

UNITED GENERAL INDUSTRIES, INC., PLAINTIFF-APPELLEE, VS. JOSE PALER AND JOSE DE LA RAMA, DEFENDANTS-APPELLANTS.

G.R. No. L-30205. March 15, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is an appeal from a decision of the Court of First Instance of Manila, Branch IX, in Civil Case No. 60418, United General Industries, Inc. vs. Jose Paler and Jose de la Rama. Since the appeal deals with a question of law only, We reproduce the decision which reads as follows:

"When this case was called for pre-trial today, neither the defendants, nor their counsel appeared, notwithstanding the fact that said defendants were notified of the pre-trial. Upon motion of the plaintiff, said defendants were declared as in default. Likewise, upon motion of counsel for the plaintiff, this case was submitted for judgment on the pleadings.

"Plaintiff's complaint alleges that on January 20, 1962, the defendant, Jose Paler and his wife Purificacion Paler, purchased from the plaintiff (1) Zenith 23" TV set with serial No. 3493594 on installment basis; that to secure the payment of the purchase price, the defendant, Jose Paler and his wife executed in favor of the plaintiff a promissory note in the amount of P2,690.00; that, to further guarantee the payment of the aforementioned promissory note, defendant Jose Paler and his wife constituted a chattel mortgage over the above-described television set in favor of the plaintiff which mortgage was duly registered in the chattel mortgage registry; that by virtue of the violation by defendant Jose Paler and his wife of the terms and conditions of the chattel mortgage; the plaintiff filed a criminal action against the above-named persons for estafa under Art. 319 of the Revised Penal Code with the City Fiscal's Office of Pasay City; that to settle extra-judicially the criminal case aforementioned against the defendant, Jose Paler and his wife, the said defendant Jose Paler and his co-defendant, Jose de la Rama, executed in favor of plaintiff a promissory note dated April 11, 1964 in the amount of P3,083.58 (exhibit A); and that; notwithstanding repeated demands, said defendants have failed to pay plaintiff the sum of P3,083.58 with 1% interest per month from April 11, 1964 until full payment is made, pursuant to the terms of the promissory note marked Exhibit A.

"In their answer, the defendants admit the fact that they executed a promissory note dated April 11, 1964 in favor of plaintiff in the amount of P3 ,083.58, with 12% interest per annum. They further admit the fact that said obligation has not been paid the plaintiff notwithstanding repeated demands made.

"Considering the admissions of the defendants in their answer, judgment on the pleadings, as prayed for may, therefore, be rendered.

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants, sentencing said defendants to pay to the plaintiff the sum of P3 ,083.58, with 12% interest thereon per annum from the date the complaint was filed on October 14, 1965 until full payment is made, and attorney's fees in the sum of P250.00. With costs against the defendants." (Record on Appeal, pp. 20-22.)

The appellants, Paler and de la Rama, claim in their appeal that the complaint should have been dismissed because "the obligation sought to be enforced by plaintiff-appellee against defendants-appellants arose or was

incurred in consideration for the com-pounding of a crime." Obviously, the appellants are referring to the portion of the decision which states: "x x x the plaintiff filed a criminal action against the above-named persons [Jose Paler and his wife] for estafa under Art. 319 of the Revised Penal Code with the City Fiscal's Office of Pasay City; that to settle extra-judicially the criminal case aforementioned against the defendant, Jose Paler and his wife, the said defendant Jose Paler and his co-defendant, Jose de la Rama, executed in favor of plaintiff a promissory note dated April 11, 1964 in the amount of P3 ,083.58 (Exhibit A)."

There is some merit in this contention. In *Arroyo vs. Berwin*, 36 Phil. 386 (1917), it was held that an agreement to stifle the prosecution of a crime is manifestly contrary to public policy and due administration of justice and will not be enforced in a court of law. See also *Monterey vs. Gomez, et al.*, 104 Phil. 1059 (1958).

Under the law and jurisprudence, there can be no recovery against Jose de la Rama who incidentally appears to have been an accommodation signer only of the promissory note which is vitiated by the illegality of the cause.

But it is different with Jose Paler who bought a television set from the appellee, did not pay for it and even sold the set without the written consent of the mortgagee which accordingly brought about the filing of the estafa case. He has an obligation to the appellee independently of the promissory note which was co-signed by Jose de la Rama. For Paler to escape payment of a just obligation will result in an unjust enrichment at the expense of another. This we cannot in conscience allow.

Article 19 of the Civil Code mandates "Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith." And Article 2208 of the same Code states that attorney's fees and expenses of litigation, other than judicial costs, can be recovered "Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim." (Par. 5.) Here Paler wilfully refused to pay a debt which he clearly ought to have paid. He has even imposed a burden on this Court by filing an unnecessary and frivolous appeal. The award of P250. 00 in favor of the appellee who had to file a printed brief is manifestly inadequate.

WHEREFORE, the judgment of the court a quo is modified by excluding Jose de la Rama therefrom and increasing the award for attorney's fees to P1 ,000.00; it is affirmed in all other respects. Triple costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., De Castro, and Ericta, JJ., concur.
Escolin, J., no part.

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