101 Phil. 176

[G. R. No. L-10754. April 23, 1957]

FELIX M. MONTE, PETITIONER, VS. HON. JUDGE JOSE L. MOYA, SANTIAGO G. ORTEGA, AUGUSTO S. CACERES AND MANUEL ESTIPONA, RESPONDENTS.

D E C I S I O N

BAUTISTA ANGELO, J.:

This is a petition for mandamus seeking to compel respondent Judge to approve petitioner's appeal from certain orders issued by the former and to have a writ of preliminary injunction issued pending the termination of this proceeding.

On April 16, 1955, petitioner filed in the Court of First Instance of Camarines Sur a complaint for replevin with damages against respondents Santiago G. Ortega and Augusto S. Caceres in connection with an alleged illegal impounding of certain trucks. Respondents answered the complaint alleging that they had the necessary authority to impound the trucks because they were being used by petitioner in violation of Section 2753 (e) of the Revised Administrative Code. In the meantime, Provincial Fiscal Manuel Estipona filed a charge against petitioner before the Justice of the Peace Court of Iriga accusing him of having infringed said provision of the Revised Administrative Code but, after due trial, petitioner was acquitted on reasonable doubt.

Following his acquittal, petitioner filed a motion in the replevin case seeking permission to file an amended complaint by including Fiscal Manuel Estipona as party defendant alleging therein, as second cause of action, that to evade their responsibility for the acts complained of in the first cause of action, respondents Ortega and Caceres induced Fiscal Estipona to file, as in fact he did file, a criminal case against petitioner knowing fully well that he did not commit it, as was shown later when he was acquitted of the charge on reasonable doubt. Respondents opposed the motion alleging, among other grounds, lack of sufficient cause of action against Fiscal Estipona. The court found the opposition well taken and denied the motion. Petitioner filed a motion for reconsideration, which was also denied. He took steps

to appeal from the adverse orders, but the court refused to give course to the appeal. Hence the present petition for mandamus.

In his answer, respondent Judge tried to justify his order intimating that "Manuel Estipona has no interest in the first cause of action, he having nothing to do with the seizure of petitioner's trucks, and that for this reason, he cannot be joined to the second cause of action, without a misjoinder of parties."

As a rule, a court may, upon motion at any stage of an action, and upon such terms as may be just, give leave to either party to alter or amend any pleading, to the end that all matters in dispute may, as far as possible, be determined in a single proceeding (Section 2, Rule 17). This is the rule after a responsive pleading has been served, for before that stage the amendment can be made as a matter of course (Section 1, Rule 17). This is addressed to the discretion of the court.

In the present case, it is true, the motion to admit the amended complaint was filed by petitioner after respondents had put in their answer which is a responsive pleading, and it is for this reason that petitioner sought the permission of the court to submit the amended complaint. But the court denied the permission on the ground that there will be a misjoinder of parties defendants.

We believe the court was in error in refusing to admit the amended complaint considering the spirit that underlies the rule that permits the amendment of a pleading. This rule precisely authorizes the amendment in order that "all matters in the action in dispute between the parties may, as far as possible, be completely determined in a *single proceeding*" (Section 2, Rule 17). This is the only purpose of the amendment sought to be made. The first cause of action alleges the illegal impounding of petitioner's trucks by the original defendants, while the second avers that that impounding is sought to be justified by the malicious prosecution of petitioner on the part of Fiscal Estipona who acted upon the inducement of respondents. There is therefore intimate relation between the allegations of the two causes of action which can only be threshed out in a single proceeding. This attempt is within the purview of the rule. As this attempt was frustrated, petitioner has reason to appeal from the ruling of the court. We are therefore persuaded that the court acted improperly in denying him his right to appeal.

Petition is granted. Respondent Judge is hereby ordered to give course to petitioner's appeal, without pronouncement as to costs.

Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion Reyes, J. B. L., and *Endencia, JJ.*, concur.

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