

GABRIEL MACLAN, PLAINTIFF AND APPELLANT, VS. RUBEN GARCIA, DEFENDANT AND APPELLEE.*G.R. No. L-7622. May 27, 1955*

Ponente: CONCEPCION, J.

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On July 3, 1945, Andres Mariano executed an instrument, purporting to be a deed of conveyance, in favor of Gabriel Maclan, of two (2) parcels of land, containing fishponds, located in the municipality of Polo, and covered by Certificates of Title Nos. 20410 and 20411 of the office of the Register of Deeds of Bulacan, which, accordingly, were cancelled and then substituted by Transfer Certificates of Title Nos. 27813 and 27814, of the same office, in the name of Gabriel Maclan. About a year later, or on or about August 2, 1946, Andres Mariano instituted Civil Case No. 106 in the Court of First Instance of said province, against Gabriel Maclan, for the annulment of said instrument, upon the ground of fraud, and the recovery of the aforementioned property. In due course, said court rendered judgment, on or about May 19, 1949—which was affirmed by the Court of Appeals on December 18, 1950 (CA—G. R. No. 3350-R)—the dispositive part of which reads as follows:

"Wherefore, the Court hereby renders judgment in favor of the plaintiff Andres Mariano as follows: That the deed of extra-judicial adjudication and sale (Exhibit A) in favor of the defendant Gabriel Maclan is null and void; and that the Transfer Certificates of Title Nos. 27813 and 27814 issued in the name of the defendant Gabriel Maclan by the Register of Deeds of Bulacan be cancelled, thus restoring in its entirety the former Transfer Certificate of Title Nos. 20410 and 20411 issued in the name of Basilio Mariano, the expenses of which to be borne by the defendant Tiburcio Ramirez alone, with costs against the defendants." (Record on Appeal, p. 47.)

On June 25, 1952, Gabriel Maclan filed the complaint in the case at bar, which was docketed as Civil Case No. 1752 of the Court of First Instance of Rizal. Ruben Garcia, who acquired the property in dispute in case No. 106, by inheritance from Andres Mariano (who had died in the meanwhile), as his grandson and sole heir, is the defendant in the present case. The purpose thereof is to recover the sum of P5,200, as necessary expenses allegedly incurred in the preservation of said property prior to the commencement of said case No. 106. In his answer to the complaint in case No. 1752, Garcia set up, among other things, the defense that plaintiff's cause of action is barred by the final judgment rendered in case No. 106 and by his failure to file his claim in Special Proceedings No. 917 of the Court of First Instance of Rizal—in which the estate of the deceased Andres Mariano was settled—which has already been closed. After due hearing on this plea, which was considered as being in the nature of a motion to dismiss, the Court of First Instance of Rizal, in an order dated September 25, 1952, found Garcia's pretense to be well taken, and, accordingly dismissed plaintiff's complaint, without special pronouncement as to costs. Hence, this appeal by Maclan.

He maintains (1) that the decision in case No. 106 does not bar his cause of action in the present case, because the same refers to necessary expenses, which, he claims, is distinct from the sum of P4,800, for repairs, alleged by him in his answer in case No. 106; (2) that said "repairs" were alleged in case No. 106 by way of "special

defense," not as counterclaim, and may not be considered as such; (3) that he was not bound, in case No. 106, to set up, as counterclaim, his present claim for necessary expenses; (4) that neither was it necessary for him to file said claim in the special proceedings for the settlement of the estate of the deceased, Andres Mariano; and (5) that defendant herein is under obligation to pay said expenses.

There is absolutely no merit in appellant's pretense, for "repairs" are, in general, necessary for the preservation of the thing repaired, and, hence, the cost of said repairs are in the nature of necessary expenses. Moreover, the repairs, amounting to P4,800, alleged in plaintiff's answer in case No. 106, as defendant therein, was erroneously included under the heading of "special defenses," for, obviously, said repairs could not bar the annulment of the deed of conveyance involved therein, the same having been obtained by fraud. At best, said allegation could be regarded (under Rule 9, section 9, of the Rules of Court) as an attempt, though made inadequately, to set up a counterclaim, in that, if true, it involved a claim for money, tending to diminish the recovery sought by the plaintiff in said case No. 106. The judgment therein rendered bars, therefore, any subsequent suit based upon said claim.

Again, if the claim for repairs were deemed not filed in case No. 106, plaintiff would be confronted by Rule 10, Section 6, of the Rules of Court, which provides:

"A counterclaim not set up shall be barred if it arises out of or is necessarily connected with, the transaction or occurrence that is the subject-matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction."

It is clear that the claim for repairs or necessary expenses allegedly made by Maclan in the property in dispute in case No. 106, is necessarily connected with the action of the plaintiff therein to recover said property from Maclan. Said connection is substantially identical with that which exists between an action for recovery of a land and the claim for improvements therein made by the defendant in said case. It is well settled that such claim for improvements is barred unless set up by way of counterclaim in the aforementioned action for recovery of the land (*Bautista vs. Jimenez*, 24 Phil., 111; *Berses vs. Villanueva*, 25 Phil., 473; *Lopez vs. Gloria*, 40 Phil., 76; *Beltran vs. Balbuena*, 53 Phil., 697; *Galit vs. Ginosa & Hernandez*, 62 Phil., 451). The same rule applies to the claim for necessary expenses or repairs. Consequently, if said claim was not filed in case No. 106, plaintiff may no longer bring another action therefor, the same being "barred forever", pursuant to said section 6 of Rule 10 of the Rules of Court.

With reference to the question whether the claim for repairs should have been filed in the proceedings for the settlement of the estate of the deceased Andres Mariano, plaintiff contends that the answer should be in the negative, for, pursuant to Section 5 of Rule 87 of the Rules of Court, reading:

"All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expenses of the last sickness of the decedent, and judgment for money against the decedent, must } be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. Where an executor or administrator commences an action, or prosecutes an action already commenced by the deceased in his lifetime, the debtor may set forth by answer the claims he has against the decedent, instead of presenting them independently to the court as herein provided, and mutual claims may be set off against each other in such action; and if final judgment is rendered in favor of the defendant, the amount so determined shall be considered the true balance against the estate, as though the claim had been presented directly before the court in the administration proceedings. Claims not yet due, or contingent, may be approved at their present value."

only money claims, "arising from contract express or implied" are enforceable in said proceedings, and plaintiff's

cause of action herein arises from law, not—according to plaintiff's counsel—from "contract, express or implied." This argument, seemingly, stems from a misconception of the nature of "implied contracts," as the term is used in the provision just quoted. The meaning and history of said expression are set forth in the decision, written by Mr. Justice Street, in the case of *Leung Ben vs. O'brien* (38 Phil., 182), from which we quote:

"The term "implied contract" takes us into the shadow domain of those obligations the theoretical classification of which has engaged the attention of scholars from the time of Gaius until our own day and has been a source of as much difficulty to the civilian as to the common-law jurist. Here we are concerned with those acts which make one person debtor to another without there having intervened between them any true agreement tending to produce a legal bond (*vinculum juris*). Of late years some American and English legal writers have adopted the term quasi-contract as descriptive of these obligations or some of them; but the expression more commonly used is "implied contract."

"Upon examination of these obligations, from the view point of the common-law jurisprudence, it will be found that they fall readily into two divisions, according as they bear an analogy to the common-law debt or to the common-law *assumpsit*. To exhibit the scope of these different classes of obligations is here impracticable. It is only necessary in this connection to observe that the most conspicuous division is that which comprises duties in the nature of debt. The characteristic feature of these obligations is that upon certain states of fact the law imposes an obligation to pay a sum certain of money; and it is characteristic of this obligation that the money in respect to which the duty is raised is conceived as being the equivalent of something taken or detained under circumstances giving rise to the duty to return or compensate therefor. The proposition that no one shall be allowed to enrich himself unduly at the expense of another embodies the general principle here lying at the basis of obligation. The right to recover money improperly paid (*repetición de lo indebido*) is also recognized as belonging to this class of duties.

"It will be observed that according to the Civil Code (article 1089) obligations are supposed to be derived either from (1) the law, (2) contracts and *quasi-contracts*, (3) illicit acts and omissions, or (4) acts in which some sort of blame or negligence is present. This enumeration of the sources of obligations supposes that the quasi-contractual obligation and the obligation imposed by law are of different types. The learned Italian jurist, Jorge Giorgi, criticizes this assumption and says that the classification embodied in the code is theoretically erroneous. His conclusion is that one or the other of these categories should have been suppressed and merged in the other. (Giorgi, *Teoría de las Obligaciones*, Spanish ed., vol. 5, arts. 5, 7, 9.) The validity of this criticism is, we think, self-evident; and it is of interest to note that the common law makes no distinction between the two sources of liability. The obligations which in the Code are indicated as quasi-contracts, as well as those arising *ex-lege*, are in the common law system merged into the category of obligations imposed by law, and all are denominated implied contracts. (*Id.*, pp. 192-193; *Italics supplied.*)

It is clear from the foregoing that plaintiff's cause of action arises from an "implied contract"—as this term is understood in the common-law, which is the sense in which it is used in our remedial laws—and that, accordingly his claim, which is "barred forever," may no longer be asserted against defendant herein.

Wherefore, the decision appealed from is hereby affirmed, with costs against plaintiff-appellee, Gabriel Maclan. It is so ordered.

Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, and Reyes, J. B. L., JJ., concur.

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