

ULIO DE LA ROSA, PLAINTIFF AND APPELLANT, VS. THE BANK OF THE PHILIPPINE ISLANDS, DEFENDANT AND APPELLANT.

G.R. No. No. 22359. November 28, 1924

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This action was instituted on June 11, 1923, by means of a complaint on the ground that the defendant bank started a contest of designs and plans for the construction of a building, announcing that the prizes would be awarded not later than on November 30, 1921; that the plaintiff took part in said contest, having performed work and incurred expenses for that purpose; that said bank refrained from naming judges and awarding the prizes in accordance with the conditions stipulated. The plaintiff prays that judgment be rendered in his favor for the sum of P30,000 as damages, with legal interest and the costs.

The defendant bank answered denying the facts contained in the second and following paragraphs of the complaint.

After trial, the court rendered judgment ordering the defendant bank to pay the plaintiff an indemnity of P4,000 and the costs.

Both parties appealed from this judgment, the plaintiff assigning the following errors as committed by the trial court:

- In holding that the sum of P4,000 was a just and reasonable indemnity to the plaintiff.

- In not ordering the defendant bank to pay the P30,006 prayed for in the complaint.

The defendant bank, in turn, assigned the following errors as committed by the trial court:

- In holding that the date set for the award of prizes is essential in the contract.

- In ordering that the sum of P4,000 be paid to the plaintiff.

The fundamental question on which the plaintiff's action depends is raised in the first assignment of error made by the defendant bank, or, whether or not the date set for the award of the prizes was essential in the contract and, therefore, whether or not the failure to award the prizes on said date was a breach of contract on the part of the defendant.

First of all, we find that due to the fact that the bank started and advertised the said contest, offering prizes under

certain conditions, and the plaintiff prepared, by labor and expense, and took part in said contest, the bank is bound to comply with the promise made in the rules and conditions prepared and advertised by it.

"A binding obligation may even originate in advertisements addressed to the general public." (6 R. C. L., 600.)

"It is an elementary principle that where a party publishes an offer to the world, and before it is withdrawn another acts upon it, the party making the offer is bound to perform his promise. This principle is frequently applied in cases of the offer of rewards, * * *" (6 R. C. L., 607.)

What is to be determined is whether or not the defendant bank was in default in not awarding the prizes on November, 30, 1921.

The plaintiff contends that it was, according to paragraph 2 of article 1100 of the Civil Code, the complete text of which is as follows:

"Persons obliged to deliver or to do something are in default from the moment the creditor demands of them judicially or extrajudicially the fulfillment of their obligation.

"Nevertheless, the demand of the creditor shall not be necessary in order that the default may arise—

"1. When the obligation' or the law expressly so provides;

"2. When by reason of the nature and circumstances of the obligation it shall appear that the designation of the time at which the thing was to be delivered or the service rendered was the principal inducement to the creation of the obligation.

"In reciprocal obligations neither of the obligors shall be in default if the other does not fulfill or does not submit to the fulfillment of that which is incumbent upon him. From the time one of the obligees performs his obligation the default begins for the other party."

And the plaintiff contends that the said date was the principal inducement because the current cost of concrete buildings at that time was fixed. The fixation of said price cannot be considered as the principal inducement of the contract, but undoubtedly only for the uniformity of the designs to be presented and to secure greater justice in the appreciation of the relative merits of each work submitted.

Such fixation of price, naturally, was not the principal inducement for the contestants. Neither was it for the bank which could not be certain that said price would continue to be the current price when it desired to construct the building designed.

We do not find sufficient reason for considering that the date set for the award of the prizes was the principal inducement to the creation of the obligation. And, taking into consideration the criterion that must be followed in order to judge whether or not the time for the performance of the obligation is the principal inducement in a given case, we hold that it was not in the instant case.

The distinguished Manresa explains the matter in the following terms:

"These words ('principal inducement' in paragraph 2 of article 1100 of the Civil Code) whose special meaning in connection with this article and the circumstances of each obligation does not permit of their being confused with the permanent general idea, and the distinct clearness of consideration of contracts, may give rise to serious doubts by reason of the breadth of expression, and must be judged in each particular case, it being impossible to give a general rule to explain them. It will, for instance, be unquestionable that the hypothesis implied in this exception is effected when the matter, for instance, is the delivery of things or the rendition of services to be employed in agricultural work, and the time of said work has been designated as the date for the fulfillment of the obligation; it will also exist when, for instance, fruits or any objects are to be delivered which

might be used by the creditor in industrial operations having a determinate period for carrying them out and designated for their delivery; and, finally, it will also assist whenever, as in these cases, it appears that the obligation would not have been created for a date other than that fixed."

The defendant bank cannot be held to have been in default through the mere lapse of time. For this judicial or extrajudicial demand was necessary for the performance of the obligation, and it was not alleged here.. nor does it appear that before bringing this action the plaintiff had ever demanded it from the defendant bank in any manner whatsoever. The defendant bank, therefore, was not in default.

The plaintiffs allegation that the defendant bank abstained from continuing the contest was not proven. On the contrary, it was proved, and so stated in the decision appealed from, that during the trial of this case in the Court of First Instance the designs were on the way to New York where they were sent to a technical committee.

This committee, according to the new evidence before us presented by the defendant bank and which we now hold admissible and admit, was appointed by the defendant bank for the study and determination of the designs presented and entitled to the prizes advertised, and which rendered its report and awarded the prizes in accordance with the rules and conditions of the contract, except in regard to the date of such award of prizes which, as we have found, is not essential to the contract in question.

It appearing that the defendant bank was not in default it is needless to discuss the other questions raised, all depending upon the existence of said default.

We find the plaintiff has no cause of action in this case.

The judgment appealed from is reversed and the defendant is entirely absolved from the complaint, without any express finding as to costs. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, and Johns, JJ., concur.

Judgment reversed.

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