

MANUEL GUAZO, PLAINTIFF AND APPELLEE, VS. ANA M. RAMIREZ, ADMINISTRATRIX OF THE ESTATE OF THE LATE SAMUEL BISCHOFF,, DEFENDANT AND APPELLANT.*G.R. No. 10154. December 10, 1915*

Ponente: CARSON, J.

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The plaintiff, Manuel Guazo, was the manager of two sugar haciendas in Capiz, the property of Samuel Bischoff, deceased. Guazo's engagement as such manager appears to have covered a part of the year 1910, the year 1911 and a part of the year 1912. Guazo ceased to act as manager of the haciendas on September 30, 1912. Some difference appears to have arisen between Bischoff and Guazo over the settlement of their accounts and a final settlement had not been affected at the time of Bischoff's death which occurred on the 29th of June, 1913.

The defendant, Ana M. Ramirez, the wife of Bischoff, qualified aft the administratrix of her husband's estate on the 4th of August, 1913, and a committee was appointed to hear And adjudicate claims against the estate. Guazo presented a claim for services amounting to P2,895.20 but the claim waajdismllowed by the committee and an appeal was taken. to the Court of First Instance of Iloilo from the order of the committee disallowing the claim. The defendant denied all the allegations of the plaintiff's complaint and set up a counterclaim of P30,000, composed of a number of items set out at length in the answer and counterclaim. The court below allowed plaintiff's claim in the sum of P2,205.63.

The defendant duly excepted to the judgment, and the record is now before us on appeal. The record shows that plaintiff, as manager of the haciendas, was to receive a salary of P100 per month and in addition a bonus or gratification of 20 centavos per picul on all sugar grown and harvested, provided it amounted to at least 8,000 piculs; should the harvest not amount to 8,000 piculs, the amount of the bonus was to be regulated by a graduated scale as set forth in Exhibit B.

Counsel for the defendant admits that there is still due on account of salary and as a gratification for the amount of sugar grown and harvested as per contract the sum of P2,178.74 (counsel's brief, p. 5), but it is claimed that this amount is subject to the set-offs and counterclaims set up by the defendant in her answer. Without considering the counterclaims it will be seen that there is only a slight difference in the amount allowed plaintiff by the trial court and the amount which it is admitted was due him, which is due to the fact that the court below, in reaching its conclusions as to the amount due plaintiff, allowed some few of the items in defendant's counterclaim.

We think the evidence shows that the greater part of the claims presented by defendant are wholly without merit. There is absolutely nothing in the record which indicates that Bischoff ever claimed that there was any such difference between him and the plaintiff, as is alleged in the counterclaim. The record does show that Bischoff claimed that there had been some mismanagement and there had been some losses due to the fact that his orders had not been strictly complied with. But in all the correspondence that passed between plaintiff and Bischoff there is nothing to indicate that Bischoff even claimed that there was a balance in his favor. In view of these facts the

counterclaim for P30,000 seems and, as the record discloses, is preposterous.

The main difference between plaintiff and fiischoff related to amount of the bonus due on the 1912 crop. The record shows that plaintiff left the hacienda before this crop was harvested and that he was succeeded by Joaquin Culminaris as manager of the hacienda under an agreement that Culminaris would receive 10 centavos per picul for grinding the sugar cane and that the plaintiff would have 10 centavos per picul for his work in growing the sugar cane. Plaintiff estimated the value of the crop for 1912 at 15,000 piculs and put in a claim for P1,500. The evidence however does not sustain a finding that the crop amounted to more than 8,812.50 piculs and the lower court properly reduced the amount of his claim in this matter to the sum of P881.25.

In a statement of the account with reference to the crop for the year 1911, rendered to plaintiff by Bischoff, it appears that Bischoff estimated the bonuses at 5 centavos on part of the crop, 10 centavos on part and 20 centavos per picul on the rest. The 1911 crop amounted to 9,834 piculs and under plaintiff's contract he was entitled to 20 centavos per picul which the lower court properly allowed him. The other items of defendant's claim are made up of losses and damages due to alleged mismanagement on the part of the plaintiff; of claims of certain funds which are alleged to have been misappropriated by plaintiff; of certain entries which it is claimed were improperly charged against the hacienda accounts, and of a number of old vales and chits which appear to have related to some business transactions had between the plaintiff and defendant long prior to the time that plaintiff became manager of the hacienda. Some of these old vales and chits are dated in 1896, 1897 and 1898 and have no relation whatever to plaintiff's conduct as manager of the hacienda. When proof of these old claims was offered in evidence plaintiff's counsel objected on the ground that they were barred by the statute of limitations. They were admitted in evidence, but plaintiff was allowed to amend his reply to defendants answer and counterclaim and set up the statute of limitations. The trial court in finally disposing of these items held that they were barred by the statute of limitations. Counsel for defendant now urges that it was error on the part of the trial court to allow the plaintiff to amend his reply and plead the statute of limitations.

In defendant's answer and counterclaim the dates of these old claims were not set out and plaintiff and his counsel insisted that they had no notice of their date until they were offered in evidence. Under sections 109 and 110 of Act No. 190, a wide discretion is given to trial courts in allowing amendments to pleadings, and under the facts of the present case, and in furtherance of justice, we think the trial court was clearly within its powers in allowing the amendment in question. Recovery upon these items is clearly barred by the lapse of time and the lower court properly refused to allow them.

While it is true, as contended by counsel for the appellant, that a litigant should not be permitted to rely upon the statute of limitations unless he pleads it, and that ordinarily he must set up his claim under the statute before entering upon the trial, the rule, in so far as it requires a party to plead the statute before entering upon the trial, must be relaxed when it appears, as it did in this case, that he had no means of knowing, before the trial began, that the claim advanced by the opposing party is barred by the statute. In such cases, the reason of the rule requires merely that he promptly plead the statute as soon as he discovers the true nature of the claim which he alleges is barred thereby.

As to the other items of the counterclaim, it must suffice to say that the trial court examined them all and carefully weighed the evidence offered in their support. A reference to the judgment in this case which covers some 14 pages of the printed bill of exceptions shows with what minute detail the trial court scrutinized these various items. The disputed claims are taken up separately and all evidence in relation thereto carefully reviewed. The trial court had before it all the parties who were supposed to have any knowledge of these claims, as well as the books and accounts of the hacienda, and the conclusions reached by the trial court are based upon a more intimate knowledge and understanding of all the facts than this court can hope to have from a mere examination of the

record. Moreover a careful and detailed study of the record in connection with the brief filed by defendant's counsel discloses nothing which would justify us in disturbing the conclusions of the trial court.

There is nothing in the record which would indicate that the trial court did not give due consideration to every item of defendant's counterclaim and to the evidence offered in its support, and correctly dispose of each and all of them.

We conclude that the judgment appealed from should be affirmed with the costs of this instance against the appellant. So ordered.

Arellano, C.J., Torres, Moreland, Trent, and Araullo, JJ., concur.

Judgment affirmed.

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