

AQUILINO DUCANAY ET AL., PETITIONERS, VS. ANTONIO G. LUCERO, AS CADASTRAL JUDGE, ET AL., RESPONDENTS.*G.R. No. L-114. February 15, 1946*

Ponente: MORAN, C.J.

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Aquilino Dacanay and others, petitioners here, filed a complaint in the Court of First Instance of La Union, against Pedro T. Dacanay and others, alleging four causes of action. Defendants answered denying "generally and specifically each and every allegation contained in each and every paragraph of the plaintiffs' complaint." Plaintiffs filed a motion for judgment on the pleadings upon the ground that the defendants' answer was merely a general denial and, therefore, tendered no issue, according to Rule 9, section 8. At the hearing of the motion, attorney for defendants argued that his denial was specific, he having used the adverb "specifically" and that all the material facts alleged in the complaint were thus put in Issue. The court, however, told him that the answer, as filed, was simply a general denial and thereby the facts alleged in the complaint were deemed admitted. Wherefore, defendants asked for leave to file an amended answer containing a specific denial, leave which was granted. Later on, such answer containing a specific denial was filed, and admitted by the court.

Petitioners here maintain that the court should have rendered judgment on the pleadings instead of allowing an amended answer.

Rule 17, section 2, reads as follows:

"By leave. — The court may, upon motion at any stage of an action, and upon such terms as may be just, order or give leave to either party to alter or amend any pleading, process, affidavit, or other document in the cause, to the end that the real matter in dispute and all matters in the action in dispute between the parties may, as far as possible, be completely determined in a single proceeding. But such order or leave shall be refused if it appears to the court that the motion was made with Intent to delay the action."

Under this provision, when the purpose of an amendment is to submit the real matter in dispute without any intent to delay the action, the court, in its discretion, may order or allow the amendment upon such terms as may be just. Here, defendants wanted to dispute the material facts alleged in the complaint, but they failed by mistake to make a specific denial, as required by Rule 9, section 7. A denial does not become specific merely because it is qualified by that word, but because it specifies the allegations that are not admitted, setting forth, if practicable, the matters relied upon to support the denial. Defendants, however, in applying for amendment were not charged with an intent to delay the action. The case was at initial stages, and the amendment could not work inconvenience to plaintiffs, except that they were thus prevented from winning the case without contest. A litigant's desire to take advantage of his opponent's mistake may be legitimate but cannot be encouraged. A litigant may thus be defeated, not for lack of rights, but because he lacks the skill. "Lawsuits, unlike duels, are not to be won by a rapier's thrust," as we have once ruled. (Alonso vs. Villamor, 16 Phil., 315, 322). Anything, therefore, that may preclude a party from presenting with fullness the facts of his case should be brushed aside, if this can be done without unfairness to the other party and by the means provided by the Rules of Court. And this

is what the respondent Judge did in the instant case by allowing an amendment to the answer in the exercise of the discretion vested in him by the above-quoted rule.

The ruling in the case of *El Hogar Filipino vs. Santos Investment* (74 Phil., 79), is relied upon, but is not applicable. There, the defendant made a general denial which he never sought to amend, and the trial court rendered judgment on the pleadings as applied for. The action of the trial court was held to be right. It could not valldly refuse to render Judgment on the pleadings since the general denial was allowed to stand unamended and the facts alleged in the complaint remained thus undisputed. (*Baetamo vs. Ataador*, 47 Phil., 735.) Here, however, the respondent court granted leave to amend the answer, and it was right in so doing, as above stated. (*Trias vs. Court of First Instance of Cavite*, 75 Phil., 757.)

There is no partiality in respondent court's attitude of pointing out indirectly to defendants' attorney the mistake he was making in formulating a proper denial. The rule abolishing general denial and providing a method for making a specific denial is relatively new in this Jurisdiction and a number of lawyers may not yet be familiar with it. A misinterpretation of that rule by a lawyer, may deprive his client, having a good case, of his day In court. And a judge who, by proper means, seeks to avoid that harm, is indeed protecting, not a party, but the interest of justice, which is paramount.

The other cause of action alleged in the petition, having been withdrawn in petitioners' memorandum, need not be considered.

Petition is dismissed with costs against petitioners.

Ozaeta, Parás, Jaranilla, Feria, De Joya, Pablo, Perfecto, Hilado, and Bengzon JJ., concur.

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