

VISITACION A. GACULA, ASSISTED BY HER HUSBAND FACUNDO GACULA, PLAINTIFFS AND APPELLANTS, VS. PILAR MARTINEZ, CRISTINA GUIRNALDA, EDEN GUIRNALDA, GENEROSA DE MANZANO AND LUZ DE G...

G. R. No. L-3038. January 31, 1951

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

In the Court of First Instance of Ilocos Sur, Visitacion A. Gacula assisted by her husband Facundo Gacula, filed a civil action No. 616 against Pilar Martinez, Cristina Guirnalda, Eden Guirnalda, Generosa de Manzano and Luz de Gacusan, to recover from them the sum of P920, alleged value of four pieces of jewelry plus P1,250 as damages or a total of P2,200.

The complaint alleges that plaintiff Visitacion was the owner of one ring valued at P200; another ring worth P200; a "medallion de oro" valued at P170 and a pair of earrings worth P350; that on March 9, 19, 20 and 31 and April 10, 1948, one Aquilina Saraos de Gabas received said jewelry to be sold on commission with the obligation to return them to the owner or deliver their value! within ten days; that Aquilina without authority of the owner delivered the first ring to Cristina and Eden, both surnamed Guirnalda and the second ring to Pilar Martinez, the "medallion" to Generosa de Manzano and the earrings to Luz de Gacusan and that Aquilina Saraos was convicted of estafa in June, 1948 and was sentenced to suffer ten months imprisonment, to indemnify Visitacion in the sum of P1,450.65 or suffer subsidiary imprisonment in case of insolvency; that Aquilina failed to return the jewelry because they remained in the possession of the respective defendants; that neither could Aquilina pay their value, she being insolvent; and that the defendants refused to return the pieces of jewelry in their possession to plaintiff Visitacion in spite of the several demands made upon them and despite the search warrant issued by the court.

Cristina in her answer alleges that she is ignorant of the transaction between the plaintiff and Aquilina; that she had nothing to do with the conviction of Aquilina for estafa, and that she knows nothing of the ring said to have been delivered to her nor its demand for its return and that she never received said ring from the plaintiff.

Generosa de Manzano in her answer claims that she never had any transaction with Aquilina Saraos but that she possesses a "medallion" like that described in the complaint but that she had bought it not from Aquilina but from one Mrs. Isabel Manzano de Maramba.

Defendants Pilar, Eden and Luz filed a motion to dismiss claiming that the court has no jurisdiction over the subject matter; that the cause of action is barred by the prior judgment and that the claim in plaintiff's complaint has been released. They contend that the claim and interest in each piece of jewelry is separate and distinct and should be the subject of an action, that because of the value of each piece of jewelry, such action falls within the jurisdiction of the justice of the peace of court; that the cause of action is barred by the criminal action of estafa against Aquilina on which she was duly convicted, and that the sentence to indemnify the plaintiff in the sum of P1, 450.65 bars the present claim of the plaintiff, said judgment having the effect of a release on the present claim

of the plaintiff.

The trial court granted the motion and dismissed the case with costs, on the ground that the plaintiff had distinct and separate actions against each defendant, and since the amount of the claim against each defendant ranges from P170 to P350, in accordance with the provisions of section 88, Republic Act 296, the plaintiff's case falls within the exclusive jurisdiction of the justice of the peace court. The plaintiff appealed directly to this court because only questions of law are involved.

The contention of the defendants that the cause of action is barred by the prosecution of Aquilina for estafa and that her conviction thereof and the sentence to indemnify the plaintiff in the sum of P1,450.65 which includes the value of the jewelry, bars the claim of the plaintiffs, is untenable. Article 104 of the Revised Penal Code states that civil liability includes among other things, restitution, and article 105 of the same code provides that the thing itself shall be restored, even though it be found in the possession of a third person who has acquired it by lawful means, saving to the latter his action against the person who may be liable to him. In other words, the owner of an article who has been deprived thereof through the commission of a crime may follow and recover it from any person in possession thereof, except in certain specific cases. And the conviction of the person illegally depriving the owner of the possession of an article and his being sentenced to either restore the article taken away or pay the value thereof, is no bar to the recovery of the said article by the owner from anyone holding it.

The case of Arenas vs. Raymundo, (19 Phil., 46), is directly in point. There, several pieces of jewelry were delivered by the owner to an agent to be sold on commission, but the agent instead of selling the jewelry or accounting for their value, pledged the same to a pawnshop. The agent as in the present case was prosecuted for estafa, convicted, and sentenced to pay the value of the jewelry or suffer subsidiary imprisonment in case of insolvency. And yet, this court held that the owner could recover said jewelry from the pawnshop owner, citing in support of its holding the provisions of article 120 of the old penal code, from which was copied article 105 of the Revised Penal Code, as well as the doctrine laid down in the cases of Varela vs. Matute, and Varela vs. Finnick, (9 Phil., 479 and 482), respectively.

As regards jurisdiction, however, we agree to the contention of the defendants and the ruling of the trial court that it had no jurisdiction. The claim against each defendant for the recovery of the piece of jewelry said to be in her possession, really constitutes a separate cause of action; so is the defense of each defendant, separate and distinct from those of her co-defendants. The ruling in the case of Brillo vs. Buklatan et al., (87 Phil., 519) is applicable. In said case, the first cause of action is that the plaintiff as President of the Leyte United Workers, sought to recover from several defendants the amounts of money which the latter in their capacities as chief foreman and foreman had been collecting from several groups of laborers as their contributions to funds of the association of which plaintiff was the president. In affirming the order of dismissal of the complaint this court said the following:

"Furthermore, the first cause of action is composed of separate claims against several defendants of different amounts each of which is not more than P2,000 and falls under the jurisdiction of the justice of the peace court under section 88 of Republic Act No. 296. The several claims do not seem to arise from the same transaction or series of transactions and there seem to be no question of law or of fact common to all the defendants as may warrant their joinder under Rule 3, section 6. Therefore, if new complaints are to be filed in the name of the real party in interest they should be filed in the justice of the peace court."

In the present case, the several claims against the defendants do not seem to arise from the same transaction or series of transactions. In fact, according to the very complaint, the different pieces of jewelry were received by the agent from the owner on different dates. It is highly possible that assuming that said pieces of jewelry were given by the agent to each of the several defendants, the transaction between the agent Aquilina and each defendant was

separate and distinct from that of the rest, and effected on a different occasion. There is no pretense that there was any conspiracy between or among the different defendants to obtain the pieces of jewelry from the agent and later refuse to return or account for them. Furthermore, the defense of each defendant as already stated, may be different from the rest. As may be seen from their answers, while one defendant says that she possesses one of the pieces of jewelry involved in the case, but insists that she had bought it from a person other than Aquilina, the other defendants flatly deny having received any jewelry from the plaintiff's agent. It is not therefore permissible to include these separate and distinct claims or causes of action and the several defendants in one single complaint, and inasmuch as each claim does not exceed P2,000 the justice of the peace court has jurisdiction, if and when new complaints are filed.

In view of the foregoing, the order appealed from is hereby affirmed, with costs. So ordered.

Moran, C. J., Paras, Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo and Bautista Angelo, JJ., concur.

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