

NICETAS A. SUANES, PETITIONER-APPELLANT, VS. NATIVIDAD ALMEDA-LOPEZ AND ELISEO ZAGALA, RESPONDENTS-APPELLEES.

G.R. No. 47979. May 08, 1942

Ponente: PARAS, J.

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PARAS, J.:

The complaint filed by the Insular Motors, Inc. against Nicetas A. Suanes in the Municipal Court of the City of Manila sets up two causes of action: one for the balance of the purchase price of a Pontiac car plus damages, and the other for towage of said car. The prayer contained therein reads as follows:

"1. That the defendant, under the first cause of action, be ordered to pay to the plaintiff the sum of P587.60 with interest thereon at the rate of 12 per cent per annum from September 27, 1939, until full payment is made, plus the further sum equivalent to 33 1/3 per cent of the said sum of P587.50 as attorney's fees and liquidated damages.

"2. That the defendant be ordered under the second cause of action, to pay to the plaintiff the sum of P59.50, with interest thereon at 12 per cent per annum from October 11, 1939, until fully paid, and a further sum equivalent to 20 per cent of the sum of P59.60 as attorney's fees. Plaintiff likewise prays for such other and further relief as this Honorable Court may deem just and equitable in the premises." (Expediente, folio 56.)

The said court awarded to the plaintiff the total amount demanded in the complaint. Folio 73.

From the beginning the defendant Nicetas A. Suanes has impugned the jurisdiction of the Municipal Court over the case, his contention being that the total amount demanded in the two causes of action was not less than P600.

In the case of *Pe Bon Oy vs. Eugenio Estañol*, G. R. No. 43093, the members of a division of this court stated:

"Corpus Juris, under the subject 'Courts' and the subtitle 'Joinder of Demands or Causes of Action', first states the view that causes of action must be considered separately. It is said: 'According to a number of authorities a demand or cause of action of an amount below the jurisdiction of a court cannot be brought within its jurisdiction by joining it in an action on a demand for which the court has jurisdiction, and a fortiori the jurisdictional amount cannot be made up by joining two or more separate demands or causes of action each of which is below the jurisdictional amount.' (16 C. J., 768.) Next stating the view that causes of action may be considered together, the same authority continues: 'Notwithstanding the view stated in the preceding section, there are numerous cases in which jurisdiction has been sustained where the jurisdictional amount was made up by joining several different claims or demands, no one of which was of itself sufficient to confer jurisdiction.' (15 C. J., 770.) Thereafter the encyclopedia states that it is possible to reconcile the apparent conflict of judicial opinion with respect to whether causes of action must be considered separately, or may be considered together, for jurisdictional purposes, on the theory that, although this is not made clear in the cases, the decisions were governed by a consideration of whether or not the causes of action were joint or composite." (16 C. J., 771.)

Without deciding the question whether the causes of action are joint or composite, we are satisfied that in the instant case the first cause alone sets up a claim beyond the cognizance of the Municipal Court. Said court has

concurrent original jurisdiction with the Court of First Instance to try cases only where the amount demanded is more than P200 but less than P600, excluding interests and costs. (Judiciary Act No. 136, as amended by Act No. 3881, section 68.) This amount, however, does not exclude damages, as distinguished from interests and costs.

True, the petitioner as well as the inferior courts overlooked the ad damnum clause in the complaint, and true also that during the trial of the case the petitioner relied principally on the total sum demanded therein. The parties, however, cannot confer jurisdiction over the subject-matter of a case by their mere failure to make timely objection. The face of a complaint determines whether or not the court can make a valid decision thereon.

The decision of the Court of First Instance denying the petition for writ of certiorari is hereby reversed and all proceedings had in the case are declared null and void. Without costs.

Yulo, C. J., Ozaeta and Bocobo, JJ., concur.

DISSENTING

MORAN, J.,

I am of the opinion that attorney's fees which a debtor may have agreed to pay in case of judicial action for nonpayment of the debt should not be included in the amount by which the jurisdiction of the court is determined. The jurisdiction a J amount, according to law, should be exclusive of interests and costs because such interests and costs do not constitute an issue calling for an independent adjudication, but are merely incidental to the disposition of the main cause. In forcible entry or detainer cases, for instance, justice of the peace courts may exercise jurisdiction although the rents or damages claimed exceed the jurisdictional amount (*Boga Tan Chiao Boc vs. Sajo Vecina*, 11 Phil., 409; *Hahn vs. Tuason*, 40 Off. Gaz., 2808), the reason being that if the court has jurisdiction over the principal action, it may also exercise jurisdiction over the incidents, and the question of rents or damages is merely an incident to the action for detainer. By analogy, attorney's fees, which merely follow the outcome of the suit and is thus only necessarily incidental to the result of the principal case, should not be considered as part of the jurisdictional amount.

Furthermore, although attorney's fees are not costs which may be taxed and recovered under Rule 131 of the new Rules of Court (see section 6 thereof), they nevertheless form part of the costs of litigation (*Aetna L. Ins. Co. vs. Bowling Green Gaslight Co.*, 160 Ky., 732; 150 S. W., 994; 43 L. R. A., [N. S.], 1128) which may be recovered by contract. The term coal's, which should not be included in the jurisdictional amount, has reference not only to the costs which are specified in Rule 131 but also to any other costs and expenses of litigation which may be recovered by contract.

I am aware of the American authorities supporting: the opposite view, but I do not agree with them. In the Philippines, the tendency of legislation is to enlarge the jurisdiction of the inferior courts (see section 68 of Act No. 136 as amended by Act No. 4090). My construction of the law, as above stated, is in harmony with such tendency.

I vote, therefore, for the affirmance of the judgment.

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