

AGAPITO VILLASEÑOR, DEPUTY SHERIFF OF THE PROVINCE OF TAYABAS, IN BEHALF OF THE SHERIFF OF THE SAME PROVINCE, PLAINTIFF AND APPELLEE, VS. ERLANGER & GALINGER, RIU HERMANOS, N.T...

G.R. No. 5789. August 17, 1911

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

On the petition of Erlanger & Galinger, of Manila, the deputy sheriff of the Province of Tayabas proceeded to attach and, later, to sell the property of Manuel Abraham, domiciled in the pueblo of Lucena, Tayabas. Thereafter, other writs of execution were presented by various creditors of Manuel Abraham, for the payment of which the amount obtained from the property realized was insufficient, and the sheriff, by his complaint filed before the Court of First Instance of Tayabas, brought about the action authorized in section 120 of the Code of Civil Procedure.

The result was that the proceeds from the sale of the property barely reached the amount of P1,500.05, which, together with some credits collected aggregating P13.95, made, all told, the sum of P1,514.

The creditors were: (1) the sheriff, for costs, fees, and expenses; P113.14; (2) George D. Bebary, for two months' rental of the premises occupied by the attached property, P50; (3) N. T. Hashim, for his credit of P385.19; (4) Riu Hermanos, for a credit of which the amount, consideration and judgment of execution do not appear in the record; (5) Erlanger & Galinger, for a credit of P2,107.97; and (6) Ruiz y Rementeria, for two credits, one of P572.91 and the other of P304.73.

The trial court ordered the payment of the credits, in the order as above enumerated, up to the fourth, and accorded to the owner of the fifth the right to collect the rest after the preceding ones should have been paid. He disallowed the two credits of Ruiz y Rementeria, given the sixth place.

Issue was taken by the attorneys of Erlanger & Galinger and Riu Hermanos on the one hand, and counsel for Ruiz y Rementeria, on the other, the evidence discussed relating to the two credits of Ruiz y Rementeria, the two judgments rendered by the justice of the peace court of Manila, and the testimony of the witness Bruno Rementeria.

With reference to the two judgments of the justice of the peace court of Manila, it was found in the judgment of the trial court that they were for two amounts contained in a single account, the total value of which; P877.74, exceeded that for which the justice of the peace court had jurisdiction, and that, therefore, those judgments were null and void for lack of jurisdiction of the court that pronounced them. As a result, writ of execution could not issue, nor could the accounts be paid.

Ruiz y Rementeria appealed from that judgment.

The testimony of Bruno Rementeria discloses that Abraham ordered goods from him, payable at two months; that the first bill, amounting to P882.84, was partly paid by Abraham by a draft for P300; adding to this a discount of P9.93, and crediting it to his account, there remained a balance of P572.91; that subsequently other goods were taken, included in another bill amounting to P304.73, which also was unpaid; and that the debtor was to make the payments in accordance with the bills.

A single account is not a single debt. Usually there is but a single account between a creditor and a debtor; nevertheless, in a single account between, a creditor and a debtor there may be various and distinct items calling for payment on different dates, and there is no reason why payment for the items overdue should be postponed until the period for the settlement of the account shall have expired. It was proved at the trial, and there is nothing to offset this proof, that the items for the goods taken by the debtor were payable at two months' time and were to be paid bill by bill, and that one bill was for P882.84, and the other for P304.73. This being so, if one bill was a credit with fixed time of payment, distinct from the other bill, also with fixed time of payment; and on the hypothesis that the maturity of a credit renders its payment demand- able, inasmuch as it contains in itself a cause of action, it follows that each matured debt gives the right to an action; therefore, a debtor, much less a third person, may not avail himself of the defense of lack of jurisdiction on the ground that the sum of two credits exceeds the amount which may be sued for in a justice of the peace court.

When the debt is a single one, it is obvious that the creditor may not, to suit himself, divide it, in order to obtain a brief trial before the justice of the peace court, especially when by so doing, prejudice may be caused to other creditors by reason of priority of date; but the debt in the present case is not a single one, as shown by the unimpeached evidence presented at the trial.

The judgment appealed from is reversed, in so far as it disallows the claim and writ of execution of Ruiz y Rementeria, and the sheriff of Tayabas is ordered not to pay the said claim, which must be paid in order as of the fourth, after payment shall have been made of the credit held by N.T. Hashim & Co. No special finding is made with respect to the costs of this instance. So ordered.

Mapa, and Johnson, JJ., concur.

Moreland, J., concurs in the dispositive part.

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