of the property. For this reason he can not be compelled to prove his title thereto. The tenant can not deny the title of his landlord at the time of the commencement of the relation of landlord and tenant between them. (Sec. 333 of the Code of Civil Procedure; judgments of the supreme court of Spain of December 6, 1882, and October 12, 1889,)

Those in the actual possession of land under a claim of ownership, right of usufruct, or any other right entitling them to the use of the same may maintain an action for ejectment against a wrongful possessor.

Miguel Pascual, as testamentary heir of his sister, was in the actual and adverse possession of a tract of land in Uaua, Navotas, of which the land in question was a part. His possession dated from the death of the testatrix, who must have died prior to April 7, 1894, when her executor asked for and obtained a copy of her will executed in January of the same year. The plaintiff was, recognized by the lessee,

Macario Angeles, as such owner and lawful possessor and as heir and successor to the deceased Ciriaca Pascual. Angeles paid him rent for the land from the time of the death of the former lessor until the year 1898, as shown by the record. It was not until the year 1901, when he decided to keep the land, that defendant refused to pay rent for that and the two preceding years, 1899 and 1900.

If the juridical personality of the deceased testatrix is transmitted to the heir and the latter is considered as identified with his devisor, to whose rights, actions, and obligations, not extinguished by her death, he succeeded, then there is no doubt that the plaintiff, as testamentary successor of his deceased sister Ciriaca, as appears from the will on page 17 of the bill of exceptions, had a right to oust the defendant, Angeles, for failure to pay the stipulated rent. (Art. 659 of the Civil Code; judgments of the supreme court of Spain of February 10, 1879; September 13, 1882, and January 28, 1892.)

Miguel Pascual is now vested with the rights of the lessor. To him, as successor of the deceased, Angeles had been paying rent from 1894 to 1898. Angeles is now barred from questioning the rights of the deceased owner of the land and much less Pascual's capacity and rights in the lease, under her will, which is the only basis of his judicial claim. (Sec. 333 of the Code of Civil Procedure,)

Again, the defendant can not question the genuineness and due execution of the written lease, a copy of which appears on page 15 of the bill of exceptions. He himself recognized it and it was admitted in evidence during the trial, the court stating that it established a fact relating to the question at issue. (Bill of exceptions, p. 11.) The presumption, therefore, is that the contract was executed for a good and sufficient consideration. (Sec. 334, par. 36, of the Code of Civil Procedure.)

As to the identity of the land referred to in the complaint, it may be said that this was fully established not only by the lease and the evidence introduced at the trial but by defendant's answer as well. He

stated that he had not been in possession of the land in question as tenant but as owner, and that his possession covered a period of more than thirty years. This shows that both parties agree that there is but one certain tract of land in dispute.

It is an established fact that Macario Angeles used the land, and is at present in possession thereof, under the terms of the lease. Therefore his defense can not be sustained. There is no proof to support it. On the contrary, the defendant has contradicted himself. He stated that the action arising out of the lease had been extinguished one year after the execution of the contract. He gives no reason, however, for it. This shows that he occupied the land as tenant and not as owner.

In an action for ejectment no questions can be raised or decided incidentally tending to defeat the title or right of possession evidenced by the documents introduced by plaintiff. (Judgments of the supreme court of Spain dated June 16, 1883, and April 21, 1884.)

For the foregoing reasons we are of opinion that the plaintiff is entitled to recover, and that the judgment of the court below should be accordingly reversed, giving the defendant thirty days within which to vacate the land wrongfully occupied by him and to return the same to Miguel Pascual, at the end of which period, in case of his failure to vacate, he may be ejected. The defendant is further ordered to pay to the plaintiff all the rent due with costs. After the expiration of twenty days let judgment be entered in accordance herewith, and let the case be remanded to the court below for execution. So ordered.

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

Willard, J., did not sit in this case.

