

FELIPE JUAN ET AL. PLAINTIFFS AND APPELLANTS, VS. GO COTAY ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 7785. December 22, 1913

Ponente: TRENT, J.

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TRENT, J.:

An appeal by Felipe Juan and Faustina Chu-Ongco from a judgment of the Court of First Instance absolving the defendants from all liability.

This is the second action instituted by the plaintiffs. In the first, which was commenced in the justice of the peace court, the plaintiffs alleged that they purchased from the defendants 203 cavanese of palay for the sum of P398.75, and that notwithstanding the fact that they had delivered to the defendants the P398.75 the defendants had filed and refused to turn over to them the palay thus purchased. Judgment was asked for the delivery of the palay or its value in money together with damages and the costs of the cause. Judgment was rendered in favor of the plaintiffs for the sum of P398.75. On appeal to the Court of First Instance this judgment was reversed and the defendants absolved. In the second action, which is the one now under consideration, the same allegations in reference to the purchase and sale of the palay and the noncompliance with the contract on the part of the defendants were alleged. And in this case the plaintiffs asked for judgment (1) for the "resolution" of the contract; (2) for the return of the P398.75, the amount paid for the palay; and (3) for damages in the sum of P310.25 together with the costs of the cause.

In the first action Felipe Juan was, according to the title, the only plaintiff, but in the body of the complaint he alleged that his wife Faustina Chu-Ongco had an interest in the cause, and in effect brought the action on behalf of himself and his wife. Otherwise the parties and the claims were exactly the same in both actions.

The question presented here is whether the former judgment operates as an adjudication on the matter of the present action so that it cannot be retried.

The plaintiffs insist (1) that the former action was one for specific performance while the latter is one for the rescission of the contract with indemnity for damages; and (2) that the institution and termination of the first cannot be pleaded as *res adjudicata* of the second. Article 1124 of the Civil Code is cited in support of these propositions. This article reads:

"The right to rescind the obligations is considered as implied in mutual ones, in case one of the obligated persons does not comply with what is incumbent upon him.

"The person prejudiced may choose between exacting the fulfillment of the obligation or its rescission, with indemnity for damages and payment of interest in either case. He may also demand the rescission, even after having requested its fulfillment, should the latter appear impossible.

"The court shall order the rescission demanded, unless there are sufficient causes authorizing it to fix a period.

"This is understood without prejudice to the rights of third acquirers, in accordance with articles 1295 and

1298, and with the provisions of the mortgage law."

Under this article, the contracting party who has performed his part of the contract, and who has been prejudiced by the nonfulfillment on the part of the other contracting party may choose between exacting the fulfillment of the contract or its rescission, with indemnity for damages in either case. The plaintiffs' allegations in the first case before the justice of the peace were sufficient to constitute a cause of action for specific performance or for a rescission of the contract. They prayed for an alternative relief; that is, a delivery of the palay or its value in money with indemnity for damages in either case. It was upon this theory that the case was tried both in the justice of the peace court and in the Court of First Instance on appeal. Under our system of pleading a plaintiff may pray for alternative relief as was done in this case. The plaintiffs determined the character of their action by their prayer for either a specific performance of the contract or for a rescission with damages. The defendants were thus notified what the plaintiffs were seeking. Every phase of the case was presented in the first action and there adjudicated. The fact that the plaintiffs in the second action prayed for the rescission of the contract, for the return of the P398.75 and for damages did not change the character of this action from that presented in the justice of the peace court. Both actions were the same. The subject matter in each was identical. The courts which tried the first acted within their jurisdiction. It may be that we might, and probably would, have reversed the judgment of the Court of First Instance in the first action and rendered judgment for the plaintiffs if that action could have been brought to this court on appeal, but as that case could not reach this court we cannot now grant any relief in the second action for the reason that we must follow the general and well-established rules of law applicable to all cases and for the benefit of all. To adopt any other rule would upset the rules of property and the respect for the final judgments of courts. There must be an end to litigation and the plea of res adjudicata is one of the effective means of reaching this result.

The judgment appealed from is therefore affirmed with costs against the appellants.

Arellano, C. J., Carson, and Moreland, JJ., concur.

Torres, J., dissents.

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