

MACHINERY & ENGINEERING SUPPLIES, INC., PLAINTIFF AND APPELLANT, VS MAXIMINO A. QUINTANO, DEFENDANT AND APPELLEE..

G.R. No. L-8142. April 27, 1956

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

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REYES, J.B.L., J.:

This appeal is taken from a decision of the Court of First Instance of Manila, in its Civil Case No. 21049, dismissing the action upon plea of res judicata. ,By complaint of October 27, 1953, plaintiff sought to recover from defendant, a former selling agent, (1) the sum of P700 allegedly misappropriated by said defendant; (2) P3,033.53 as the total amount corresponding to the face value of and interests on a promissory note in plaintiff's favor, secured by a chattel mortgage; and (3) P2,000 by way of damages. Defendant pleaded res judicata on the basis of a prior final judgment rendered.in 1949 by the Municipal Court of Legaspi City (Case No. 8) in favor of defendant and against plaintiff; and another judgment rendered in 1952 by the Court of First instance of Manila (Case No. 9991) acquitting defendant of the charge of estafa by misappropriation brought by the plaintiff Company and counterclaimed for P3,500 attorney's fees and moral damages.

The case was submitted to the Court of First Instance upon the following stipulation of facts:

"1. That the defendant had been an accredited agent of the plaintiff in the sale of the Matter's, machineries in the Bicol region and entitled as such to a five (5%) per cent commission on all sales made by him.

2. That while still an agent of the plaintiff, the defendant made several sales among which was one in favor of Masculo' Calpe. Defendant likewise purchased for himself a set of engines and accessories. These two accounts are the principal subject-matter of the present action.

3. That on March 3, 1949, the defendant commenced an action (Exhibit "1") against herein plaintiff with the Municipal Court of Legaspi City (Civil Case No. 8) for the recovery of unpaid commission from sales made by him to his various customers, including that in favor of Masculo Calpe, heretofore mentioned, and that in his own favor likewise adverted to in the preceding- paragraph.

4. That herein plaintiff, as defendant in the said Civil Case, filed an answer dated March 14, 1949 (Exhibit "2") setting up therein affirmative defenses and counterclaims which had something to do with the various collections allegedly made, by herein defendant from the different customers enumerated in the answer as already mentioned among which was that supposedly paid by Masculo Calpe and the obligation personally incurred by herein defendant himself— the same accounts made the subject-matter of the claims set forth in the complaint in this case, particularly in paragraph (3) to (6) thereof.

5. That instead of' personally appearing during the trial of the case, herein plaintiff, thru | counsel, filed a 'Constancia' (Exhibit "3") waiving appearance and submitting the case on the answer filed.

6. That after receiving the evidence'adduced by herein defendant as plaintiff, the trial court rendered judgment (Exhibit "4") granting the principal demand- of the herein plaintiff and dismissing the counterclaims pleaded

by therein defendant for lack of evidence,

7. That herein plaintiff failed to perfect an appeal on time from the said decision but a petition to set aside judgment (Exhibit "5"), later amended, (Exhibit "6") was filed by herein plaintiff with the Court of First Instance, of Albay, docketed as case No. 584, on the grounds therein plaintiff stated namely among others, (a) that a criminal case for estafa filed against herein defendant involving the same claims set up as affirmative defenses and counter-claims was then pending before this Court in Criminal Case No. 9991, (6) if given a chance to be heard on the merits, herein plaintiff can prove its good and substantial defense and its counterclaim,; and (c) the Municipal Court of Legaspi City had no jurisdiction over its counterclaims and it had always been the intention of said plaintiff to have, the case elevated to the Court of First Instance' of Albay.

8. That the said petition was granted by the Honorable Hermogenes Caluag of the Court of First of Instance of Albay in his order dated October 3, 1949 (Exhibit "7"). Thus, the case was elevated to the Court of First Instance of Albay and bore docket number 684 of said Court.

9. That having been set for trial, herein plaintiff filed a motion for continuance (Exhibit "8") insisting on a suspension of said proceedings in view of the pendency of Criminal Case No. 9991 heretofore referred to.

10. That said motion was denied in an order (Exhibit "9") issued by the Honorable Juan R. Liwag dated August 9, 1951, and, in the same order, for failure to prosecute' its appeal, the same was dismissed and the judgment of the Municipal Court in Case No. 8. was thereby revived.

11. That a motion for reconsideration of the order of dismissal was denied by the same Judge (Exhibit "10").

12. That a petition for certiorari later amended. (Exhibit "11") was filed with the Supreme Court assailing, the validity of the order of dismissal. Said case was docketed as G. R. No. L-5135 of the Supreme Court.

13. That respective memorandum by the parties—(Exhibit "12"— herein defendant) and-(Exhibit "13"—herein plaintiff) together with a reply memorandum by herein defendant (Exhibit "14") were filed with the Supreme Court, after which the latter resolved to deny the writ applied for (Exhibit "15"). ,

14. That judgment was rendered in Criminal Case No. 9991 (Exhibit "16") acquitting the herein defendant from the offense of estafa charged in the information (Exhibit "17"). (Ree, App., pp. 19-23.)

The lower Court dismissed the complaint stating:

"Be los hechos arriba admitidos por las partes salta a la vista, el hecho de que esta causa es res judicata y, por tanto, impide la incoacion de la presente causa, porque las sentencias arriba referidas son finales y han sido ya ejecutadas; porque los tribunales que habian rendido las citadas. sentencias, tenian jurisdiccion sobre la materia y las partes; porque las citadas sentencias se habian basado en los) meritos, y porque hubo identidad de partes, causa de accion y la misma materia litigiosa."

Por tanto, el Juzgado sobresee esta causa con las costas a la parte demandante." (Rec. App., pp. 23-24.)

The plaintiff then appealed to this Court upon questions of law, assigning the following errors:

I

"THE TRIAL COURT ERRED IN HOLDING THAT THE DOCTRINE OF, RES ADJUDICATA OBTAINS IN THE ABOVE-ENTITLED CASE.

II

THE TRIAL, COURT ERRED IN NOT AWARDING TO HEREIN APPELLANT, AS PLAINTIFF IN THE APPEALED CASE NO. 21049, THE AMOUNT OF P5,733.55 WITH INTEREST THEREON FROM

OCTOBER 27/ 1953." (Appellant's Brief, p. 1')

We agree that the court below erred in holding that plaintiff's action herein was barred by res judicata. With regard to the judgment of acquittal in the criminal case, No. 9991 of the Court of First Instance of Manila, the decision (Exhibit "16") clearly expresses that the acquittal was for the reason that "the evidence presented is not sufficient to establish his guilt beyond reasonable doubt," and because—

"this court is inclined to sustain the theory laid down by the accused, to the effect that the complainant should have first required of him a liquidation of the accounts under his control in order to determine the amount due the complainant and that of the accused as agent. The Court believes and so holds that in the absence of such an accounting and the demand thereafter, the crime of estafa does not lie." (Exhibit "16", pp. 6-7.)

As can be seen, the decision of acquittal does not negate the fact alleged in the present complaint, that defendant, as agent of the plaintiff, withheld part of the moneys that he received for his principal. On the contrary, the decision, Exhibit 16, expressly finds—

"(2) that there is no question also that the accused has retained certain sums of money as appearing in the documentary evidence presented." (Exhibit "16", p. 4.)

It follows that the right of the principal to recover in a civil action the moneys retained by the agent has not been barred by the acquittal in the criminal case, since the latter was acquitted upon reasonable doubt (New Civil Code, Article 29), and the judgment does not declare that the basis of the civil action (retention by the agent of the moneys belonging to the principal) does not exist (Rule 107, section 1, paragraph. d). Precisely, the existence of such basis for the civil action was expressly recognized.

Nor is the action of the plaintiff-appellant precluded by the 1949 judgment of the Municipal Court of Legaspi City in its Civil Case No. S (Exhibit 4), for the reason that the counterclaim filed by the appellant in said case was to recover the sums allegedly retained by defendant Quintano as its agent totalling P6,178.98 plus P8,500 as damages (Exhibit 2). Award of that amount was clearly beyond the jurisdiction of the Municipal Court; hence, its dismissal of the counterclaim was inoperative to bar a subsequent suit to enforce the same. (Pamintuan vs. Tiglao, 53 Phil. 1; Yu Lay vs. Calmes, 40 Phil. 660; Bernardo vs. Genato, 11 Phil. 603.) The want of jurisdiction was not cured by the dismissal of plaintiff's appeal by the Court of First Instance, since the latter merely revived the appealed judgment of the Legaspi Municipal Court. The revival could not validate that portion of the appealed judgment which was void for want of jurisdiction.

It can not be contended that by submitting the counter-claim of P14,678.98 to the Municipal Court, plaintiff conferred upon it jurisdiction over the claim, or that plaintiff became estopped from contesting such jurisdiction, since it is elementary that jurisdiction over the subject matter is only conferred by law.

For the above reasons, we hold that the dismissal of the present action by the trial court on the ground of res judicata was improper and erroneous. As defendant relied solely on the defense of res judicata and submitted the case for decision on that issue, he is deemed to have admitted all the material allegations of the complaint. Consequently, judgment may be rendered, as it is hereby rendered, in favor of plaintiff-appellant for all amounts claimed in its complaint, i.e., P3,733.53 under its first cause of action, and P2,000 under its second cause of action, plus interests.

Wherefore, the decision appealed from is reversed and defendant-appellee is hereby ordered to pay plaintiff-appellant the total of P5,733.53, with legal interest from the time of the filing of the complaint up to full payment. Costs against defendant-appellee.

Paras, C. J., Bengson, Montemayor, Reyes, A., Jugo, Concepcion, and Endencia, JJ., concur.

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