

FRANCISCO EPANG, PETITIONER, VS. MARIA ORTIN DE LEYCO, RESPONDENT.*G.R. No. L-7574. May 17, 1955*

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

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This is an appeal taken by petitioner Francisco Epang from a judgment by default rendered against him by the Court of Industrial Relations, finding him to be the tenant of respondent Maria Ortin de Leyco over the land in question, and ejecting him therefrom for failure to pay the rentals for the agricultural year 1951-52.

This case was first filed by herein respondent Maria Ortin de Leyco against the petitioner Francisco Epang in the Justice of the Peace Court of Masinloc, Zambales, (C. C. No. 211 for forcible entry and detainer) alleging that in August, 1949, petitioner forcibly entered a portion of a parcel of land owned by her situated in sitio Lomboy, barrio Agop-op, Masinloc, Zambales, for which reason she filed against him a forcible entry and detainer case. Said proceedings were dismissed then because the petitioner verbally agreed and compromised with respondent that he be allowed to remain in the land as tenant in consideration of a yearly rental of 5 cavanes. As petitioner paid only the rentals for the crop year 1951, but failed to pay that due for the year 1952, the respondent ordered him to vacate the premises; and upon petitioner's refusal to leave the land, respondent filed against him a second complaint for detainer.

Upon receipt of a copy of the complaint, petitioner moved to dismiss the case on three grounds; first, that the justice of the peace court had no jurisdiction over the case because the alleged dispossession and illegal entry had taken place more than a year before the complaint was filed; second, that the verbal compromise in the proceeding case was void because it was not reduced to writing nor approved by the Court; and third, that he was the absolute and exclusive owner of the land in question. The justice of the peace of Masinloc, Zambales, without resolving the motion to dismiss, endorsed the case to the Court of Industrial Relations, where it was docketed as case No. 4407-R. It appears, further, that petitioner failed to answer in the Court of Industrial Relations, within the prescribed period; hence, he was declared in default, and respondent was directed to present her evidence. After the trial ex-parte, the Court found that petitioner was respondent's tenant in the land in question, and that (he) petitioner had failed to pay the agreed rentals for the crop year 1951-52 and had refused to vacate the premises in spite of repeated demands from the respondent; and ordered his ejectment.

Having been notified of the judgment taken against him, petitioner moved (1) for the setting aside of the decision on the ground that he had not been notified of the pendency of the case in the Court of Industrial Relations; and (2) for the dismissal of the case, for the reason that there was no tenancy relation between him and respondent, the land in question allegedly being covered by the homestead application of his deceased father, which land is now being cleared and cultivated by him (petitioner). This motion was denied by the Court in banc, with two judges dissenting, who were of the opinion that there being a controversy as to the identity of the land in dispute, a relocation thereof should be made to avoid irreparable injustice to either of the parties. In view of the denial of his motion to set aside the judgment and to have the case dismissed, petitioner Francisco Epang appealed to this

Court by certiorari.

The petitioner having filed a motion to dismiss, he was entitled to have that motion resolved before being required to answer, since a motion to dismiss interrupts the time to plead. It follows, therefore, that the petitioner was incorrectly declared in default, and the holding of the trial of the case on the merits in his absence, without notice to him of the day of the hearing, was a denial of due process. Consequently, the decision of the Court of Industrial Relations was invalid and must be set aside.

The case not having been originally filed in the Court of Industrial Relations, but merely endorsed thereto by the Justice of the Peace Court, wherein the parties had already appeared, and filed pleadings, the proceedings in the Court of Industrial Relations were but a continuation of the original case. As a matter of fact, no new complaint was filed, and it was unnecessary for the petitioner to refile his appearance and motion to dismiss in the Court of Industrial Relations. At the very least, the petitioner's motion should have been treated as an answer, since it raised issues that went to the merits of the case, to wit, the invalidity of the original compromise and petitioner's claim of ownership over the land in question; hence, petitioner was entitled to notice of the holding of the trial before the Court of Industrial Relations, and the failure to give him opportunity to appear therein tainted all the subsequent proceedings.

Petitioner having failed, through no fault of his own, to present his side of the case, this court can not adjudicate the merits of the controversy.

The decision of the Court of Industrial Relations in Tenancy Case No. 4407-R is annulled and set aside, and the case is ordered remanded to said Court with instructions to decide the motion to dismiss filed by petitioner Francisco Epang and thereafter to proceed with the case in the regular course of law.

Pablo, Acting C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, and Concepcion, JJ., concur.

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