

ROSE DESAMITO, PLAINTIFF -APPELLANT, VS. TRINIDAD CASAS-CUYEGKENG, ASSISTED BY HER HUSBAND ALFONSO CUYEGKENG, DEFENDANTS-APPELLEES.

G.R. No. L-19173. December 27, 1966

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

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

This is a direct appeal from an order of the Court of First Instance of Manila, in its Civil Case No. 39449, sustaining defendants' motion to dismiss plaintiff's amended complaint, on the ground of lis pendens between the parties, and, from two (2) later orders of the same court, denying plaintiff's first and second motions to reconsider said order of dismissal.

The records reveal that on February 10, 1959 Trinidad Casas-Cuyegkeng instituted ejectment proceedings against her tenant, Rose Desamito, in the Municipal Court of Manila (Civil Case No. 64814) to recover possession of premises at 474 Isaac Peral, Manila, operated by said tenant as a dress shop named "Fifth Avenue". Plaintiff averred that the defendant had failed to pay rental for November and December, 1958 and January, 1959 totalling P1,300; that the plaintiff needed the premises for her own use and that of her family, but the tenant refused to vacate.

In her answer to the complaint for ejectment defendant, on September 13, 1959, by way of special defenses, alleges, among others, that for a period of 8 years she has been occupying the premises in question, paying the corresponding monthly rental, firstly, at the rate of P430.00 monthly and subsequently at the rate of P400.00 a month, with the assurance given by the plaintiff that defendant could continue occupying the aforesaid premises as long as she wants at the same monthly rental of P400.00, which might be reduced later in consideration of the long occupancy of the premises by defendant; that on or about October 31, 1958, in violation of the agreement, plaintiff notified defendant she wanted to raise the monthly rental from P400.00 to P500.00, effective January 1, 1959, to which proposition defendant objected; that in view of the insistence of plaintiff in increasing the rental of the premises in question, the defendant told the plaintiff that she would sell her business situated in the premises to any interested buyer, provided that plaintiff would consent to the transfer to the prospective buyer of the defendant's lease or right to the premises, to which proposition the plaintiff agreed with the condition that the new occupant or buyer of defendant's dress shop would pay a monthly rental of P500.00; that relying on this agreement the defendant looked for a buyer and, as a matter of fact, found one Mr. Federico P. Gomez who offered to buy the dress shop business and to pay the agreed rental of P500.00 monthly on the premises in question: that defendant consequently transmitted to the plaintiff the offer of the buyer to purchase defendant's business for her conformity in writing; that upon learning that Mr. Gomez was purchasing defendant's business for P10,000.00 plaintiff demanded that the monthly rental for the premises should be increased to P600.00, or that the defendant should pay to plaintiff the sum of P2,400.00 out of the proceeds of sale, to which proposition defendant naturally refused; that by reason of plaintiff's actuation, Mr. Gomez cancelled his offer to purchase the dress shop of defendant, resulting in "pecuniary, moral and other damages suffered by the defendant in the

amount of over P125,000.00" for which she reserved action in the court of first instance; and by way of counterclaim, defendant alleged that she was entitled for improvements in the premises in the amount of P2,000.00 together with attorney's fees in the sum of P500.00.

Subsequently, on April 1, 1959, defendant Desamito filed an amended answer reproducing the allegations above summarized plus an additional averment that, having stayed almost 8 years in the premises, defendant was entitled to ask the court to fix a longer period for the lease, which she prayed to be set at 5 years from the filing of the complaint.

While the ejectment case was pending in the Municipal Court, Rose Desamito, as plaintiff this time, filed the present action against her lessor Casas and her husband in the court of first instance (Case No. 39449), averring three causes of action on practically the same facts pleaded in Desamito's answers in Case No. 64814 of the Municipal Court, and on the basis thereof seeking (1) to have the period of lease fixed by the court; (2) to recover compensatory, moral and other damages totalling P 135,600.00; and (3) to recover P5,000.00 attorneys' fees.

After the court had denied a motion to dismiss, defendants Casas-Cuyegkeng answered the complaint on March 12, 1959 denying having agreed to the transfer of Desamito's lease to Mr. Gomez; that the lease was from year to year, expiring on every January 31; that there was another case pending in the Municipal Court between the same parties on the same issues; and counterclaimed for P25,000 damages and P5,000 attorney's fees. The plaintiff Desamito traversed the counterclaim.

On May 20 the municipal court decided the ejectment case in favor of the landlord Casas, ordering Desamito to vacate, pay P3,300 rentals in arrears, plus P500 a month from May, 1959, and P200 costs and attorney's fees, and dismissing her counterclaim. The tenant Desamito then appealed to the Court of First Instance, and on July 1, 1959 the case was there docketed as Civil Case No. 40481. There the appellant, Desamito, filed a new answer, and reproduced the averments she had made in the Municipal Court.

Before this appealed case could be tried, Rose Desamito died and was substituted by her sister, Soledad Desamito Reyes, as her legal representative. After trial, on January 5, 1961, Judge Lantin of the Court of first Instance decided the appealed ejectment case, affirming the judgment of the Municipal Court ordering the tenant to vacate the premises within 30 days from finality of the decision, to pay rentals and attorney's fees with interest and costs, and dismissing the counterclaim.

At this juncture, the spouses Casas-Cuyegkeng moved to dismiss the case for damages where they were defendants (C.F.I. No. 39449), pleading the decision in the ejectment case (C.F.I. No. 40481); but because the latter had been appealed to the Court of Appeals (where it was later docketed as CA-G.R. No. 29066) the motion to dismiss was denied.

One month later, on July 22, 1961, plaintiff amended the complaint by suppressing the first cause of action regarding the fixing of the lease term by the court and retaining the others, amplifying the averment of damages by charging that the lessor's breach of her commitment not to object to the transfer of the lease to Mr. Federico Gomez, and the latter's resultant withdrawal from the contemplated transfer, subjected Rose Desamito to mental anguish, anxiety, shock and humiliation that caused her premature death, causing compensatory, moral, nominal and temperate damages to the extent of P135,600.00, and praying for indemnity, therefore, with attorney's fees.

Casas-Cuyegkeng then reiterated the motion to dismiss, on the ground of another action pending between the same parties, on the same facts and issues. After the matter had been extensively argued, the Court of First Instance, per Judge Felix Q. Antonio, ordered the complaint dismissed, because in both cases (C.F.I. No. 40481 and 39449) "the causes of action are predicated on the same facts", and "that the ejectment case is the more

appropriate for the determination of the issues involved".

Her petitions for reconsideration proving fruitless, the plaintiff resorted directly to this Court. While the appeal was pending here, the Court of Appeals decided the ejectment case (C.A. G.R. No. 29066), affirming the decision of the Court of First instance in favor of the lessors. The Supreme Court refused certiorari, and dismissed Desamito's petition for lack of merit on April 27, 1962, so that the decision of the Court of Appeals became final and executory.

The petitioner-appellant does not seriously dispute the identity of the facts pleaded by her in her answer in the ejectment case (C.F.I. Case No. 40481) with those averred in her amended complaint for damages in the case at bar (C.F.I. Case No. 39449). She contends, however, that the cases remain separate and unidentified. Her argument is that the issue of the damages caused by the lessor's alleged breach of her advance commitment to approve the transfer of the lease to F. R. Gomez could not be properly adjudicated in the ejectment case because petitioner-appellant did not claim such damages in the Municipal Court, as the amount thereof (P135,600) lay outside the jurisdiction of that court. Hence, she continues, neither could the Court of First Instance take cognizance of that issue on appeal from the decision of the court of origin.

The record proves that while the appellant, in answering the complaint for illegal detainer in the Municipal Court, did reserve the question of damages for the Court of First Instance; yet when the same case reached the latter court on appeal, she filed there (Case No. 39449) an answer reproducing the same facts alleged in the court of origin, and asserted in its paragraphs 15 and 19 that—

"15. That, by reason of the plaintiff's change of front and unjustifiable demands, Mr. Gomez cancelled his offer to buy defendant's dress-shop business, resulting in pecuniary, moral and other damages suffered by the defendant in the amount of P125,000.00;

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"19. That defendant is further entitled to recover attorney's fees in the sum of P5,000.00 (Defendant's Answer, July 1, 1959)."

These allegations squarely put in issue in the appealed ejectment case (No. 40481) the very question of liability for damages that Desamito tried to recover in the other case (C.F.I. Case No. 39449) now before us. There being no objection interposed, the Court of First Instance in the appealed case (No. 40481) could, and did, take cognizance of the issue of damages in the exercise of its original jurisdiction, and resolved it adversely against appellant Desamito. Authority for this action of the court is found in section 11 of Rule 40 of the Rules of Court:

"SEC. 11. Lack of jurisdiction. - A case tried by an inferior court without jurisdiction over the subject matter shall be dismissed on appeal by the Court of First Instance. But instead of dismissing the case, the Court of First Instance in the exercise of its original jurisdiction, may try the case on the merits if the parties therein file their pleadings and go to the trial without any objection to such jurisdiction."

The decision of the Court of First Instance, adverse to appellant-lessee in the ejectment case, was affirmed later by the Court of Appeals (C.A.-G.R. No. L-29066-R), as heretofore noted; and that decision having become final because this Court declined to review it (G.R. L-19655), further relitigation of the issue was foreclosed and barred.

We thus find that in both cases in the Court of First Instance between the same parties the appellant Desamito pleaded the same facts and sought the same remedies. No error was, therefore, committed by the Court of First Instance in refusing to proceed with Case No. 39449, since the issues laid before it had already been tried and decided in C.F.I. Case No. 40481.

Appellant stresses that the parties had agreed in 1959 to have the Municipal Court decide on the term of the lease, while the matter or damages would remain in the Court of First Instance in Case No. 39499. But when the Municipal Court decided against appellant in the ejectment case, and she appealed to the Court of First Instance in Case No. 40481, she repleaded the facts already in her complaint for damages in Case No. 39449. Thus, it was appellant herself who, in violation of the agreement, submitted the identical issue in two different cases. Upon this state of facts, appellees Casas-Cuyegkeng had the right not to be required to litigate the same issue in two different courts; and as the question was submitted and tried in Case No. 40481 of the Court of First Instance and was there decided before the trial of Case No. 39449, said appellees may not be required to thresh out the issue once more in the latter case.

IN VIEW OF THE FOREGOING, the orders appealed from are affirmed, with costs against petitioner-appellant.

Concepcion, C.J., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez and Ruiz Castro, concur.

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