

H. C. BEST, PLAINTIFF AND APPELLEE, VS. LIZARRAGA HERMANOS, DEFENDANT AND APPELLANT.*G.R. No. 11102. January 28, 1918*

Ponente: STREET, J.

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The plaintiff, H. C. Best, was engaged in March, 1914, by Lizarraga Hermanos, a mercantile partnership, to take charge of the sugar central "Bearin," belonging to the firm and situated in the municipality of Kabankalan, Occidental Negros. It was agreed that Best should be the superintendent, or technical head of the central; that he should be responsible at all times for good service and order, and that the entire personnel, mechanical, technical, and scientific, should be under his control, so far as regards service. The contract, which was evidenced by a letter written by the defendants, was to run from the time when Best should assume the duties of his position till the end of April or 1st of May of the next year. The salary of the plaintiff was to be at the rate of P450 per month, with board, lodging, laundry service, and attendance of servant.

Soon after the plaintiff assumed the performance of his duties under this contract (April 8, 1914) difficulties arose; and serious misunderstandings developed between him and his employers. A crisis was reached in the latter part of July and early days of August, when both parties seem to have arrived at the conclusion that the situation was unendurable, and the plaintiff left.

Upon September 11, 1914, he instituted this action, claiming damages of the defendant for breach of the contract of employment. At the hearing in the Court of First Instance judgment was rendered in his favor for the sum of P4,818.25, with interest; and from this judgment the defendant has appealed,

The theory of the plaintiff's case is that he was in effect discharged by his employers without legal justification. The defense is based on the assertion that the plaintiff was technically incompetent; that he mistreated the employees and displayed such lack of tact in his relations with his inferiors that disorder resulted, as a consequence of which his continued stay at the central in the capacity of superintendent would have been unsafe for him and disastrous to the interests of the house.

The Court of First Instance found that the plaintiff was technically competent to discharge the duties of the position which he was employed to fill; and we think that this finding is sustained by the proof. He had ample experience in such matters, and the changes introduced by him in the central were, we think, such as any competent superintendent might have adopted.

Upon the question whether the plaintiff quit the position or was discharged by his employers, the court below arrived at the conclusion that the plaintiff was not in terms discharged by the defendants but that he himself quit the contract. We think this is the proper conclusion to be drawn from the evidence on this point. The trial court also found that there was not the slightest doubt that he was forced to quit. The conditions which necessitated the taking of this step are not clearly exhibited in the decision of the court below, but they will be here briefly stated, as the proper solution of the case requires us to determine who was to blame for those conditions.

To begin with, the place was a hard one to fill, as the establishment was not well organized, nor the force of employees well disciplined. Best had no previous experience in dealing with Filipino laborers, and his inability to communicate directly with them, and most of the other employees under him, led to misunderstandings and trouble. The difficulties of the situation were increased by the circumstance that one of the members of the firm of Lizarraga Hermanos, who was present at the central and assumed a superior authority with respect to the management of the hacienda, failed to give the support to Best which possibly might have made things go smoothly. In early June word had reached the head office of the firm in Iloilo to the effect that things were not going well at Kabankalan; that Best by his brusqueness and lack of tact had incurred the ill-will of his subordinates; and that dissension was developing in the establishment. About the same time Best himself was complaining of a lack of subordination and of interference with his authority. Therefore, upon June 6, 1914, a letter was written from Iloilo, in reply to one received from Best. In this letter Lizarraga Hermanos told Best that they would take the necessary steps to make the entire personnel realize that he was superintendent and that they owed obedience to him in everything relating to the work. In the same letter the head of the firm proceeded at some length to give Best advice about how to manage Filipino labor. We think that these suggestions were well intended, and that Best would have done well to profit by them. He says, however, that he paid no attention to that letter.

A short while after this, upon a certain occasion, Best had an altercation with a Filipino contractor of labor, and some thirty laborers who were at hand intervened by stoning Best. The incident made a deep impression on everybody around the central and hacienda, and the senior member of the house came up from Iloilo to investigate. After examining into the situation thoroughly for a few days he found that the entire personnel was disaffected, and that if the superintendent should be retained a number of other employees would probably quit. As a consequence a conference was held between the members of the firm who were then present at Kabankalan and Best; and upon this occasion they asked him to resign and offered, if he would do so, to pay his salary a month or two in advance. This he refused to do, but the next day, as the company's launch was returning to Iloilo, he embarked and did not return.

Our conclusions, after repeated and careful examination of the evidence in this case are these: (1) That when the conference above mentioned was held both parties to this contract recognized that under the conditions which had arisen the continuance of Best as superintendent of the central was impracticable, if not impossible, and that the only sensible course to be pursued was for him to leave; (2) that the conditions which made this step necessary resulted chiefly from the inability of Best to fulfill the requirements of that part of his contract which made him responsible "at all times for good service and order;" (3) that Lizarraga Hermanos were not immediately responsible for the conditions which made Best's departure necessary, although their course was in many respects subject to criticism; (4) that no right of action arose whereby the plaintiff became entitled to recover anything by way of damages for breach of contract; but (5) that inasmuch as he left with the consent of his employers he is entitled to recover what was earned upon salary account up to the date of his departure.

It will be observed that the burden of proof is upon the plaintiff in this action to show that the defendants were responsible for the conditions which forced him to quit; and undoubtedly if it were shown that the trouble which developed was fomented by a member of the house of Lizarraga Hermanos or that they, in violation of their own obligations, otherwise created intolerable conditions in order to force him out, the action of Best in leaving would have been justified. Some irritating things were certainly done to the vexation of the plaintiff by more than one member of the firm; but these things were not so vital in the contractual relations of the parties as the inability of the plaintiff to adjust his own methods to the requirements of the situation assumed by him under the contract.

Even assuming that both parties to the contract were equally to blame for the conditions which led to this rupture,

the plaintiff could not recover; for in order to maintain an action for a breach of contract the plaintiff must prove that he was forced out by conditions created without fault of his own. Where both parties are to blame, the fault of one may be considered to offset that of the other; and the legal result is that while either may quit, neither can maintain an action for breach of contract against the other. In such case we consider the situation to be substantially the same as if the contract had become impracticable or impossible of performance without the fault of either, and had been dissolved by mutual consent.

There is another point in the case deserving of notice. Upon August 11, 1914, upon being informed that the plaintiff would assert a claim for damages arising from the alleged breach of contract, Lizarraga Hermanos addressed a letter to Best's attorneys in Iloilo, in which after denying that the firm had violated the contract, they stated that he could return to the position of superintendent at Kabankalan, if he wished. This offer to receive him back was coupled with conditions substantially the same as those under which he had been originally employed. It has been held by this court that an offer on the part of an employer, made in good faith, to take back a discharged employee on the same terms as before, is admissible in evidence, and if refused without good reason, has the effect of destroying the right of the employee to recover damages from the date when such offer should have been accepted. (*Lemoine vs. Alkan*, 33 Phil. Rep., 162.) It is true that in this communication Lizarraga Hermanos inserted some words which tended to irritate rather than soothe; but it is nevertheless questionable whether Best was not bound to return to duty in response to that invitation, and in our opinion the letter should have been admitted in evidence, in order that its effect might have been considered. Instead of this it was rejected by the court below as irrelevant.

From what has been said it follows that the judgment must be reversed in so far as it awards damages in respect to the salary that would have accrued under the contract after the date of the plaintiff's departure from Kabankalan, but as already suggested, the plaintiff is entitled to recover for the value of his services prior to that date. Upon this point we find that the plaintiff was entitled to his salary for four months, less two days, or the sum of P1,771. On the question as to how much the plaintiff had been paid upon salary account, we find no competent proof in the record other than his own statement, in which he says that he had been paid the sum of P730. In the opinion written by the trial judge it is said that the lawyer for the plaintiff has stated that the plaintiff had been paid about P1,400 during his term of service; but there is no evidence to support this statement, and we are unwilling to base a judgment of this court upon such a suggestion unsupported by proof. It seems to us that if the statement made by Best had been erroneous, it was the duty of the defendants to correct it. Judgment will accordingly be here entered in favor of the plaintiff for the sum of one thousand and forty-one pesos (P1,041) with interest from September 11, 1914, but without any special findings as to costs of this instance. So ordered.

Arellano, C. J., Torres, Carson, Araullo, Malcolm, and Avanceña, JJ., concur.

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