

101 Phil. 695

[G. R. No. L-10807. May 30, 1957]

VITALIANO M. CRUZ, PLAINTIFF AND APPELLANT, VS. THE CITY OF MANILA, ARSENIO H. LACSON, MAYOR OF THE CITY OF MANILA, TELESFORO TENORIO, CHIEF OF POLICE OF THE MANILA POLICE DEPARTMENT, AND MARCELINO SARMIENTO, TREASURER OF THE CITY OF MANILA, DEFENDANTS AND APPELLEES.

D E C I S I O N

FELIX, J.:

Vitaliano M. Cruz was a member of the Police Department of the City of Manila and way back in August, 1941, a criminal information for extortion was filed against him in the Court of First Instance of Manila, entitled People of the Philippines vs. Vitaliano M. Cruz—No. 65940 of said Court. On August 28, 1941, this defendant deposited with Sgt. Narciso Cabrera (now deceased) of Precinct No. 1 of the Manila Police Department, a cash bail bond in the sum of P500 for his provisional liberty (Official Receipt No. M-181276-Annex A). World War II broke out without the case having ever been heard or tried. After liberation it appeared that the records of the case had been destroyed and an attempt to reconstitute said criminal case proved to be fruitless, as the records of both the Office of the City Fiscal and of the Clerk of the Court of First Instance of Manila had nothing to show about the same. So the reconstitution proceedings had to be, as they were, dismissed on July 9, 1946, by former Judge Emilio Pefia (now Justice of the Court of Appeals), as having been abandoned. After that dismissal Vitaliano M. Cruz sought the aid of several persons and officers of the government to secure the refund to him of said amount of P500, and his efforts being in vain, he filed on September 22, 1952, in the Municipal Court of Manila against the City of Manila et al. Civil Case No. 22632 to recover the amount of said bail of P500. The case was assigned to Branch IV thereof, presided over by Hon. Crisanto Aragon, who dismissed it on October 6, 1952.

Then on February 2, 1953, the same complaint was refiled in said court (docketed as Civil Case No. 24704), which was again assigned to the same Branch presided over by

said Judge Crisanto Aragon, who dismissed the second complaint on June 30, 1953.

On November 29, 1954, again plaintiff filed for the third time the same complaint in the same court (docketed as Civil Case No. 34983), this time assigned to Branch III presided over by Judge Estrella Abad Santos. Upon written motion to dismiss filed by defendants therein, on the proposition that the complaint stated no cause of action, supplemented by oral argument at the hearing thereof, which counsel for the plaintiff failed to answer, on January 19, 1955, the Court dismissed the third complaint in the following language:

“On January 12, 1955, the counsel for tile plaintiff was given until January 17th of this year within which to submit his written reply to the motion to dismiss filed by the counsel for the defendant. However, until the present time, he has failed to do so.

After a careful consideration of the said motion to dismiss as well as the oral argument advanced by Assistant Fiscal Abelardo M. Dayrit in support of said motion, the Court finds the motion to dismiss to be well founded.

Wherefore, it is hereby ordered that this case be, as it is hereby, dismissed. Without pronouncement as to costs.”

Plaintiff did not appeal from this order of dismissal, but instead he filed on March 4, 1955, with the Municipal Court of Manila, Branch I, the same complaint against the same defendants to attain the same purpose of recovering said cash bond he alleges to have deposited with Sgt. Narciso Cabrera in the sum of P500 for his provisional liberty in said Criminal Case No. 65940 of the Court of First Instance of Manila. In his complaint he prays the Court to sentence the defendants to pay him said sum of P500 with legal interests until fully paid, plus P300 as plaintiff's damages and P100 for attorney's fees, and the costs of the suit.

On March 24, 1955, defendants filed a motion to dismiss on the ground that (1) the complaint stated no cause of action against the defendants; and (2) that the action had been barred by a prior judgment. After due consideration of the reasons, pro and con, of the motion to dismiss as submitted by both parties, Judge Ramon A. Icasiano, presiding over said Branch 1, held that the action had been already barred by a prior judgment which constituted *res adjudicata* and dismissed the case without pronouncement as to costs. After the motion for reconsideration was denied plaintiff appealed to the Court of First Instance where the defendants-appellees again submitted a motion to dismiss based on

the ground that the Court had no jurisdiction to entertain the appeal, the decision of the Municipal Court of Manila, Branch III, in the identical Civil Case No. 34983, dated January 19, 1955, having already become final, constituted in effect a prior judgment which barred the institution of the action now here on appeal. After hearing of the motion the Court of First Instance of Manila held that none of the reasons alleged by the Fiscal in the motion to dismiss the appeal from the order of the Municipal Court are the grounds provided by law for dismissing, the appeal; consequently, the Court overruled the motion to dismiss the appeal but gave the parties time to file their respective memoranda in support of the question raised in the appeal, to wit: whether or not the case was correctly dismissed by the Municipal Court of Manila by order of March 30, 1955, which was then before the Court *ad quem* for review in accordance with Section 10, Rule 40, of the Rules of Court.

Once the parties had submitted the memoranda required of them, the Court by order of September 22, 1955, affirmed the order of Judge Ramon A. Icasiano dismissing the present case with costs against the plaintiff. From said ruling plaintiff appealed to the Court of Appeals which Tribunal certified the same to this Court for the reason that the only question raised in the appeal is purely of law.

In this instance counsel for the appellant maintains that:

“The lower court erred in holding that the order of dismissal of Tudg’e Estrella Abad Santos of the Municipal Court of Manila, dated January 19, 1955, was adjudication upon the merits and the same is a bar to the filing of a subsequent action for the same cause.”

It will be remembered that in the inferior court counsel for defendants based his motion to dismiss on two grounds, to wit: (1) that the complaint states no cause of action against the defendants; and (2) that the present action had been barred by a prior judgment, although in his order of dismissal Judge Icasiano relied only on the latter ground.

Although the first two complaints filed by appellant in the Municipal Court of Manila might be considered as dismissed without prejudice, the third complaint (Civil Case No. 34983 of the Municipal Court of Manila, Branch III, presided over by Judge Estrella Abad Santos) was dismissed after due consideration and adjudication of the issues raised in the case. Such dismissal, therefore, cannot come within the provisions of Section 12, Rule 4, of the Rules of Court, but of Sections 3 and 4, Rule 30, of the same Rules of Court, which provide the following:

“Sec. 3. Failure to Prosecute.—When plaintiff fails to appear at the time of the trial or to prosecute his action for an unreasonable length of time, *or to comply with these Rules or any order of the court*, the action may be dismissed upon motion of the defendant or upon the court’s own motion. *The dismissal still have the effect of an adjudication upon the merits, unless otherwise provided by the court,*”

“Sec. 4. Effect of Dismissal on Other Grounds.—Unless otherwise ordered by the court any dismissal not provided for in this rule, *other than a dismissal for lack of jurisdiction operates as an adjudication upon the merits*”

As appeal’s from the order of Judge Estrella Abad Santos, counsel for the plaintiff in said case No. 34983 of the Municipal Court failed to submit his written reply to the motion to dismiss of the counsel for the defendants, despite the fact that he was required and given a period within which to do so, and that upon such failure said Judge proceeded to consider the motion to dismiss as well as the oral arguments advanced by Fiscal Dayrit in support of said motion, and then dismissed the case as prayed for by the defendants. Consequently, in the light of these circumstances and of the provisions of Sections 3 and 4 of Rule 30 just quoted, there can be no dispute that said third complaint was dismissed after due consideration of the issues raised therein and, therefore, said dismissal must have the effect of an adjudication upon the merits of the case.

It may be said, as appellant does say, that Rule 30 on “Dismissal of Actions” refers to procedure in the courts of first-instance, but this argument is of no consequence, because Section 19, Rule 4, of the Rules of Court (regarding “Procedure in Inferior Courts”) prescribes that certain rules, *among which Rule 30 is expressly indicated*, “are applicable in inferior courts in cases falling within their jurisdiction and in so far as they are not inconsistent with the provisions of this Rule.”

The order of Judge Icasiano holding that “the present action has already been barred by a proper judgment and therefore constitutes *res adjudicata*”, was affirmed by the Court *a quo* in the following language:

“This order of dismissal (referring to the order of Judge TCstrella Abad Santos) constitutes, in tile opinion of the Court, an adjudication upon the merits. The

same was not based on default, neither it is a dismissal for failure of the plaintiff to appear under Section 12, Rule 4 of the Rules of Court. • • •.

“The failure of the plaintiff to answer the motion to dismiss does not constitute failure to appear in answer to the summons and consequently the dismissal of the case will bar the filing of a subsequent action for the same cause. The order of dismissal of Judge Estrella Abad Santos is different from the order of dismissal contemplated in Section 12, Rule 4, of the Rules of Court, and her order operates as an adjudication’ of the case on the merits.”

We are in full accord with these findings of both the inferior and lower courts.

In view of this conclusion We do not need to discuss any more the other ground for dismissal of the case as submitted by defendants’ counsel, to wit: that the complaint states no cause of action against them. We may briefly state, however, that said ground was also well taken, because as contended by counsel for the defendants: (1)

according to General Rule No. 3, dated January 25, 1930, the bail bond plaintiff furnished for his temporary release during the pendency of said criminal case, became part of the insular funds, not funds of the City of Manila; hence neither defendant City of Manila nor its co-defendant officers can be held liable to refund the same even after the’ alleged termination of his criminal case before the Court of First Instance of Manila; and (2) the said cash bail bond being a pre-war deposit which remained unsettled or unliquidated soon after the war and until the present, clearly and truly constituted part of a government account declared frozen by virtue of Executive Order No. 25 of the President of the Philippines.

Wherefore, the order appealed from is hereby affirmed, with costs in all three instances against plaintiff. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J. B. L., and Endencia, JJ., concur. .

