

**ADRIANO PAJARILLO, ET AL., PLAINTIFFS AND APPELLEES, VS.
ANDRES MANAHAN, ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. L-8949. September 28, 1956*

Ponente: PARAS, C.J.

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The plaintiffs-appellees filed an action in the Court of First Instance of Nueva Ecija against the defendants-appellants, to compel the latter to convey to the former the two parcels of land described in the complaint and to recover fifty cavanes of palay annually beginning the agricultural years 1951-1952, or their equivalent money value at twelve pesos per cavan; it being alleged that appellees gave to the appellants the sum of P2,000 for the latter to buy in behalf and for the account off the former the said parcels of land but that, contrary to their agreement, the appellants made the purchase in their own name and have refused to deliver the land to the appellees.

In their answer the appellants alleged that they neither received from the appellees the sum of P2,000 nor agreed to buy the land in question for appellees' account, the truth being that they purchased the same for themselves.

The appellants Subsequently filed a motion to dismiss, setting up the statute of frauds and alleging that an express trust, upon which appellees' cause of action was based, cannot be proved by parole evidence. After the appellees had filed their answer to the motion to dismiss, and after preliminary hearing, the court issued an order on January 28, 1953, the dispositive part of which reads as follows: "Wherefore, the Court finds that the claim of the plaintiffs as set forth' in the complaint is one based upon an express trust, there being no writing or memorandum it is barred by the statute of frauds, apart from the fact that it cannot be proved by parole evidence; and pursuant to the provisions of Rule 8, section 1, paragraph (h) of the Rules of Court, the complaint is dismissed with costs against the plaintiffs." The appellees thereafter filed a motion for reconsideration in so far only as the court dismissed the complaint even with reference to their right to recover the sum of P2,000 from the appellants. On April 15, 1953, the court issued an order reconsidering the order of January 28, 1953, "in the sense that the complaint in so far as the alleged delivery and return of the money in question are concerned, be as it is hereby reinstated." A subsequent motion for reconsideration filed by appellants was denied, and the trial of the case was set for September 20, 1953. On this date, in view of the absence of attorney for appellants, and upon motion of attorney for appellees, the trial was postponed to October 15, 1953, when there was again no appearance for appellants. Whereupon the court allowed the appellees to present their evidence; and on December 8, 1953, a judgment was rendered, sentencing the appellants to return to the appellees the sum of P2,000, with legal interest from the date of the filing of the complaint, and to pay the costs. The defendants have appealed.

It is argued for appellants that the lower court erred in reinstating the complaint and in sentencing them to return to the appellees the sum of P2,000, because said matter was not litigated under the pleadings and when said court dismissed the complaint on January 28, 1953, nothing remained before it for adjudication. This is without foundation. Pleadings are to be liberally construed. The complaint alleged the delivery to the appellants of the sum of P2,000, with the agreement on the latter's part to buy the land in question in behalf and for the account of

the appellees; and in addition to the specific prayer for the conveyance by the appellants to the appellees of said land, the complaint prayed for "other relief which may be just and equitable in the premises." Ours are courts of law and equity. In view of the dismissal of the complaint as to the recovery of the land in question, on the technical ground that an express trust cannot be proved by parol evidence, it was but just and equitable under the allegations of the complaint and the prayer for other relief, for the court to proceed with the determination of the question whether or not the appellees paid to the appellants the sum of P2,000 and whether the latter should be ordered to return the same. In *Aguilar vs. Rubiato*, 40 Phil., 570, it was held: "That payment of the sum of P800 was not explicitly prayed for in the complaint, does not deprive the court of power to render judgment for this amount because it is a rule of good pleading that the 'demand in the complaint is no part of the statement of the cause of action. The facts alleged do this, and the plaintiff is entitled to so much relief as they warrant.' Indeed, section 9 of Rule 35 of the Rules of Court provides that 'the judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.'"

But it is urged for the appellants that, assuming that the return .or delivery of the sum of P2,000 was a part of appellees' cause of action, the Court of First Instance of Nueva Ecija did not have jurisdiction over the matter, as the justice of the peace or municipal court has exclusive original jurisdiction where the value of the subject matter or amount demanded does not exceed P2,000 exclusive of interest and costs (section 88, Republic Act No. 296). This contention would be tenable, if the complaint was solely for the collection of said amount, but not where, as in the case at bar, it was merely part and parcel of the complaint for the recovery of land.

It appearing that due notice was served upon the appellants' first, of the hearing set for September 20, and secondly, of the hearing set for October 15, 1953, their failure to appear amounted to a waiver of their day in court. It is not pretended that the appealed judgment is not supported by ,the evidence presented by the appellees.

Wherefore, the appealed judgment is affirmed, and it is so ordered with costs against the appellants.

Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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