

COURT OF FIRST INSTANCE OF TARLAC AND JUSTA SAMANIEGO, PETITIONERS VS. COURT OF APPEALS AND AMADO N. VICENTE, RESPONDENTS.

G.R. No. L-4191. April 30, 1952

Ponente: BENGZON, J.

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BENGZON, J.:

In Civil Case No. 5173 of the Tarlac Court of First Instance entitled *Justa Samaniego vs. Amado N. Vicente*, judgment was rendered on June 12, 1944 annulling the lease between defendant Nicolas de Ocampo, (deceased, whose administratrix was the plaintiff) and ordering defendant to pay P3,000.00 for unpaid canons for three years past (1939-1942) and to pay such canons as may become due during the pendency of the suit plus costs. Defendant Vicente was likewise required to surrender possession of the land leased.

The defendant appealed to the Court of Appeals. His record on appeal was approved Dec. 12, 1946. Before that time however, i.e., on Dec. 23, 1944 he filed in the Court of First Instance a pleading manifesting,

“(2) That the defendant yields to said decision in so far as he is sentenced to pay the amount of the lease, and to this end tenders the plaintiff the sum of P7,789.00 covered by a check deposited in the office of the clerk of this court, which represents the canon of the land involved in this case and legal interest thereon from the execution of the contract of lease until April 25, 1945, and should the computation made be erroneous, the defendant offers to pay whatever balance there may remain.”

and praying the court to order the clerk to deliver the plaintiff Samaniego Check No. 632038 of the Philippine National Bank (deposited with said clerk) for the amount of P7,789.00 as canon for the land from 1939 to 1945 including interest.

Heeding plaintiff’s objection to the receipt of the check on the ground that it covered rents for years beyond the term of the lease, the court on Jan. 2, 1945 denied the motion for delivery of such check.

In due course the Court of Appeals decided defendant Vicente’s appeal on Aug. 12, 1949 affirming the main decision, and a petition to review the affirmance did not prosper in this court.

Wherefore on Dec. 20, 1949, a motion for execution was submitted in the Tarlac court, and the writ was accordingly issued. But on Jan. 14, 1950 Amado N. Vicente moved to quash the writ, alleging that he had already paid the amount of his obligation by means of the National Bank check hereinbefore mentioned. The court denied the motion.

Thereafter Vicente started in the Court of Appeals certiorari proceedings (CA G.R. No. 5761-R) to stop execution. He was successful, the appellate court holding that his monetary obligation had been extinguished by the deposit of the check, considering "that the payment tendered and the aforementioned deposit were made in the currency

then prevailing. “

Consequently Samaniego brought the matter to the Supreme Court for revision.

The appellate court believed there was a valid tender and consignation. Yet the order of the court of first instance dated January 2, 1945 denying efficacy to such offer of payment, even rejecting it, has not so far been reversed. Of course there is in the appellate court's decision of civil case No. 5173 a statement which Amado N. Vicente eagerly invokes in his printed brief filed here:

"After the defendant yielded to the decision of the lower court in so far as the payment of all the rentals which he was sentenced to pay to the plaintiff with legal interests thereon, and after appellant's tender of Philippine National Bank check No. 632038, for P7,789.00, in payment of all canons for the land in question for the agricultural years 1939-1940 up to April 25, 1945, with legal interests thereon, the third question at issue, that is whether appellant defaulted in the payment of rentals, is a closed matter. x x “

However this portion of the decision. does not carry a declaration that the amount of P7,789.00 had been actually paid by Vicente, or the check amounts payment. It merely means that as Vicente had recognized the validity of the order for payment of rentals, had "yielded" to it, the issue whether he defaulted in the payment of such rentals was not looked into by the Court of Appeals, because it was a "closed matter."

It is noteworthy that respondent Vicente's only defense in this court is his insistence that the above quoted portion validated and approved the payment by check. Probably he does not sustain the theory of consignation, because he is aware of the this Court's ruling in *Cuaycong v. Ruiz* G.R. No. L-333, April 21, 1950 that consignation by means of Manager's check is not binding upon the creditor, because like an ordinary check it is not legal tender in the Philippines. It is fundamental in Civil Law that the offer of payment, to be valid and effective, must be made in legal tender. And we have held in *Belisario v. Natividad* 60 Phil. 156 that the offer of a check in payment of a debt is not a valid tender of payment.

There is a further aspect of the consignation issue; Justa Samaniego refuse take the check because its amount included rent for a term beyond the period of the lease contract, with the result that if she cashed it, the lessee would be entitled to hold the land for a longer period. Now, if she was right in her computation, could the consignation be held effective only as to the amount theretofore due? This is a question that need not be examined, because in the foregoing remarks there is enough basis for reversal of the appellate court's decision with the holding that the check did not operate to discharge Vicente's pecuniary obligation.

Judgment reversed, with costs against respondent Amado N. Vicente. So ordered.

Paras, C.J., Feria, Pablo, Tuason, Montemayor, and Bautista Angelo, JJ., concur.

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