

CONSOLACION JAVELONA Y LOPEZ ET AL., PLAINTIFFS AND APPELLEES, VS. FLORENCIO YULO, DEFENDANT AND APPELLANT.

G. R. No. 9612. September 03, 1915

Ponente: TRENT, J.

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TRENT, J.:

Judgment in favor of the plaintiffs for the possession of the land described in the complaint and for P2,734.50 damages. The defendant appealed.

On the 14th of July, 1911, the now deceased Vidal Javelona made an extra judicial partition of his property among his heirs. The document was signed by all the interested parties and ratified before a notary public in September of that year, the interested parties being his wife Vicenta Lopez; his daughters Modesta Javelona, wife of Florencio Yulo; Consolacion Javelona, plaintiff and wife of Blass Monteclaro; and Rosario Javelona, widow of Luis Ledesma.

The real estate corresponding to the plaintiff Consolacion in this division, according to the document, consisted of 35 cayanes [hectares] together with the buildings and improvements thereon and the growing crops, except that portion belonging to the tenants. During the latter part of September, 1911, when the plaintiffs went out to take possession of the 35 hectares they met no opposition as to 14 hectares, but their right to the remaining 21 hectares was questioned by the defendant Yulo, and he entered into the possession of these 21 hectares against the will of the plaintiffs and still, at the date of the trial, retains possession, together with the products harvested from the same.

The sixth paragraph of the complaint and the prayer reads as follows: "That the defendant, ignoring the aforesaid partition and repudiating his own signature, continues illegally to detain said 21 hectares of land, which together form part of the lands of said Hacienda Balabago, thus inflicting upon the plaintiffs damages amounting to the sum of P3,105, as the value of some 915 cavanese of palay at the rate of P3 per cavan and of 60 piculs of sugar at the rate of P6 per picul, which said 21 hectares of land would have produced if the defendant had not detained them and illegally despoiled the plaintiffs of possession thereof. Therefore, plaintiffs pray the court to render judgment against the defendant by sentencing him to restore to them the 21 hectares, approximately, of land detained, to an indemnity of P3,105 as damages, to the costs of the present suit and to grant to the plaintiffs any other remedy in law and equity."

Judgment upon default was entered on July 23, 1913, and the case was set for hearing on October 20. On the latter date the defendant and his attorney appeared and simply announced, when asked if they wished to file an answer, that they merely wished to be allowed to cross-examine the witnesses for the plaintiff in making out her case. After hearing the plaintiffs' witnesses, who were cross-examined by the defendant, the court found that the 21 hectares of land belonged to the plaintiff Consolacion. The court also found that the plaintiffs were entitled to a judgment against the defendant for 586½ cavanese of palay, at the rate of P3 per cavan, and for the value of 200 piculs of sugar at P6 per picul, less P225 for cutting and hauling the cane to the mill.

The record fully sustains the finding of the trial court to the effect that the 21 hectares of land now belong to the plaintiff Consolacion as a part of her inheritance from her deceased father's estate and that she is entitled to the possession of the same. The record also sustains the finding of the trial court with reference to the 586½ cavanese of palay and the price of the same. But the appellant insists that the trial court erred (1) in rendering judgment against him for the value of the products of the land which he had received, because he was a possessor in good faith, and (2) in rendering a judgment against him for the value of 200 piculs of sugar, less the P225, for the reason that the plaintiffs sued for only 60 piculs of sugar.

The first contention of the appellant is not well founded for the reason that he knew at the time he entered into the possession of the 21 hectares that they belonged to Consolacion as a part of her inheritance. He participated in the extrajudicial partition and signed the document evidencing this fact. He tried to justify his possession of the land, and also the ownership, by attempting to show on cross-examination of the plaintiffs' witnesses that the wife of Vidal Javelona owed him a large sum of money and by reason thereof he had a right to take possession of these 21 hectares upon the theory that the land was liable for the debt of Vidal's wife. The court very properly rejected this theory.

With reference to the second alleged error, our attention is called to the provisions of section 126 of the Code of Civil Procedure; This section provides that: "The relief granted to the plaintiff, if there be no answer, cannot exceed that which he shall have demanded in his complaint; but, in any other case, the court may grant him any relief consistent with the case made by the complaint and supported by the evidence and embraced within the issue, requiring the necessary amendments."

There was no answer by the appellant, but the appellees contend that the relief granted does not exceed that demanded in the complaint, because they asked for damages in the sum of P3,105 and obtained judgment for only P2,734.50. While, on the other hand, the appellant insists that when he allowed judgment by default to be entered against him, he could rest secure that under the provisions of section 126, supra, he would not be mulcted in damages for a greater amount of sugar than that specified in the complaint.

The relief granted to the plaintiffs cannot exceed that which they have demanded in their complaint. In determining what they demanded, must we look to the allegations in the complaint, or the prayer of the complaint, or both? In the case of *Rosales vs. Reyes* (25 Phil. Rep., 495), we quoted from *Sutherland on Code Pleading* (sec. 186) as follows: "The demand in the complaint is no part of the statement of the cause of action, and does not give it character. The facts alleged do this, and the plaintiff is entitled to as much relief as they warrant."

Phillips in his work on *Code Pleading* says: "(Sec. 218.) The prayer for relief is a requisite for complaint, but it is no part of the cause of action."

"SEC. 220. The default of defendant for answer is not an admission of right to the relief prayed for, but only to such as is both prayed for and warranted by the facts alleged. Therefore, upon default for answer relief not prayed for cannot be had; nor can that prayed for, if not warranted by the facts alleged."

From the foregoing it appears that the relief demanded, which can be granted upon default of answer, is that specifically set forth or alleged in the complaint and not the aggregate amount prayed for. The fact that the judgment for damages in the aggregate amounts to less than that prayed for in the complaint does not justify a recovery for 200 piculs of sugar when the complaint alleges damages for only 60 piculs. There is no allegation in the complaint that the plaintiffs were entitled to 200 piculs of sugar. They only allege that they have been damaged to the extent of 60 piculs. Suppose they had sought recovery for the value of sugar alone and alleged that they had been damaged to the extent of 60 piculs, no one would claim that they would be entitled to recover for 200 piculs. The fact that they sought to recover for palay does not change the principle upon which their judgment

for damages must rest with reference to the sugar.

The judgment appealed from is modified by reducing the amount for damages to P2,052. In all other respects the judgment is affirmed, with costs against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, Carson, and Araullo, JJ., concur.

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