

ANTONIO MEDINA, PLAINTIFF AND APPELLEE, VS. MADERERA DEL NORTE DE CATANDUANES, INC., DEFENDANT AND APPELLANT.

G.R. No. 27781. December 16, 1927

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-27781/>

VILLA-REAL, J.:

This is an appeal taken by the "Maderera del Norte de Catanduanes, Inc.," from the judgment of the Court of First Instance of Albay, ordering it to pay plaintiff Antonio Medina P4,301.90, with legal interest from the time of the filing of the complaint until fully paid and the costs. In support of its appeal, the appellant assigns the following alleged error as committed by the trial court in its judgment, to wit: The trial court erred in sustaining the plaintiff's demurrer, ordering the dismissal of the defendant's counterclaim and that it be stricken out.

The first question to decide is whether the claim for damages occasioned by an attachment can be made in the form of a counterclaim in the principal suit, or must be made in an independent action, after final judgment is rendered in the case in which the writ of attachment was issued, declaring it wrongful and without sufficient cause.

In the case of *Raymundo vs. Carpio* (33 Phil., 395), this court said the following:

"It would seem that the proper practice to be followed in cases where it is desired to obtain damages by reason of the wrongful issuance of an attachment in favor of plaintiff that an issue should be tendered on the subject by the defendant in his answer in the main cause. Such a tender would present the question squarely in that court, and the parties having offered their evidence on the subject, the trial court could dispose of it along with the principal action. It is not necessary that the defendant wait until it is determined by a final decision in the main action that the plaintiff is not entitled to recover in order to present the questions of his right to damages. All questions which are material to the main action or which are incidental thereto but depending thereon should be presented and litigated at the same time with the main action, so as to avoid the necessity of subsequent litigation and consequent loss of time and money."

It will be seen that in accordance with the opinion in the above cited cause, the claim for damages caused by the wrongful issuance and levy of preliminary attachment without sufficient cause, may be made in the form of a counterclaim in the principal action.

The second question to be determined is whether or not the facts alleged in the answer are sufficient to constitute a counterclaim.

Defendant's counterclaim consists in the following:

"And as counterclaim against the plaintiff, the defendant alleges:

"1. That the preliminary attachment issued against the property specified in the complaint at the instance of the plaintiff, was issued without just cause or any justification therefor;

"2. That due to the said attachment levied on the defendant's property it has sustained damages by reason of the

paralyzation of its business caused thereby and the loss of prestige in its reputation and commercial standing amounting to P20,000."

Section 427 of the Code of Civil Procedure provides as follows:

"Sec. 427. Obligation for Damages in Case of Attachment.—Before the order is made, the party applying for it, or some person on his behalf, must execute to the defendant an obligation in an amount to be fixed by the judge, or justice of the peace, and with sufficient surety to be approved by him, which obligation shall be for a sum not less than two hundred dollars, and not exceeding the amount claimed by the plaintiff, that the plaintiff will pay all the costs which may be adjudged to the defendant, and all damages which he may sustain by reason of the attachment, if the same shall finally be adjudged to have been wrongful or without sufficient cause."

It follows from the above quoted legal provision that an attachment debtor is entitled to indemnity for damages caused by an attachment that is "wrongful" and "without sufficient cause."

In the counterclaim of the defendant company above quoted it says "that the preliminary attachment issued on the property of the defendant at the instance of the plaintiff, was issued without just cause or any justification therefor." This last phrase is undoubtedly equivalent to the phrase "wrongful or without sufficient cause" as used in *De la Riva vs. Escobar and Bank of the Philippine Islands* in the law, and is an allegation sufficient to constitute a counterclaim.

"* * * it has been considered, however, that a general allegation that the attachment was 'wrongfully' sued out is sufficient, whether redress is sought by an action on the bond or by a plea in reconvention in the attachment suit; * * *" (6 C. J., 517.)

Summarizing, the claim for damages caused by the levy of a preliminary attachment may be made by a counterclaim in the same suit in which it was issued, and the general allegation that the preliminary attachment was issued without just cause or any justification therefor is sufficient to constitute a counterclaim.

Wherefore the judgment appealed from is reversed, as well as the order sustaining the demurrer and dismissing the counterclaim, and it is hereby ordered that the record be remanded to the court below, which shall admit the counterclaim and proceed to hold the proper trial, without special finding as to costs. So ordered.

Avanceña, C.J., Johnson, Street, and Romualdez, JJ., concur.

MALCOLM, VILLAMOR, OSTRAND, and JOHNS, JJ., dissenting:

We agree with the action taken by the trial judge sustaining the demurrer of the plaintiff to the countercomplaint of the defendant, and accordingly vote to affirm the judgment.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.