

NORTH CAMARINES LUMBER COMPANY, INC., PLAINTIFF AND APPELLANT, VS. METROPOLITAN INSURANCE COMPANY, DEFENDANT AND APPELLEE.

G. R. No. L-15754. January 31, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Plaintiff, a corporation, brought this action before the Court of First Instance of Manila against defendant to recover certain sum of money in the form of insurance proceeds for the loss of a vessel and its cargo and for certain repairs done on another vessel.

For the loss of the vessel and cargo, plaintiff prays for judgment in the aggregate amount of P135,000.00, with interest thereon, plus 15% attorney's fees; and for repairs, the sum of P35,520.37, with interest thereon, plus 22% of premiums paid, and 15% attorney's fees.

Defendant set up a counterclaim of P24,578.00 as attorney's fees alleging malice in the filing of the complaint on the part of plaintiff.

In the decision rendered on June 11, 1959, the court a quo, though it dismissed the first cause of action, it however rendered defendant to return to plaintiff as premium the amount of P2,500.00 and with regard to the second cause of action, it ordered defendant to pay to plaintiff the sum of P31,301.01. Nothing was said about the counterclaim of defendant.

Both parties have appealed assigning to their briefs questions of fact and of law.

In this instance, plaintiff-appellant prays on its first cause of action that defendant-appellant be ordered to pay the sum of P135,000.00, plus 12% interest and damages pursuant to Republic Act No. 487; and on its second cause of action, that defendant-appellant, be ordered to pay the amount of attorney's fees and other expenses prayed for in the complaint. Defendant-appellant in turn prays that the portion of the decision relative to the second cause of action sentencing defendant-appellant to pay the amount of P30,561.01 representing costs of repairs and the sum of P440.00 for the lay days, be reversed, dismissing plaintiff's second cause of action with costs.

It appearing that the amounts claimed by both plaintiff and defendant separately do not reach the amount of P200,000.00, and considering that the amounts claimed by both parties should not be considered jointly in the determination of the corresponding appellate jurisdiction, the Court resolved that this case comes under the jurisdiction of the Court of Appeals.

Wherefore, it is hereby ordered that this case be certified to the Court of Appeals.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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