

MIGUEL MACTAL, PLAINTIFF AND APPELLANT, VS. FILOMENO MELEGRITO, DEFENDANT AND APPELLEE.*G.R. No. L-16114. March 24, 1961*

Ponente: CONCEPCION, J.

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This is an action to recover the sum of P1,777.00, plus P1,000.00 as moral damages and P500.00 as attorney's fees. Defendant, Filomeno Melegrito, filed an answer admitting some allegations of the complaint and denying other allegations thereof, and setting up some special defenses and a counterclaim. In due course, the Court of First Instance of Nueva Ecija rendered a decision dismissing the case with costs against plaintiff, Miguel Mactal, upon the ground that the consideration of the promissory note upon which the complaint is based was the dismissal of a criminal case for estafa against the defendant and, hence, illicit, immoral and contrary to public policy, as well as void ab initio. The case is before us on appeal taken by the plaintiff, who maintains that the lower court erred in holding that this action is based, upon the aforementioned promissory note, and that the consideration thereof was the dismissal of the estafa case against the appellee.

It appears, and the lower court held, that, on or about February 5, 1953, Mactal delivered P1,770.00 to Melegrito, to be used by him in the purchase of palay for Mactal, with a ten (10%) per cent commission in his (Melegrito's) favor, or returned to Mactal, within ten (10) days, should he (Melegrito) fail to buy palay. This obligation was set forth in a receipt signed by Melegrito, who neither bought palay nor returned said amount. Hence, Mactal accused him of estafa in the Justice of the Peace Court of Guimba, Nueva Ecija. When the case was about to be heard, on October 19, 1953, Florencio Paraso, then chief of police of Guimba, acting upon Melegrito's request, prevailed upon Mactal to move for the dismissal of the case and be contented with a promise on the part of Melegrito to pay, not later than January, 1954, said P1,777.00, plus the sum of P7,000, balance of his account with Mactal in connection with another transaction. Accordingly, Melegrito signed a document Exhibit A (also Exhibit 1), prepared by Paraso in the Tagalog dialect, which translated into English, reads:

"I, Filomeno Melegrito, married, of age, at present residing at barrio Cabaruan, Guimba, Nueva Ecija, this 15th day of October 1953, hereby certify to the following:

"That I am indebted to Mr. Miguel Mactal in the sum of P1,777.00 Philippine Currency, which I promise to pay him within the month of January, 1954,

"In witness whereof, I have hereunto affixed my name and surname in the presence of two (2) witnesses, this 19th day of October, 1953, in Guimba, Nueva Ecija.

(Sgd.) Filomeno Melegrito"

Forthwith, the receipt above mentioned was destroyed and the criminal case was, on the same day, dismissed on motion of Mactal. Despite, however, repeated demands by the latter, Melegrito subsequently failed to pay the aforementioned sum of P1,777.00. Hence, this action, which was begun on January 26, 1955.

The lower court specifically found that Melegrito had on February 5, 1953, received from Mactal P1,777.00 to be used in the purchase of palay for the latter, with the obligation to return, said amount, within ten (10) days, if not spent for said purpose. In fact, Melegrito admitted, on the witness stand, that he is indebted to the plaintiff in the aggregate sum of P1,777.00, although he claims that his liability therefor was merely that of a guarantor, not principal debtor. So when the chief of police succeeded in persuading Mactal to withdraw the criminal case for estafa, Melegrito was only too willing to sign Exhibit A, in which he promised to pay the aforementioned amount in January, 1954. The consideration for this promise was, therefore, the aforesaid pre-existing debt of Melegrito, not the dismissal of the estafa case, which merely furnished the occasion for the execution of Exhibit A (see *Garrido vs. Cardenas*, L-10631 [promulgated April 25, 1958]; *Hibberd vs. Rhode and McMillan*, 32 Phil., 476; *Goodrum vs. Merchants & Planters Bank*, 102 Ark. 326).

Wherefore, the decision appealed from is hereby reversed and another one shall be entered sentencing defendant Filomeno Melegrito to pay the plaintiff Miguel Mactal the sum of P1,777.00, with interest thereon at the legal rate, from January 26, 1955, as well as the costs of the proceedings. It is so ordered.

Bengzon, Acting C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, and Dizon, JJ., concur.

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