

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
LUCAS P. PAREDES, ET AL., DEFENDANTS. GLOBE ASSURANCE
COMPANY, INC., DEFENDANT AND APPELLANT.**

G.R. No. L-12546. May 20, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The Globe Assurance Company, Inc. is appealing the decision of the Court of First Instance of Manila in Civil Case No. 20689 for the latter's failure or refusal to render judgment on its cross-claim.

On September 20, 1956, plaintiff Republic of the Philippines commenced an action against defendants Lucas P. Paredes, Aurora C. Paredes and appellant Globe Assurance Company for the recovery of the amount of P48,529.19, representing unpaid taxes and for the confiscation of Globe Bond No. 1226, issued by the defendants in favor of the Bureau of Internal Revenue. In its amended answer which was accepted by the trial court, appellant company included a cross-claim against Lucas and Aurora, alleging that they had bound themselves to indemnify it (company) for any damages which it may sustain as a result of the execution of said bond, and praying that in case judgment was rendered against it on the complaint of plaintiff, Lucas and Aurora be condemned in the same judgment jointly and severally to indemnify it in the same amount as that of the judgment.

Lucas and Aurora were declared in default and evidence against them was presented by plaintiff. Appellant company likewise presented its evidence on the cross-claim against Lucas and Aurora. The case between the plaintiff-appellee and defendant-appellant was submitted on a question of law. After hearing, the trial court, on March 28, 1957 rendered a decision without however any judgment on appellant's cross-claim. For purposes of reference, we reproduce the said decision:

"This is an action presented by the Republic of the Philippines to collect from the defendants the amount of P48,529.13 for back taxes.

"The evidence in this case shows that on January 22, 1955, the defendants Lucas P. Paredes and Aurora C. Paredes executed an ordinary bond for the payment of taxes in favor of the Republic of the Philippines in the amount of P53,529.13. This bond was furnished by the defendant Globe Assurance Company, Inc. The condition of the said bond is that the defendant will pay to the Republic of the Philippines the amount above-stated, representing the income tax obligation of defendant spouses Lucas P. Paredes and Aurora C. Paredes, including the corresponding surcharges and interests and that in default thereof, the Globe Assurance Company, Inc. assumed and promised to pay the said amount. With the exception of the initial payment of P5,000.00 the defendants Lucas P. Paredes and Aurora C. Paredes have made no further payment to the Republic of the Philippines. By reason thereof they are still indebted to the plaintiff in the amount of P48,529.13. Demands have been made upon the defendants to pay the said obligation but they have failed up to the present to pay the same.

"In view of the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendants, ordering the defendants Lucas P. Paredes and Aurora C. Paredes to pay to the Republic of the Philippines the

amount of P48,529.13, plus interests, and that in case of their failure to do so, the bond furnished by defendant Globe Assurance Company, Inc., Globe Bond No. 1226, is hereby ordered confiscated and forfeited in favor of the plaintiff. With costs against defendants."

On May 2, 1957, within the reglementary period, appellant filed a notice of appeal, an appeal bond and a motion to extend the period within which to file the record on appeal. On May 7, 1957, appellant filed a motion for reconsideration of the decision, praying that the court render judgment on its cross-claim. On May 15, 1957, the trial court granted the motion for extension but denied the motion for reconsideration on the ground that it was filed out of time. The appeal was taken directly to this Court.

Appellant assigns only one error, namely, "the lower court erred in refusing to render judgment on the cross-claim of defendant-appellant". The Solicitor General filed no brief for the appellee, Republic of the Philippines, on the ground that whatever be the outcome of appellant's appeal, its adjudicated rights would not be affected.

Although appellant is appealing the judgment of the trial court, nevertheless, it does not either in its brief or in its memorandum in lieu of oral argument, question the said judgment in so far as it orders confiscation of its bond in the event its codefendants Lucas and Aurora fail to pay the same judgment credit. It does not controvert the decision in favor of the plaintiff. Its main argument or contention is that the trial court should have rendered judgment on its cross-claim against its codefendants and specially after its attention was called to said error by its motion for reconsideration. It admits that said motion was filed beyond the thirty day period. It contends, however, that the court could still act on said motion and render judgment on the cross-claim for the reason that its appeal had not yet been perfected at the time because the record on appeal had not yet been filed and approved. Moreover, it claims that since there was no written or verbal judgment on his cross-claim, it could properly ask that judgment be rendered thereon, even if the decision in the main case had already become final.

It is clear that the trial court erred in not passing upon and determining the, cross-claim. The filing of a cross-claim is provided for in Rule 10, Sections 2 and 8 of the Rules of Court, the purpose being to settle in a single proceeding all the claims of the different parties against each other in the case in order to avoid multiplicity of suits. And appellant evidently did just that to avoid multiplicity of suits; otherwise, it would have had to file a separate action against its codefendants for indemnity for any damages arising from the execution of the bond. In fact, the filing of the cross-claim was permitted by the trial court. Inasmuch as the codefendants were declared in default, the evidence presented by the defendant-appellant was not controverted, and the case was submitted on a question of law. It was just a question of examining the exhibits presented, by the defendant-appellant, which were the bond itself, the paragraph on indemnity, and the payment of interest in case of delay, in payment, as well as the different letters of demand made by the defendant-appellant on its codefendants. We are willing to presume that the trial court merely overlooked or forgot the cross-claim, concentrating its attention on the main case or on the claim of the Republic of the Philippines against the three defendants.

As to what the trial court could have done to correct this error, the members of this Tribunal are not in complete agreement. Some believe that it could have corrected its error or omission after its attention was called to it by the motion for reconsideration. True, said motion was filed more than thirty days after notification of judgment. However, it was still within the discretion and jurisdiction of said court to amend its decision, considering that the record on appeal had not yet been approved, the record being still in its custody and it had not yet lost jurisdiction over the case.

"And since judges are human, susceptible to mistakes, and they are bound to administer justice in accordance with law, they are given the inherent power of amending their orders or judgments so as to make them conformable to law and justice, and they can do so before they lose their jurisdiction of the case, that is before the time to appeal has expired and appeal has been perfected." (Moran, Comments on the Rules of Court, Vol.

3, 1957 ed., pp. 603-04, and authorities cited therein).

Other members of the Tribunal however, are of the opinion that after the expiration of the thirty days after notification of the judgment, the latter had become final and the trial court was powerless to correct its error by modifying the judgment so as to include in it the determination of the cross-claim, this, despite the fact that the appeal had not yet been perfected because the approval of the record on appeal was still lacking, and that consequently, the records of the case were still in the custody of the court. All the members, however, are unanimous in the holding that inasmuch as the notice of appeal, the corresponding appeal bond and the record on appeal were all filed within the reglementary period, the said judgment was still open to appeal to this Tribunal, which by reason of its appellate jurisdiction could and should correct the error. Instead of remanding the case to the trial court so that it may correct its error by passing judgment on the cross-claim, to save time, the case being about four years old, and in the interest of justice, we propose to make the correction ourselves.

In view of the foregoing, the appealed decision is hereby modified by adding the following paragraph:

On the cross-claim of appellant, judgment is hereby rendered ordering defendants Lucas P. Paredes and Aurora C. Paredes to pay appellant jointly and severally the amount equivalent to 15 per cent of the judgment as indemnity for damages, plus interest thereon at 12 per cent interest per annum on said indemnity, from the date this judgment becomes final, plus costs. And in the event that appellant pays the judgment debt to the Republic of the Philippines defendants Lucas P. Paredes and Aurora C. Paredes are also hereby ordered jointly and severally to reimburse appellant the amount so paid. Defendants Lucas P. Paredes and Aurora C. Paredes will pay the costs in both instances.

Paras, C J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

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