

THE VISAYAN PACKING CORPORATION, PETITIONER, VS. THE REPARATIONS COMMISSION AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-29673. November 12, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

The proceedings at bar had their origin in an agreement denominated "Contract of Conditional Purchase and Sale of Reparation Goods" entered into between petitioner Visayan Packing Corporation (hereafter, simply VISPAC) and the Reparations Commission (hereafter, simply REPACOM).[1] Subject of the contract were a cannery plant, a tin manufacturing plant, and three (3) fishing boats sold to VISPAC, for which it bound itself to pay the total price of P1,135,712.47 in ten (10) equal yearly installments with interest.[2]

Prior to the due date of the first installment, REPACOM sent VISPAC a written reminder thereof. VISPAC's response was to file in the Court of First Instance of Manila two (2) special civil actions for declaratory relief,[3] alleging ambiguity in the contract between it and REPACOM consisting in the agreement's failure to clearly state the precise time when the obligation to pay the first installment of the price would arise.¹

On the other hand, when VISPAC subsequently failed, despite several demands, to pay the first installment of the price (P135,712.47) on what REPACOM deemed to be the due date, the latter instituted an ordinary civil action for collection thereof.² VISPAC moved to dismiss this collection suit on the ground of the pendency of the declaratory relief actions, arguing that until and unless the latter were resolved, no cause of action could be deemed to exist in favor of REPACOM for collection of said first installment. The motion to dismiss was denied; and after trial, the Court of First Instance rendered judgment dated March 27, 1963 ordering VISPAC to pay REPACOM the sum claimed, P135,712.47, with interest at the legal rate from date of filing of the complaint until fully paid.

VISPAC appealed to the Court of Appeals claiming error on the part of the Trial Court in not holding that the collection suit was barred by the pendency of the declaratory relief cases earlier instituted.

But the declaratory relief actions had been earlier dismissed by Order of the Court of First Instance dated October 9, 1962, the Court holding that the issues raised would be necessarily threshed out in the collection suit. VISPAC appealed to this Court³ but was rebuffed. By decision rendered on May 31, 1965, this Court affirmed the dismissal of the declaratory relief suits, holding that the clarity of the terms of the contract eliminated all occasion for interpretation thereof.

VISPAC also received an unfavorable verdict in its appeal to the Court of Appeals from the decision of the Trial Court in the collection action against it. That Appellate Court, on October 2, 1968, promulgated judgment affirming that of the Court of First Instance. It is this affirmance of the Court of Appeals that is subject of the instant appeal taken to this Court by VISPAC. VISPAC's contention is that it was error on the Appellate Court's part to have affirmed the Trial Court's decision for the collection of the first installment of the price due from it

under its contract with REPACOM, because that money claim should have been set up as a compulsory counterclaim in the declaratory relief action, and since REPACOM had not done this, but had instead set it up in a separate suit, the claim had thereby become barred.

It is indeed the rule, embodied in Section 4, Rule 9 of the Rules of Court, that a counterclaim not set up shall be barred if it arises out of or is necessarily connected with the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. In other words, a compulsory counterclaim cannot be made the subject of a separate action but should be asserted in the same suit involving the same transaction or occurrence giving rise to it. The omission is not however irremediable or irreversibly fatal. The Rules provide that when a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable negligence, or when justice requires, he may, by leave of court, set up the counterclaim or cross-claim by amendment before judgment.¹ Where the counterclaim is made the subject of a separate suit, it may be abated upon a plea of *auter action pendant* or *litis pendentia*,² and/or dismissed on the ground of *res adjudicata*.³ *Res adjudicata* may be pleaded as a ground for dismissal if the opposing party's claim, involving the same transaction or occurrence as the counterclaim, has already been adjudicated on the merits by a court of competent jurisdiction, and the judgment has become final; this, on the theory that what is barred by prior judgment are not only the matters squarely raised and litigated, but all such other matters as could have been raised but were not.⁴

Now, there is nothing in the nature of a special civil action for declaratory relief that proscribes the filing of a counterclaim based on the same transaction, deed or contract subject of the complaint. A special civil action is after all not essentially different from an ordinary civil action, which is generally governed by Rules 1 to 56 of the Rules of Court, except that the former deals with a special subject matter which makes necessary some special regulation.⁵ But the identity between their fundamental nature is such that the same rules governing ordinary civil suits may and do apply to special civil actions if not inconsistent with or if they may serve to supplement the provisions of the peculiar rules governing special civil actions.⁶

Ideally, in the case at bar, the separate action for collection should have been dismissed and set up as a compulsory counterclaim in the declaratory relief suits, by way of an amended answer. This was not done. The actions proceeded separately and were decided on the merits. The final verdict was that the declaratory relief suits instituted by VISPAC were unmeritorious, quite without foundation and, in the light of all the relevant facts, appear to have been initiated by VISPAC merely to obstruct and delay the payment of the installments clearly due from it, payment of which was decreed in the collection suit. Under the circumstances, and taking account of the not inconsiderable length of time that the case at bar has been pending, it would be to do violence to substantial justice to pronounce the proceedings fatally defective for breach of the rule on compulsory counterclaims. Rules of procedure are after all laid down in order to attain justice. They cannot be applied to prevent the achievement of that goal. Form cannot prevail over substance.¹

WHEREFORE, the petition is dismissed for lack of merit, with costs against the petitioner.

Teehankee, C.J., Cruz*, Paras, and Gancayco, JJ., concur.

[1] The contract was awarded by the REPACOM to VISPAC in virtue of Resolution No. 240

[2] The contract was dated November 16, 1960

[3] Docketed as Civil Cases No. 49913 and 50517

1 According to it, the contract set out two (2) discrepant dates: April 5, 1962 and April 5, 1963, and two (2)

diferent amounts.

2 Docketed as Civil Case No. 51713

3 The appeal was docketed as G.R. No. L-20577

1 Sec. 3, Rule 9

2 Sec. 1 (e), Rule 16, Rules of Court

3 Sec. 1 (f), Rule 16

4 Sec. 49 (b), Rule 39

5 Ledesma v. Morales, 87 Phil. 19; Chan v. Galang, 18 SCRA 344

6 Rule 62, Rules of Court

1 Alonso v. Villamor, 16 Phil. 321; Palma v. Oreta, 34 SCRA 739; Pangasi v. CA, 71 SCRA 614; Tan v. Director of Forestry, 125 SCRA 302; Toribio v. Bidin, 134 SCRA 162; Gotico v. Leyte Chinese Chamber of Commerce, 136 SCRA 218

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