

[G.R. No. 455. October 26, 1901]

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

D E C I S I O N

WILLARD, J.:

It appears from the record that the appellants in this case occupied the building at No. 14 Escolta Street, known by the name of the English Dispensary and being a part of the property of the Enriquez estate, under a lease thereof, from January, 1900, to May of 1901. The amount of the stipulated rent for that period has been paid by them. The rent corresponding to the period from January, 1900, to May, 1900, was paid twice; first to the administrator of the estate and later deposited in court. The appellee seeks now to evict the appellants from said property, alleging as his ground therefor the nonpayment of the amount of rent corresponding to said period.

The situation in which Messrs. Watson & Co. are found in this case is due principally, in our opinion, to the litigation between the Enriquez brothers over the estate of their deceased parents. During the first period above mentioned the administration of said property passed three times from the hands of one to those of the other of the brothers, Francisco and Rafael. The claim made by Don Rafael does not refer to the failure to pay the said rents but to the fact that these were paid improperly to his brother. It is not surprising that with these frequent changes of administrators the tenants of the properties of the estate have committed mistakes in the payments.

The judgment, whose execution is sought in this case, was rendered by default on June 20, 1900. The summons was served upon the person in charge of the establishment, who was denied an extension of some days which he applied for by reason of the absence of the attorney in fact of the house. This judgment became final, and although it is not proper for us, perhaps, to inquire into the merits of said judgment for the purpose of determining its

annulment, we can take into consideration the antecedents of the case so far as they serve to make clear the succeeding acts of Don Francisco as Well as of Don Rafael. If the rents whose alleged nonpayment gave rise to said action have been actually received by the Enriquez estate the abandonment of the judgment could be more readily deduced from the succeeding facts than if they had not been paid at any time.

After the 1st day of September, 1900, it was Don Francisco who had charge of the administration of the estate. The court notified the appellants that they should recognize him as such. After the said date the said Francisco recognized the appellants as the tenants of the estate and continued to receive from them the amount of the rents until January 25, 1901, when a new lease for twelve years was entered into. Although said lease may have been void it is true that the contracting parties conformed to its terms, paying the amount of the stipulated rent to Don Francisco from January 25, 1901, to April 1. The latter likewise had previously received the rents corresponding to the months from January to May, 1900, which, according to the allegations of Don Rafael, were not paid. As a result of these allegations the judgment referred to was entered. The facts related disclose to us conclusively that Don Francisco never intended to ask the execution of this judgment nor considered Messrs. Watson & Co. evicted, but rather as actual tenants.

As for Don Rafael, his attorney stated before this court that upon assuming charge of the property in February, 1901, he demanded of the appellants the amount of the rents. The statements of his attorney would contradict and be inconsistent with any theory other than that the rents thus demanded were those accrued under the new lease of January 25, 1901. The appellants paid to him the rents from April, but refused to pay that corresponding to the month of March, stating that they had already paid the same to Don Francisco. As a result of this refusal proceedings were had for the purpose of reviving the old judgment of the previous year. It appears to us that the true reason which prompted this action was not the nonpayment of the rents from January to May, 1900, but the fact of the nonpayment to Don Rafael of those corresponding to the month of March, 1901. The original judgment can not be utilized for such purpose. If there has been such failure to pay the rent corresponding to the month last named, Don Rafael ought to have presented the proper complaint, basing it upon that fact. It is not the contract above referred to entered into with the administrator Don Francisco which gives rise to the re-leasing of the property, but the successive acts of administration of the latter, recognizing it in the name of the estate whose representative he alone was—acts neither impugned nor declared void until now, by virtue of which he has accepted the agreements of the tenant which until now have likewise not been rejected by the estate or objected to in any way.

In view of the established facts above related we are of the opinion and decide that there have been subsequent juridical acts between the appellants on one side and on the other the Enriquez estate, represented either by Don Francisco or by Don Rafael, by virtue of which the said appellants must have continued as such tenants of the estate, notwithstanding the judgment given on June 20, 1900, which by reason of the very acts of the plaintiff estate has become ineffective and has lost its executory force.

Wherefore the judgment appealed from is reversed with costs taxed to the appellee, and it is so ordered.

Arellano, C. J., Torres, Cooper, Mapa, and Ladd, JJ., concur.
