

EL HOGAR FILIPINO, PLAINTIFF AND APPELLEE, VS. SANTOS INVESTMENTS, INC., DEFENDANT AND APPELLANT.

G.R. No. 48244. January 22, 1943

Ponente: OZAETA, J.

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OZAETA, J.:

Does a general denial fail to tender an issue so as to entitle the plaintiff to a judgment on the pleadings? That is the question raised herein for the first time under the new Rules of Court.

Plaintiff is suing defendant for rents upon two causes of action. Under the first cause of action it is alleged that defendant occupied rooms 303 and 305 of the Crystal Arcade belonging to the plaintiff from November 10, 1936, to September 30, 1939, under a written contract of lease at an agreed monthly rental of P260, but failed to pay the rents corresponding to the months of February to September, 1939, inclusive, aggregating the sum of P2,080. Under the second cause of action it is alleged that defendant also occupied room 334 of the same building from May, 1937, to September, 1939, at an agreed monthly rental of P95, but failed to pay the rents corresponding to the months of January to September, 1939, inclusive, aggregating the sum of P855.

In its answer the defendant denied "generally and specifically each and every allegation contained in each and every paragraph of the complaint," and prayed the court to dismiss the complaint with costs against the plaintiff.

Upon motion of the plaintiff and over the objection of the defendant, the trial court rendered judgment on the pleadings as prayed for in the complaint; and from that the defendant appealed.

Section 6 of Rule 9 provides that the answer shall contain either a specific denial or a statement of matters in avoidance of the cause or causes of action asserted in the complaint; section 7 says that the defendant must deal specifically with each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters which he will rely upon to support his denial; and section 8 provides that a material averment in the complaint other than that as to the amount of damage, shall be deemed admitted when not specifically denied. It will be noted that this rule does away with a general denial, in contrast with section 94 of the former Code of Civil Procedure which expressly allowed it and provided that "a general denial only puts in issue the material allegations of the complaint."

Defendant's answer wherein it merely "denies generally and specifically each and every allegation contained in each and every paragraph of the complaint," is but a general denial. It is not a specific denial under section 7 of Rule 9, because it does not deal specifically with each material allegation of fact, nor does it set forth the substance of the matters upon which the defendant relies to support his denial. It does not serve the purpose of requiring the defendant to make a specific denial, which is to compel him to specify the matters which he intends to disprove and disclose the matters upon which he relies to support his denial, thereby limiting the issues and avoiding unnecessary delays and surprises. Under the old procedure the plaintiff was compelled by defendant's mere general denial to prove facts alleged in the complaint which the defendant did not even attempt to dispute. The new procedure does away with that unnecessary burden. (Moran on the Rules of Court, volume 1, page 93.)

As a sanction to the provisions of sections 6, 7, and 8 of Rule 9 above cited, section 10 of Rule 35 provides that where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. We find that the trial court has correctly applied this rule.

The judgment is affirmed, with costs. So ordered.

Yulo, C. J., Moran, Paras, and Bocobo, JJ., concur.

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