

**THE BACOLOD-MURCIA PLANTERS' ASSOCIATION, INC.,  
PLAINTIFF AND APPELLEE, VS. VICENTE CHUA, DEFENDANT AND  
APPELLANT.**

*G.R. No. L-1662. September 27, 1949*

Ponente: REYES, J.

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**REYES, J.:**

This is an appeal from an order of the Court of First Instance of Occidental Negros dismissing the above-entitled case without costs. The appeal is directed not against the dismissal of the case, but solely against the court's refusal to adjudge costs.

It appears that the said case was initiated with a complaint filed by the Bacolod-Murcia Planters' Association, Inc., as sole plaintiff, for the recovery of P2,373 which defendant had deducted from the purchase price of sugar alleged to have been bought by him from plaintiff, the deduction having been made on the supposition that defendant was to pay the export duties levied by the city of Bacolod on said sugar, but which export duties were later annulled by the courts with the result that the amount paid therefor by defendant was supposedly refunded to him later. On the strength of said complaint and the allegation that defendant was about to dispose of his properties for the purpose of defrauding his creditors, plaintiff was able to garnish defendant's deposit in the Philippine National Bank to the extent necessary to insure payment of plaintiff's claim. Alleging that plaintiff had no cause of action against him because the sugar mentioned in the complaint was bought by him directly from the individual planters and not from the plaintiff association, defendant moved for the lifting of the garnishment as well as for the dismissal of the complaint; but as a counter-move counsel for plaintiff filed an amended complaint joining the individual planters as plaintiffs and reducing the total claim against defendant, including that of the planters' association, to P1,121.98. In view of the facts revealed by the amended complaint, the court lifted the garnishment. The court also refused to admit the amended complaint on the ground that, while the total amount sought to be recovered came under the jurisdiction of the Court of First Instance, the individual claims of the planters and of the association, none of which amounted to P200, were each within the exclusive original jurisdiction of the justice of the peace court. Thereafter, on motion of the defendant, and with the conformity of counsel for plaintiff, the court ordered the dismissal of the case but without costs. A motion to reconsider the said order having been denied, defendant has appealed to this Court.

The only question presented is whether, on the facts above stated, the lower court committed a reversible error when it denied costs to defendant.

Although costs are generally allowed to the prevailing party as a matter of course, courts are nevertheless empowered, for special reasons, "to adjudge that either party shall pay the costs of an action or that the same be divided, as may be equitable." (Sec. 1, Rule 31, Rules of Court.) In practice this power has been translated into the proposition that "payment of costs is a matter that rests entirely upon the discretion of courts." (III Moran, Rules of Court, 2nd Rev. ed., p. 845, citing Roque et al. vs. Vda. de Cogan, 40 Off. Gaz. [10th Supp.], 55.) An appeal

would hardly lie whose purpose is to interfere with that discretion. And there is high authority to support this view for in the case of *Newton vs. Consolidated Gas Co.*, 265 U. S., 78, the Supreme Court of the United States said:

"The rule forbidding appeals from decrees for the costs only is easily deducible from the discretion vested in the trial court in fixing them, and the better opportunity of that court to exercise that discretion from its greater intimacy with details of the pleadings, hearings, and orders in the case. \* \* \*."

Plaintiff contends that he should have been awarded costs for having been subjected to a vexatious suit and to an unjust garnishment of his bank deposit through a misrepresentation of facts as shown by the difference between the original and the amended complaint. The contention lacks force when viewed in the light of what really took place.

The reason for the lower court's action in denying costs to plaintiff is stated in its order of August 16, 1947, as follows:

"Encontrando, sin embargo, que el auto de sobreseimiento de esta causa, cuya reconsideracion se pide, se ha dictado previa la conformidad de la entidad demandante dada en estrados, lo cual, a juicio del Juzgado, es una razon especial para que no se hiciera ningun pronunciamiento especial en cuanto a las costas, se deniega la mocion de reconsideracion."

In addition, the pleadings disclose a valid cause of action against the defendant, who, on the facts alleged, is legally under obligation to refund certain sums to which he is not entitled. A mistake was, however, committed when counsel at first asserted the cause of action in favor of the planters' association alone without naming the individual planters as co-plaintiffs or pleading facts sufficient to show that the action was being brought in the name of all the real parties in interest. In the circumstances, we are not disposed to hold that the lower court committed an error or abused its discretion in refusing a judgment for costs. On the contrary, some members of this Court even consider the appeal as frivolous and are for imposing double costs on the appellant. The majority, however, are of the opinion that the ends of justice will be sufficiently served if ordinary costs are imposed.

Wherefore, the order appealed from is affirmed, with costs against the appellant.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Padilla, Tuason, Montemayor, and Torres, JJ., concur.

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