

[G.R. No. 2721. March 22, 1906]

RAFAEL MOLINA Y SALVADOR, PLAINTIFF AND APPELLEE, VS. ANTONIO DE LA RIVA, DEFENDANT AND APPELLANT.

D E C I S I O N

MAPA, J.:

This is an action to recover a debt due upon a contract executed July 27, 1903, whereby plaintiff transferred to the defendant the abaca and coprax business theretofore carried on by him at various places in the Island of Catanduanes, with all the property and rights pertaining to the said business, for the sum of 134,636 pesos and 12 cents, payable in Mexican currency or its equivalent in local currency. Defendant paid at the time of the execution of the contract, on account of the purchase price, the sum of 33,659 pesos and 3 cents, promising to pay the balance in three installments of 33,659 pesos and 3 cents each, with interest at the rate of 5 per cent per annum from the date of the contract. The first installment became due July 27, 1904. It was for the recovery of this first installment that this action was brought in the Court of First Instance of the city of Manila.

Defendant demurred to the complaint on the ground that the court had no jurisdiction of the subject of the action. The court overruled the demurrer and defendant refused to and did not, as a matter of fact, answer plaintiff's complaint.

Judgment having been rendered in favor of the plaintiff for the sum of 33,659 pesos and 3 cents, Mexican currency, equal to 30,052 pesos and 70 centavos, Philippine currency, and interest thereon at the rate of 5 per cent per annum from July 27, 1903, and costs, the defendant duly excepted.

The appellant relies upon four assignments of error. The first error assigned by him is that the court had no jurisdiction of the subject of the action.

It is alleged in support of this contention that' plaintiff and defendant were residents of the Island of Catanduanes, as would appear, so far as the plaintiff is concerned, from a power of attorney, executed by him to Antonio Vallejo y Valencia and introduced in evidence during the trial. This power of attorney was executed August 22, 1901. The instrument in fact contains the statement that plaintiff was a resident of Catanduanes. Nothing is said, however, either in the power of attorney or in the contract upon which this action is based, as to the residence of the defendant.

The complaint was filed March 10, 1905, and it alleges that both plaintiff and defendant were residents of the city of Manila. This allegation was not either generally or specifically denied by the defendant, who refused and failed to file an answer to the complaint, having merely demurred thereto. This allegation, therefore, must be deemed admitted. The power of attorney above referred to having been executed in August, 1901, does not and can not by itself prove that the parties were not residents of the city of Manila in March, 1905, when the complaint was filed. The actual residence, and not that which the parties had four years prior to the filing of the complaint, is the one that should govern the question as to the jurisdiction of the court.

A personal action like this for the recovery of a debt may be brought, under section 377 of the Code of Civil Procedure, in the Court of First Instance of the province where the plaintiff resides or in the province where the defendant may reside, at the election of the plaintiff. Both parties to this case being residents ,.of the city of Manila, it is apparent that the Court of First Instance of that city had jurisdiction to try and determine this action.

It is further urged in support of the alleged want of jurisdiction on the part of the court below, that the parties had mutually designated in the contract in question the town of Bato, Island of Catanduanes, as the place where all judicial and extrajudicial acts necessary under the terms thereof should take place. Paragraph 9 of the contract contains in fact a stipulation to that effect. This the appellant claims amounted to an express submission by the contracting parties to the jurisdiction of the Court of First Instance of the Province of Albay, in which the town of Bato was located, all other courts being thereby inhibited from exercising jurisdiction over actions arising under the contract.

We are of the opinion that the designation of the town of Bato made by the parties had no legal force and could not have the effect of depriving the Court of First Instance of Manila of the jurisdiction conferred on it by law. This would be true even though it may be granted that the parties actually intended to waive the rights of domicile and expressly submit

themselves to the exclusive jurisdiction of the Court of First Instance of Albay as contended by the appellant, all of which it may be said seems to be very doubtful, judging from the vague and uncertain manner in which the designation was made. The jurisdiction of a court is fixed by law and not by the will of the parties. As a matter of public policy, parties can only stipulate in regard to that which is expressly authorized by law. Section 377 of the Code of Civil Procedure provides a plain and definite rule for the purpose of determining the jurisdiction of courts according to the nature of the action. Neither that section nor any other provision of law, of which we have any knowledge, authorizes the parties to submit themselves by an express stipulation to the jurisdiction of a particular court to the exclusion of the court duly vested with such jurisdiction. We consequently hold that the agreement between the parties to submit themselves to the jurisdiction of the Court of First Instance of Albay, if there was any such agreement, was null and void, in so far as it had for its object to deprive the Court of First Instance of Manila of its own jurisdiction.

Articles 1255 and 1278 of the Civil Code relied upon by the appellant in his brief are not applicable to cases relating to the jurisdiction of courts. The Law of Procedure and not the Civil Code fixes and defines the jurisdiction of courts. It is not true as contended by the appellant that the right which litigants had under the Spanish law to submit themselves to the jurisdiction of a particular court was governed by the provisions of the Civil Code. Such right was recognized and governed by the provisions of the Law of Procedure and not by the substantive law. The right to contract, recognized in the Civil Code and referred to by appellant, has nothing to do with the right to establish and fix the jurisdiction of a court. This right can only be exercised by the legislative branch of the Government, the only one vested with the necessary power to make rules governing the subject. In this connection it may be said that the jurisdiction of a court can not be the subject-matter of a contract.

The second error assigned by the appellant is that the court erred in fixing in Philippine currency the sum which the appellee should recover, without hearing evidence as to the relative value of Mexican and Philippine currency.

The amount sought to be recovered in this action, under the terms of the contract, was 33,659 pesos and 3 cents, payable *in Mexican currency*, or its equivalent in local currency.

In paragraph 4 of the complaint it is alleged that—

“Under the terms of the contract the actual amount due from defendant to plaintiff, converted into Philippine currency, is 28,049 pesos and 19 centavos * *

*.”

This contention was not denied by the defendant, who, as has been said before, simply demurred to the complaint. Plaintiff's allegation must therefore be deemed admitted. Consequently it was not necessary for the court to hear evidence as to the relative value of Mexican and Philippine currency. There is no dispute between the parties as to the fact that the 33,659 pesos and 3 cents, Mexican currency, referred to in the contract, were equal to 28,049 pesos and 19 centavos, Philippine currency, at the time of the filing of the complaint.

The proof required by section 3 of Act No. 1045, cited by the appellant, should be received only when the parties disagree as to the relative value of the currency. The court below did not, therefore, err in not hearing evidence upon this point, even under the assumption that no such evidence was heard in regard thereto, as claimed by the appellant.

The appellant also assigns as error the fact that defendant was given the option to pay the debt either in Mexican or Philippine currency, claiming that the court should have directed payment to be made in the latter currency as required by Act No. 1045. Assuming that this contention is correct, it would nevertheless be true that it did not prejudice any of his essential rights. He was rather favored thereby, since he was given an option to pay in whatever currency he might see fit. It is well known that in the case of an alternative obligation the debtor has the right to choose the method of meeting the obligation unless the creditor has expressly reserved that right to himself. (Art. 1132 of the Civil Code.)

The alleged violation by the court below of the provisions of Act No. 1045 in this particular respect is not, therefore, a sufficient ground for the reversal of the judgment. Section 503 of the Code of Civil Procedure provides that no judgment shall be reversed for such error as has not prejudiced the substantial rights of the excepting party.

The third error assigned by the appellant is that the court erred in rendering judgment in a sum larger than that sought to be recovered in the complaint. The prayer of the complaint is for the specific amount of 28,049 pesos and 19 centavos, Philippine currency, and the court in its judgment ordered the defendant to pay to the plaintiff 30,052 pesos and 70 centavos, in the same currency.

Section 126 of the Code of Civil Procedure provides in part as follows:

“The relief granted to the plaintiff, if there be no answer, *can not exceed that*

*which he shall have demanded in his complaint. * * **

The defendant failed to answer. Under such circumstances plaintiff could not have obtained more than what he had demanded in his complaint. Plaintiff's demand was for the sum of 28,049 pesos and 19 centavos only. The court had no power to enter judgment in favor of the plaintiff for 30,052 pesos and 70 centavos. We hold that this was error on the part of the trial court. The judgment of the court below should be modified in this respect.

The fourth and last error assigned by the appellant is that the court took into consideration as the basis of its judgment the contract in question, the same being null and void. The appellant alleges in support of his contention that the contract did not bear the internal-revenue stamp required by Act No. 1045 of the Philippine Commission enacted January 27, 1904, and relies particularly upon the provisions of sections 9 and 10 of the act.

Section 9 reads in part as follows:

*"Every check, draft, note, bond, bill of exchange, and every contract whatsoever payable in local currency * * * shall be presumably subject to the taxes levied in accordance with the provisions of this act, and the obligation shall rest upon the drawer or maker, holder or beneficiary * * * who claims exemption, to prove that he is entitled to any of the exemptions provided in this act. No check, draft, note, bond, bill of exchange, or any contract whatsoever payable in local currency shall be exempted from the payment of the stamp tax provided for in sections six and seven of this act unless the contract for which exemption is claimed shall be registered with the Collector of Internal Revenue or his deputy before October first, nineteen hundred and four, and a certificate be attached thereto by the Collector of Internal Revenue, or his deputy, certifying to the exemption."*

Under section 10—

*"Every check, draft, note, bond, bill of exchange, and every contract whatsoever which is not properly stamped in accordance with the provisions of this act, shall be void. * * *"*

The two sections above quoted refer to other provisions of the same Act No. 1045. Section 9

refers expressly to sections 6 and 7. Section 9, as well as section 10, refers to documents which should be stamped in accordance with the provisions of the same act. These provisions are contained in sections 6 and 7 above referred to, the documents subject to the stamp tax being therein enumerated.

Section 6 provides that—

“Every check, note, draft, bond, bill of exchange, and every contract whatsoever payable wholly or in part in local currency, *and drawn or made upon or subsequent to October first, nineteen hundred and four*, shall bear upon its face an internal-revenue stamp or stamps of the face value in Philippine currency to the amount hereinafter provided.”

This same section in subsections (a), (b), (c), (d), (e), (f), and (g) enumerates the exemptions referred to in section 9 above quoted.

Section 7 provides as follows:

“Every transfer of ownership, by indorsement or otherwise, after September thirtieth, nineteen hundred and four, of a check, draft, note, bond, bill of exchange, or any contract whatsoever payable wholly or in part in local currency in the Philippine Islands after the thirtieth of, September, nineteen hundred and four, * * * shall be considered a separate and distinct contract, and as such shall require a stamp or stamps.”

It seems clear from the language of these two latter sections that only such contracts payable in local currency as were made on or after October 1, 1904, are subject to the stamp tax. The provisions of the section in question are very clear and leave no room for doubt. Sections 9 and 10 are merely supplementary to sections 6 and 7. They provide a method for proving the exemption from the stamp tax and a penalty in case of failure to comply with the provisions of sections 6 and 7. These latter sections are the ones which require a stamp tax upon all contracts payable in local currency and declare what documents shall be subject to such tax. It is therefore necessary to construe these sections together with sections 9 and 10 in order to arrive at the proper conclusion. A full and correct interpretation of the act in question would not be possible if we only consider the

two latter sections. They are, as has been said before, merely supplementary to the preceding sections.

The contract under consideration was executed July 27, 1903. Such contract was not subject to the stamp tax provided in Act No. 1045. The penalty of nullity prescribed in section 10 of the act is not applicable to that contract. The court, therefore, committed no error in finding that the absence of a revenue stamp did not render the contract void.

The judgment of the court below is hereby affirmed, provided, however, that the plaintiff shall only be entitled to recover from the defendant the sum of 28,049 pesos and 19 centavos, Philippine currency, with accrued interest thereon from July 27, 1903, until fully paid, at the rate of 5 per cent per annum, no special order being made as to costs of this appeal.

After the expiration of twenty days from the date hereof let judgment be entered accordingly, and let the case be remanded to the Court of First Instance for such action as may be proper. So ordered.

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