

THE CITY OF BACOLOD, PLAINTIFF-APPELLEE, VS. SAN MIGUEL BREWERY, INC., DEFENDANT-APPELLANT.

G.R. No. L-25134. October 30, 1969

Ponente: BARREDO, J.

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BARREDO, J.:

An appeal from the decision of the Court of First Instance of Negros Occidental in its Civil Case No. 7355, ordering the San Miguel Brewery, Inc. to pay to the City of Bacolod the sum of P36,519.10, representing surcharges on certain fees which, under existing ordinances of the City of Bacolod, the San Miguel Brewery should have paid quarterly to the treasurer of the said city for and/or during the period from July, 1959 to December, 1962, but which were paid only on April 23, 1963.

On February 17, 1949, the City Council of Bacolod passed Ordinance No. 66, series of 1949 imposing upon "any person, firm or corporation engaged in the manufacture of bottling of coca cola, pepsi cola, tru orange, lemonade, and other soft drinks within the jurisdiction of the City of Bacolod, x x x a fee of ONE TWENTY-FOURTH (1/24) of a centavo for every bottle thereof", plus "a surcharge of 2% every month, but in no case to exceed 24% for one whole year", upon "such local manu-facturers or bottlers above-mentioned who will be delin-quent on any amount of fees due" under the ordinance.

In 1959, this ordinance was amended by Ordinance No. 150, series of 1959, by increasing the fee to "one-eight (1/8) of a centavo for every bottle thereof". In other words, the fee was increased from P0.01 to P0.03 per case of soft drinks. Appellant refused to pay the additional fee and challenged the validity of the whole ordinance.

Under date of March 23, 1960, appellee sued appel-lant in Civil Case No. 5693 of the Court of First Instance of Negros Occidental, with the corresponding Complaint alleging, inter alia:

"3. - That the defendant, Manager of the San Miguel Brewery, Bacolod Coca Cola Plant, Bacolod Branch since the approval of Ordinance No. 66, series of 1949 as amended by Ordinance No. 150, Series of 1959, which took effect on July 1, 1959, only paid to the plaintiff herein the P0.01 bott-ling tax per case of soft drinks thereby refusing to pay the bottling tax per case of soft drinks which amounted to P26,306.54 at P0.02 per case of soft drinks such as coca cola and tru orange manufactured or bottled by said company as per statement submitted by the Assistant City Treasurer of Bacolod City herewith attached as Annex 'C' of this com-plaint;"

and praying

"x x x that judgment be rendered for the plaintiff:

"(a) Ordering the defendant to pay the plaintiff the bottling taxes of P0.03 per case of soft drinks as provided for in Section 1, Ordinance No. 66, Series of 1949, as amended by Ordinance No. 150, Series of 1959, as well as the sum of P26,306.54 representing unpaid bottling taxes due with legal rate of interest thereon from the date of the filing of this complaint until complete payment thereof; x x x costs, etc."

In due time, appellant filed its answer. This was followed by a stipulation of facts between the parties, whereupon,

the court rendered judgment on November 12, 1960, with the following dispositive portion:

"WHEREFORE, San Miguel Brewery, Inc. is ordered to pay to the plaintiff the sum of P26,306.54 and the tax at the rate of three centavos per case levied in Ordinance No. 66 and 150 from March, 1960, and thereafter. Costs against the defendant."

Appellant appealed from the said decision to this Court where it pressed the question of the invalidity of the above-mentioned taxing ordinances. In that appeal (G. R. No. 18290), however, this Court affirmed the decision appealed from and upheld the constitutionality of the questioned ordinances and the authority of the appellee to enact the same. For reasons not extant in the record, it was already after this decision had become final when appellee moved for the reconsideration thereof, praying that the same be amended so as to include the penalties and surcharges provided for in the ordinances. Naturally, the said motion was denied, for the reason that "the decision is already final and may not be amended". When execution was had before the lower court, the appellee again sought the inclusion of the surcharges referred to; and once again the move was frustrated by the Court of First Instance of Negros Occidental which denied the motion, as follows:

"Acting upon the motion dated October 24, 1963, filed by the Assistant City Fiscal, Raymundo Rallos, counsel for the plaintiff, and the opposition thereto filed by attorneys for the defendants dated November 9, 1963, as well as the reply to the opposition of counsel for the defendants dated December 5, 1963, taking into consideration that the decision of this Court as affirmed by the Supreme Court does not specifically mention the alleged surcharges claimed by the plaintiff-appellee, the Court hereby resolves to deny, as it hereby denies, the aforesaid motion, for not being meritorious."

Failing thus in its attempt to collect the surcharges provided for in the ordinances in question, appellee filed a second action (Civil Case No. 7355) to collect the said surcharges. Under date of July 10, 1964, it filed the corresponding complaint before the same Court of First Instance of Negros Occidental alleging, *inter alia* that:

"6. That soon after the decision of the Honorable Supreme Court affirm-ing the decision of the Hon. Court, the defendant herein on April 23, 1963 paid to the City of Bacolod, the amount of ONE HUNDRED FIFTY SIX THOUSAND NINE HUNDRED TWENTY FOUR PESOS and TWENTY CENTAVOS (P156,924.20) as taxes from July, 1959 to December, 1962 in compliance with the provision of Section 1, Ordinance No. 66, Series of 1949, as amended by Ordinance No. 150, Series of 1959, which corresponds to the taxes due under said section in the amount of P0.03 per case of soft drinks manufactured by the defendant, but refused and still continued refusing to pay the surcharge as provided for under Section 4 of Ordinance No. 66, Series of 1949, as amended by Ordinance No. 150, Series of 1959, which reads as follows:

'Sec. 4. - A surcharge of 2% every month, but in no case to exceed 24% for one whole year, shall be imposed on such local manufacturer or bottlers above mentioned who will be delinquent on any amount of fees under the ordinance.'

which up to now amounted to THIRTY SIX THOUSAND FIVE HUNDRED NINETEEN PESOS AND TEN CENTAVOS (P36,519.10), as shown by the certified statement of the office of the City Treasurer of Bacolod City herewith attached as Annex 'E' and made an integral part of this complaint;

"7. That the said interest and/or penalties to the said bottling taxes which defendant refused to pay have long been overdue;"

and again praying

"x x x that judgment be rendered for the plaintiff:

'(a) Ordering the defendant to pay the penalty and/or interest therein Section 4 of Ordinance No. 66, Series of 1949, as amended by Ordinance No. 150, Series of 1959 the total amount of THIRTY SIX THOUSAND FIVE

HUNDRED NINETEEN PESOS and TEN CENTAVOS (P36,519.10), representing the surcharges from August 1959 to December, 1962, inclusive, and the 24% penalty computed as of June 30, 1964, from the amount of P152,162.90, with legal rate of interest thereon from the date of the filing of this complaint until complete payment thereof; plus costs, etc."

On July 24, 1964, appellant filed a motion to dismiss the case on the grounds that: (1) the cause of action is barred by a prior judgment, and (2) a party may not institute more than one suit for a single cause of action. This motion was denied by the court a quo in its order dated August 22, 1964; so appellant filed its answer wherein it substantially reiterated, as affirmative defenses, the above-mentioned grounds of its motion to dismiss. Thereafter, the parties submitted the case for judgment on the pleadings, whereupon, the court rendered judgment on March 11, 1965 with the following dispositive portion:

"IN VIEW THEREOF, judgment is hereby rendered ordering the defendant San Mi-guel Brewery, Inc. to pay to the plain-tiff the sum of P36,519.10 representing the surcharges as provided in section 4 of Ordinance 66, series of 1949 of the City of Bacolod. No costs."

Appellants moved for reconsideration but its motion was denied, hence, the instant appeal.

Appellant has only one assignment of error, to wit:

"THE LOWER COURT ERRED IN FINDING THE APPELLANT LIABLE TO THE APPELLEE FOR THE SUM OF P36,519.10 REPRESENT-ING SURCHARGES AS PROVIDED IN TAX OR-DINANCE NO. 66, SERIES OF 1949, AS A-MENDED, OF THE CITY OF BACOLOD."

Under this, it argues that the action of appellee can-not be maintained because (1) a party may not institute more than one suit for a single cause of action; and (2) appel-lee's action for recovery of the surcharges in question is barred by prior judgment.

We find appellant's position essentially correct. There is no question that appellee split up its cause of action when it filed the first complaint on March 23, 1960, seeking the recovery of only the bottling taxes or charges plus legal interest, without mentioning in any manner the surcharges.

The rule on the matter is clear. Sections 3 and 4 of Rule 2 of the Rules of Court of 1940 which were still in force then provided:

"Sec. 3. Splitting a cause of act-ion, forbidden. - A single cause of action cannot be split up into two or more parts so as to be made the subject of different complaints.

"Sec. 4. Effect of splitting. - If separate complaints were brought for different parts of a single cause of action, the filing of the first may be pleaded in abatement of the others, and a judgment upon the merits in either is available as a bar in the others."

Indeed, this rule against the splitting up of a cause of action is an old one. In fact, it preceded the Rules of Court or any statutory provision. In *Bachrach Motor Co., Inc. vs. Icarañgal, et al.*,^[1] this Court already explained its meaning, origin and purpose thus:

"But, even if we have no such sect-ion 708 of our Code of Civil Procedure, or section 59 of the Insolvency Law, we have still the rule against splitting a single cause of action. This rule, though not contained in any statutory provision, has been applied by this court in all appropriate cases. Thus, in *Santos vs. Moir* (36 Phil. 350, 339), we said: 'It is well recognized that a party cannot split a single cause of action into parts and sue on each part separately. A complaint for the recovery of personal property with damages for detention states a single cause of action which cannot be divided into an action for possession and one for damages; and if suit is brought for possession only a subsequent action cannot be maintained to recover the damages resulting from

the unlawful detention.' In *Rubio de Larena vs. Villanueva* (53 Phil. 923, 927), we reiterated the rule by stating that 'x x x a party will not be permitted to split up a single cause of action and make it the basis for several suits' and that when a lease provides for the payment of the rent in separate installments, each installment constitutes an independent cause of action, but when, at the time the complaint is filed, there are several installments due, all of them constitute a single cause of action and should be included in a single complaint, and if some of them are not so included, they are barred. The same doctrine is stated, in *Lavarro vs. Labitoria* (54 Phil. 788), wherein we said that 'a party will not be permitted to split up a single cause of action and make it a basis for several suits' and that a claim for partition of real property as well as for improvements constitutes a single cause of action, and a complaint for partition alone bars a subsequent complaint for the improvements. And in *Blossom & Co. vs. Manila Gas Corporation* (55 Phil. 226, 240), we held that 'as a general rule a contract to do several things at several times is divisible in its nature, so as to authorize successive actions; and a judgment recovered for a single breach of a continuing contract or covenant is no bar to a suit for a subsequent breach thereof. But where the covenant or contract is entire, and the breach total, there can be only one action, and plaintiff must therein recover all his damages.'

"The rule against splitting a single cause of action is intended 'to prevent repeated litigation between the same parties in regard to the same subject of controversy; to protect defendant from unnecessary vexation; and to avoid the costs and expenses incident to numerous suits.' (1 C. J., 1107) It comes from that old maxim *nemo debet bis vexare pro una et eadem causa* (no man shall be twice vexed for one and the same cause). (Ex parte Lange, 18. Wall. 163, 168; 21 Law. ed., 872.; also U.S. vs. Throckmorton, 98 U.S. 61; 25 Law. ed., 93.) And it developed, certainly not as an original legal right of the defendant, but as an interposition of courts upon principles of public policy to prevent inconvenience and hardship incident to repeated and unnecessary litigations. (1 C. J., 1107)."

In the light of these precedents, it cannot be denied that appellant's failure to pay the bottling charges or taxes and the surcharges for delinquency in the payment thereof constitutes but one single cause of action which under the above rule can be the subject of only one complaint, under pain of either of them being barred if not included in the same complaint with the other. The error of appellee springs from a misconception or a vague comprehension of the elements of a cause of action. The classical definition of a cause of action is that it is "a delict or wrong by which the rights of the plaintiff are violated by the defendant." Its elements may be generally stated to be (1) a right exist-ing in favor of the plaintiff; (2) a corresponding obliga-tion on the part of the defendant to respect such right; and (3) an act or omission of the plaintiff which constitutes a violation of the plaintiff's right which defendant had the duty to respect. For purposes, however, of the rule against splitting up of a cause of action, a clearer understanding can be achieved, if together with these elements, the right to relief is considered.

In the last analysis, a cause of action is basically an act or an omission or several acts or omissions. A sin-gle act or omission can be violative of various rights at the same time, as when the act constitutes juridically a violation of several separate and distinct legal obligations. This happens, for example, when a passenger of a com-mon carrier, such as a taxi, is injured in a collision there-of with another vehicle due to the negligence of the respective drivers of both vehicles. In such a case, several rights of the passenger are violated, inter alia, (1) the right to be safe from the negligent acts of either or both the drivers under the law on culpa-aquiliana or quasi-delict; (2) the right to be safe from criminal negligence of the said drivers under the penal laws; and (3) the right to be safely conduct-ed to his destination under the contract of carriage and the law covering the same, not counting anymore the provisions of Article 33 of the Civil Code. The violation of each of these rights is a cause of action in itself. Hence, such a passenger has at least three causes of action arising from the same act. On the other hand, it can happen also that several acts or omissions may violate only one right, in which case, there would be only one cause of action. Again, the violation of a single right may give rise to more than one relief. In other words, for a single cause of action or violation of a right, the plaintiff may be entitled to several reliefs. It is the filing of separate complaints for these several reliefs that constitutes splitting up of the cause of action. This is what is

prohibited by the rule.

In the case at bar, when appellant failed and refused to pay the difference in bottling charges from July 1, 1959, such act of appellant in violation of the right of appellee to be paid said charges in full under the Ordinance, was one single cause of action, but under the Ordinance, appellee became entitled, as a result of such non-payment, to two reliefs, namely: (1) the recovery of the balance of the basic charges; and (2) the payment of the corresponding surcharges, the latter being merely a consequence of the failure to pay the former. Stated differently, the obligation of appellant to pay the surcharges arose from the violation by said appellant of the same right of appellee from which the obligation to pay the basic charges also arose. Upon these facts, it is obvious that appellee has filed separate complaints for each of two reliefs related to the same single cause of action, thereby splitting up the said cause of action.

The trial court held that inasmuch as there was no demand in the complaint in the first case for the payment of the surcharges, unlike in the case of *Collector of Internal Revenue vs. Blas Gutierrez, et al.*, G. R. No. L-13819, May 25, 1960, wherein there was such a demand, there is no bar by prior judgment as to said surcharges, the same not having been "raised as an issue or cause of action in Civil Case No. 5693." This holding is erroneous.

Section 4 of Rule 2, above-quoted, is unmistakably clear as to the effect of the splitting up of a cause of action. It says, "if separate complaints are brought for different parts (reliefs) of a single cause of action, the filing of the first (complaint) may be pleaded in abatement of the others, and a judgment upon the merits in either is available as a bar in the others." In other words, whenever a plaintiff has filed more than one complaint for the same violation of a right, the filing of the first complaint on any of the reliefs born of the said violation constitutes a bar to any action on any of the other possible reliefs arising from the same violation, whether the first action is still pending, in which event, the defense to the subsequent complaint would be *litis pendentia*, or it has already been finally terminated, in which case, the defense would be *res adjudicata*.^[2] Indeed, *litis pendentia* and *res adjudicata*, on the one hand, and splitting up a cause of action on the other, are not separate and distinct defenses, since either of the former is by law only the result or effect of the latter, or, better said, the sanction for or behind it.

It thus results that the judgment of the lower court must be, as it is hereby, reversed and the complaint of appellee is dismissed. No costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Teehankee, JJ., concur.

[1] 68 Phil., 287, 292-293.

[2] The corresponding provision in the Revised Rules of 1964 expresses these points more specifically. Section 4 of Rule 2 provides:

"If two or more complaints are brought for different parts of a single cause of action, the filing of the first may be pleaded in abatement of the other or others, in accordance with section 1 (e), Rule 16, (on pendency of another action) and a judgment upon the merits in any one is available as a bar in the others." altho the writer of this opinion feels that a happier wording would be:

"A single cause of action cannot be the subject of more than one complaint."

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