

BASILIA CABRERA AND RAMON DIOKNO, PETITIONERS, VS. FLORENCIA BELEN AND ALFONSO BUISER, RESPONDENTS.

G.R. No. L-5807. May 26, 1954

Ponente: PARAS, C.J.

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PARAS, C.J.:

This case originated in the Court of First Instance of Laguna as an action for "reinvindicacion", with the herein petitioners Basilia Cabrera and Ramon Diokno as plaintiffs, and Florencia Belen and Alfonso Buiser, herein respondents, as defendants. The court rendered judgment for the plaintiffs, the dispositive part of which reads as follows:

"In view of the foregoing consideration, the court declares Atty. Ramon Diokno to be entitled to the property in question and, therefore, declares him to be so. Hence defendants are ordered to execute a deed of conveyance in favor of the plaintiff, Atty. Ramon Diokno. The said plaintiff is entitled to damages of P900 per annum from July 1943 to the date of the finality of the decision, making the injunction issued permanent and perpetual, with costs against the defendants."

The respondents elevated the case to the Court of Appeals which, on December 8, 1951, rendered a decision affirming the judgment a quo, with the sole modification that the amount of damages was reduced to P600 per annum. The petitioners moved for a reconsideration of this decision, contending (1) that the Court of Appeals could not reduce the amount of damages because the respondents did not assign the matter of damages as error, and (2) that it failed to award in favor of the petitioners the interest provided for in section 6, Rule 53, of the Rules of Court. Unsuccessful, the petitioners have come to this Court by way of certiorari, assigning the following errors:

"I. No habiendose incluido en la relacion de errores de los recurridos la cuestion de si estaba o no con arreglo a la prueba la adjudicacion de P900.00 anuales a favor de uno de los recurridos, el Honorable Tribunal de Apelaciones erro al revisar tal cuestion y reducir por tanto la cuantia de los danos."

"II. El Honorable Tribunal de Apelaciones erro al ignorar las disposiciones sobre adjudicacion de intereses1 a la sentencia"

While it is true that in the Court of Appeals the respondents did not make a specific assignment of error regarding the amount of damages, in the body of their brief they discussed at length and did assail the correctness of the trial court's finding on the matter. Said discussion of course warranted the appellate court to rule upon the point, because it substantially complied with section 5 of Rule 53, intended merely to compel the appellant to specify the questions which he wants to raise and be disposed of on his appeal. For a vague and "general statement leaves the court absolutely in the dark as to what to look for, and forces the court to struggle through the trial and records in an effort to pick out what is intended to be urged" (Moran's Comment on the Rules of Court, 1952 ed., Vol. I, p. 996). Upon the other hand a clear discussion regarding an error allegedly committed by the trial court accomplishes the purpose of a particular assignment of error. As. said in the case of Santos vs.. Rivera (28 Phil.

515), * * * While not being set off by itself and labelled as an assignment of error, this statement makes the point as effectually if not as artistically," and " * * * Although the brief of appellant is not a literal compliance with the rules of court, nor is it a work of art from a professional point of view, still we do not believe the departure from the prescribed practice has been so radical as to call for a dismissal of the case."

Petitioners' second assignment of error, like the first, is not well taken. Section 6 of Rule 53, invoked by the petitioners, provides that "When the judgment rendered by the Court of Appeals is upon an interest-bearing claim, it shall bear the same rate of interest; when upon a non-interest-bearing claim, it shall bear the legal rate of interest." In our opinion, this merely authorizes the granting of interest on the judgment of the appellate court in proper cases, namely, in favor of a party who has appealed and claimed and established his right to interest at the outset; certainly not in favor of a party who, as appellee, occupies only a defensive position in sustaining the appealed judgment. The concession of interest under section 6 of Rule 53 cannot be considered as a penalty for appealing, because this would attach a string to the statutory privilege to appeal and would impose the presumption that the appellant is always acting in bad faith. If petitioners' contention were adopted, we shall have a situation where the appellants (respondents) were able to reduce the amount of damages awarded by the trial court against them (thus showing that the judgment a quo was at least partly erroneous), and yet they will be penalized for doing so by being ordered to pay interest on the judgment of the appellate court. At any rate for a frivolous appeal even treble cost may be assessed.

Wherefore, the decision of the Court of Appeals is hereby affirmed, and it is so ordered with costs against the petitioners.

Pablo, Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo and Labrador, JJ., concur.

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