

**GLICERIO AGUSTIN (DECEASED) AS ADMINISTRATOR OF THE
INTESTATE ESTATE OF SUSANA AGUSTIN,
PETITIONER-PLAINTIFF-APPELLANT, VS. LAUREANO BACALAN AND
THE PROVINCIAL SHERIFF OF CEBU, ...**

G.R. No. L-46000. March 18, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The precursor of this case was a complaint for ejectment with damages filed by plaintiff-appellant Agustin, as administrator of the Intestate Estate of Susana Agustin, against defendant-appellee Bacalan, before the City Court of Cebu.

Bacalan is a lessee of a one-door ground floor space in a building owned by the late Susana Agustin. Due to non-payment rentals despite repeated demands an action to eject him was filed.

In his complaint, the plaintiff-appellant prayed that the defendant-appellee be ordered to immediately vacate the place in question, to pay plaintiff-appellant the sum of P2,300.00 representing arrearages in rentals plus the corresponding rentals until he actually vacates the place, attorney's fees, expenses, and costs.

In his answer, the defendant-appellee included a counterclaim alleging that the present action was "clearly unfounded and devoid of merits, as it is tainted with malice and bad faith on the part of the plaintiff the obvious reason that plaintiff pretty well knows that defendant does not have any rentals in arrears due to the estate of Susana Agustin, but notwithstanding this knowledge, plaintiff filed the present action merely to annoy, vex, embarrass and inconvenience the defendant". He stated, "That by virtue of the unwarranted and malicious filing of this action by the plaintiff against the defendant, the latter suffered, and will continue to suffer, actual and moral damages in the amount of no less than P50,000.00; P10,000.00 in concept of exemplary damages. In addition, defendant has been compelled to retain the services of undersigned counsel to resist plaintiffs' reckless, malicious and frivolous claim and to protect and enforce his rights for which he obligated himself to pay the further sum of P3,500.00 as attorney's fees."

The City Court of Cebu subsequently rendered judgment dismissing the counterclaim and ordering the defendant to vacate the premises in question and to pay the plaintiff the sum of P3,887.10 as unpaid back rentals and the sum of P150.00 as attorney's fees. From this decision, the defendant filed an appeal with Branch III of the Court of First Instance of Cebu. The case was designated as Civil Case NO. R-12430.

Availing of Republic Act 6031 which does away with trials de novo in appeals before it, the Court of First Instance rendered a decision, the dispositive portion of which reads:

"WHEREFORE, based on all the foregoing considerations, the appealed judgment is hereby set aside.
Judgment is hereby required in favor of the defendant -

"1. Ordering the plaintiff to pay:

“a) P10,000.00 as moral damages;

“b) P5,000.00 as exemplary damages;

“c) P1,000.00 as attorney's fees; and

"2. With costs against plaintiff. .

"JUDGMENT REVERSED."

No appeal was taken by the plaintiff-appellant. The decision lapsed into finality and became executory. A writ of execution was issued by virtue of which a notice to sell at public auction real properties belonging to the estate of Susana Agustin was issued by the Deputy Sheriff to satisfy judgment in the case. Plaintiff's counsel filed a motion for reconsideration, confessing his fault and giving the reason why he failed to perfect the appeal on time. The motion was denied.

Thereafter, with the aid of new counsel, the plaintiff-appellant filed a complaint with Branch V, Court of First Instance of Cebu, against the defendant and the Deputy Sheriff of Cebu for the declaration of the nullity of the above-cited decision of Branch III, Court of First Instance Cebu in the ejectment case on the ground that the exercise of its appellate jurisdiction was null and void from the beginning for the following reasons:

"(a) It grants relief in the total sum of P16,000.00 (exclusive of costs) distributed thus:

P10,000.00 as moral damages

P 5,000.00 as exemplary damages

P 1,000.00 as attorney's fees

which is clearly beyond the jurisdiction of the City Court of Cebu; Section 88 of the Judiciary Act of 1948, as amended by Rep. Acts Nos. 2613 and 3828, limits the jurisdiction of the city courts in civil cases to P10,000.00 as the maximum amount of the demand (exclusive of interest and costs);

"(b) Moreover, said Decision (Annex "G") grants moral damages to the defendant in the sum of P10,000.00 which constitutes a grave abuse of discretion amounting to lack of jurisdiction, there being no evidence to support it and the subject matter of the suit in Civil Case No. R-13504 being purely contractual where moral damages are not recoverable."

A motion to dismiss was filed by the defendant on the grounds that the plaintiff has no cause of action and that the court lacks jurisdiction to declare the nullity of a decision of another branch of the Court of First Instance of Cebu.

While rejecting the second ground for the motion to dismiss, the court sustained the defendant and ruled:

"Clearly from a reading of the complaint, the plaintiff seeks the annulment of the decision rendered by the Third Branch of this Court because the award exceeded the jurisdiction amount cognizable by the City Court of Cebu and the said Branch III of this Court has no jurisdiction to award the defendants herein (plaintiff in Civil Case No. 12430) an amount more than P10,000.00;

"It is the considered opinion of this Court that this allegation of the herein plaintiff cannot be availed of as a ground for an annulment of a judgment. It may perhaps, or at most, be a ground for a petition for certiorari. But then, the remedy should be availed of within the reglementary period to appeal. Nevertheless, even if the plaintiff did take his cause by certiorari, just the same, it would have been futile. x x x.

xxx xxx xxx

"In fine, this Court believes that the present complaint fails to allege a valid cause of action as the same is only a clear attempt at utilizing the remedy for the annulment of the judgment rendered by this Court in Civil Case No. 12430 to offset the adverse effects of failure to appeal."

Plaintiff-appellant's motion for reconsideration was denied, prompting him to file an appeal before the Court of Appeals, which, in a resolution, certified the same to us on the ground that it involves pure questions of law.

We ruled in *Macabingkil v. People's Homesite and Housing Corporation* (72 SCRA 326, citing *Reyes v. Barretto-Datu*, 94 Phil. 446, 448-449) -

"Under our rules of procedure, the validity of a judgment or order of the court, which has become final and executory, may be attacked only by a direct action or proceeding to annul the same, or by motion in another case if, in the latter case, the court had no jurisdiction to enter the order or pronounce the judgment (section 44, Rule 39 of the Rules of Court). The first proceeding is a direct attack against the order or judgment, because it is not incidental to, but is the main object of, the proceeding. The other one is the collateral attack, in which the purpose of the proceedings is to obtain some relief, other than the vacation or setting aside of the judgment, and the attack is only an incident. (I Freeman on Judgments, sec. 306, pages 607-608.) A third manner is by a petition for relief from the judgment or order as authorized by the statutes or by the rules, such as those expressly provided in Rule 38 of the Rules of Court, but in this case it is to be noted that the relief is granted by express statutory authority in the same action or proceeding in which the judgment or order was entered. x x x"

The question is thus poised, whether or not the present action for the annulment of the judgment in the ejectment case is the proper remedy after it has become final and executory.

To this procedural dilemma, the solution lies in the determination of the validity of the judgment sought to be annulled, for against a void judgment, plaintiff-appellant's recourse would be proper.

There is no question as to the validity of the court's decision with respect to the issue of physical possession of property, the defendant-appellee's right to the same having been upheld. However, the plaintiff-appellant assails the money judgment handed down by the court which granted damages to the defendant-appellee. By reason thereof, he seeks the declaration of the nullity of the entire judgment.

It is the plaintiff-appellant's contention that moral damages may not properly be awarded in ejectment cases, the only recoverable damages therein being the reasonable compensation for use and occupancy of the premises and the legal measure of damages being the fair rental value of the property.

Plaintiff-appellant loses sight of the fact that the money judgment was awarded the defendant-appellee in the concept of a counterclaim. A defending party may set up a claim for money or any other relief which he may have against the opposing party in a counterclaim (Section 6, Rule 6, Revised Rules of Court). And the court may, if warranted, grant actual, moral, or exemplary damages as prayed for. The grant of moral damages, in the case at bar, as a counterclaim, and not as damages for the unlawful detention of property must be upheld. However, the amount thereof is another matter.

Plaintiff-appellant raises the issue of whether or not the Court of First Instance may, in an appeal, award the defendant-appellee's counterclaim in an amount exceeding or beyond the jurisdiction of the court of origin.

It is well-settled that a court has no jurisdiction to hear and determine a set-off or counterclaim in excess of its jurisdiction (Section 5, Rule 5, Revised rules of Court; *Ago v. Buslon*, 10 SCRA 202). A counterclaim beyond the court's jurisdiction may only be pleaded by way of defense, the purpose of which, however, is only to defeat or weaken plaintiff's claim, but not to obtain affirmative relief (Section 5, Rule 5, Revised Rules of Court). Nevertheless, the defendant-appellee, in the case at bar, set up his claim in excess of the jurisdiction of the city

court as a compulsory counter-claim. What is the legal effect of such a move?

Pertinent to our disposition of this question is our pronouncement in the case of *Hyson Tan, et al. v. Filipinas Compania de Seguros, et al.* (G.R. No. L-10096, March 23, 1956) later adopted in *Pindañgan Agricultural Co., Inc. v. Dans* (6 SCRA 14) and the later case of *One Heart Club, Inc. v. Court of Appeals* (108 SCRA 416) to wit:

xxx xxx xxx

"x x x An appellant who files his brief and submits his case to the Court of Appeals for decision, without questioning the latter's jurisdiction until decision is rendered therein, should be considered as having voluntarily waived so much of his claim as would exceed the jurisdiction of said Appellate Court; for the reason that a contrary rule would encourage the undesirable practice of appellants submitting their cases for decision to the Court of Appeals in expectation of favorable judgment, but with intent of attacking its jurisdiction should the decision be unfavorable. x x x"

Thus, by presenting his claim voluntarily before the City Court of Cebu, the defendant-appellee submitted the same to the jurisdiction of the court. He became bound thereby. The amount of P10,000.00 being the jurisdictional amount assigned the City Court of Cebu, whose jurisdiction the defendant-appellee has invoked, he is thereby deemed to have waived the excess of his claim beyond P10,000.00. It is as though the defendant-appellee had set up a counterclaim in the amount of P10,000.00 only. May the Court of First Instance then, on appeal, award defendant-appellee's counterclaim beyond that amount?

The rule is that a counterclaim not presented in the inferior court cannot be entertained in the Court of First Instance on appeal (Francisco, *The Revised Rules of Court in the Philippines*, Vol. III, p. 26, citing the cases of *Bernardo v. Genato*, 11 Phil. 603 and *Yu Lay v. Galmes*, 40 Phil. 651). As explained in *Yu Lay v. Galmes* - "Upon an appeal to a court of first instance from the judgment of a justice of the peace, it is not possible, without changing the purpose of the appeal, to alter the nature of the question raised by the complaint and the answer in the original action. There can be no doubt, therefore, of the scope of the doctrine laid down in the several decisions of the Court. Consequently, We hold that, upon an appeal to the Court of First Instance, the plaintiff as well as the defendant cannot file any pleading or allegation which raises a question essentially distinct from that raised and decided in the justice of the peace court." This rule was reiterated in cases from *Ng Cho Cio v. Ng Diong* (1 SCRA 275) to *Development Bank of the Philippines v. Court of Appeals* (116 SCRA 636).

Thus, the defendant-appellee's counterclaim beyond P10,000.00, the jurisdictional amount of the City Court of Cebu, should be treated as having been deemed waived. It is as though it has never been brought before the trial court. It may not be entertained on appeal.

The amount of judgment, therefore, obtained by the defendant-appellee on appeal, cannot exceed the jurisdiction of the court in which the action began. Since the trial court did not acquire jurisdiction over the defendant's counterclaim in excess of the jurisdictional amount, the appellate court, likewise, acquired no jurisdiction over the same by its decisions or otherwise. Appellate jurisdiction being not only a continuation of the exercise of the same judicial power which has been executed in the court of original jurisdiction, also presupposes that the original and appellate courts are capable of participating in the exercise of the same judicial power (See 2 Am. Jur. 850; *Stacey Cheese Company v. R.E. Pipkin*, Appt. 155 NC 394, 71 S.E. 442, 37 LRA 606) It is the essential criterion of appellate jurisdiction that it revises and corrects the proceedings in a cause already instituted, and does not create that cause (See 2 Am. Jur 850 citing *Marbury v. Madison*, 1 Cranch US, 137, 2 L. ed. 60).

It is, of course, a well-settled rule that when a court transcends the limits prescribed for it by law and assumes to act where it has no jurisdiction, its adjudications will be utterly void and of no effect either as an estoppel or otherwise (*Planas v. Collector of Internal Revenue*, 3 SCRA 395; *Paredes v. Moya*, 61 SCRA 526). The Court of

First Instance, in the case at bar, having awarded judgment in favor of the defendant-appellee in excess of its appellate jurisdiction to the extent of P6,000.00 over the maximum allowable award of P10,000.00, the excess is null and void and of no effect. Such being the case, an action to declare the nullity of the award as brought by the plaintiff-appellant before the Court of First Instance of Cebu, Branch V is a proper remedy.

The nullity of such portion of the decision in question, however, is not such as to affect the conclusions reached by the court in the main case for ejectment. As held in *Vda. de Pamintuan v. Tiglao* (53 Phil. 1) where the amount set up by the defendant was not proper as a defense and it exceeded the inferior court's jurisdiction, it cannot be entertained therein, but the court's jurisdiction over the main action will remain unaffected. Consequently, the decision over the main action, in the case at bar, must stand, best remembering that a counterclaim, by its very nature, is a cause of action separate and independent from the plaintiff's claim against the defendant.

WHEREFORE, the decision of the Court of First Instance of Cebu, Branch III in Civil Case NO. R-12430 for ejectment is hereby DECLARED NULL AND VOID insofar as it awards damages on the defendant-appellee's counterclaim in excess of P6,000.00 beyond its appellate jurisdiction. The decision in all other respects is AFFIRMED. The order of the Court of First Instance of Cebu, Branch V dismissing Civil Case No. R-13462 for declaration of nullity of judgment with preliminary injunction is hereby MODIFIED, Civil Case No. R-13462 is ordered DISMISSED insofar as the decision sought to be annulled upholds the defendant's right to possession of the disputed property. The defendant's counterclaim for damages is GRANTED to the extent of TEN THOUSAND (P10,000.00) PESOS. The grant of SIX THOUSAND (P6,000.00) PESOS in excess of such amount is hereby declared NULL and VOID, for having been awarded beyond the jurisdiction of the court.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

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