

ALEJANDRO V. RATILLA, PETITIONER, VS. HONORABLE LAURO L. TAPUCAR AND FLORESITA JAMORA, RESPONDENTS.

G.R. No. L-45018. January 24, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

On March 6, 1975 Alejandro V. Ratilla filed a collection suit in the Court of First Instance of Agusan del Norte, Butuan City Branch I against Floresita Jamora. He prayed that Mrs. Jamora be ordered to pay him the sum of P5,350 as the balance of the price of two freezers, plus interest, and the additional sums of P2,000 as attorney's fees, P3,000 as moral damages, P2,000 as exemplary damages, and P1, 000 as litigation expenses, or an aggregate claim of P13,350. (Civil Case No. 1741).

Mrs. Jamora in her answer prayed for the dismissal of the complaint on the ground that Ratilla's claim had been extinguished due to the surrender of one freezer to Ratilla and the destruction of the other freezer. She interposed a counterclaim for p15,000 as actual damages, attorney's fees and moral damages.

At the continuation of the pre-trial conference, the lower court in its order of September 15, 1976 dismissed the case for lack of jurisdiction. It reasoned out that since the principal claim of Ratilla amounted only to P5,350, it is within the exclusive jurisdiction of the inferior courts, and that the damages were included so that the case would come within the jurisdiction of the Court of First Instance.

Ratilla's motion for reconsideration was denied by the lower court in its order of October 4, 1976. On October 21, 1976 he sent to this Court by registered mail his petition for certiorari and mandamus. He asked that the said orders of the trial court be annulled. The case is really an appeal under Republic Act No. 5440.

Mrs. Jamora averred in her answer to the petition that Ratilla's purpose in inflating his claim, by adding damages thereto, was to enable him to file his collection complaint in Butuan City instead of in Bislig, Surigao del Sur where she is a resident. Mrs. Jamora further alleged that Ratilla resorted to the same maneuver in Civil Cases Nos. 1742 and 1743 which he filed against two other residents of Bislig.

The Judiciary Law provides:

"SEC. 44. Original jurisdiction.- Courts of First Instance shall have original jurisdiction:

"xxx xxx xxx

"(c) In all cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to more than ten thousand pesos;

"xxx xxx xxx

"SEC. 88. Original jurisdiction in civil cases.- In all civil actions x x x arising in his municipality or city, and not exclusively cognizable by the Court of First Instance, the municipal judge and the judge of a city court shall have exclusive original jurisdiction where the value of the subject matter or amount of the demand does

not exceed ten thousand pesos, exclusive of interests and costs. Where there are several claims or causes of action between the same parties embodied in the same complaint, the amount of the demand shall be the totality of the demand in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; but where the claims or causes of action joined in a single complaint are separately owned by or due to different parties, each separate claim shall furnish the jurisdictional test. x x x."

The issue is whether the trial court erred in dismissing Ratilla's collection action against Mrs. Jamora.

We hold that the dismissal is erroneous. From section 83 of the Judiciary Law, it is clear that where there are several claims between the same parties embodied in the same complaint the totality of the claims supplies the jurisdictional test. The damages are included in the amount of the demand used as a basis for determining the court's jurisdiction.

Since the total demand in Ratilla's complaint exceeds P10,000, the case falls within the original, exclusive jurisdiction of the Court of First Instance (Vda. de Rosario vs. Justice of the Peace, Camiling, Tarlac, 99 Phil. 693; Land Settlement and Dev. Corp. vs. Munsayac, 112 Phil. 359; Campos Rueda Corporation vs. Sta. Cruz Timber Co., Inc. and Felix, 98 Phil. 627).

In *Enerio vs. Alampay*, L-40010, May 26, 1975, 64 SCRA 142 the plaintiffs filed an action in the Court of First Instance to recover damages based on physical injuries through reckless imprudence. The damages claimed consisted of P978 as actual damages, P10,000 as moral damages, P15,000 as exemplary damages and P3,000 as attorney's fees or the total sum of P28,978.

The trial court dismissed the action on the ground of lack of jurisdiction. It held that only plaintiffs' claim for actual damages in the sum of P978 should be considered in determining the court's jurisdiction. It assumed that moral and exemplary damages were claimed in order to circumvent the provisions of the Judiciary Law regarding the jurisdiction of inferior courts.

That order of dismissal was reversed by this Court. It was ruled that, as the total demand amounts to P23,978, the case falls within the exclusive, original jurisdiction of the Court of First Instance. (See *Reyes vs. Yatco and Villanueva*, 100 Phil. 964).

In the instant case, Mrs. Jamora herself included moral damages in her counterclaim. She did not plead the defense of lack of jurisdiction. She raised that issue only during the pre-trial. And in the promissory note signed by her at Butuan City, she even agreed that the venue of the collection suit is the City of Manila (See sec. 1[b] [2], Rule 4, Rules of Court).

Of course, lack of jurisdiction cannot be waived. That defense can be raised at any stage of the proceeding. It is possible that Ratilla, to suit his purpose, included the claims for moral and exemplary damages so that he could evade the rule on venue in inferior courts.

But to prejudge the merits of Ratilla's claim for damages, by dismissing his complaint, and to require him to refile the case in the municipal court of Bislig would not conduce to the expeditious administration of justice. The pragmatic solution, which is sanctioned by the rule that jurisdiction is determined by the allegations of the complaint and not by the amount ultimately proven and awarded by the trial court (*Dionisio vs. Sioson-Puerto*, L-39452, October 31, 1974, 60 SCRA 471), is to direct the lower court to try the case on the merits if no amicable settlement is reached by the parties.

WHEREFORE, the lower court's order of dismissal is set aside. No costs.

SO ORDERED.

Fernando, (Chairman), Antonio, and Concepcion, Jr., JJ., concur.

Barredo, J., concurs in a separate opinion.

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Concurring Opinion

BARREDO, J.:

I concur.

I feel, however, I must add a few words to put in proper focus the last two paragraphs above the dispositive portion of Mr. Justice Aquino's opinion.

On the face of petitioner Ratilla's complaint in the court below, there is basis for ruling that respondent court has jurisdiction over his case. This, as I see it is the main thrust of our decision.

But even assuming that actually, the total claim of Ratilla may not exceed the alleged balance of respondent Jamora's indebtedness of P5,350 plus interest and attorney's fees or probably be less than P10,000, without counting the supposed moral and exemplary damages which, as Mr. Justice Aquino says, might have been added only to circumvent the rule on venue for inferior courts, the Court would nevertheless have sustained respondents and ordered the continuation of the trial in respondent Court of First Instance, if only to avoid further unnecessary proceedings that would keep this relatively small case pending for a longer time. In other words, even if We had some basis for doubting the propriety and good faith of Ratilla's acts including the claim for moral and exemplary damages in his complaint, We would have just the same preferred not to order a dismissal of his complaint in order that it may be refiled in the inferior court, considering that by doing so we would be lengthening without real substantial need this litigation. Otherwise stated, this decision is not only technically founded, since it is the allegations of the complaint that constitute the determining factor of jurisdiction, but also pragmatically convenient, as it terminates the controversy earlier.

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