

JUSTA G. VDA. DE GUIDO, PETITIONER, VS. OSCAR CASTELO, JUDGE OF THE FIRST INSTANCE OF RIZAL, CALOOCAN BRANCH, ANTONIO ROSCA, TO TEE, AND DY CHONG, REpondENTS.*G.R. No. L-1613. May 24, 1948*

Ponente: PARAS, J.

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In a case appealed from the justice of the peace court of Caloocan to the Court of First Instance of Rizal, the defendants (the herein respondents other than the respondent Judge), after the plaintiff (the herein petitioner), had closed her case, made a verbal motion for dismissal, with a reservation of their right to present evidence in case of its denial. In his order of July 9, 1947, the respondent Judge denied the motion and directed that the trial be continued as soon as practicable. Taking the position that said respondents waived their right to present evidence by filing a motion to dismiss after the submission of petitioner's evidence, the latter filed a motion for reconsideration praying that the respondent Judge render judgment in accordance with the proof adduced by the petitioner, which motion was denied in the order of August 12, 1947. The present original action for certiorari and mandamus was instituted by the petitioner for the purpose of securing an order compelling the respondent Judge to desist from allowing the other respondents to present any evidence and forthwith render Judgment upon the evidence already submitted by the petitioner.

Of course, we have already held in *Arroyo vs. Azur*,^[1] April 13, 1946, 43 Off. Gaz., 54, that "cuando el demandado interpone lo que se llama demurrer a la suficiencia de los pruebas del demandante presentando una moción de sobreseimiento por la razón de que tales pruebas son insuficientes o ineficaces para substanciar la demanda, no tiene derecho a reservarse la presentación de sus pruebas sino que debe atenerse a las resultancias de dicho demurrer tanto para lo favorable como para lo adverso. Si la moción prospera y la decisión fuere sostenida en apelación, el asunto termina definitivamente; pero tambien termina del mismo modo si la decision fuere revocada y el Tribunal de alzada hallare que hay pruebas y motivos suficientes para dictar una sentencia en el fondo a favor del demandante. Naturalmente el efecto de todo esto es eliminar en estos casos la llamada reserva de pruebas. obligando a las partes a que liquiden todas sus controversies en una sola vista." The scope of these pronouncements is obviously not unlimited. That decision involved a motion for dismissal which was granted, resulting in effect in a final termination of the case on the merits; and the fundamental objective of this Court was merely to avoid possible delays due to relays of cases between the lower and appellate courts should a dismissal be found untenable on appeal. The following are typical passages demonstrative of the line of reasoning only in the case above cited but in the earlier decisions in *Moody, Aronson & Co. vs. Hotel Bilbao*, 50 Phil., 198, and *Gonzalez Castro vs. Azaola*, 63 Phil. 841.

"Esta doctrina admite más que una inferencia o interpretacion y es que en adelante ya no se permitiria nungana reserva, pero que si por error se permitiese, la misma ya no podria invocarse como motiva legal para que el asunto se devolviera al tribunal inferior para los efectos de la articulación de las pruebas reservadas. Si la doctrina no se interpretase de esta manera, jamás se aplicaria la misma con todo rigor. porque si un Juzgado de

Primera Instancia se equivocase de nuevo permitiendo igual reserva y llegamos a la conclusión, como en el presente caso, de tener que revocar la desición de dicho Juzgado, cabria invocar siempre la equidad para la devolución del asunto, y así sucesivamente, sin ninguna limitación de carácter final.

"* * * * *

" * * * Por tanto, los demandatos al presentar su moción de sobreseimiento con el aditamento de la reserva de articular sus pruebas eventualmente, lo hicieron allánandose al riesgo de que se rechazase dicha reversa en apelación como hoy lo hacemos. La intención de la Corte era clara, terminente y decisiva: evitar la multiplicación y la prolongación de los pleitos, cosa siempre odiosa no sólo por la perturbación y la anomalía que ocasionan en la vida y en los negocios del individuo, sino también por lo que cuestan en dinero y en energías tanto al ciudadano como al Estado." (Arroyo contra Azur, y otros.[1] CA-No. 9320 Abril 13, 1946, 43 Off. Gaz., No. 1, pp. 54, 60.)

" * * * The defendant who, after the plaintiff has submitted his evidence, makes, a motion to dismiss which the trial court in a decision grants, and who, on appeal of the plaintiff, has the judgment reversed, cannot then be permitted to produce evidence in defense. The defendant in offering a motion to dismiss in effect elects to stand on the insufficiency of the plaintiff's case. Otherwise, the result will be to Invite unnecessary litigation." (Moody, Aronson & Co. vs. Hotel Bilbao, 50 Phil., 198, 200.)

"The record shows that immediately after the attorney for the defendant had presented his oral motion to dismiss, he signified his intention to call his client as a witness in the event that his motion to dismiss should be denied. The court, in such a situation, should not have rendered its decision, but in order to avoid any possible delay of the case and enable it to render its decision with all the disputed questions in view, it should have required the defendant to present his evidence." (Gonzalez Castro vs. Azaola, 63 Phil., 841, 842.)

The delay thus sought to be eliminated certainly cannot happen where the motion to dismiss is denied and the movant (defendant) required to proceed with the submission of his evidence in the lower court which, it is needless to state, still has full jurisdiction and control of the case. The procedure followed by the respondent Judge in the case at bar is virtually in consonance with the suggestion contained in Gonzalez Castro vs. Azaola, supra, to the effect that "the court, in such a situation, should not have rendered its decision, but in order to avoid any possible delay of the case and enable it to render its decision with all the disputed questions in view, it should have required the defendant to present his evidence."

The petition is, therefore, hereby denied with costs against the petitioner. So ordered.

Feria, Perfecto, Bengzon, and Tuason, JJ., concur.

[1]76 Phil., 493. [1]76 Phil., 493.

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