

ZAMBALES CHROMITE MINING CO., PLAINTIFF AND APPELLANT, VS. JOSE ROBLES, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 12845. February 25, 1960*

Ponente: MONTEMAYOR, J.

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This is an appeal by plaintiff Zambales Chromite Mining Co. from the order of the Court of First Instance of Zambales, dated April 23, 1957, dismissing plaintiff's first third, fourth and fifth causes of action, and from the order of July 23, 1957, denying plaintiff's motion for reconsideration.

On March 17, 1953, Jose Robles, later referred to as the operator, and the Zambales Chromite Mining Co., later mentioned as the Mining company, executed a contract later supplemented by a "supplementary agreement", ratified on August 14, 1953. According to these two documents, the mining company which owned or had possession of several mineral claims containing mineral deposits, principally chrome ore, delivered them to Robles who undertook to operate them, extract chrome ore in a minimum amount of 2,000 tons a month and to pay the company a royalty of P3.00 per ton net. The other terms of the agreements were that Robles "was to repair and rehabilitate at his own expense within a certain period, the roads and bridges of the mining camp and points of mining operations to the provincial road in Sta. Cruz, Zambales, for the purpose of transporting the chrome ore to the Acoje pier or to shipping points of Sta. Cruz, Zambales, and to spend for said repair and rehabilitation at least P30,000; that as operator, Robles guaranteed the prompt payment of the wages and salaries, at the minimum wage rate, of all laborers and employees; that any violation of any of the terms and conditions of the agreements was sufficient ground for the cancellation of the same by the aggrieved party; and that at the termination or cancellation of the agreements, all improvements placed on or undertaken by the operator at his expenses on the premises, such as, buildings, development work, roads, bridges and the like, which are not movable machinery or equipment, shall become the property of the mining company, without obligation to pay for the same.

Appellant claiming that Robles had violated the terms and conditions of the agreement and that notwithstanding demands made by it on him to comply therewith, he refused to do so, advised him in writing on October 10, 1956 that it had cancelled and resolved the contract and demanded that he vacate the mining properties. On November 28, 1956, it filed an action for unlawful detainer against him in the Justice of the Peace Court of Sta. Cruz, Zambales. Robles moved for dismissal of the case on the ground that the Justice of the Peace Court had no jurisdiction over the same, involving as it did mineral land. His motion was denied by the Justice of the Peace Court as well as the Court of First Instance of Zambales before which he raised the question of jurisdiction. Not satisfied, Robles brought the case to this Tribunal in a petition for certiorari (Robles vs. Zambales Chromite Mining Co., et al., 104 Phil., 688; 55 Off. Gaz. [31] 6012). In our decision promulgated on September 30, 1958, we ruled that the Justice of the Peace Court had jurisdiction to take cognizance of the unlawful detainer case, although it involved mineral land.

In the meantime, on January 7, 1957, plaintiff-appellant filed the present action. Its complaint contained six causes of action. Under the first cause of action, plaintiff claims that defendant Robles failed to extract at least

2,000 tons of chrome ore a month, beginning August 15, 1953, he having produced only the total of about 3,158 tons of chrome ore, instead of a total of 76,000 tons up to October 15, 1956; that defendant failed to pay plaintiff, at least the sum of P12,000 per month beginning August 15, 1953, or the total sum of P456,000 from August 15, 1953, computed at 12% of the total value of said 76,000 tons computed at the selling price of P48.00 per ton, defendant having paid the plaintiff as of October 11, 1956, only the total sum of P3,426.25; that defendant Robles did not spend at least P30,000, Philippine currency, as agreed upon for the rehabilitation and repair of plaintiff's roads and bridges; that he also failed to promptly pay the wages and salaries of his laborers and employees working at the said mines, causing many of said laborers to quit their jobs, thereby contributing largely to defendant's failure to comply with the other terms of the agreements; and that despite the cancellation and dissolution of the contract by plaintiff, defendant continued to operate the mining mineral claims and had removed a total of at least 1,258.22 tons of chrome ore between October 11 and 31, 1956, of which 858.22 tons defendant shipped on board a steamer and sold at a total price of P43,280.44, and the remaining 400 tons were deposited by him along the bank of the Nayum River in Sta. Cruz, Zambales, preparatory to their being shipped out and removed from the municipality of Sta. Cruz, Zambales. For the protection of the rights and interest of the plaintiff, it later asked the court to perpetually restrain Robles and his co-defendants from further mining, extracting and removing chrome ore from the aforementioned mineral claims.

Under the second cause of action, plaintiff alleges that contrary to the stipulations of the contract, plaintiff had been reliably informed that Robles and his co-defendants, representatives and employees, were contemplating or threatening to remove and destroy or tear down the buildings, roads, and bridges and other permanent improvements and installations belonging to the plaintiff and within its mining properties. Plaintiff asked that defendants be restrained from removing and destroying or tearing down said improvements.

Under the third cause of action, plaintiff alleges that although under the conditions of the contract, plaintiff had the right to send and station its representatives at the mines to verify the status of the same and to take the necessary precautions to protect its properties, Domingo Sison and Juan Francisco, acting for themselves and/or representatives of defendant Robles, with the aid of the Philippine Constabulary, ejected the representatives sent by the plaintiff on or about January 2, 1957; that inasmuch as Robles had lost any right to occupy the mineral claims and extract chrome ore therefrom because of the cancellation of the contract, he had no right to prevent plaintiff or its authorized representatives from entering the mines and from using its buildings, roads, and bridges and other permanent improvements; consequently, defendant should be restrained from preventing plaintiff or any of its representatives from entering the mining premises and using the buildings, roads, bridges, etc.

Under the fourth cause of action, plaintiff asks that defendants be required jointly and severally to pay the sum of P43,280.44, which represents the value of 858.22 tons of chrome ore referred to in the first cause of action.

Under the fifth cause of action, plaintiff claims delivery by or payment from defendants of the balance of 400 tons of chrome ore removed from the mines after the cancellation of the contract and deposited along the bank of the Nayum River, mentioned in the first cause of action.

Under the sixth cause of action, plaintiff claims the sum of P10,000 attorney's fees plus expenses of litigation.

Robles filed his answer to the complaint with a motion to dismiss the first, fourth and fifth causes of action and that after trial on the merits, the second, third and sixth causes of action be likewise dismissed.

On April 23, 1957, the trial court dismissed plaintiff's first, third, fourth and fifth causes of, action and at the same time ordered that the second and sixth causes of action be set for hearing. For purposes of reference, we reproduce said order:

"Acting on the defendant's petition to dismiss plaintiff's instant complaint and it appearing that there is pending

before the Justice of the Peace Court of Sta. Cruz, Zambales, Civil Case No. 127 entitled 'Zambales Chromite Mining Co. vs. Jose Robles, for ejectment; that this Court has found in Civil Case No. 1878 of this court, which is a certiorari case filed by Jose Robles against the Justice of the Peace of Sta. Cruz, Zambales, in connection with said Case No. 127, that said Justice of the Peace has jurisdiction to try said Civil Case No. 127; that between said Case No. 127 and the instant case there is identity of parties and rights asserted, as well as substantial identity in the relief prayed for, so that any judgment which may be rendered in said Case No. 127 will undoubtedly amount to res adjudicata with respect to plaintiff's First, Third, Fourth and Fifth causes of action in this case; that the proper remedy for these causes of action is an action for recovery of possession and rents; that it has been held that an injunction should not be a substitute for an ordinary action of forcible entry and detainer (*Sofia Devera vs. Crispin Arbes*, 13 Phil, pp. 273, 277). the Court finds the dismissal of plaintiff's first, third, fourth and fifth causes of action to be in order.

"PREMISES CONSIDERED, the plaintiff's first, third, fourth and fifth causes of action in this case, are hereby dismissed, and the case is set for hearing on June 12, 1957 at 9:00 o'clock in the morning with respect to plaintiff's Second and Sixth causes of action." (Record pp. 84-85).

In asking for the dismissal of the first cause of action, Robles claimed that there was another action pending between the same parties and for the same causes before the Justice of the Peace Court of Sta. Cruz, Zambales, Case No. 127, referring to the illegal detainer case already mentioned. In answer, plaintiff contends that the pendency of another action may not be invoked in the instant case because although the basis of the complaint for ejectment and the present action arose from the same cause, namely, violation by the defendant of the terms and conditions of the contract, nevertheless, the relief prayed for and the rights asserted are different. In the ejectment case, plaintiff seeks to obtain possession of the mining premises, while in the present action, in its first cause of action, plaintiff merely asks that defendant be restrained from operating the mining properties without necessarily being ejected therefrom. Moreover, other causes of action set forth in plaintiff's complaint, such as the recovery of P43,280.44 (fourth cause of action) and the recovery of 400 tons of chrome ore or its value (fifth cause of action) are well beyond the jurisdiction of the Justice of the Peace Court, and what is more, the same do not represent back rentals or damages on account of the unlawful detainer.

Defendant, however, asserts that the first cause of action is in the guise of a separate action of injunction and is in effect a petition for preliminary injunction in aid of its action for illegal detainer, a remedy where the Justice of the Peace Court may not grant; naturally, plaintiff may not obtain such relief by filing a separate action for injunction in the Court of First Instance based on the same set of facts. As to the distinction sought to be made by plaintiff between the right to possess the mining properties and the right to operate them, such distinction according to defendant is untenable for the reason that both rights are co-existent on the question of whether the contract between the parties still exists. And as regards the fourth and fifth causes of action, defendant urges that an action for injunction is not the proper remedy, but rather the filing of an ordinary action for the recovery of a sum of money and for replevin, respectively.

The test by which to determine whether or not the pendency of another action is a bar to a second action, is whether or not "the judgment to be rendered in the action first instituted will be such that, regardless of which party is successful, it will amount to res adjudicata against the second action," (*Hongkong & Shanghai Banking Corporation vs. Aldecoa & Co.*, 30 Phil., 255). In said case, it was held that to sustain the plea of another action—

"* * * there must be the same parties, or at least such as represent the same interests. There must be the same rights asserted and the same relief prayed for. This relief must be founded on the same facts, and the title or essential basis of the relief sought must be the same. The identity of these particulars should be such that if the pending case had already been disposed of, it could be pleaded in bar as a former adjudication of the same matter between the parties."

In that case, it was held that an action to annul the mortgage was not a bar to an action for foreclosure of the same, for the reason that although a final judgment in the first case declaring the mortgage null and void, would preclude the bank from foreclosing the mortgage, and therefore dismiss its foreclosure suit, still a decision holding such mortgage valid would pave the way for the foreclosure of the same. So, in the present case, the action for ejectment in the Justice of the Peace Court may not bar plaintiff's suit in the Court of First Instance, or rather some of his causes of action because if it is finally decided that defendant should be ejected from the mining premises in the illegal detainer case, plaintiff could still prosecute his causes of action against defendant in the Court of First Instance. It is argued that injunction should not be a substitute for an ordinary action for forcible entry and detainer (*Sofia Devesa vs. Crispin Arbes*, 13 Phil., 277, cited in the appealed order). However, in the four causes of action dismissed by the trial court, plaintiff does not seek to deprive defendant of the possession of the property. In the first cause of action, plaintiff merely asks that defendant be restrained from further operating the mines or otherwise extracting ore from the same; in the third cause of action, the relief sought was to restrain defendant from preventing plaintiff's representatives from entering the premises, and from using the buildings, roads, bridges, etc. on the premises. The fourth and fifth causes of action only ask for the recovery of sums of money or the possession of chrome ore, other than damages due to illegal detainer. Incidentally, it will be observed that although defendant Robles in his answer did not ask for the dismissal of the third cause of action, nevertheless, the trial court *motu proprio* dismissed the same.

There is another and practical reason for holding that the unlawful detainer case in the Justice of the Peace Court of Sta. Cruz, Zambales, does not bar the causes of action of plaintiff company in the Court of First Instance, dismissed by the latter, and it is this. Said unlawful detainer case may for all practical purposes now be considered abandoned and if it has not yet been tried and decided by the Justice of the Peace Court, plaintiff company may well ask for its dismissal.

It is highly possible that plaintiff company, seeing that the final determination of the unlawful detainer case would be unduly delayed, as in fact it was, and consequently, it could not obtain the possession of the property in question in the immediate future, it filed the present case in the Court of First Instance in 1957, in order to obtain appropriate relief and minimize damages and losses. But then it could not well ask for the dismissal of said unlawful detainer case, for the reason that the Justice of the Peace Court had temporarily lost jurisdiction over the same, the case having been finally taken to this Tribunal on appeal, and said appeal was not decided by us until September 30, 1958.

The abandonment or dismissal of the unlawful detainer case would not substantially affect the rights of the mining company over the property in litigation, particularly, possession thereof, for the reason that such possession may well be included in the relief prayed for in the Court of First Instance under the prayer at the end of its complaint that "plaintiff further respectfully prays the Honorable Court to such other relief as to it may seem just and equitable under the premises". Besides, the Court of First Instance in the present action would be in a much better position to determine the relative rights of the parties over the property in question, and from the standpoint of the plaintiff company, grant it all the relief it is entitled to. Ordinarily, the relief that a plaintiff in an unlawful detainer case is entitled to is the possession of the property under litigation, and damages in the form of accrued rentals or the reasonable value of the use and occupation of the premises. In the present case, however, the rentals and property were to be in the form of royalties based on the production of chrome ore as a result of the operation of the mineral claims by the defendant. However, there looms an incompatibility, namely, that in order to pay said royalties, the defendant must operate the mines and produce chrome ore, but according to the relief prayed for by plaintiff's complaint, it does not want defendant to continue operating the mines. Besides, there are other reliefs demanded by plaintiff company which are not available in an unlawful detainer case, such as, the payment of royalties, preventing defendant from removing, burning, or otherwise destroying any of the buildings, roads,

bridges and other permanent improvement and installations on the premises; preventing defendant from impeding plaintiff's representatives from entering and staying on the properties as agreed upon in the contract; the payment by defendant to the plaintiff of about P43,000 for chrome ore said to have been sold by him, and for the delivery of chrome ore deposited by defendant along the bank of the river, preparatory to the shipment thereof abroad, or value of said ore.

In view of the foregoing, the order appealed from is set aside and the case is ordered remanded to the trial court for further proceedings, with costs.

Paras, C. J., Bengzon, Bautista Angelo, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

Labrador and Concepcion, JJ., concur in the result.

Padilla, J., took no part.

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