

GAUDENCIO SERRANO, PLAINTIFF AND APPELLANT, VS. DONATA CABRERA AND TEODATO MAKABULOS, DEFENDANTS AND APPELLEES.

G.R. No. L-5189. September 21, 1953

Ponente: PADILLA, J.

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PADILLA, J.:

Gaudencio Serrano was the lessee of a parcel of land containing an area of 24 hectares, more or less, situated in the municipality of La Paz, Province of Tarlac. Donata Cabrera was the lessor, having inherited the parcel of land from her deceased father Eusebio Cabrera, the original lessor. Teodato Makabulos is her husband. The term of the lease was six agricultural years beginning 1 May 1941 and the yearly rental agreed upon was 290 cavans of palay. On 13 December 1946, the lessor brought an action (civil case No. 141 of the Court of First Instance of Tarlac) to recover rentals due and unpaid for the agricultural years 1943-44, 1944-45, 1945-46 and 1946-47 amounting to P13,620. A writ of attachment was issued in that case. On 18 December, the complaint was dismissed without costs upon a motion couched in the following terms—

MOCION DE SOBRESEIMIENTO

Comparece la demandante por su infrascrito Abogado y al Hon. Juzgado respetuosamente pide:

Que en vista de que el demandado Gaudencio Serrano ha pagado y satisfecho por completo las reclamaciones de la demandante segun las alegaciones de la demanda, la demandante ya no tiene motivos de accion contra el demandado y por lo tanto procede sobreseer la causa.

Por lo tanto, de acuerdo con la Regla 30, Section 1, la demandante da por sobreseida esta causa.

Tarlac, Tarlac, Diciembre 16, 1946.

(Fdo.) TOMAS BESA

Abogado de la demandante

Tarlac, Tarlac

CONFORMES:

(Fdo.) DONATA CABRERA DE MACABULOS

Demandante

(Fdo.) GAUDENCIO SERRANO

Demandado

(pp. 50-51, Amended Record on Appeal)

Alleging and claiming that what he had paid to her was in excess of what was due her for unpaid rentals the lessee brought an action (civil case No. 213 of the same Court) against the lessor and her husband to annul the

proceedings in civil case No. 141, and to recover such excess payment of rentals. The excess amounts allegedly paid and sought to be recovered are P1,286.40 for 1945-46; P696 for 1946-47; P193 for court fees in connection with the attachment issued in the first case. He also prays that the promissory note for P1,000 executed and delivered by him to her be cancelled or returned to him and that she together with her husband be ordered to pay him P20,000 for damages suffered as a result of the filing of the action against him and attachment of his property.

The defendants moved for the dismissal of the complaint on the ground of res judicata and failure to state a cause of action.

The Court dismissed the complaint on the ground of res judicata.

The plaintiff has appealed.

It is contended that the dismissal of the complaint in the first action upon the ground that as the defendant had paid and satisfied fully all her claims she no longer had any action against him, before the filing of the answer, was without prejudice, as provided for in section 1, Rule 30. It is also claimed that a thing received by one who has no right to it and which has been delivered due to error must be returned, as provided for in article 1895 of the Civil Code.

Section 1, Rule 30, cannot be invoked in this case, because a dismissal of the action without order of the Court, which is without prejudice, is only by the plaintiff before the filing of an answer by the defendant. It means that such dismissal would not preclude the plaintiff from bringing another action against the same defendant on the same subject matter. Such dismissal under the rule does not bar the institution of an action by the defendant which he could have brought in the action against him by means of a counter-claim or cross-claim. The dismissal in the first case was upon motion of the plaintiff consented to by the defendant and the ground was that the latter had paid and satisfied all the claims of the former, as prayed for in her complaint. Neither are the provisions of article 1895 of the Civil Code[1] on solutio indebiti applicable to the case, because what was received by the plaintiff and delivered by the defendant was the result of a compromise. Article 1809 of the Civil Code[2] provides that "Compromise is a contract by which each of the parties in interest, by giving, promising, or retaining something avoids the provocation of a suit or terminates one which has already been instituted." Article 1816 of the Civil Code provides that "A compromise shall have, with respect to the parties, the same authority as res adjudicata; * * *." [3]

The order appealed from is affirmed, with cost against the appellant.

Paras, C.J., Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

[1] Article 2154, new Civil Code.

[2] Article 2028, new Civil Code.

[3] Article 2037, new Civil Code.

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