

JOAQUIN UYPUANCO, PETITIONER-APPELLANT, VS. EQUITABLE BANKING CORPORATION, ET AL., RESPONDENTS-APPELLEES.

G.R. No. L-26679. April 30, 1969

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

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REYES, J.B.L., Acting C.J.:

Appeal certified to this Court by the Court of Appeals as involving a question of jurisdiction of an inferior court (Judiciary Act, section 17).

The Equitable Banking Corporation, a domestic bank, had sued Joaquin Uypuanco, Mariano Mabasa, and the Traders Insurance and Surety Co. in the Municipal Court of Manila. In the complaint it was alleged:

"2. That on June 5, 1957, the defendants obtained by way of loan from the plaintiff the sum of FIVE THOUSAND (P5,000.00) PESOS, Philippine Currency, promising jointly and severally to pay the same Ninety days (90) after date, with interest thereon at ten (10%) percentum per annum, of which amount there still remains an outstanding balance of FOUR THOUSAND FIVE HUNDRED (P4,500.00) PESOS TOGETHER WITH TEN (10%) per centum of the amount due, in case the collection of said indebtedness is made by or through an attorney-at-law, as set forth in the promissory note, executed by said defendants on said date, a true copy of which is hereto attached and made as an integral part hereof as Annex "A".

"3. That the above-mentioned sum of P4,500.00 due and payable to plaintiff on the promissory note, Annex "A", is now long overdue and the defendants have failed and refused, and still fail and refuse to pay the same, or any portion thereof, despite repeated demands upon them to do so;

"4. That because of defendant's failure and re-fusal to satisfy plaintiff's plainly valid, just and demandable claim, plaintiff was compelled to retain the services of the undersigned counsel to enforce the collection of the above-said obligation and said defendants have therefore incurred a further liability of ten (10) per centum of the whole amount due and payable to the plaintiff on the promissory note, Annex "A", for attorney's fees, as stipulated therein".

Prayer was for judgment against defendants in the sum of P4,500.00, with interest at 10% per annum; plus interest on the accrued interest; and 10% of the entire amount payable by way of attorney's fees.

The municipal court heard the plaintiff *ex parte* because defendants failed to appear at the hearing and decided in favor of the plaintiff. The latter then moved for execution. At the hearing of the motion, Joaquin Uypuanco opposed the issuance of the writ on the ground that the municipal court had no jurisdiction over the case. The opposition was overruled, and a writ of execution was issued.

Uypuanco recurred on certiorari and prohibition to the Court of First Instance of Manila, urging that the complaint had claimed, in addition to the basic debt of P4,500.00, ten per cent due in case the collection was done through counsel (paragraph 2) and "a further liability" of 10% of the whole amount due (paragraph 4); that all these amounts put together totalled more than P5,000.00 (excluding interest and costs), which was the upper limit of the municipal court's jurisdiction under Republic Act 2613, then the law in force.

The court of first instance rejected the petition, asserting that the complaint only demanded collection of P4,500.00, plus 10% attorney's fees, or P4,950.00, exclusive of interest and costs, and said amount was within the jurisdiction of the inferior court. Not content, Uypuanco appealed to the Court of Appeals, and the latter certified the case to this Supreme Court.

The appeal is absolutely devoid of merit. A mere reading of the essential allegations of the complaint, transcribed at the beginning of this opinion, reveals that paragraph 2 thereof avers the sums due under the terms of the promissory note, while paragraphs 3 and 4 allege the actual amounts due by reason of the defendants' failure to comply with their obligation. The claim under paragraphs 3 and 4 is the same one averred under paragraph 2 to wit: P4,500.00, as balance due on the principal, and 10% thereof as attorney's fees, or a total of P4,950.00, as correctly declared by the court of first instance. The ten per centum alleged in paragraph 4 of the complaint is the same one referred to in paragraph 2, and not an additional amount, as contended by appellant.

This party lays much emphasis on the expression "incurred a further liability of ten (10) per centum of the whole amount due and payable"; but this "further liability" must be taken together with the averment of paragraph 3 of the same complaint, that there is "P4,500.00 due and payable to plaintiff on the promissory note". That is to say, that besides the principal of P4,500.00 defendants owed an additional ("further") ten per cent for attorney's fees. By studiously omitting all reference to paragraph 3, appellant and his counsel would make it appear that paragraph 4 demanded 10% over and above the ten per cent averred in paragraph 2, which is not true.

The circumstances surrounding this litigation definitely prove that appeal is frivolous and a plain trick to delay payment and prolong litigation unnecessarily. Such attitude deserves severe condemnation, wasting, as it does, the time that the courts could well devote to meritorious cases.

WHEREFORE, the decision appealed from is affirmed, and appellant's counsel shall pay treble costs in all instances. Let this decision be noted in the personal record of the attorney for appellant in this Court for future reference.

SO ORDERED.

Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Barredo, JJ., concur.

Concepcion, C.J., and Castro, J., on official leave.

Teehankee and Capistrano, JJ., took no part.

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