

**ANTONIA A. CABARROGUIS AND MAMERTO CABARROGUIS,
PLAINTIFFS AND APPELLEES, VS. TELESFORO B. VICENTE,
DEFENDANT AND APPELLANT.***G.R. No. 14304. March 23, 1960*

Ponente: GUTIERREZ DAVID, J.

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On March 15, 1955, plaintiff Antonia A. Cabarroguis, a registered nurse and midwife residing in Davao City, sustained physical injuries as a result of an accident when the AC "jeepney" of which she was a passenger hit another vehicle at a street corner in the said city. The injury, among other things, caused permanent partial disability to her right forearm. To avoid court litigation, defendant Telesforo B. Vicente, owner and operator of the AC "jeepney" involved in the accident, entered on July 13, 1955 into a compromise agreement with the said victim Antonia A. Cabarroguis, obligating himself to pay to her the sum of P2,500 "as actual and compensatory, exemplary and moral damages suffered by (her) * * * from the said accident." Of that amount, defendant has paid a total of P1,500.00 leaving therefore, an unpaid balance of P1,000. It was also stipulated in the agreement that should defendant fail to complete payment within a period of sixty days, he would pay an additional amount of P200.00 as liquidated damages."

As defendant failed and, notwithstanding repeated demands refused "to comply with his obligation under the agreement after the same had become, due and demandable, plaintiff Antonia A. Cabarroguis, assisted by her husband, brought suit in the Municipal Court of Davao City. In his defense, defendant alleged that the injury sustained by plaintiff was not serious or consequential as to entitle her to the payment of the amount stipulated in the compromise agreement; that the agreement did not express the true intention of the parties thereto "by reason of mistake, fraud, inequitable conduct or accident" so that a reformation of the agreement was in order. Overruling defendant's defense, the inferior court, after hearing, rendered judgment in plaintiff's favor. From that judgment, defendant appealed to the Court of First Instance. After trial, that court, holding that defendant's pretension against the due execution of the agreement was "a mere afterthought, prompted by a desire to evade payment of an obligation, voluntarily assumed and for valid consideration", rendered its decision dated May 24, 1956, the dispositive part of which reads:

"In view of all foregoing, the Court hereby renders judgment, sentencing the defendant to pay to the plaintiff the amount of P1,200.00 with interest at legal rate from the date of the filing of the complaint until full payment, and to pay the costs."

From the above decision, defendant again appealed to the Court of Appeals, contending in his lone assignment of error that the lower court erred in sentencing him to pay interest on the amount of the judgment from the date of the filing of the complaint until full payment. Citing Article 1226 of the new Civil Code, he argued that in obligations with a penal clause, the penalty substitutes the indemnity for damages and payment of interest. The question raised being one of law, the appellate court certified the case to this Court.

As a rule, if the obligation consists in a sum of money, the only damage a creditor may recover, if the debtor incurs in delay, is the payment of the interest agreed upon, or the legal interest, unless the contrary is stipulated. (Article 2209, new Civil Code.) However, the creditor may also claim other damages, such as moral or exemplary, damages, in addition to interest (Articles 2196 and 2197, Id.), the award of which is left to the discretion of the court. (See Reyes, et al. vs. Yatco, etc., et al., 100 Phil., 964, 53 Off. Gaz., 2773.)

In obligations with a penal clause, however, as provided in Article 1226 of the new Civil Code, the penalty shall substitute the indemnity for damages and the payment of interests. The exceptions to this rule, according to the same article are: (1) when the contrary is stipulated; (2) when the debtor refuses to pay the penalty imposed in the obligation, in which case the creditor is entitled to interest on the amount of the penalty, in accordance with Article 2209; and (3) when the obligor is guilty of fraud in the fulfillment of the obligation.

Applying the law, it is evident that no interest can be awarded on the principal obligation of defendant, the penalty of P200.00 agreed upon having taken the place of the payment of such interest and the indemnity for damages. No stipulation to the contrary was made, and while defendant was sued for breach of the compromise agreement, the breach was not occasioned by fraud.

The case, however, takes a different aspect with respect to the penalty attached to the principal obligation. It has been held that in obligations for the payment of a sum of money when a penalty is stipulated for default, both the principal obligation and the penalty can be demanded by the creditor. (Government vs. Lim, et al., 61 Phil., 737; Luneta Motor Co. vs. Moral, 73 Phil., 80.) Defendant having refused to pay when demand was made by plaintiff, the latter clearly is entitled to interest on the amount of the penalty. It is well to observe that Article 2210 of the new Civil Code also provides that in the discretion of the court, interest may be alleged upon damages awarded for breach of contract. This interest is recoverable from the time of delay, that is to say, from, the date of demand, either judicial or extrajudicial. There being no showing as to when demand for payment was made, plaintiff must be considered to have made such demand only from the filing of the complaint.

Wherefore, with the modification that the interest shall be allowed only on the amount of the penalty, the decision appealed from is hereby affirmed. Without costs.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Barrera, JJ., concur.

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