

SEVERINO MATEO, PETITIONER, VS. HON. ANDRES PLAN AND TEOFILO BALOT, RESPONDENTS.

G.R. No. L-38884. November 24, 1988

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is a petition for certiorari assailing the refusal of the respondent trial judge[1] to admit the proffered Amended Answer of the petitioner.

The facts giving rise to the controversy may be briefly summarized as follows:

On July 15, 1972, private respondent Teofilo Balot, plaintiff in the court below, filed an Amended Complaint against defendant Severino Mateo, the petitioner herein, for the Recovery Of Possession of a parcel of land With Receivership And Damages. Private respondent Teofilo Balot, as plaintiff in the court below avers in his Amended Complaint that he is the absolute owner of a parcel of land situated at Bagnos, Alicia, Isabela, with an area of 43,707 square meters, more or less; that sometime in 1967, petitioner Severino Mateo, through strategy and bad faith, took possession of the parcel of land, and despite the private respondent's repeated demands for the petitioner to vacate the premises, he tenaciously refuses to do so; that private respondent Balot is in danger of losing the ripening palay planted on the land unless a receiver is appointed to preserve it; and that pending hearing, Balot prays in his Amended Complaint that he be appointed receiver on a bond in an amount to be fixed by the court. He further prays that he be declared the absolute owner of the land in question and that the petitioner vacate the same and pay damages for unrealized fruits as well as attorney's fees and costs of the suit.[2]

On February 3, 1973, petitioner Severino Mateo as defendant filed in the court a quo an "Answer With Counterclaim." In the said answer, the petitioner (defendant) expresses doubt as to the existence of the land covered by private respondent Balot's title; that he (petitioner) has never set foot on the said land; that he has not encroached on the possessory rights of the private respondent over the said land; that he has no knowledge or information about any palay planted on said land, the damages for unrealized fruits, the need for a receivership, and the alleged unlawful intrusion into the land. Branding the suit to be malicious, Mateo prayed the trial court to dismiss the case, for the award of exemplary damages, attorney's fees, and costs of the suit. No affirmative defenses were raised.[3]

A pre-trial was held in due course. The main issue raised is the identity of the land in question. On October 3, 1973, the respondent judge appointed a surveyor-commissioner, Geodetic Engineer Rufino S. Roque, to determine such identity. The commissioner's report, based on his relocation survey, shows that the land claimed by the petitioner (defendant in the court below) "is inside the title issued in favor of the plaintiff (private respondent herein), as shown in the relocation plan attached to the record." [4]

On February 4, 1974, the petitioner filed his Motion to Admit Amended Answer attaching therewith an Amended Answer. The offered Amended Answer is a tergiversation of the original Answer with Counterclaim. This time, the petitioner alleges in his proposed Amended Answer that he has been in peaceful, quiet, notorious, and adverse

possession of the land in question; that no demand has ever been made for him to vacate the land; that his father, Agaton Mateo, was the original owner of the land having purchased it from the government; that the fruits of the land are not in danger of being lost or removed and therefore there is no reason to appoint a receiver; and that a certain Policarpio Dizon and private respondent Teofilo Balot, who were both aware of the title of Agaton Mateo, fraudulently transferred in the name of Balot the said title. As final reliefs, the petitioner prays for the dismissal of the complaint, the alleged confirmation of award made by the Bureau of Lands in favor of Agaton Mateo, the declaration of nullity of the private respondent's certificate of title over the land, plus damages, attorney's fees, and costs of suit.[5] The Motion to Admit Amended Answer alleges that "through oversight," movant Severino Mateo failed to include affirmative defenses in his original Answer.[6]

In an Order dated March 7, 1974, the trial court denied the Motion To Admit Amended Answer "for lack of merit, because it will substantially alter the (his) defense." [7] A Motion for Reconsideration was likewise denied.[8] Hence, this petition.

We affirm the trial court's orders. The respondent judge did not commit grave abuse of discretion in denying the amendment of the Answer at that late stage of the proceedings.

Section 3, Rule 10 of the Rules of Court, provides:

Amendments by leave of court. After the case is set for hearing, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay the action or that the cause of action or defense is substantially altered, x x x (Underscoring supplied.)

The law is clear. Substantial amendments may be made when the case has already been set for hearing only upon leave of court. But the motion to amend should not be dilatory and the cause of action or defense, as the case may be, should not be substantially altered.

The stricture is not new.

As early as in 1927, the Court through Justice Malcolm asseverated:

x x x Under code practice, amendments to pleadings are favored, and should be liberally allowed in furtherance of justice. This liberality, it has been said, is greatest in the early stages of a lawsuit, decreases as it progresses, and changes at times to a strictness amounting to a prohibition. The granting of leave to file amended pleadings is a matter peculiarly within the sound discretion of the trial court. This discretion will not be disturbed on appeal except in case of an evident abuse thereof. But the rule allowing amendments to pleading is subject to the general but not inflexible limitation that the cause of action or defense shall not be substantially changed, or that the theory of the case shall not be altered. x x x.[9]

More than three decades later, in the case of *Uy vs. Uy*, [10] we restated the doctrine:

The matter of amendments of pleadings is one in which the law and the jurisprudence are well-settled. A party may, under the rules, amend his pleading once as a matter of course at any time before responsive pleading is served, or, after the filing of responsive pleading, by leave of court upon such terms as it may deem just and reasonable. Rule 17, Sections 1 and 2, Rules of Court. The discretion vested by law in the courts to allow amendments to pleading after the filing of responsive pleading is broad. It has been held that amendment may be allowed at any stage of the action before the rendition of final judgment, *Espiritu vs. Crossfield*, 14 Phil. 588; *Ocampo vs. Mañalac*, 49 O.G. 926; and that the amendments may consist of suppression, addition, or substitution of parties *Alonso vs. Villamor*, 16 Phil. 315; *Bismonte vs. Aldecoa & Co.*, 17 Phil. 480; *Chua Kiong vs. Whitaker*, 46 Phil. 578; *Diaz vs. Dela Rama*, 73 Phil. 104; or introduction of allegations of additional causes of action, or incorporation therein of a document, *Villegas vs. Roldan*, 76 Phil. 249. The only limitations placed on such discretions by jurisprudence are that the amendment should not substantially change

the cause of action, or alter the theory of the case *Torres vs. Tomacruz*, 49 Phil. 913, or that it was made to delay the action, *Dacanay vs. Lucero*, 76 Phil. 139; x x x (*Italics supplied.*)

The proposed amendments of the Answer actually revamp the theory of the defense. The requested changes are too substantial to be allowed after the pre-trial and the case had already been set for trial on the merits. It is too late in the day for substantial amendments. While the original answer doubts the existence of the land covered by the private respondent's title and disclaims any knowledge including encroachment thereof, the tendered Amended Answer denies the material averments of the Amended Complaint by attacking the Original Certificate of Title No. P-2368 in the name of Policarpio Dizon, private respondent Balot's predecessor-in-interest, and Transfer Certificate of Title No. T-51130 in the name of private respondent Balot himself by alleging that he (petitioner) has been in peaceful and adverse possession of the land in question. The reliefs prayed for by the petitioner are likewise substantially different. From the original Answer's principal prayer for the dismissal of the case and damages, the Amended Answer seeks not only the dismissal of the case but also the confirmation of an alleged award made by the Bureau of Lands in favor of Agaton Mateo, the petitioner's father, the declaration of nullity of the private respondent's Certificate of Title over the land, and other reliefs conferring badges of ownership over the disputed land to the petitioner. These marked and material changes in the defense theory need no further amplification. The petitioner's excuse of "oversight" in failing to allege affirmative defenses in the original answer is unacceptable considering the nature, extent, and importance of the averments in the proposed Amended Answer.

Pleadings serve to determine the issues of law and/or fact raised by the respective pleaders. Accordingly there is a prescribed period within which a party may amend his pleadings. Amendments may be made, therefore, within the time and under the conditions prescribed in the Rules of Court, generally before the trial or hearing of the case or issue on the merits. Otherwise, there would be no way to determine and limit the nature of the evidence to be presented or admitted or of the arguments that the parties may adduce.[11] As in this case, when it has already been set for trial on the merits, the answer can be amended only upon leave of court, which may be denied, pursuant to Section 3 of Rule 10 of the Rules of Court, if it appears to the court that the defense is substantially altered.[12]

The grant of leave to file amended answer is a matter peculiarly within the sound discretion of the trial court. This discretion will not be disturbed on appeal except when there is evidence of grave abuse.[13] Here, we find none.

ACCORDINGLY, the petition is hereby DISMISSED. Let this case be remanded to the trial court for further proceedings. Costs against the petitioner.

Melencio-Herrera, (Chairperson), Paras, Padilla, and Regalado, JJ., concur.

[1] Hon. Andres B. Plan, Presiding Judge, then Court of First Instance of Isabela, First Judicial District, Branch II.

[2] Rollo, 5-6.

[3] *Id.*, 7-8.

[4] *Id.*, 14-15.

[5] *Id.*, 10-13.

[6] *Id.*, 9.

[7] *Id.*, 14-15.

[8] Id., 20.

[9] *Torres vs. Tomacruz*, 49 Phil. 913 (1927).

[10] No. L-14243, June 30, 1961, 2 SCRA 675.

[11] *PNR vs. Pobre*, No. L-27501, April 30, 1971, 38 SCRA 610 citing *Rodgers (sic) vs. Dick*, No. L-18220, April 30, 1963, 7 SCRA 1032.

[12] *Arong vs. Seno*, No. L-25295, August 14, 1968, 24 SCRA 606.

[13] *Torres vs. Tomacruz*, supra; *Avecilla vs. Yatco*, 103 Phil. 666 (1958).

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