

IGNACIO ARROYO, PLAINTIFF AND APPELLANT, VS. ALFRED BERWIN, DEFENDANT AND APPELLEE.

G.R. No. 10551. March 03, 1917

Ponente: CARSON, J.

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CARSON, J.:

The complaint filed in this action is as follows:

- "1. That both the plaintiff and the defendant are residents of the municipality of Iloilo, Philippine Islands.
- "2. That the defendant is a procurador judicial in the law office of the Attorney John Bordman, and is duly authorized by the court to practice in justice of the peace courts of the Province of Iloilo.
- "3. That the defendant, as such procurador judicial, represented Marcela Juaneza in the justice of the peace court of Iloilo in proceeding for theft prosecuted by the plaintiff Igancio Arroyo; that said cause was decided by the said justice of the peace against the accused, and the latter appealed to the Court of First Instance of Iloilo.
- "4. That on August 14, 1914, which was the day set for the hearing of the appeal of the said cause against Marcela Juaneza for theft, Case No. 3120, the defendant requested the plaintiff to agree to dismiss the said criminal proceeding, and, on August 17, 1914, stipulated with the plaintiff in the presence of Roque Samson, among other things, that his client Marcela Juaneza would recognize the plaintiff's ownership in the land situated on Calle San Juan, suburb of Molo, municipality of Iloilo, Province of Iloilo, where his said client ordered the cane cut, which land and which cut cane are referred to in the cause for theft above-mentioned; and the defendant furthermore agreed that the plaintiff should obtain a Torrens title to the said land during the next term of the court for the trial of cadastral cases, and that the defendant's client, Marcela Juaneza, would not oppose the application for registration to be filed by the said applicant; provided that the plaintiff would ask the prosecuting attorney to dismiss the said proceedings filed against Marcela Juaneza and Alejandro Castro for the crime of theft.
- "5. That the plaintiff on his part complied with the agreement, and requested the prosecuting attorney to dismiss the above-mentioned criminal cause; that the latter petitioned the court and the court did dismiss the said cause; that in exchange the defendant does not wish to comply with the above-mentioned agreement; that the plaintiff delivered to the defendant for the signature of the said Marcela Juaneza a written agreement attesting that the defendant's said client recognized the plaintiff's ownership int he described land and that she would not oppose the plaintiff's application for registration; and that up to the present time, the defendant has not returned to the plaintiff the said written agreement, notwithstanding the plaintiff's many demands.
- "Therefore, the plaintiff prays the court to render judgment ordering the defendant to comply with the agreement by causing the latter's said client Marcela Juaneza to sign the document in which she recognizes the plaintiff's ownership of the land on which she ordered the cane cut and states that she will not oppose the plaintiff's application for the registration of the said land; and, further, by awarding to the plaintiff the costs of the present suit, as well as any other relief that justice and equity require."

The trial judge dismissed this complaint on the ground of the illegality of the consideration of the alleged contract, and without stopping to consider any other objection to the complaint than that indicated by the court below, we are of opinion that the order appealed from must be affirmed.

An agreement by the owner of stolen goods to stifle the prosecution of the person charged with the theft, for a pecuniary or other valuable consideration, is manifestly contrary to public policy and the due administration of justice. In the interest of the public it is of the utmost importance that criminals should be prosecuted, and that all criminal proceedings should be instituted and maintained in the form and manner prescribed by law; and to permit an offender to escape the penalties prescribed by law by the purchase of immunity from private individuals would result in a manifest perversion of justice.

Article 1255 of the Civil Code provides that:

"The contracting parties may make the agreement and establish the clauses and conditions which they may deem advisable, provided they are not in contravention of law, morals, or public order."

Article 1275 provides that:

"Contracts without consideration or with an illicit one have no effect whatsoever. A consideration is illicit when it is contrary to law and good moral."

The order entered in the court below should, therefore, be affirmed, with the costs of this instance against the appellant. So ordered.

Torres, Moreland, Trent, and Araullo, JJ., concur.

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