

TOMAS ERMAC, PLAINTIFF-APPELLANT VS. IGNACIO SANTIAGO. DEFENDANT-APPELLEE.

G.R. No. L-6116. December 29, 1954

Ponente: PADILLA, J.

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PADILLA, J.:

An action for the recovery of a sum of money, attorney's fees and costs; filed in the Municipal Court of the City of Davao, arising from a contract for repair of a 20 h.p. Diesel engine, was dismissed without costs, upon petition of the plaintiff after the parties had entered into another agreement which reads, as follows:

KNOW ALL MEN BY THESE PRESENTS:

That I, IGNACIO SANTIAGO, of legal age, married and residing at Davao City, do hereby declare voluntarily as follows

That I hereby promise to repair Japanese Yan Mar 20 h.p. Diesel Engine the one (1) Japanese Yan Mar 20 h.p. Diesel Engine owned by Mr. Tomas Ermac at the earliest possible time and to put the same in a working condition as per instruction of said Tomas Ermac; that I further agree to mount said finished engine at any place directed by Mr. further obligations on the part of the latter;

This agreement is without prejudice to my being held liable under the former agreement had between myself and Tomas Ermac on November 24, 1948 per Doc. No. 98, page 26, Book I, Series of 1948 of the Notarial Register of Artemio Domingo, Notary Public.

IN WITNESS WHEREOF, I have thereto set my hand this 13th day of March, 1950, at Davao City, Philippines.

(Sgd) IGNACIO SANTIAGO

SIGNED IN THE PRESENCE OF:

(Sgd) BLASITO ANGELES & (Illegible)

(Acknowledgment)

(Exhibit B, pp. 22-23, Record on Appeal.)

(Civil No. 410 of the Municipal Court of Davao)

On 3 December 1951, another action was filed for the recovery of the same amount as the sought to be recovered in the previous case. After hearing, the Municipal Court of Davao City rendered judgment ordering the defendant to pay to the plaintiff the sum of P1, 739.96, together with lawful interest from the date of filing of the complaint until paid, P100 attorney's fees and costs. From that judgment defendant appealed to the Court of First Instance.

In his answer the defendant reiterated his allegations and affirmative defenses set up in the Municipal Court. A pre-trial was held and the parties agreed to submit the case for decision on the pleadings—the original contract

Exhibit A, dated 24 November 1948, and the subsequent Exhibit B, dated 13 March 1950. The parties were required to file memoranda and after the filing thereof the Court rendered judgment dismissing the complaint with costs against the plaintiff. The plaintiff has appealed.

The appeal is before us because there is no question of fact involved but only the interpretation to be given to the agreement Exhibit B.

The plaintiff relies on the second paragraph of the agreement quoted above. If such paragraph is to be construed as making the defendant responsible for damages for the delay under the previous contract, then the subsequent agreement upon which the plaintiff asked for the dismissal of the former case would be meaningless. The defendant complied with his obligation under the new contract by repairing the Diesel Engine, putting it in good running condition at the earliest possible time, and, as directed by the plaintiff, set it up at the place of the purchaser Juan Peña in Tibungko, Davao City, after keeping it in his place for some time by express direction of the plaintiff while the latter is negotiating for the sale thereof. The only reasonable interpretation of the second paragraph is that should the defendant fail to repair, put the Diesel engine in good running condition at the earliest possible time and install it at any place that the plaintiff may direct, without any further obligation on the part of the latter, the last part not having been assumed by the defendant in the original contract, then only then would the defendant's liability for damages arise. Since the defendant has performed fully and satisfactorily his part of the contract, the plaintiff has no cause of action against him.

The judgment appealed from is affirmed, with double costs against the appellant

Paras, C.J., Pablo, Bengzon, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J.B.L., JJ., concur

Mr. Justice Montemayor took no part.

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