

CIRIACO SANTIAGO, PLAINTIFF AND APPELLEE, VS. MANUEL CONDE, DEFENDANT AND APPELLANT.

G.R. No. L-11981. March 17, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an action to recover the sum of P33,972.88, with Interest of 12% per annum from March 20, 1953, and the costs of action.

It is claimed that on December 24, 1952, plaintiff and defendant entered into an agreement the purpose of which is to produce a series of 13 half-hour chapters of television films for distribution in the United States and other countries, including the Philippines, both to share equally in the profits of the enterprise; that plaintiff would finance the production of the films and other expenses that might be necessary incident thereto not exceeding P100,000, while defendant would produce and direct the films; that, as agreed upon, plaintiff and defendant produced the pilot film of the series which cost P33,972.88 entirely financed by plaintiff; that on March 14, 1953, plaintiff and defendant executed a supplemental agreement wherein defendant was authorized to go to the United States to offer for sale or distribution the film already made and its subsequent chapters in the United States subject to the following conditions: (1) if after sixty days from defendant's arrival in the United States he should fail to sell the films, production contract would be abandoned; (2) in that event, the production cost of the film amounting to P33,972.88 shall be paid to plaintiff in U.S. dollars sixty days after defendant's arrival in the United States, with interest at 12% per annum; and (3) after said amount is fully paid to plaintiff, the film would become the property of defendant; that, as agreed upon, defendant left for the United States carrying with him the pilot film of the series and five months thereafter he returned to the Philippines and informed plaintiff that the offers he received for the film were not satisfactory; and that, notwithstanding the expiration of the 60-day period for the payment of the P33,972.88 as above-mentioned, defendant refused to pay the same despite repeated demands made upon him to that effect.

Defendant filed a motion to dismiss on the ground that the complaint fails to state a cause of action, which was opposed by plaintiff. But when the same was submitted for ruling, the court deferred its consideration until the case is tried on the merits for the reason that the ground appearing therein does not appear to be indubitable.

Defendant, answering the complaint, admitted some of the allegations therein while he denied others and set up certain special defenses, among which are: that plaintiff agreed to finance the production of the television picture "UMBRA" in an amount not exceeding P100,000; that after the production of the film has started, plaintiff refused to put in more capital in excess of P33,972.88 contrary to the agreement as a result of which the film was not completed and did not come up to the requirements of the U.S. television distributors; that since plaintiff refused to put in additional capital to convert the film into a feature length picture or into a serial of 13 chapters, his efforts to sell the same to U.S. distributors became fruitless; wherefore, defendant claims that his failure to sell the film is due to causes arising from plaintiff's fault. Defendant set up a counterclaim for the sum of P33,972.88, plus the sum of P6,000 as additional compensation, for his services. In the meantime, plaintiff died and the

administrator of his estate was substituted in his place.

Issues having been joined, the court set the case for hearing on April 20, 1956. On April 16, defendant asked for postponement alleging that he was in Vietnam and would be absent for at least two months. Plaintiff having given his conformity, the hearing was postponed until further assignment. Upon plaintiff's request, the hearing was again set for September 13, 1956, but again defendant asked for another postponement this time alleging that he was taking steps to have the case amicably settled, which the court granted transferring the hearing to October 1 %, 1956. When the case was called on that day defendant, through counsel, asked for another postponement on the ground that he was in Naga, Camarines Sur, making pictures for the LVN, and because he submitted to plaintiff another proposal for amicable settlement. This time the court denied the motion and required plaintiff's counsel to submit his evidence, but instead of doing so, he merely submitted the case without evidence upon the theory that all the allegations of the complaint were admitted in the answer. Defendant's counsel, on his part, instead of submitting his evidence, moved for another postponement, but the same was denied. And on October 19, 1956, the court rendered decision granting the relief prayed for in the complaint. Defendant took the present appeal when his motion for reconsideration was denied.

There is merit in the contention that the lower court erred in rendering judgment on the pleadings considering that not all the material allegations of the complaint were admitted in the answer for some of them were either denied or disputed, defendant going to the extent of setting up certain special defenses which, if proven, would have the effect of nullifying plaintiff's main cause of action. This is what our rule provides. Thus, under Section 10, Rule 35, judgment on the pleadings may only be rendered "where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading", and in a recent case, this Court made the following pronouncement: It is apparent from these rulings that judgment on the pleadings can only be rendered when the pleading of the party against whom the motion is directed, be he plaintiff or defendant, does not tender any issue, or admits all the material allegations of the pleading of the movant. Otherwise, judgment on the pleadings cannot be rendered" (*Fabella vs. Provincial Sheriff of Rizal*, 94 Phil., 35; *Ongsing vs. Riarte*, 81 Phil., 184; *Aleman, et al. vs. Sweeney*, 3 Phil., 114). Since some of the averments of the complaint are controverted, it is evident that the trial court erred in rendering judgment on the pleadings.

To show that some of the averments of the complaint are controverted, we will cite some instances. Thus, in paragraph 8 of the complaint, it is alleged that "defendant left for the United States carrying with him the pilot film of the series mentioned above, and after five months stay in the United States, he returned to the Philippines and informed plaintiff that the offers he received in the United States were not satisfactory." This is denied in the answer, for there it is alleged that said pilot film has always been in the possession of plaintiff and only a sample thereof was delivered to defendant for demonstration purposes, all negatives of the film having been always in plaintiff's possession. It is also there alleged that because what was brought by defendant to the United States was merely a copy and not the negative of the film, he was not able to sell it to the distributors in the United States. Another material allegation of the complaint is that defendant upon returning to the Philippines informed the plaintiff that the offers he received in the United States for the film were not satisfactory. This is also disputed by defendant in his answer by stating that plaintiff refused to invest more capital in excess of P33,972.88 as a result of which the film was not completed and did not come up to the requirements of the U. S. television distributors which accounted for his failure to sell the film to said distributors.

Plaintiff must have labored under the impression that, because defendant was not able to present evidence for his failure to secure the postponement of the hearing, the answer he filed failed to tender any issue and, misled by this stand, the trial court rendered judgment on the pleadings upon the theory that the material averments of the complaint were deemed admitted. This theory is erroneous because the failure of defendant to be present at the

hearing can only have the effect of depriving him of his right to present evidence but certainly cannot imply an admission of the allegations of the complaint. Here two errors were committed: one by plaintiff's counsel for his failure to present evidence in support of the complaint, and another by the trial court for having rendered judgment without any evidence to support it. The judgment thus rendered is therefore bereft of any validity and should be set aside.

Wherefore, the decision appealed from is set aside. The case is remanded to the lower court for further proceedings. No costs.

Paras C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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