

ROMAN TOLSA, PETITIONER, VS. HONORABLE ALEJANDRO J. PANLILIO, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA AND ATAYDE BROTHERS AND COMPANY, RESPONDENTS.

G.R. No. L-7024. May 26, 1954

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

As a result of the collision in the month of October, 1948, between a truck owned by respondent Atayde Brothers and Company driven by one Elpidio Bamba and a passenger bus owned by petitioner Roman Tolsa, Bamba was prosecuted in the Court of First Instance of Manila in Criminal Case No. 8748 for damage to property thru reckless imprudence, was found guilty, and sentenced to pay a fine of P765, to indemnify Tolsa in the same amount, with subsidiary imprisonment in case of insolvency, and to pay the costs. On appeal the decision was affirmed by the Court of Appeals. Bamba failed to pay the two amounts and had to undergo the corresponding subsidiary imprisonment. Because of Bamba's insolvency and his failure to pay the indemnity Tolsa filed in the same Court of First Instance of Manila Civil Case No. 19557 against Atayde Brothers and Company and Elpidio Bamba to recover the amount of P2,013 consisting of the indemnity of P765, P98 as a damage to one tire as a result of the collision, P950 as consequential damages which is the amount Tolsa was supposed to have failed to realize as income during the time that his bus was being repaired, and P200 as attorney's fees, or a total of P2,013. Defendants in said civil case answered the complaint and the court set the hearing of the case on August 20, 1953. However, on August 5th, that is, fifteen days before the date set for hearing, respondent Judge Panlilio *motu proprio* dismissed the case, without prejudice, on the ground that the court was without jurisdiction to try the same for the reason that the amount sought to be recovered in the action was less than P2,000. A motion for reconsideration by plaintiff Tolsa was denied and so he filed the present petition for certiorari on the ground that despite the fact that respondent Judge had jurisdiction over the case, he acted in excess of his jurisdiction and with grave abuse of his discretion in dismissing it.

Although respondent Judge in his order of dismissal did not state the reason why he ruled that he had no jurisdiction over the case, we presume that he was of the belief that plaintiff Tolsa was entitled only to the amount of P765 awarded to him as indemnity in the criminal case, and that for this reason, the Municipal Court had jurisdiction. We have already held in several decisions that what determines the jurisdiction of a court in civil cases is not the amount that plaintiff is entitled to recover under the allegations of the complaint and under the law but the amount sought to be recovered, usually contained in the prayer. In the recent case of *Lim Bing It vs. Hon. Fidel Ibañez, et al.*, 92 Phil., 799, also a case of certiorari but which we regarded as one for mandamus, wherein the petitioner therein filed an action in the court of First Instance of Manila to recover P4,526.30, exclusive of interest, itemized as follows: P326.30 for merchandise bought on credit; P2,000 for damages, and P2,200 as attorney's fees, and where the trial court pronounced itself as without jurisdiction on the ground that "the cause of action" was only for the amount of P326.30, we held that the amount which determines the jurisdiction of the courts of general jurisdictions is the amount sought to be recovered and not the amount found after trial to be due;

and as we found that the respondent Judge therein erred in holding that he had no jurisdiction, we granted the petition and directed him to decide the case.

Finding the present petition for certiorari which we regard as a petition for mandamus to be well-founded, the same is hereby granted, and setting aside the order of dismissal of respondent Judge, he is hereby directed to reinstate Civil Case No. 19557 and hear the same. No costs.

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

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