

WISE & COMPANY, INC., PLAINTIFF AND APPELLANT, VS. THE CITY OF MANILA AND MARCELINO SARMIENTO, AS CITY-TREASURER, DEFENDANTS AND APPELLEES.

G. R. No. L-9156. April 29, 1957

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal from an order dismissing the plaintiff's complaint in civil case No. 25018 of the Court of First Instance of Manila.

On 7 January 1955 the plaintiff filed a complaint alleging that, in compliance with Ordinance No. 2991 of the city of Manila approved on 23 November 1946, providing for the inspection of meat coming from territories outside the limits of the city of Manila by a veterinarian before it could be sold or stored in cold storage, and charging a fee therefor, it paid to the defendant city treasurer on different dates from 28 December 1948 to 20 January 1949, the total sum of P2,200.04 as meat inspection fees; that because of an opinion rendered by the Secretary of Justice on 11 January 1951, Op. No. 6, series of 1951, holding that Ordinance No. 2991 is null and void, the Municipal Board of Manila appropriated the sum of P297,349.65 "for the refund of meat inspection fees illegally collected" under Ordinance No. 2991 and authorized the refund in full of all meat inspection fees paid under it by inserting a provision to that effect in Ordinance No. 3538, enacted on 28 October and approved on 31 October 1952; and that on 19 February 1951, after the Secretary of Justice had rendered the opinion referred to, the plaintiff filed a claim with the defendant city treasurer for the refund of the sum of P2,200.04, but that notwithstanding repeated demands for the refund thereof, the defendant city treasurer refused to refund it. Attorney's fees is sought also to be recovered. Upon the foregoing allegations the plaintiff prayed for judgment ordering the defendants to pay to the plaintiff the sum of P2,200.04, legal interest thereon from the date of the filing of the complaint until paid, and the further sum of P400 for attorney's fees, and costs.

On 17 January, the defendants moved for the dismissal of the plaintiff's complaint on the ground that it states no cause of action and that the action is barred by the statute of limitations.

On 31 March, after considering the defendant's motion to dismiss, the plaintiff's opposition thereto and the defendants' reply to the opposition, the Court dismissed the complaint without costs. The plaintiff has appealed.

A complaint must contain "a concise statement of the ultimate facts constituting the plaintiff's cause or causes of action, and shall specify the relief sought; * * *." [1] Whether the facts alleged in a complaint constitute a cause of action, the test is, may the court render a valid judgment upon the facts alleged therein?[2] The complaint alleges that on different dates from 28 December 1948 to '20 January 1949 the plaintiff paid to the defendant city treasurer under and pursuant to Ordinance No. 2991 the total sum of P2,200.04 as meat inspection fees; that "the amount of P297,349.65 'for the refund of meat inspection fees illegally collected' under Ordinance No. 2991, "held by the Secretary of Justice null and void because it was ultra vires, was appropriated and "the refund in full of all meat inspection fees paid under it" was authorized by Ordinance No. 3538 approved on 31 October 1952;

and that notwithstanding repeated demands for refund of the said sum, the defendant city treasurer refused to refund it. If the facts alleged in the complaint admitted hypothetically by the defendants to be true in the motion to dismiss are proved, the sum sought to be recovered being within the jurisdiction of the Court a valid judgment may be rendered ordering the defendants to pay the plaintiff the sum sought to be recovered as prayed for in the complaint.

The other ground of the motion to dismiss that the action is barred by the statute of limitations is not well taken. The complaint alleges that Ordinance No. 3538, appropriating funds for and authorizing the refund of meat inspection fees illegally collected under Ordinance No. 2991, was enacted on 28 October and approved on 31 October 1952. From the last mentioned date, when the cause of action accrued, to 7 January 1955, when the complaint in the case was filed, only two years, two months and eight days had elapsed. Hence, whether the prescriptive period is six years under article 1145 of the new Civil Code, as contended by the plaintiff, or four years under article 1146 (1) of the new Civil Code, or section 43, paragraph 3, of Act No. 190, as claimed by the defendants, the action was not 'barred by the statute of limitations.

The order appealed from is reversed and the case remanded to the court below for further proceedings, without costs.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1]Section 1, Rule 6.

[2]Paminsan us. Costales, 28 Phil., 487; Blay vs. Batangas Transportation Co., 80 Phil., 378, 45 Off. Gaz., Supp. No. 9, p. 1; De Jesus vs. Belarmino, 95 Phil., 365, 50 Off. Gaz., 8064; Dimayuga us. Dimayuiga, 96 Phil., 859, 51 Off. Gaz., 2397.

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