

JUAN MERCADO, PLAINTIFF AND APPELLEE, VS. JOSE ABANGAN, DEFENDANT AND APPELLANT.

G.R. No. 4198. March 30, 1908

Ponente: CARSON, J.

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CARSON, J.:

This is an appeal from a judgment for damages against the defendant, a justice of the peace, for unlawfully depriving the plaintiff, Juan Mercado, of the possession of a certain parcel of land, claimed by Mercado to be his property.

Mercado alleges, and the court below so found, that the justice of the peace in the course of proceedings had before him in an action for unlawful detainer wherein Mercado was defendant, issued an unlawful order forbidding Mercado to enter upon the land in question; and that he made this order effective by issuing criminal warrants for theft and robbery against Mercado's servants who went upon the land for the purpose of collecting cocoanuts and other farm products.

It appears from the record that a few days after rendering judgment against Mercado in an action for unlawful detainer, the defendant justice of the peace wrote him the following letter:

"COURT OF THE JUSTICE OF THE PEACE OF NAGA.

"SEÑOR JUAN MERCADO.

"SIR: By these presents take notice that, pending the appeal in the Court of First Instance of Cebu, you are not to enter nor to lay hands on the land in question.

"JOSE ABANGAN,
"Justice of the Peace.

"NAGA, 11th of April, 1905."

That on the evening of the same day Mercado entered an appeal from the judgment, which was allowed, and the appeal bonds approved by the justice of the peace; that sometime thereafter, and while the appeal in the action for unlawful detainer was still pending, the defendant justice of the peace issued warrants of arrest on two separate complaints, one for robbery and the other for larceny, against some of Mercado's servants who were charged with entering on the land and carrying off cocoanuts, bachao, and other personal property; that upon the complaint for robbery the defendant justice of the peace held a preliminary investigation and upon the same day remanded the accused to the Court of First Instance for trial; and that upon motion of the provincial fiscal the complaint was dismissed in the Court of First Instance without trial.

The trial court found from the evidence that the defendant had in bad faith acted in excess of his authority as justice of the peace and in doing so that he deprived the plaintiff of possession of the land in question as alleged in the complaint, damaging him thereby to the extent of P567.50, for which amount it gave judgment against the

defendant.

We do not think that the evidence of record sustains this judgment.

It is not necessary for us to review the finding of the trial court that the order issued by the defendant as it appears in the above-cited letter forbidding Mercado from entering upon the land in question was an unlawful and arbitrary exercise of power, because we are of opinion that the damages assessed by the trial court did not and could not have arisen out of the issuance of that order. It is clear from the record that this letter was written and delivered on the morning of the 11th day of April, 1905, and that on the evening of that day an appeal was allowed from the judgment of the justice of the peace, in the case in which the order was issued. The perfection of this appeal necessarily vacated the judgment and all the proceedings in the court of the justice of the peace, including this order. There is no evidence of damages resulting from that order between the time of its issuance in the morning and the time when it was vacated by the allowance of the appeal on the afternoon of the same day, nor do we think that the plaintiff did in fact suffer any damages in the few hours during which that order was in effect. Granting that the justice of the peace could be held responsible for damages resulting from the issuance of the order, still no judgment for damages can be sustained unless the evidence of record proves the existence of such damages.

It has been suggested that notwithstanding the fact that the order was vacated by the allowance of the appeal, the plaintiff was damaged by its issuance because despite the fact that it had been vacated he believed it was still in force. But the justice of the peace can not be mulcted for damages which arose from the plaintiff's ignorance of his rights in the premises, and it is to be observed that as a matter of fact the plaintiff does not appear to have been in ignorance of his rights, for his own witnesses testified that, despite the order, he sent his workmen on the land, and clearly indicated that he did not consider himself bound thereby.

The trial court found that the order was issued a few days after the appeal had been allowed and the bond approved, but we think that the testimony of the witnesses proves that the order was issued during the morning of the 11th of April and the appeal allowed on the afternoon of the same day, and their evidence is corroborated by the documentary evidence of record. The judgment bears date as of April 8; the written notice of appeal and the bonds attached thereto bear date as of April 10; and the order allowing the appeal and approving the bond, and the letter itself, bears date as of April 11, 1905.

The trial court also made the following findings:

"That in virtue of the said order, the plaintiff was compelled against his will to abandon the possession of the said land, and to surrender the fruits and products thereof until the month of May in the year 1900.

"That the now defendant, then justice of the peace, from the date of the issue of this order until that month (May, 1900) maintained the said order in force by coercive measures; and for the purpose of intimidating the plaintiff and compelling him to obey it, ordered the arrest of those persons who entered on the land in question to gather fruits thereon by direction of the plaintiff, among those persons being one Baltazar Gregorio, who was arrested by himself in October, 1906 [1905], and afterwards with Anastasio Obundio and Obundio Villamonte in the month of May, 1906. That the said persons were arrested for the crime of robbery and Baltazar for theft, and that the defendant in issuing the said warrants of arrest well knew that these persons entered on the land in question by order of the plaintiff to gather the fruits thereof, and that the said entrance had been made after appeal had been filed in the Court of First Instance. That the arrests for the supposed crimes of theft and robbery were made in bad faith by the defendant and for the sole purpose of annulling the legal effects resulting by reason of the appeal of the plaintiff to the Court of First Instance.

"The court finds as manifest proof of the bad faith of the defendant in this case his order of arrest of the persons who entered on the said land by order of the plaintiff in this action, and the fact that said cases or the

said complaints for theft and robbery have not been concluded nor remitted to the Court of First Instance, and that the case for robbery was concluded without any definite action being taken therein, it having been later forwarded to the Court of First Instance and dismissed on the motion of the fiscal."

As has been said, we are of opinion that plaintiff was not "obliged to abandon possession of his land by virtue of the said order' nor did the justice of the peace maintain the order in force nor could he have done so after having-vacated it, and the only other question to be considered is whether the justice of the peace in issuing the warrants of arrest for the servants of the plaintiff who entered upon the land was acting in good faith and within the limits of his legal powers and jurisdiction, and if not, Did his misconduct damage the plaintiff as alleged in the complaint?

These warrants were issued upon complaints filed in the usual form so that there can be no question that the defendant justice of the peace was clearly within his legal powers and jurisdiction in this regard, and we can not agree with the trial court in the reasoning on which it bases its findings of bad faith in these criminal proceedings.

The evidence as to the complaint and arrest on the charge of hurto (theft) consists merely of the vague indefinite statements of two of the witnesses to the effect that warrants of arrest had been issued, and the admission of the defendant that he did on one occasion issue such warrant upon a complaint filed in the usual and proper form. There is no evidence as to what further proceedings were had, nor does it appear whether the accused were convicted or acquitted, nor whether the charges were of such gravity as to impose a duty on the justice of the peace to forward the record to the Court of First Instance. Clearly no inference of bad faith in these transactions can be maintained on such evidence.

The record of the preliminary trial in the court of the justice of the peace on the complaint for robbery is before us, and we think that, viewed apart from the rest of the proceedings, it contains nothing upon which a finding of bad faith can be predicated. The sworn complaint was filed on January 17, 1906, but no order of arrest was issued until the complaint was formally ratified by the complainant and her witnesses on January 30. The preliminary trial was had on the 31st, and on the 1st of February the proceedings were terminated and the accused remanded to the Court of First Instance and the record forwarded to the clerk of that court. The record in the Court of First Instance shows that the record of the preliminary trial in the court of the justice of the peace together with the accused was received not later than the 2d of February and that the accused were set at liberty on bail on the 5th of that month. The promptness with which the proceedings were conducted by no means suggests a desire on the part of the justice of the peace to unreason-ably or unnecessarily molest the accused, and the mere fact that the complaint was dismissed in the Court of First Instance does not in itself sustain a finding of bad faith in the conduct of the preliminary investigation; indeed it does not conclusively establish the innocence of the accused or error on the part of the justice of the peace in holding them for trial, and even if it did, we think in the language of an able law writer, that "it is a principle lying at the foundation of all well-ordered jurisprudence, that every judge, whether of a higher or a lower court, exercising the jurisdiction vested in him by law, and deciding upon the rights of others, should act upon his own free, unbiased convictions, uninfluenced by any apprehensions of consequences * * *. He is not bound at the peril of an action for damages, or of a personal controversy, to decide right, in matter either of law or fact, but to decide according to his own convictions of right of which his recorded judgment is the test and must be taken to be conclusive evidence." (Milliard on Torts, p. 171.)

What has been said is sufficient to indicate the reasons upon which is based our opinion that the judgment of the trial court should be reversed, and renders it unnecessary for us to enter upon an extended discussion of the limitations to the liability of a judge or a justice of the peace for his judicial actions.

The judgment of the trial court is reversed without costs to either party in this instance, and after twenty days judgment will be entered in favor of the defendant and against the plaintiff for the costs in the Court of First

Instance. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Willard, JJ., concur.

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