

F. W. MAAGE AND SARANGANI CATTLE CO., INC., PLAINTIFFS AND APPELLANTS, VS. W. H. ANDERSON, DEFENDANT AND APPELLANT.

G. R. No. 25151. October 04, 1926

Ponente: JOHNS, J.

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JOHNS, J.:

STATEMENT

The plaintiff, F. W. Maage, is a resident of Talisay, Occidental Negros. The Sarangani Cattle Co., Inc., is a domestic corporation, with its principal office in the same place.

January 1, 1922, the defendant entered into a written contract of employment with the Cattle Company to be its general manager for a period of five years, and was placed in charge of the hacienda of the company at Glan, Cotabato. It is then alleged that after the signing of the contract, the defendant entered into an agreement with Maage to sell all of his stock and interest in the company, by reason of which his contract with the company should be cancelled. Maage is one of the principal stockholders of the corporation, and that he paid to the defendant the purchase price in full of all of defendant's interest in the corporation, in consideration of which, defendant was to surrender his contract with the company. That at the time of the making of this contract, it was agreed that the defendant should temporarily remain in the employ of the company until the trial of a criminal case which was then pending against him for the crime of murder. That in many and different ways, the defendant has violated the terms of his original contract. That on September 1, 1923, and after defendant's trial in the criminal charge, he was notified by the plaintiff that his services were no longer required, and that he should surrender his position and quit the premises of the company, which he refused to do. That plaintiffs are informed and believe that the defendant is about to destroy certain property now in his possession and otherwise to commit a nuisance. That by reason of defendant's acts, plaintiffs were damaged in the sum of P5,000, for which amount, plaintiffs pray judgment, and that a preliminary injunction be issued restraining him from interfering with plaintiffs' property, and for a cancellation of the contract in question.

For answer the defendant made a general and specific denial of all of the material allegations of the complaint, and as a counterclaim alleges the execution of the original contract for the period of five years with a salary of P600 per month for the first three years, P700 a month for the remaining two, and a bonus of P1 per head on all cattle branded by the company after the first three years. That there is due from the plaintiff, Cattle Company, to the defendant for and on account of earned salary P4,631.14, which the company refused to pay. As a second counter-claim, defendant alleges that he was arbitrarily and without reason discharged in violation of his contract, to his damage in the amount of his salary from November 30, 1923, to December 31, 1926, in the sum of P24,000, and for a bonus of P5,000, for all of which he prays a corresponding judgment against the Cattle Company.

For reply to the new matter alleged, plaintiffs made a general and specific denial.

Upon such issues the lower court found as a fact that the dismissal of the defendant was justified and sustained by

the evidence, and that plaintiffs had failed to prove any damages, and rendered a corresponding judgment in favor of the plaintiffs. It also rendered judgment in favor of the defendant for the amount of P4,631.14 for and on account of salary earned by the defendant, and for which he had not been paid, and dismissed his second counterclaim for want of proof.

From that judgment, plaintiffs appeal and assign the following errors:

"1. The court erred in rendering judgment against the plaintiffs and in favor of the defendant for the sum of P4,631.14, and in not rendering judgment against the defendant in favor of plaintiffs for P681.07, the amount of defendant's overdraft.

"2. The court erred in not rendering judgment against the defendant in favor of plaintiffs for damages to the extent of P5,000.

"3. The court erred in not admitting all of plaintiffs' depositions."

The defendant appeals and assigns the following errors:

"I. The lower court erred in declaring that the dismissal of the defendant W. H. Anderson by F. W. Maage was justified.

"II. The lower court erred in declaring that the defendant abandoned his work with the Sarangani Cattle Co., Inc., and went to Australia for the purpose of doing some work for other people and not for the company.

"III. The lower court erred in not awarding to defendant damages as alleged and prayed for in his second counter-claim.

"IV. The lower court erred in not granting the new trial requested by the defendant."

JOHNS, J.:

The evidence that the defendant breached his contract with the Cattle Company, and that it was fully justified in terminating it is both clear and convincing. It also tends to show that the cancellation of the contract was one of the considerations for the purchase of defendant's stock by the plaintiff Maage. The trial court found as a fact that there is a failure of proof on the question of damages which plaintiffs sustained, by reason of the breach of the contract by the defendant.

It appears that during his employment, the defendant maltreated a Moro "by giving some blows with his fist," as a result of which several hours later, the Moro was found dead at a distance of about 200 meters from the place where it occurred. For this an information was filed against the defendant charging him with the crime of murder, upon which he was tried. In the making of his defense, a large number of witnesses were required to go from Buayan to Cotabato and attend the trial, and that the compensation and expense of such witnesses from August 21, 1923, to October 15, 1923, amounted to P2,355.20. That in addition the defendant employed an attorney at an agreed compensation of P1,500, all of which he charged to the company. The defendant also charged the company with the expense of a trip which he made to Manila and return amounting to P295.75. It further appears that in violation of his instructions, the defendant kept assistant general manager Taylor on the payroll, and charged his salary to the company. Also that the plaintiffs furnished and advanced to the defendant's lawful wife upon her urgent request the sum of P681.07.

The defendant claims that he had authority from Mr. Clark to charge the expenses of the trial to the company, and that it was for such reason, he made the charge. The company was not a party to that criminal action, and the plaintiff being a corporation, the authority of the defendant to pay the amount of those charges with the money of the corporation should be clear, definite and certain, and authorized by the corporation itself. Upon that point,

there is a failure of proof.

The expenses of that trial, as shown by the
corporate books, amounted to

P3,855.20

The trip to Manila and return

295.75

Money advanced to defendant's wife

681.07

Or a total of

4,832.02

The amount of defendant's unpaid salary, as alleged in his first counter claim was P4,631.14. Such amounts do not include the salary paid to Taylor as assistant general manager in violation of instructions.

All things considered, the judgment of the lower court in favor of the plaintiff is in all things and respects affirmed, and the judgment against the plaintiff, Cattle Company, and in favor of the defendant for the sum of P4,631.14 is reversed, and in all other respects affirmed, with costs in favor of the plaintiffs. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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