

**GERTRUDES MANALO VDA. DE RIVAS, NORMANDO RIVAS,
BERNARDO RIVAS, JR. AND TITO RIVAS, PLAINTIFFS AND
APPELLANTS VS. FRANCISCO ALAS AND ROMAN ALAS, DEFENDANTS
AND APPELLEES.**

G.R. No. L-16930. July 31, 1964

Ponente: PAREDES, J.

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PAREDES, J.:

Prior to the presentation of the instant case, the plaintiffs-appellants filed with the Court of First Instance of Maasin, Leyte, Civil Case No. R-489, for recovery of ownership and damages against the herein appellees, alleging—

"6. That on account of these illegal acts of the defendants, the plaintiffs have suffered damages in I ho amount of P1,000.00 and will continue to suffer damages at P100.00 every 3 months during the pendency of this action;

and praying for judgment—

"4. Ordering the defendants to pay the plaintiffs the damages suffered by the latter;

- Granting the; phiintiirs such other reliefs and remedies, which under our law and equity, they arc entitled to."

The CFI of Maasin, in a decision dated May 28, 1951, declared appellants herein, the absolute owners of the property in litigation, and with regards to the damages claimed, it made the following pronouncement: .

"*** condenando ademas a I03 citados demandados a pagar a los demandantes, en concepto de danos y perjuicio, la cantidad de P246.25 ***".

The judgment in Civil Case No. 489 was appealed to the Court of Appeals by herein appellees (CA-G.R. No. 8280-R) which Court affirmed the same in toto. During the pendency of the appeal, appellee Francisco Alas retained possession of the premises and allegedly benefited from the fruits thereof. On May 15, 1955, appellants were placed in possession of the property. The amount of P246.25 awarded by the trial court, as deños y perjuicios, was also paid by the appellants.

Claiming that they (plaintiffs-appellants herein) were entitled to a part of the fruits of the property during the pendency of the appeal, until its delivery to them, appellants presented on October 8, 1955, with the Justice of the Peace Court of Hinunangan, Leyte, the instant case, against Francisco and Roman Alas (appellees) asking P720.00, as the value of their shares in the fruits. Defendants presented separate Answers, thru the same counsel. After admitting some and denying others of the allegations, defendants claimed that res judicata had already set in; that the value of the produce allegedly derived from the property, was not correct, since during that period a number of typhoons had come and gone, resulting in "no nut production", after the last one typhoon Amy). Both defendants asked P200.00 each for attorney's fees.

The case was set for hearing on November 15, 1955. Prior to the scheduled date, however, defendants therein moved to dismiss the complaint, reiterating the defenses set forth in their Answers. Under date of November 6, 1955, defendant Roman Alas presented an amended Answer, the only added portion being his counterclaim for P500.00 for actual, moral and other damages and P400.00 by way of attorney's fees. After trial, the Justice of the Peace of Hinunangan, Leyte, rendered judgment, the pertinent portions of which read—

* * * * *

In view of the fact that the two defendants had been in possession and enjoyment of the fruits of the coconut land during the four years from May 28, 1951 to May 15, 1955, who will pay the value of one-half of the produce, which pertains to the plaintiffs during such period?. On the time honored principle that 'no person shall be allowed to enrich himself at the expense of another,' the defendants must pay one-half of the value of the fruits corresponding to the off-stated period.

FOR THE FOREGOING CONSIDERATION, this Court hereby renders judgment for the plaintiffs and against the defendants:

- Condemning the defendants Francisco Alas and Roman Alas, jointly and severally to pay the plaintiffs the sum of P440.00, with interest at six (6%) percent.

- Requiring said defendants to pay the costs of this suit."

The above judgment was the subject of an appeal to the CFI of Iloilo, Leyte, brought by the defendants. After the perfection of the appeal, defendants presented with the CFI on January 3, 1956, a motion to dismiss on two (2) grounds: First, the JP Court decision was a nullity, having been rendered without due process of law, because although defendants were represented by counsel, notice of the hearing was sent to defendants themselves, and second, the cause of action was barred by a prior judgment, because in Civil Case No. R—189, plaintiffs prayed for adjudication of ownership plus damages, which they alleged to be P1,000.00 and P100.00 every three months, during the pendency of the action, but the court awarded them only P246.25, from which they did not interpose an appeal.

The trial court ruling on the motion to dismiss, said—

"However, the defendants maintain that the counsel for the defendants was not notified of the hearing of the case, and therefore, the trial may be considered as a nullity for being done without due process of law. The plaintiffs, however, counter that although the attorney for the defendants was not served with the notice of the trial yet the service was made upon the defendants themselves in open court when this case was called on November 6, and set for the last time on November 15th in the presence of the defendants. * *. The notice to the defendants should not be considered as notice to their counsel because the defendants are ignorant of court proceedings and in this case, precisely the defendants asked for the postponement because their counsel was not notified of the hearing of this case. It may be recalled that when this case was called for the first time and postponed, the notice of the trial set for October 25, 1955 was sent to the counsel for the defendants addressed at Hinunangan, Leyte, which was forwarded to Maasin on October 27, 1955. The pleading showed that the counsel for the defendants is a resident of Maasin, and in even the letter of the Justice of the Peace, the residence for the defendants' counsel is Maasin, Leyte, but the address in the envelope was Hinunangan, Leyte, so that the counsel for defendants could not appear at the trial on October 25, 1955 because the notice of hearing was received only October 27, two days after at Maasin, Leyte, * * *.

Going to the second ground for dismissal, the parties have cited several decisions of the Supreme Court especially the case of Solano vs. Salvilla, 29 Phil. 66, where the plaintiff was allowed to present another action for damages which damages accrued after the institution of the first suit. But in the cases of Bossom & Co. vs. Manila Gas Corporation, 55 Phil. 226, 237, 244; Santos vs. Moir, 36 Phil. 350; Pascua vs. Sidico, 24 Phil. 26;

and Strong vs. Repide, 22 Phil. 19, the Supreme Court held the contrary for it would constitute a multiplicity of action which is abhorred by the provisions of the new Rules of Court. * *."

For the first ground to the motion to dismiss the Court would have ordered to remand this case to the Court of origin for trial on the merits but inasmuch as there will be no necessity for remanding this case to the Court of origin in view of the Court sustaining the second ground of the motion for dismissal, this case is dismissed without pronouncement as to the content of the action for damages being barred by the former case already decided by the Court of Appeals."

Plaintiffs appealed the above judgment and the Court of Appeals, certified the case to this Court, the issues involved being purely legal in nature.

It has been held—

"*** a judgment between the same parties is conclusive, not only as to the subject-matter in controversy in the action upon which it is based but also in all other actions involving the same question, and upon all matters involved in the issues which might have been litigated and decided in the case, the presumption being that all such issues were met and decided. * *."

"An adjudication is finally conclusive not only as to the matter actually determined, but as to every other matter which parties might have litigated and have had decided incident to or essentially connected with the subject matter of litigation, and every matter coming within the legitimate purview of the original action, both with respect to matters of claim and defense." (Pua vs. Lupitan, 107 Phil., 95, and cases cited therein).

Encompassing the facts of the case to the above authorities, it becomes obvious that the damages under consideration had been passed upon by the court in the former case. It will be recalled that aside from claiming ownership and possession over the property, the plaintiffs-appellants herein also asked for damages accruing at the time of the complaint, which they computed at P1,000.00, plus P100.00 every three (3) months thereafter. In spite of said claim, the lower court only awarded P246.26 as damages. The judgment in the first case which was affirmed by the Court of Appeals, being without condition, reservation or qualification as to what period the amount awarded would cover, it is presumed that the same was all the value assessed by the lower court for the damages. Appellants could have appealed from that portion denying them their claim of P1,000.00, plus P100.00 for every three (3) months thereafter; but they did not.

With the conclusion reached, the determination of the other issue raised is deemed unnecessary.

CONFORMABLY WITH ALL THE FOREGOING, the decision appealed from is hereby affirmed, in all respects, with cost against plaintiffs-appellants.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Regala and Makalintal, JJ., concur.

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