

G.R. No. L-9038

[ G.R. No. L-9038. November 29, 1956 ]

**MANILA TRADING & SUPPLY COMPANY, PLAINTIFF-APPELLEE, V.S. ACRO TAXICAB COMPANY, DEFENDANT-APPELLANT.**

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

**LABRADOR, J.:**

Prior to the outbreak of the war with Japan, defendant Acro Taxicab Company was indebted to plaintiff-appellee Manila Trading & Supply Company in the amount of P114,483.31, the balance of the cost of automobiles and spare parts purchased by it from the latter. This unpaid balance was secured by a chattel mortgage on taxis in the possession of the defendant-appellant. Upon the outbreak of the war, the United States Army commandeered 117 automobiles or taxicab units of the defendant-appellant. So after the war and on December 27, 1947, defendant-appellant filed a claim for P403,729.00 against the United States Army for the value of the 117 units of taxicabs commandeered were still subject to liens for the unpaid balance of the purchase price thereof, it required the lienholders to file with the defendant a joint claim. In compliance therewith the total amount of P403,729.00 was presented as a claim composed of the following items:

For the plaintiff	-----P110,938.89
For the United Motors, Inc	----- 3,073.00
For the defendant	-----289,717.11

(pp. 2 and 3, appellant's brief)

The joint claim was processed and thereafter the United States Army agreed to pay on account thereof only the amount of P82,799.00 to the plaintiff and defendant, and the sum of P3,073.00 to the United Motors, Incorporated. The plaintiff and the defendant accepted this amount and so on May 15, 1948 they filed a "Release of claim against the United States of America." The release is worded as follows:

“The undersigned represent that they are the owners and legally entitled to payment of the claim filed by them on 27 December 1947 for value and rental of one hundred seventeen (117) units of taxicabs in the amount of P403, 729.00, against the United States of America. In consideration of payment of P82,799.9000, the amount determined by Contract Claims Commission No. 63 to be due and owing, the undersigned agrees to accept said amount in full satisfaction and final settlement of this claim and does HEREBY UNCONDITIONALLY RELEASE the United States of America, its officers and agents, from any and all liability arising from said claim.”

Upon submission of the above release the amount mentioned therein was paid to the plaintiff and the defendant, the former receiving P42,872.00 and the latter, P40,000.00 (Exh. 1). It was also agreed upon between them that the balance of the indebtedness of the defendant (P69,139.89) be paid at the rate of P100.00 each month, without interest, until liquidated. (Exh. A.)

The present action is brought to recover the sum of P68,084.34 still due and paid. The Court of First Instance rendered judgment for the plaintiff for the full amount, with interest at the legal rate from July 1, 1953 until paid, plus attorney’s fees in the sum of P1,000.00, plus costs. Against this judgment the present appeal has been prosecuted.

It is the claim of the defendant-appellant that plaintiff-appellee has waived its right to collect the balance of the obligation by the execution of the release, Exhibit I. There is no merit in this contention. The document mentioned released the United State Army from claims that plaintiff and defendant had against it but not the claims that one may have against the other. Furthermore, the agreement, Exhibit A, shows that it was not the intention of the parties by the execution of Exhibit I that plaintiff should release its claim against defendant, because the latter specifically its claim against defendant, because the latter specifically agree therein to pay the balance of its obligation of P69,139.89.

The judgment appealed from is hereby affirmed and it appearing that the appeal is frivolous, the defendant is sentenced to pay double the costs in this instance.

*Paras, C.J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.*

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