

CHARITO ADRIANO, PLAINTIFF-APPELLANT, VS. CDO FOODSPHERE, INCORPORATED, DEFENDANT-APPELLEE.

Ponente: DACUDAO, J.

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DACUDAO, J.:

This appeal by writ of error seeks to overturn: (1) The Order issued on February 14, 2003[1] by the Regional Trial Court (or RTC) of Malolos, Bulacan, Branch 11, in Civil Case No. 732-M-02, which dismissed plaintiff-appellant's complaint for damages; and (2) The Order of the same Court dated July 1, 2003,[2] denying plaintiff-appellant's motion for reconsideration thereon.

The material operative facts:

On September 27, 2002, before the Malolos, Bulacan-RTC, the plaintiff Charito Adriano sued out a complaint for damages against the defendant CDO Foodsphere, Incorporated. It is thereunder alleged, among others:

"xxx xxx xxx

"3. On January 20, 2002, plaintiff bought CDO Regular Sweet Ham, manufactured by the defendant, from its authorized outlet in Marulas, Valenzuela, Metro Manila for the amount of P66.50;

"4. When plaintiff was preparing to cook the said ham, she noticed a metal with sharp curves with transparent tape wrapping almost half of it from the end on top of the ham wrapped in a sealed package;

"5. Having noticed a foreign matter inside the package of the ham that she bought from the defendant, she brought it to the Bureau of Food and Drugs in Civil Drive, Filinvest Corporate City, Alabang, Muntinlupa City for examination/analysis;

"6. Preliminary report of analysis of the said ham yielded the following results,

"Sample Description: one pack of CDO Regular Ham Sweet (unopen), 250 g.

"Weight of sample submitted: 216 grams

"Lot No. 2120

"Expiry Date: none

"Foreign Matter: a 2.5 in. long metal was found inside the package on top of the ham. The metal has sharp curves with transparent tape wrapping almost half of the metal starting from one end

"Remarks: Presence of foreign matter renders the sample adulterated.

"7. Plaintiff went to the defendant to complain about its adulterated ham bought by her;

"8. Instead of being sorry for its defective meat product, an employee of the defendant arrogantly told the plaintiff to do what she wanted;

"9. In selling the said adulterated ham to plaintiff, defendant violated the warranty that the same is fit for human consumption;

"10. Because of the said adulterated ham manufactured and sold by the defendant, plaintiff sustained actual damages in the sum of not less than P16,251.00;

"11. By reason of the attitude displayed by defendant's employee to the plaintiff when the latter was complaining

about the adulterated ham that she bought from the defendant, the latter suffered social humiliation, anxiety, sleepless nights and other psychological disturbances entitling her to an award of moral damages in the sum of P100,000.00;

“12. Exemplary damages in the sum of P100,000.00 should also be assessed against the defendants for the act of its employee of treating the plaintiff arrogantly and as a punitive measure for the failure of the defendant in making it sure that its meat products being sold to the public is fit for human consumption;

“13. To vindicate her rights which was violated by the defendant, the plaintiff has been forced to litigate. In the process she obligated herself to pay P100,000.00 for the fees of her counsel and other expenses.”[3]

Instead of an answer, defendant filed a motion to dismiss,[4] arguing that, consistent with the principle of primary jurisdiction, the complaint should have been initially referred to the Bureau of Food And Drugs (or BFAD) for resolution, as it is the proper agency equipped with special expertise on matters involved in this case; and that, indeed, under Article 159 of Republic Act No. 7394,[5] otherwise known as the Consumer Act of the Philippines, it is the BFAD which is vested with authority to receive consumer complaints.

In its order dated February 14, 2003,[6] the trial court ruled:

“On two (2) compelling grounds, the dismissal of the instant case is justifiable, to wit:

“a. This Court lacks jurisdiction to try this case because the amount of the demand, exclusive of damages and attorneys, is only P16,251.00. Section 19, par. 8 of the Judiciary Reorganization Act of 1980 provides:

“In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney’s fees, and litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand pesos (P100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items exceeds Two hundred thousand pesos (P200,000). (R.A. No. 7691).

“b. Granting arguendo that this case is cognizable by this Court, the doctrine of primary jurisdiction or the doctrine of prior resort, as enunciated by the High Court in *Abejo v. dela Cruz*, 49 SCRA 654, quoted hereunder, stands in the way of giving due course thereto.

“The courts cannot or will not determine a controversy involving a question which is within the jurisdiction of an administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulating statute administered.

“Accordingly, the instant case is hereby DISMISSED.

“SO ORDERED.

“February 14, 2003

“(Sgd) BASILIO R. GABO, JR.

“Judge”

Plaintiff moved for reconsideration thereon,[7] but the lower court denied her motion.

Taking exception thereto, plaintiff, as appellant, interposed the instant recourse, and now contends that the trial court erred in dismissing her complaint.

We agree with plaintiff-appellant.

As to whether or not the trial court has jurisdiction over the case: We quote the pertinent holding in *Mangaliag v. Catubig-Pastoral*:[8]

“Section 1 of Republic Act (R.A.) No. 7691, which took effect on April 15, 1994, provides inter alia that where the amount of the demand in civil cases exceeds P100,000.00, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the exclusive jurisdiction thereof is lodged with in the RTC. Under Section 3 of the same law, where the amount of the demand in the complaint does not exceed P100,000.00, exclusive of interest, damages of whatever kind, attorney's fess, litigation expenses, and costs, the exclusive jurisdiction over the same is vested in the Metropolitan Trial Court, MTC and Municipal Circuit Trial Court. The jurisdictional amount was increased to P200,000.00, effective March 20, 1999, pursuant to Section 5 of R.A. No. 7691 and Administrative Circular No. 21-99.

“In Administrative Circular No. 09-94 dated March 14, 1994, the Court specified the guidelines in the implementation of R.A. No. 7691. Paragraph 2 of the Circular provides:

'2. The exclusion of the term 'damages of whatever kind in determining the jurisdictional amount under Section 19 (8) and Section 33 (1) of B.P. Blg. 129, as amended by R.A. No. 7691, applied to cases where the damages are merely incidental to or a consequence of the main cause of action. However, in cases where the claim for damages is the main cause of action, or one of the causes of action, the amount of such claim shall be considered in determining the jurisdiction of the court. (Emphasis supplied)'

“The well-entrenched principle is that the jurisdiction of the court over the subject matter of the action is determined by the material allegations of the complaint and the law, irrespective of whether or not the plaintiff is entitled to recover all or some of the claims or reliefs sought therein. In the present case, the allegations in the complaint plainly show that private respondent seeks to recover not only his medical expenses, lost income but also damages for physical suffering and mental anguish due to permanent facial deformity from injuries sustained in the vehicular accident. Viewed as an action for quasi-delict, the present case falls squarely within the purview of Article 2219 (2), which provides for the payment of moral damages in cases of quasi-delict causing physical injuries.

“Private respondent's claim for moral damages of P500,000.00 cannot be considered as merely incidental to or a consequence of the claim for actual damages. It is a separate and distinct cause of action or an independent actionable tort. It springs from the right of a person to the physical integrity of his or her body, and if that integrity is violated, damages are due and assessable. Hence, the demand for moral damages must be considered as a separate cause of action, independent of the claim for actual damages and must be included in determining the jurisdictional amount, in clear consonance with paragraph 2 of Administrative Circular No. 09-94.

“If the rule were otherwise, i.e., the court's jurisdiction in a case of quasi-delict causing physical injuries would only be based on the claim for actual damages and the complaint is filed in the MTC, it can only award moral damages in an amount within its jurisdictional limitations, a situation not intended by the framers of the law.

“It must be remembered that moral damages, though incapable of pecuniary estimation, are designed to compensate and alleviate in some way the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury unjustly caused a person. Moral damages are awarded to enable the injured party to obtain means, diversions or amusements that will serve to alleviate the moral suffering he/she has undergone, by reason of the defendant's culpable action. Its award is aimed at restoration, as much as possible, of the spiritual status quo ante; thus, it must be proportionate to the suffering inflicted. Since each case must be governed by its own peculiar circumstances, there is no hard and fast rule in determining the proper amount.

“The petitioners' reliance on the case of *Movers-Baseco Integrated Port Services, Inc. vs. Cyborg Leasing Corporation* is misplaced. The claim for damages therein was based on a breach of a contract of lease, not a quasi-delict causing physical injuries, as in this case. Besides, there was no claim therein for moral damages. Furthermore, moral damages are generally not recoverable in damage actions predicated on a breach of contract in view of the provisions of Article 2220 of the Civil Code.”[9]

Earlier, in *Enerio v. Alampay*,[10] which also involved an action for damages arising from a quasi-delict (as in the

present case), exemplary damages and attorney's fees were included in the computation of the jurisdictional amount.

A noted authority in remedial law, retired Supreme Court Justice Florenz D. Regalado mentions Alampay in his book,[11] and says that where the complaint is for actual damages of P978.00, but the other claims for damages and attorney's fees bring the total relief sought to more than P10,000.00 (which was then the jurisdictional limit for civil cases in the inferior courts), the totality of said claims puts the case within the jurisdiction of the then Court of First Instance, hence the CFI erred in dismissing the complaint upon its mere impression that the other claims were "bloated" for the purpose of invoking its jurisdiction, without hearing and proof of such fact. The good Justice opines that the Alampay case is still good law, subject, of course, to the increased jurisdictional amount under Batas Pambansa Blg. 129, and subsequent legislation.

Correlatively, jurisdiction over the subject matter of the action is determined by the material allegations of the complaint and the law, irrespective of whether or not the plaintiff is entitled to recover all or some of the claims or reliefs sought therein.[12]

Here, going by the allegations of the complaint in the case at bench, it is indisputable that the suit initiated before the RTC was an action for damages arising from a quasi-delict; that the plaintiff-appellant wanted to recover from the defendant-appellee not only actual damages in the amount of P16,251.00, but also moral damages estimated at P100,000.00 for the "social humiliation, anxiety, sleepless nights, and other physical disturbances" that she suffered due to the arrogance of one of defendant's employees; that plaintiff-appellant likewise sought to recover exemplary damages in the same amount of P100,000.00, to serve "as a punitive measure for the arrogance of defendant's employee and for defendant's failure to make sure that the meat products it sold to the public are fit for human consumption"; plus attorney's fees in the sum of P100,000.00, for having been compelled to litigate as a consequence of defendant's act or omission.

Since the total claim in this case is P316,251.00, which exceeds P200,000.00 (over which the inferior court has jurisdiction), jurisdiction in this case clearly lies with the RTC.

In regard to whether the complaint is dismissible under the doctrine of primary jurisdiction: Under this doctrine, courts will invariably not entertain, or determine, or pass upon a controversy involving a question which is within the "special competence" of an administrative agency, especially where the question demands or requires the exercise of sound administrative discretion calling for the special knowledge, experience and skill of the administrative agency respecting technical and intricate matters of fact; and where a uniformity of ruling is essential to compliance with the purposes of the regulatory statute administered.[13]

The doctrine applies or comes into play whenever enforcement of the claim requires the resolution of issues spelled out under a regulatory scheme, or where the resolution of such issues calls for the use of the special competence skill or experience of an administrative agency. In such case, the judicial process is suspended pending referral of such issues to the administrative agency for review.[14]

However, the doctrine is not an inflexible mandate. It is predicated on an attitude of judicial self-restraint, and its application involves the exercise of sound judicial discretion. Whether or not the requirement of prior resort to an administrative agency should be observed is said to depend on the court's determination that Congress, indeed, intended the issues to be left to the administrative agency for initial determination. Where an affirmative indication of legislative intent does not clearly appear, however, the courts are on the whole free to determine on the basis of policy considerations the need, (or desirability), of prior resort to administrative determination.[15]

In point here is Republic Act 7394, or the "Consumer Act of the Philippines, specifically Article 162 whereof,

which provides:

“ART. 162. Arbitration Officers; Jurisdiction.- The consumer arbitration officers shall have original and exclusive jurisdiction to mediate, conciliate, hear and adjudicate all consumer complaints: Provided, however, That this does not preclude the parties from pursuing the proper judicial action.”

In other words, under Article 162, while the consumer arbitration officers of the department concerned, (the Department of Health in this case), are vested with original and exclusive jurisdiction to mediate, conciliate, hear and adjudicate all consumer complaints, this is subject to the caveat or proviso, That “this does not preclude the parties from pursuing the proper judicial action.” This means that the pursuit of the proper judicial action (whatever that judicial action is, or may be, so long as it is the proper judicial action) is always an ever present and available option, in no wise or manner precluded or foreclosed by the fact that it is the consumer arbitration officers of the Department of Health (in this case) who have the original and exclusive jurisdiction to mediate, conciliate, hear and adjudicate all consumer complaints.

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the orders appealed from must be, as they hereby are, REVERSED AND SET ASIDE. The case is remanded to the lower court for further proceedings. Without costs.

SO ORDERED.

Carandang, and Perlas-Bernabe, JJ., concur.

[1] Records, p. 25.

[2] Id., p. 37.

[3] Id., pp. 1-2.

[4] Id., pp. 7-13.

[5] ARTICLE 159. Consumer Complaints. – The concerned department may commence an investigation upon petition or upon letter-complaint from any consumer: Provided, That, upon a finding by the department of a prima facie violation of any provisions of this Act or any rule or regulation promulgated under the authority, it may motu proprio or upon verified complaint commence formal administrative action against any person who appears responsible therefor. The department shall establish procedures for systematically logging in, investigating and responding to consumer complaints into the development of consumer policies, rules and regulations, assuring as far as practicable simple and easy access on the part of the consumer to seek redress for his grievances.

[6] Supra, note 1.

[7] Records, pp. 26-27.

[8] Mangaliag v. Catubig-Pascual, G.R. No. 143951, October 25, 2005, 474 SCRA 153.

[9] G.R. No. 143951, October 25, 2005, 474 SCRA 164-167.

[10] No. L-40010, May 26, 1975, 64 SCRA 142.

[11] Remedial Law Compendium, Seventh Revised Edition, Volume 1, p. 10.

[12] Supra, note 8.

[13] Administrative Law: Text and Cases, Hector S. De Leon, Fourth Edition (2001), p. 347; citing Qualitrans

Limousine Service, Inc. v. Royal Class Limousine Service, G.R. No. 79886, November 22, 1989 and G.R. No. 79887, November 22, 1989, 179 SCRA 569; Brett v. Intermediate Appellate Court, G.R. No. 74223, November 27, 1990 and G.R. No. 77098, November 27, 1990, 191 SCRA 687.

[14] Administrative Law: Text and Cases, Hector S. De Leon, Fourth Edition (2001), p. 347; citing Industrial Enterprises, Inc. v. Court of Appeals, 184 SCRA 426; Villaflor v. Court of Appeals, 280 SCRA 297.

[15] Administrative Law: Text and Cases, Hector S. De Leon, Fourth Edition (2001), p. 350; citing Davis, Kenneth C., Handbook in Administrative Law, 1951, p. 564.

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