

MANUEL C. RAMOS, PLAINTIFF-APPELLEE, VS. ARDANT TRADING CORPORATION, DEFENDANT-APPELLANT.

G.R. No. L-21975. June 13, 1968

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal by defendant, Ardant Trading Corporation, from an order of the Court of First Instance of Davao denying a motion to dismiss.

On November 28, 1962, plaintiff, Manuel C. Ramos, commenced Civil Case No. 3890 of the Court of First Instance of Davao, to recover, from said defendant, P225 a month, as salary from June 29, 1962 up to his reinstatement as defendant's truck driver, as well as P5,500 as damages and P1,000 as Attorney's fees, for having allegedly dismissed him, on said date, as such truck driver, summarily, arbitrarily, without justifiable reason or prior notice, in addition to interest on the sums allegedly due to him.

Defendant moved to dismiss the complaint upon the ground that the same is seemingly based on Republic Act No. 1052, pursuant to which - defendant maintained - the aggrieved party must take up his claim with the Department of Labor "for investigation and mediation, before the Court can acquire jurisdiction", and that, although plaintiff had "brought this matter x x before Regional Office 4, Department of Labor, Manila", the latter has not, as yet, heard it. The motion, having been denied, defendant sought a reconsideration, with the same result. Thereupon, defendant interposed the present appeal, invoking the same reasons relied upon in the lower court.

Manifestly, the present appeal is premature and cannot be entertained. The orders denying defendant's motion for dismissal and its subsequent motion for reconsideration are interlocutory in nature, and hence, not appealable until after the rendition of judgment on the merits. Defendant's appeal contravenes the explicit provisions of Rule 41, Section 2, of the Rules of Court, to the effect that:

"Only final judgments or orders shall be subject to appeal. No interlocutory or incidental judgment or order shall stay the progress of an action, nor shall it be the subject of appeal until final judgment or order is rendered for one party or the other.

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which, moreover, incorporates a well-established rule of practice and procedure, constituting one of the main tenets of our remedial law.[1]

WHEREFORE, this appeal is hereby dismissed, with treble costs against defendant-appellant, Ardant Trading Corporation, jointly and severally, with its counsel, Atty. Sergio S. Sison.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro and Angeles, JJ., concur.
Fernando, J., took no part.

[1] Sec. 123, Act No. 190; Go-Quico v. Municipal Board, 1 Phil. 502, 508; Diokno v. Reyes, 7 Phil. 385; Olsen v. Olsen, 48 Phil. 238, 240; Manila Electric Co. v. Artiaga, 50 Phil. 147; Sitchon v. Sheriff of Occ. Negros, 80 Phil. 397; Restauero v. Fabrica, 80 Phil. 762; Lopez v. Dinglasan, 84 Phil. 292; San Jose v. Castillo, 84 Phil. 839; De la Fuente, et al. v. Geron, et al., L-14138, July 30, 1960; Moreno, etc., et al. v. Hon. Macadaeg, etc., et al., L-17908, April 23, 1963; Harrison Foundry & Machinery, et al. v. Harrison Foundry Workers' Association, et al., L-18432, June 29, 1963; Bautista v. De La Cruz, L-21107, Dec. 24, 1963; Perez, et al. v. Monetary Board, et al., L-23307, June 30, 1967.

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