

FELIX FABELLA AND ERNESTO FIGUEROA, PLAINTIFF AND APPELLEES, VS. THE PROVINCIAL SHERIFF OF RIZAL, VICENTE D. ALOBOG, AND ALTO SURETY AND INSURANCE CO., INC., DEFENDANTS; VICENTE...

G.R. No. L-6090. November 27, 1953

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an action for damages instituted in the Court of First Instance of Rizal arising from the attachment of a movie house together with all equipments, machineries, and furniture found therein, the ownership of which is disputed.

Defendant Vicente Alobog filed a motion to dismiss and when the same was denied for lack of merit, he filed an answer wherein he denied specifically all the material allegations of the complaint and set up some affirmative and special defenses and a counterclaim.

Plaintiffs answered the counterclaim stating merely that they deny "generally and specifically each and every allegation contained in each and every paragraph" of said counterclaim. Thereafter, defendant Vicente Alobog, considering that plaintiffs' answer to his counterclaim failed to tender an issue, filed a motion praying that judgment be rendered in his favor and against plaintiffs, asking at the same time that he be allowed to present evidence as to the amount of damages he is claiming in his answer.

This motion was set for hearing, but as defendant or his counsel failed to appear, counsel for plaintiffs informed the court that he was agreeable that a judgment on the pleadings be rendered as prayed for in the motion of defendant. Accordingly, the court rendered judgment granting practically the relief prayed for in the complaint. From this decision defendant has appealed.

The case was originally taken to the Court of Appeals, but when the case was called for hearing appellant's counsel admitted that he was merely raising questions of law, to which appellees' counsel agreed, as in fact the latter alleged in his brief that said court has no jurisdiction over the case and that it should be forwarded to the Supreme Court. Thereupon, the case was certified to this Court.

The motion which the lower court considered as one for judgment on the pleadings and which served as basis of its decision reads as follows:

"Comes now defendant Vicente Alobog, by and through his undersigned counsel and to this Honorable Court most respectfully shows:

- That the defendant Vicente D. Alobog in answer to the plaintiffs' complaint on file denying the allegations contained therein, except paragraph 1 and in a way paragraphs 3, 5, 6, and 13, for the truth of the matter are as stated in the affirmative and special defenses, and by way of counterclaim reproduces all the allegations of his 'answer', 'affirmative defense', and 'special defense', and incorporated therein as part of said counterclaim in the

amount of P12,000 for damages suffered by said defendant.

- That the aforementioned plaintiffs in answer to the said counterclaim of said defendant Vicente D. Alobog, said answer dated September 6, 1950, failed to tender an issue, and in stead in law admit the material allegations of the said 'answer', 'affirmative defense', 'special defense', and 'counterclaim' of defendant Vicente D. Alobog, for the said answer of plaintiffs state: 'That plaintiffs deny generally and specifically each and every allegation contained in each and every paragraph of the defendant's counterclaim.'

That the herein moving party is thus entitled to a judgment as a matter of law.

That the defendant Vicente D. Alobog is ready to present evidence as to the amount of Damage suffered by him therein alleged.

Wherefore, premises considered, the undersigned pray for an order giving judgment in favor of the defendant Vicente D. Alobog and against the plaintiffs based on the pleadings on file; that the defendant Vicente D. Alobog be allowed to present evidence as to the amount of damage suffered by him as therein alleged; and further pray for such other and further relief as the court may deem just with costs, against the plaintiffs."

What is the nature of a judgment on the pleadings? This point is well defined in our Rules of Court. Thus, in section 10, Rule 35, it is provided that "where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading, except in actions for annulment of marriage or divorce wherein the material facts alleged in the complaint shall always be proved." The rules contain no other provision on the matter. Apparently, in this jurisdiction the rule regarding judgment on the pleadings only applies where an answer fails to tender an issue and plaintiff invokes the rule. The rule is silent as to whether a similar relief may be asked by the defendant, although under American jurisprudence, the rule applies to either party. (*Roxoline Petroleum Co. vs. Craig et al.*, 300 P. 620; 71 C. J. S., p. 863.)

Quite apart from the rule we have quoted above, and regardless of whoever may invoke the benefit of its provisions, we have in this jurisdiction quite a good number of cases illustrating the nature and application of the rule. As an illustration and guidance, we may cite the following restatement of the rulings found in different cases decided by this court: When the defendant neither denies nor admits the material allegations of the complaint, judgment on the pleadings is proper (*Aleman et al. vs. Sweeney*, 3 Phil., 114). But where the defendant's answer tenders an issue, judgment on the pleadings should not be rendered (*Ongsin vs. Riarte*[*], 46 Off. Gaz. No. 1, p. 67). And when the defendant admits all allegations of the complaint, the admission is a sufficient ground for judgment. One who prays for judgment on the pleadings without offering proof as to the truth of his own allegations, and without giving the opposing party an opportunity to introduce evidence, must be understood to admit the truth of all the material and relevant allegations of the opposing party, and to rest his motion for judgment on those allegations taken together with such of his own as are admitted in the pleadings. [*Bauermann vs. Casas*, 10 Phil., 386; *Evangelista vs. De la Rosa*, 76 Phil., 115; *Tanchico vs. Ramos*, 48 Off. Gaz. (1) 654.] It is apparent from these rulings that judgment on the pleadings can only be rendered when the pleading of the party against whom the motion is directed, be he plaintiff or defendant, does not tender any issue, or admits all the material allegations of the pleading of the movant. Otherwise, judgment on the pleadings cannot be rendered.

If we consider the motion filed by the defendant wherein he prayed that judgment be rendered on the pleadings in the light of the foregoing rules, one cannot but reach the conclusion that what was intended was merely to ask for judgment in so far as the counterclaim contained in his answer is concerned in view of the failure of the plaintiffs to traverse it as required by the rules. This is reflected in the second paragraph of the motion wherein defendant makes patent the fact that plaintiffs' answer to his counterclaim failed to tender an issue because it merely pleaded a general denial. This is also reflected in the prayer wherein he asked that judgment be rendered in his favor and

against the plaintiffs and that he be allowed to present evidence as to the amount of damages claimed by him in his counterclaim. The motion could not have referred to the material allegations of the complaint for the simple reason that they were specifically denied in the answer and therefore the latter has tendered an issue which could not be the subject of a judgment on the pleadings. This is the only conclusion that can be drawn from a careful analysis of the contents of the motion of defendant. A contrary interpretation would be incongruous and contrary to its very purpose. It is for these reasons that we believe that the lower court committed an error in considering the aforesaid motion as an implied admission of all the material allegations of the complaint and in rendering judgment accordingly.

Wherefore, the decision appealed from is hereby revoked, without pronouncement as to costs. The case is remanded to the lower court for further proceedings.

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

[*]81 Phil., 184.

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