

VICENTE BARENG, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, PATROCINIO ALEGRIA AND AGUSTIN RUIZ, RESPONDENTS.

G.R. No. L-12973. April 25, 1960

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by certiorari from that portion of the judgment of the Court of Appeals in C.A.—G.R. No. 12496-R sentencing petitioner Vicente Bareng to pay respondent Patrocinio Alegria, in addition to the amount of P3,600 representing his indebtedness to the latter, "sus intereses legales desde la presentacion de esta demanda".

The facts, insofar as material to this appeal, may be summarized as follows:

On November 29, 1951, petitioner Bareng purchased from respondent Alegria the cinematographic equipment installed at the Pioneer (now Rosamil) Theater in Laoag, Ilocos Norte, for the sum of P15,000, P10,000 of which was paid, and for the balance, Bareng signed four promissory notes falling due on the following dates: P1,000 on December 15, 1951; P1,500 on February 15, 1952; P1,500 on March 15, 1952; and P1,000 on April, 1952.

The first promissory note was duly paid by petitioner. On February 12, 1952, shortly before the second note fell due, the other respondent Agustin Ruiz informed petitioner that he was a co-owner of the equipment in question, and several days thereafter, Ruiz sent petitioner a telegram instructing him to suspend payments to Alegria of the balance of the price as he was not agreeable to the sale. On the same day, Alegria sought to collect upon the second note, but petitioner refused to pay on account of Ruiz's claims. Only P400 was paid on the second note and thereafter, petitioner refused to make any more payments to Alegria until the latter had settled his dispute with Ruiz.

On March 31, 1952, Ruiz filed suit against Alegria and petitioner Bareng (Civil Case No. 1527) for his share in the price of the cinema, equipment in question. On May 21, 1952, Alegria and Ruiz reached a compromise in the case, wherein the former recognized the latter as co-owner of the equipment sold to petitioner, and promised to pay him 2/3 of whatever amount he could recover from the latter. Whereupon, on May 28, 1952, Alegria sued Bareng for the amount of P13,500 allegedly representing the unpaid balance of the price of said equipment. Bareng answered the complaint, alleging that only P3,600 had not been paid on the price of the equipment in question, prayed for the rescission of the sale for supposed violation by Alegria of certain express warranties as to the quality of the equipment, and asked for payment of damages for alleged violation of Alegria's warranty of title. After a joint trial of the two cases, the lower court rendered judgment declaring Alegria and Ruiz co-owners of the cinema equipment in question in Civil Case No. 1527; and dismissing Civil Case No. 1554, without prejudice to the co-owners' filing another action against petitioner Bareng for the balance of the price of said equipment. On appeal to the Court of Appeals by both parties, the decision of the court a quo was reversed and instead, Bareng was ordered in Civil Case No. 1554 to pay Alegria the sum of P3,600 plus legal interest from the filing of the complaint; and in Civil Case No. 1527, Alegria was ordered to pay Ruiz 2/3 of the total amount he

would recover from Bareng in Civil Case No. 1554. Not agreeable to that part of the decision making him liable for legal interests on the principal amount due to Alegria, Bareng, as already stated, appealed to this Court.

Petitioner Bareng claims he is not liable to pay interests to Alegria because he was justified in suspending payment of the balance of the price of the equipment in question from the time he learned of Ruiz' adverse claims over said equipment. In fact, Bareng adds, even the Court of Appeals found that "bajo dichas circunstancias, la actitud del demandado Vicente Bareng de suspender el pago de aquel saldo de P3,600.00 estuvo justificado".

The right of a vendee to suspend payment of the price of the thing sold in the face of any danger that he might be disturbed in its possession or ownership is conferred by Article 1590, New Civil Code, to wit:

"Art. 1590. Should the vendee be disturbed in the possession or ownership of the thing acquired, or should he have reasonable grounds to fear such disturbance, by a vindicatory action or a foreclosure of mortgage, he may suspend the payment of the price until the vendor has caused the disturbance or danger to cease, unless the latter gives security for the return of the price in a proper case, or it has been stipulated that, notwithstanding any such contingency, the vendee shall be bound to make the payment. A mere act of trespass shall not authorize the suspension of the payment of the price."

There is no question that, as found by the Court of Appeals, petitioner Bareng had the right to suspend payment of the balance of the price of the cinema equipment in question to his vendor, respondent Alegria, from the time he was informed by Ruiz of the latter's claims of co-ownership thereof, especially upon his receipt of Ruiz' telegram wherein the latter asserted that he was not agreeable to the sale. Nevertheless, said right of Bareng ended as soon as "the vendor has caused the disturbance or danger to cease". In this case, respondent Alegria had caused the disturbance or danger to petitioner's ownership or possession to cease when he (Alegria) reached a compromise with Ruiz in Civil Case No. 1527 whereby Ruiz expressed his conformity to, the sale to Bareng, subject to the payment of his share in the price by Alegria. Petitioner Bareng cannot claim that he was not aware of this compromise agreement between the two owners, because he was a party-defendant in Civil Case No. 1527. From the time Alegria and Ruiz reached this settlement, there was no longer any danger of threat to Bareng's ownership and full enjoyment of the equipment he bought from Alegria. And it was by virtue of this settlement that Alegria, two days later, sued petitioner for the unpaid balance of the price of said equipment. In his answer to Alegria's complaint, petitioner admitted his indebtedness to Alegria in the amount of P3,600, yet he did not tender payment of said amount nor did he deposit the same in court, but instead sought to have the sale rescinded upon claims of violations of warranties by Alegria, fiat the Court of Appeals found not to have been proved or established. It is clear, therefore, that petitioner Bareng was in default on the unpaid balance of the price of the equipment in question from the date of the filing of the complaint by Alegria, and under Article 2209 of the Civil Code, he must pay legal interests thereon from said date.

Petitioner also argues that his indebtedness to respondent Alegria was unliquidated until its amount was determined by the Court of Appeals at P3,600.00, and that consequently, he cannot be made answerable for interests on the amount due before judgment in the Court of Appeals. The argument is completely untenable. The price of the equipment in question under petitioner and Alegria's contract of sale was determined and known, hence, liquidated; and the obligation to pay any unpaid balance thereof did not cease to be liquidated and determined simply because vendor and vendee, in the suit for collection, disagreed as to its amount. If petitioner had wanted to free himself from any responsibility for interests on the amount he had always acknowledged he still owed his vendor, he should have deposited the same in Court at the very start of the action.

As for the other errors raised by petitioner in his brief, we need not consider them because they were not raised in the petition for review and are, therefore, considered waived.

Wherefore, the decision appealed from is, affirmed in toto, with costs against petitioner Vicente Bareng.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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