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[G.R. No. L-6940. March 23, 1954]

MARIANO LICLICAN, DIONISIA CASTROG AND ISABEL CASTRG, PETITIONERS, VS. HON. MANUEL ARRANZ, JUDGE OF THE COURT OF FIRST INSTANCE OF ISABELA AND BRIGIDA TOMAS, RESPONDENTS.

D E C I S I O N

BAUTISTA ANGELO, J.:

On September 20, 1952, Brigida Tomas filed an action for forcible entry and detainer against Mariano Liclican, Dionisia Castrog, and Isabel Castrog in the justice of the peace court of Cordon, Isabela. In due time, defendants filed an answer with a counterclaim to the complaint.

On January 10, 1953, the court rendered judgment ordering defendants to deliver the property in litigation to plaintiff, and to pay him, jointly and severally, ten cavans of palay, or their current value, for the agricultural year 1952-1953, plus the costs of action. From this decision, defendants appealed to the Court of First Instance, and, as required by the rules, the record of the case was transmitted to the latter court, it having been docketed as Civil Case No. 545.

Three days from receipt from the clerk of court of the notice that the case had been docketed, defendants submitted their answer stating therein that they were reproducing the answer they had filed in the justice of the peace court which was already attached to the record.

On June 16, 1953, defendants filed a motion praying for the postponement of the hearing on the ground that their attorney could not be present because he was sick, attaching to the motion the necessary medical certificate. On the date of hearing, June 17, 1953, the court

denied the motion for postponement, but entertained the motion for default which was filed by plaintiff on the same date on the ground that defendants failed to file their answer within the reglementary period, whereupon it declared said defendants in default.

Defendants filed a motion for reconsideration contending that the answer they had filed on March 10, 1953, wherein they were reproducing the answer filed by them iii the justice of the peace court, was sufficient in contemplation of the rules and, therefore, they cannot be declared in default. This motion having been denied, defendants interposed the present petition for certiorari.

The pleading which, according to petitioners, they filed in the lower court as an answer to the complaint, reads as follows:

> "Come the defendants and appellants in the above entitled case through their undersigned attorney, and, in answer to the complaint hereby manifest that they reproduce the answer and counterclaim filed in this case in the Justice of the Peace Court of Cordon, Isabela, which is already attached to the record of the case."

Petitioners now contend that the above answer which seeks to reproduce the answer and counterclaim filed by them in the justice of the peace court is a sufficient compliance with the rules, and, therefore, respondent Judge committed an error in disregarding it and in declaring them in default.

Section 7, Rule 40, of the Rules of Court provides:

> "SEC. 7. *Reproduction of complaint on appeal*.—Upon the docketing of the cause under appeal, the complaint filed in the justice of the peace or municipal court shall be considered reproduced in the Court of First Instance and it shall be the duty of the clerk of court to notify the parties of that fact by registered mail, and the period for making an answer shall begin with the date of the receipt of

such notice by the defendant."

While the above-quoted rule provides that, upon the docketing of the cause under appeal, only the complaint filed in the justice of the peace court shall be considered reproduced, and not the answer, so much so that the party defendant is required to put his answer within the reglementary period from the date of the receipt of the notice to be given by the clerk of court, however, the filing of such answer in the form required by the rules is not necessary when the defendant has filed a written answer in the justice of the peace court. In lieu thereof, he may merely reproduce his answer by making a proper manifestation to that effect within the period required for the filing of the answer. To require otherwise would be a useless formality especially if the party concerned is not disposed of modifying the stand he has taken in the inferior court.

In the case of Canaynay, et al. vs. Tan,[*] et al., L-2336, April 27, 1949, this Court had occasion to state the reason why an answer is not deemed reproduced when a case is appealed from a justice of the peace or municipal court. We there said:

"It must be stated in this connection that what is deemed reproduced in the Court of First Instance upon the docketing of the case therein, is only the complaint but not the answer filed in the court justice of the peace or municipality court. The reason is that there may be no answer filed in the justice of the peace court or that if there is any file therein, it may be changed in the Court of First Instance where a trial *de novo* is to be held. Although neither the plaintiff nor the defendant may change on appeal in the Court of First Instance the questions raised by the pleadings in the inferior court, a denial that may have been made in the justice of the peace court may be changed into admission, or a special defense interposed therein may be withdrawn in the Court of First Instance. It is then necessary for the defendant to redefine his stand in the Court of First Instance by filing an answer in due time, and his failure to

do so is ground for default."

The present case should be differentiated from the Canaynay case. In the latter case, while the defendant filed an answer in the justice of the peace court, he failed to make a written manifestation expressing his desire to reproduce the answer he had already filed. This manifestation is necessary in order to apprise the court of his desire to reproduce the same answer, and having: failed to do so, he was declared in default. In the present case, defendants submitted on time such written manifestation. We declare that this is a substantial compliance with the rule and is in line with the reasoning advanced by this Court in the Canaynay case.

Petition is granted without pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, Concepcion, and *Diokno, JJ.,* concur.

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[*] 83 Phil., 429.

Date created: October 08, 2014