

GO OCCO & CO., PETITIONER, VS. SIXTO DE LA COSTA, JUDGE OF FIRST INSTANCE OF CEBU, AND ALEJANDRO S. REYES, AS ADMINISTRATOR OF THE ESTATE OF LAUREANA ANTONIO, RESPONDENTS.

G. R. No. 45116. September 17, 1936

Ponente: LAUREL, J.

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LAUREL, J.:

This is a petition for a writ of certiorari filed with this court by Go Occo & Co. against Sixto de la Costa, Judge of the Court of First Instance of Cebu. The complaint recites the following":

"That the plaintiff is a corporation duly organized and existing under the laws of the Philippines, with domicile at Cebu, Cebu, and the defendant is a Judge of the Court of First Instance for the Province of Cebu;

"For its cause of action, the plaintiff alleges:

- That, on March 25, 1935, plaintiff Go Occo & Co. filed an action with the justice of the peace court of Cebu, Cebu, to recover the amount of P467.25 against People's Bazar representing the purchase price of goods taken on credit. A writ of preliminary attachment was issued on the same against the defendant, and same was levied upon merchandise belonging to the defendant and taken possession of by the provincial sheriff of Cebu. On March 29, 1935, the estate of Laureana Antonio, through its administrator Alejandro S. Reyes, filed an intervention complaint claiming the sum of P1,380 representing unpaid rent of a house occupied by the defendant's store in Cebu, Cebu. Over the verbal objection of the plaintiff to the admission of the intervenor's intervention complaint on the ground that intervention complaint cannot be filed in the justice of the peace court and that intervenor's intervention complaint claimed the amount of P1,380 which was beyond the jurisdiction of the justice of the peace court, the justice of the peace court of Cebu tried the case and rendered judgment declaring plaintiff's claim preferred to that of intervenor's. On May 4, 1935, the intervenor appealed from the judgment of the justice of the peace court, paying the amount of P16 for docket fee on that same day. On June 28, 1935, the clerk of Court of First Instance of Cebu addressed a letter to the intervenor informing him that he had to pay still the amount of P4 as the docket fee on that appeal was P20. Up to the present time the said intervenor has not made good the payment of the said P4.

- That, intervention complaint filed in the justice of the peace court was not reproduced by the intervenor on appeal in the Court of First Instance.

- That, for non-payment of the full docket fees, the case was not ready for trial, even if initiated originally in the Court of First Instance.

- That, on January 18, 1936, the defendant judge entered an order declaring the plaintiff Go Occo & Co., in default on the intervenor's intervention complaint. On that same date the said defendant judge entered a judgment declaring that the said defendant People's Bazar was in debt to the said intervenor's estate in the amount of P1,380 and that the said intervenor estate's claim was superior to any other credit. Upon being notified of the order of default and of the judgment, plaintiff Go Occo & Co. filed a motion on February 5,

1936, asking for the reinstatement of the case and for the dismissal of the intervenor's appeal. (Here motion is reproduced in full.)

- That, on motion by the attorney for the intervenor, the hearing of the aforesaid plaintiff's motion which was set for February 11, 1936, was postponed by defendant judge to February 25, 1936, over the objection of the plaintiffs attorneys, the objection being for the reason that plaintiff's right to appeal might lapse. To assure plaintiff's right of appeal, plaintiff filed an amended motion for reconsideration and for dismissal of intervenor's appeal on February 12, 1936. (Here motion is also reproduced in full.)

- On March 2, 1936, the defendant judge entered an order denying the motion for reconsideration and ordering the execution of the judgment. (Here order is reproduced.)

- That, as aforesaid, the defendant judge has ordered the execution of the judgment in the said case, and that unless enjoined not to do so, the said judge will proceed to have his order executed.

- That, there is no appeal nor any other plain, speedy and adequate remedy for the plaintiff.

"Wherefore, this Honorable Court is respectfully prayed to order the defendant judge to certify the records of this case for a review by that Honorable Court and to issue a writ of preliminary mandatory injunction requiring the said judge to recall the order of execution of the judgment aforesaid."

It will be observed that according to the foregoing petition, the court below issued various orders in civil case No. 10606, Court of First Instance of Cebu, entitled "Go Occo & Co., plaintiff, vs. People's Bazar, defendant, versus Alejandro S. Reyes, administrator of the estate of the deceased, Laureana Antonio, intervenor." Among these orders are: The order of January 18, 1936, declaring the plaintiff therein in default, that of the same date in favor of the intervenor's claim, and that of March 2, 1936, disallowing the motion for reconsideration presented by the plaintiff therein and ordering the issuance of a writ of execution. The petition does not state which of these orders is assailed or was issued by the inferior court in excess or extra-limitation of its jurisdiction or with manifest abuse of its discretion. Worse than this, the petition does not even contain a general averment that the Court of First Instance of Cebu in taking cognizance of the civil case aforementioned acted without or in excess of its jurisdiction. It simply alleges in paragraph 8 thereof that "there is no appeal nor any other plain, speedy and adequate remedy for the plaintiff."

The petition in this case is vague and indefinite. The administration of justice is not a matter of guess work. While pleadings should be liberally construed with a view to substantial justice between the parties, courts should not be left, to conjectures in the determination of issues submitted by the parties litigant or their attorneys. Where, therefore, the pleading is, as in this case, vague and uncertain, courts will not allow themselves to be led to the commission of error or injustice by exploring in the midst of uncertainty and divining the intention of the parties or their counsel.

Accordingly, the petition is hereby dismissed with costs against the petitioner. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, and Diaz, JJ., concur.

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