

81 Phil. 333

[ G.R. No. L-659. July 28, 1948 ]

**MARIANO B. ARROYO, PLAINTIFF AND APPELLEE, VS. HOSPITAL DE SAN PABLO, DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**PERPECTO, J.:**

Plaintiff claims from defendant the amount of P234,600 for salaries as director of defendant hospital from November, 1911, to May, 1945, at the rate of P600 a month. Plaintiff alleges that defendant requested him to render services as director of the hospital in May, 1911, at a monthly salary of P600 and since then he has rendered the requested services, but that from November, 1916, for reasons plaintiff chooses not to reveal, defendant stopped paying him the agreed salaries until May, 1945, when he ceased to be director of the hospital.

Defendant admits that plaintiff rendered services as director of the hospital from May, 1911, until May, 1945, but alleges that his monthly salary was P50 a month from May, 1914, until August, 1916, and the same had been fully paid, and that from September, 1916, until May, 1945, of his own volition and because of the advantages he derived from the position, plaintiff voluntarily served as director of the hospital without any compensation and that there is an understanding that was confirmed by plaintiff in writing on March 20, 1923, as follows:

“Saint Paul’s Hospital

“Iloilo, P.I.

“March 20, 1923 “Yo, Director Mariano Arroyo, por la presente ratifico mi palabra como cual he prestado gratuitamente mis servicios profesionales al Hospital de Iloilo, y a las madres qua la dirigen y asi lo haré hasta qua opine lo contrario de lo cual daré siempre previo aviso.

“En fe delo cual doy mi firma como gratisimo recuerdo of recido a la madre Superiora Sor Adriana.

“(Fdo.) M. B. ARROYO”

Defendant alleged that plaintiff by his conduct had caused defendant to believe, as in fact it did believe and continued to believe until the suit was filed, that plaintiff served gratuitously defendant’s hospital and that plaintiff has by latches lost whatever rights he has against defendant; that the services rendered by plaintiff to defendant were not worth P600 a month, and that whatever claim plaintiff may have against defendant has already prescribed.

The lower court rendered decision on September 28, 1945, ordering defendant to pay plaintiff the total sum of P241,600, with legal interest from the date of the filing of the complaint, and to pay the costs.

The settlement of the controversy in this case hinges on the truthfulness or falsity of the parties’ opposing factual versions and, therefore, upon the evidence on record.

The complaint was filed with the Court of First Instance Of Iloilo on July 2, 1945, and the answer on July 12, 1945. Decision was rendered on September 28, 1945. After perfection of the appeal, the record on appeal as approved by the lower court was forwarded to the Supreme Court on or about February 16, 1946, with the original exhibits and copy of the transcript of the stenographic notes. Notwithstanding the lapse of more than two months, the Bureau of Posts had been unable to locate the package containing said record on appeal and the accompanying papers which were given up as lost and, upon appellant’s motion, the lower court was ordered by us to reconstitute the record on appeal and accompanying exhibits and transcript of stenographic notes.

Five witnesses testified for the plaintiff, including himself.

Jose Cocjin, 36, resident physician of the San Pablo Hospital in Iloilo, testified that he is the acting director of said hospital with a monthly salary of P200 with free board and light and free practice.

Bonifacio Paskin, 57, public accountant, testified that on April 10, 1923, plaintiff requested him to write a letter addressed to the Mother Superior of San Pablo Hospital, after which plaintiff requested him to accompany his wife to the hospital. Exhibit A is a carbon copy of

the letter he wrote. The handwriting appearing at the foot of the document is that of the Mother Superior, Sor Adriana. When the latter saw Lolita, plaintiff's wife, she told her that they had no money for the doctor and Lolita requested that copy of the letter be signed to be given to the plaintiff, and the Mother Superior signed it. (5-6). On cross-examination, the witness testified that he did not remember where he had been on the 9th and 10th of April, 1923. (7). Plaintiff has been his physician since 1916 or 1918, from the time his Japanese doctor, Hashimoto, died. He does not remember whether Dr. Hashimoto died in 1924 or 1929. He was not paying plaintiff for his medical services to him and his family because plaintiff owed him for services he rendered to him gratuitously. (8). In April, 1923, he remembered having been in the house of plaintiff only once on a day that he does not remember. (9) It was the first time that he went to plaintiff's house, (11) . That day he went to see plaintiff to consult him about his ailment. He does not remember what his ailment was. (15-16), He does not remember if plaintiff gave him medicine. (17). He typed the letter on plaintiff's dictation, but he does not remember how long it took him to finish the dictation. (19).

Fermin Caram, 57, physician, testified that he has been practicing medicine since 1914, attending to not less than thirty patients a day. (25), The director of the mission hospital is paid a salary of P300 a month, with transportation and the privilege to travel to America every two or three years with his family. (26). San Pablo Hospital is larger. Plaintiff has been the director of the San Pablo Hospital since the witness established himself in the city of Iloilo in 1917. (27). The witness understands that plaintiff was attending to all the charity patients of the hospital. (28). He believes that a monthly salary of P600 for the plaintiff as director of the San Pablo Hospital is reasonable. P1,000 a month is too much. (29). Plaintiff is a friend of the witness and they have been partners in a hospital business since June, 1945. (32).

Flavio Zaragoza, 54, testified that in 1928, he was occupying the position of provincial secretary of Iloilo, when plaintiff was the provincial governor. (34). One day in 1928 he accompanied plaintiff to the San Pablo Hospital and when plaintiff was bidding goodbye to a nun and he was repeating "I need it Mother," a voice from inside said, "You will be paid, Doctor, without fail." (35). The Mother Superior was different from the present. (36). The witness did not pay attention as to who the Mother Superior was. He does not remember her name. (37).

Mariano B. Arroyo, plaintiff, 57, testified that in the conference he had with Cardinal O'Doherty, who was then a bishop, in May, 1911, with Mother Superior Adriana Donassien,

it was agreed that he was appointed as director with a monthly salary of P600, his services to terminate upon agreement of both parties. The next day or one week later, he was paid P3,600 as advance payment for half a year. After six months, Mother Adriana requested him to have his salary deposited in the hospital which was then in the process of formation, which money will be paid to him when he is to leave the hospital. Since then they did not talk anymore about money, as plaintiff had many patients and enough income for his sustenance. In February or January, 1923, plaintiff had the opportunity of buying a lot in San Miguel, the price being P600, and then he went to Mother Superior Adriana to talk about his money and she answered: "Doctor, please wait a few days more, because we are not ready for that you are claiming." Plaintiff was claiming his salary up to 1923. One day Sor Adriana, with a paper in her hand, said to him, "Doctor, did you not sign this? I understand that your services from now on will be given free to the hospital and that you will not collect anymore." (38-39). The witness answered: "I agree, Mother, but you have to pay me the accumulated salaries up to January, 1923. Mother, if you promise to return to me this money within a week I will sign this small paper of condonation from now on." She answered: "Yes," then "I signed." A week, a month, elapsed, and the plaintiff reminded Sor Adriana again about the money and at last she told him to get it after three or four days. One day, because he had fever, he requested Paskin to type a letter and requested Lolita to bring the letter to Mother Adriana with instructions, if she does not pay the salary, to make her sign a receipt to show that she received the original. Lolita and Paskin returned without the money and they brought Exhibit A which was signed. (40-41). Days passed and he never talked with Sor Adriana again about the matter. Plaintiff continued rendering his services. One day, in 1928, having an obligation, plaintiff went to the hospital accompanied by Flavio Zaragoza to see if he would be paid something. "She answered me that it was not possible, that I should wait a little and that I should deposit the money with the hospital." (42), Plaintiff agreed to deposit his accumulated salary with the hospital. (43).

Aside from the amount of P3,600 he was paid at the beginning, plaintiff did not receive any further amount from defendant. There was a time when plaintiff had been supplying corn free of charge for the horses of the hospital. (46). Plaintiff made demand for payment three or four times, and each time he was told to wait, which he did until he filed the complaint. (47), Plaintiff did not sue defendant from 1911 to 1945 because during that time he was the director of the hospital. (49). As director of the hospital, the plaintiff does not know whether or not the hospital carried books of account, (57),

Plaintiff had an office in the hospital where he received charity and pay patients. The office was provided for him free. (74-75). It is not true that plaintiff had on several occasions

stated that he was rendering services to the hospital without salary. (77-78), In 1928, he was Provincial Governor of Iloilo. He had permission from the Executive Secretary to continue practicing his profession as physician. (79-80). He has been governor for two years. (81). On April 10, 1923, plaintiff performed an operation on a patient in the hospital, Ha was then drunk and intoxicated. (92). Many times he attended patients and performed operations while being drunk. "When there is an ability in the hand and the operation is performed conscientiously, the state of drunkenness is not dangerous. I can operate you under the moonlight, without the need of assistant." He does not remember having operated anyone on April 10, 1923. (93). On page 37 of Exhibit "3", in the book of operation of the hospital appears the following Item: Leonida Mabara, operation, polyp. Arroyo. The witness has not written the item and that he does not remember having operated on such person. (94-95).

The witnesses for the defendant testified as follows:

1. Jose Cocjin, testified that he is the Director of the hospital since June 15, 1945. Since 1934, immediately after his graduation, he worked with Dr. Arroyo for not less than four years in the same hospital acting as his assistant. (110). Plaintiff was going to his clinic everyday, making rounds to the charity ward and attending the patients there once in a while. Plaintiff had absolute freedom to attend his private patients and to charge fees. He secured a very lucrative private practice, (112). Exhibit 3 is under the supervision of the director of the hospital. It was the duty of Doctor Arroyo to see to it that the book is well done, (114). Plaintiff used to brag to the young practitioners that they would never reach the amount he used to receive as a practicing physician, averaging not less than P3,000 a month and sometimes reaching a maximum of P10,000. Plaintiff "used to tell me that he was not receiving a single centavo from the St. Paul Hospital for his services as director thereof; because inasmuch as he was receiving and earning so much in his private practice he would gratuitously serve without his salary in order to be of help to the charity ward." (116-117). Plaintiff "has never told me that he has refused payment. What he told me was that he was not asking for salary." (121).
2. Sor Antonia Guedo, 65, single, sister of charity, residing in the San Pablo Hospital, Iloilo, testified that she knows plaintiff since 1911. Witness was in the hospital since

then. (127). At the beginning there was no director in the hospital. Dr. Carson and Dr. Gilchrist were working there. Dr. Arroyo came later. As he could not get along with anybody, Dr. Carson left him alone. Then Cardinal O'Doherty told him to be a director with a salary of not more than P50 a month, which then was too much. The salary appears in the cash book of the hospital, Exhibit 4. Exhibit 4 is the cash book of the hospital from 1911 to 1921. (128-129). The item on page 4 saying "Doctor P25, refers to the. salary paid to Dr. Arroyo for the half of May, 1911. The same page shows payment to Dr. Arroyo of P50 for June, 1911. (130). Plaintiff has been receiving the same salary up to August, 1918, when plaintiff stated that he was earning much from his private patients. (131). Plaintiff refused then to receive a salary, for which reason the Mother Superior used to send him money presents in the amount of P100 or P200 and sometimes more. Plaintiff suggested that he would continued rendering his services gratuitously and he put it in a letter. (132). In 1923, when the Mother Superior went to Prance, leaving the witness in her place, before the former left, the witness suggested to her "this Doctor Arroyo is hot-headed and it is better that he should give us a letter written and signed by him" and the letter is Exhibit 2. (133). The letter was written to make good plaintiff's commitment to serve and continue serving the hospital gratuitously. It is not true that plaintiff has ever had a salary of P600 a month. The witness has never seen a letter of plaintiff asking for the payment of said salary. (134). It is not true that there is ever a promise to pay plaintiff a salary of P600 a month and it is not true that it has ever been suggested that plaintiff should leave or deposit his salary with the hospital. The hospital has been paying always the salaries of the employees monthly. (136), Plaintiff has been negligent in the service and used to charge fees even to charity patients of the hospital. He would not attend to them if they should fail to pay him. (137). When plaintiff was governor, the witness gave him a present in the amount of P1,000, (138). The words of Sister Superior in Exhibit A is not the handwriting of any of the sisters of the hospital. (139). The witness has never received any letter equal to Exhibit "A". (141).

Wenceslao Anino, 50, testified that he is a railroad employee. (222). The witness brought the railroad records, Exhibit "5". (223). The witness was a bookkeeper of the Railway Company of Iloilo. (224). He was connected with the company since 1931. Exhibit "5" is under his custody. (225).

Jose Mitschiner, 59, testified that he is an employee of the Philippine Railway Company. As secretary of the manager, he knows Exhibit "5". (228).

Pedro de Uriarte, 33, testified that he is an accountant of Elizalde & Company in Iloilo. (238). Elizalde & Company is managing the La Carlota Central. The witness is an accountant of Elizalde & Company since 1937 and the books of operations of Elizalde and Company concerning La Carlota Central is under the supervision of the witness as the accountant. (239). It appears in the books that on December 2, 1938, the La Carlota Central paid to plaintiff the first salary as physician of said Central, where he was paid as a retainer. (240).

Justa Vda. de Gilchrist, 63, testifying for the plaintiff, said her late husband, Dr. Charles Gilchrist, was the physician of the Railroad in Iloilo in 1922 and 1923. He was sick during those years and could not attend to his work in the Railroad. (250). The deceased requested Dr. Arroyo to take up his duties. Dr. Gilchrist collected the salaries from the railroad and handed them to Dr. Arroyo. (251).

Maria de Nicolau, 43, testifying also for the plaintiff, stated that Nick, her brother-in-law, was the chief inspector of the Electrical Department of the Railroad. He died in 1922. He was attended by plaintiff who was then the physician of the Railroad, (255).

When this case was already in this Court, we ordered the lower court to hear again the parties, to enable defendant and appellant to present newly discovered evidence. Consequently in the hearing which took place in the lower court An October 12, 1946, Dolores Vasquez de Arroyo, plaintiff's wife, was called to present and identify the whole transcript of the stenographic notes taken at the hearing in 1932 in Civil Case No. 9031, Vasques, vs. Arroyo, of the Court of First Instance of Hollo. The whole transcript was admitted as Exhibit "X", for defendant and pages 171 and 172 were marked as Exhibits "X-1" and "X-2", both having been offered by plaintiff and appellee as Exhibits "C" and "C-1".

Testifying as a witness in said case, plaintiff, as appears in pages 171 to 172 of said transcript, was asked as to the truth of his wife's testimony to the effect that he was receiving remuneration as director of the San Pablo Hospital. Plaintiff's answer was: "that is not true; I am director of the San Pablo Hospital, but I do not have salary for it; to prove this fact, I have a certificate issued by the Mother Superior of the San Pablo Hospital Justifying the fact that since the year 1916 when they appointed me as director of said hospital I assisted or have been assisting poor patients gratuitously" and Exhibit 4 is the certificate referred to, issued by the Mother Superior Sor Antonia.

Taking again the witness stand, plaintiff testified that fourteen years had elapsed but, as

appears in the transcript, he believes he has given the testimony, and explained that what he wanted to testify is that he was not paid the salary of P600 a month which he was entitled to collect. Plaintiff remembers that in 1932, his wife left their home without his consent and asked the court for a monthly alimony of P750. "I wanted her to return home and what I did was to consult the Superior of the San Pablo Hospital and as an advice, she told me: 'batter not to give money to her and thus she will return home, and in order that she will not trouble you I will give you a certificate to the effect that until now I did not pay you.'"

In pages 200 to 202 of transcript Exhibit "X" marked by plaintiff as Exhibit C-2, It appears that plaintiff, having been questioned by Attorney Treñas as to whether in the testimony he has given in an administrative investigation, to show his large income, he had said that he was earning P600 as salary from the San Pablo Hospital, plaintiff does not remember having given such testimony.

Mature consideration of the evidence on record leads us to the conclusion that plaintiff failed to make out his case and that defendant's claim that plaintiff agreed to continue rendering his services free since 1916 is based on facts.

Plaintiff's claim that he agreed at the rate of P600 a month is not supported by any other evidence than his uncorroborated testimony, which is highly unconvincing. His version of the facts conflicts with common experience in the ordinary course of human conduct. If his allegations as to the agreed salary are true, his conduct in continuing to render services for nearly thirty years, without being paid the agreed salary, appears to be extrahuman, and his explanation that he acceded to let his salary accumulate on deposit in the hospital, is more likely to provoke smile than to drive conviction into an ordinary mind. His allegation that he agreed to the proposal does not tally with the impatience and impulsiveness revealed by his testimony and by his confessed recklessness of performing surgical operations while drunk.

The document he has signed to the effect that he was rendering services as director of the San Pablo Hospital gratuitously appears to be conclusive. His story as to how he signed it appears to be unacceptable. If his version is true, he failed to offer any explanation as to his conduct in remaining in his position as director of the hospital from 1923 to 1945, and in not taking any action for the enforcement of his rights during that time, notwithstanding the fact that the promise to pay him all his past salaries within a few days, which was his reason for having signed in 1923 the document in question, had been broken, and he was not paid a single cent of the promised salaries. Finally, his testimony given in his other case in 1932, No. 9031 of the Court of First Instance of Iloilo (Exhibits "X-1" and "X-2"), where he stated



squarely that he had no salary for his position as director of the San Pablo Hospital, closes all doors to any doubt as to the groundlessness of plaintiff's assertions.

This conclusion relieves us from the necessity of passing on the other questions raised by appellant, such as prescription.

The appealed decision is reversed and the complaint is dismissed.

*Parás, Actg. C.J., Feria, Pablo, Bengzon, Briones, Padilla, and Tuason, JJ., concur.*

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