

ANDRES LAPITAN, PLAINTIFF-APPELLANT, VS. SCANDIA INC., AND GENERAL ENGINEERING CO., DEFENDANT-APPELLEES.

G.R. No. L-24668. July 31, 1968

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Andres Lapitan has appealed directly to this Court against an order of the Court of First Instance of Cebu, dismissing, for lack of jurisdiction, his complaint for rescission and damages against appellees Scandia, Inc., of Manila and General Engineering Co. of Cebu.

Lapitan's complaint in the court below averred that in April 17, 1963 he purchased from Scandia, Inc., through its subdealer in Cebu City, General Engineering Co., one ABC Diesel Engine, of 16 horse power, for P3,735.00, paid in cash; that he bought the engine for running a rice and corn mill at Ormoc City, Leyte; that defendants had warranted and assured him that all spare parts for said engine are kept in stock in their stores, enabling him to avoid loss due to long periods of waiting, and that defendants would replace any part of the engine that might break within twelve months after delivery. Plaintiff further charged that on June 28, 1963, the cam mock arm of the engine broke due to faulty material and workmanship, and it stopped functioning that the sellers were unable to send a replacement until August 29, 1963; that barely six days after replacement the new part broke again due to faulty casting and poor material, so he (Lapitan) notified the sellers and demanded rescission of the contract of sale; that he sought return of the price and damages but defendants did not pay. He, therefore, prayed (1) for rescission of the contract; (2) reimbursement of the price; (3) recovery of P4,000.00 actual damages plus attorneys fees; (4) recovery of such moral and exemplary damages as the court deems just and equitable; and (5) costs and other proper relief.

After filing answers disclaiming liability, Scandia, Inc., moved to dismiss the complaint on the ground that the total amount claimed was only P8,735.00, and was within the exclusive jurisdiction of the municipal court under Republic Act 3828, amending the judiciary Act by increasing the jurisdiction of municipal courts to civil cases involving P10,000.00 or less.

After argument, the Court of First Instance of Cebu dismissed the action -for lack of jurisdiction, invoking *Cruz vs. Judge B. Tan*, 48 O.G. 1320, 87 Phil. 627.

Unable to obtain reconsideration, Lapitan appealed directly to this Court arguing (1) that rescission was incapable of pecuniary estimation, and (2) that as he claimed moral and exemplary damages, besides the price of P3,735.00 P4,000.00 actual damages, and P1,000.00 attorneys' fees, the value of his demand exceeded the jurisdiction of the municipal court.

A review of the jurisprudence of this Court indicates that in determining whether an action is one the subject matter of which is not capable of pecuniary estimation, this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the courts

of first instance would depend on the amount of the claim. However, where the basic issue something other than the right to recover a sum of money, or where the money claim is purely incidental to, or a consequence of, the principal relief sought like in suits to have the defendant perform his part of the contract (specific performance) and in actions for support, or for annulment of a judgment or to foreclose a mortgage,[1] this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by courts of first instance. The rationale of the rules plainly that the second class cases, besides the determination of damages, demand an inquiry into other factors which the law has deemed to be more within the competence of courts of first instance, which were the lowest courts of record at the time that the first organic laws of the Judiciary were enacted allocating jurisdiction (Act 136 of the Philippine Commission of June 11, 1901).

Actions for specific performance of contracts have been expressly pronounced to be exclusively cognizable by courts of first instance: *De Jesus vs. Judge Garcia*, L-26816, February 28, 1967; *Manufacturers' Distributors, Inc. vs. Yu Siu Liong*, L-21285, April 29, 1966. And no cogent reason appears, and none is here advanced by the parties, why an action for rescission (or resolution) should be differently treated, a "rescission" being a counterpart, so to speak, of "specific performance". In both cases, the court would certainly have to undertake an investigation into facts that would justify one act or the other. No award for damages may be had in an action for rescission without first conducting an inquiry into matters which would justify the setting aside of a contract, in the same manner that courts of first instance would have to make findings of fact and law in actions not capable of pecuniary estimation expressly held to be so by this Court, arising from issues like those raised in *Arroz Alojado, et al.*, L-22153, March 31, 1967 (the legality or illegality of the conveyance sought for and the determination of the validity of the money deposit made); *De Ursua v. Pelayo*, L-13285, April 18, 1950 (validity of a judgment); *Bunayog v. Tunas*, L-12707, December 23, 1959 (validity of a mortgage); *Baito v. Sarmiento*, L-13105, August 25, 1960 (the relations of the parties, the right to support created by the relation, etc., in actions for support); *De Rivera, et al. v. Halili*, L-15159, September 30, 1963 (the validity or nullity of documents upon which claims are predicated). Issues of the same nature may be raised by a party against whom an action for rescission has been brought, or by the plaintiff himself. It is, therefore, difficult to see why a prayer for damages in an action for rescission should be taken as the basis for concluding such action as one capable of pecuniary estimation a prayer which must be included in the main action if plaintiff is to be compensated for what he may have suffered as a result of the breach committed by defendant, and not later on precluded from recovering damages by the rule again splitting a cause of action and discouraging multiplicity of suits.[2]

Of course, where the money claim is prayed for as an alternative relief to specific performance, an equivalence is implied that permits the jurisdiction to be allocated by the amount of the money claim (*Cruz vs. Tan*, 87 Phil. 627). But no such equivalence can be deduced in the case at bar, where the money award can be considered only if the rescission is first granted.

We, therefore, rule that the subject matter of actions for rescission of contracts are not capable of pecuniary estimation, and that the court below erred in declining to entertain appellant's action for lack of jurisdiction.

WHEREFORE, the appealed order of dismissal is reversed and set aside, and the case is ordered remanded to the court of origin for further proceedings conformable to this opinion. Costs against appellees.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Ruiz Castro, J. did not take part.

[1] See cases cited post.

[2] Rule 2, Sections 3 and 4; Pascua v. Sideco 24 Phil. 26; Valencia v. Cebu Portland Cement Co., et al., L-13715, Dec. 23, 1959; Baltazar v. Caridad L-23509, June 23, 1966; People's Surety & Ins. Co. v. Hon. Court of Appeals, L-21627, June 29, 1967; Guingon, et al. v. Capitol Ins. & Surety Co., L-22042, August 17, 1967.

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