PLACIDA PEZA, ET AL., PETITIONERS, VS. HON. FEDERICO C. ALIKPALA, ETC., ET AL., RESPONDENTS.

G.R. No. L-29749. April 15, 1988

Ponente: NARVASA, J.

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NARVASA, J.:

Presented in the proceeding at bar is the sorry situation of the loss by a party of the right to argue the merits of a cause on appeal due to an obsessive pre-occupation with a question of admissibility of evidence, like a man who, it is said, "fails to see the forest for the trees."

The case had its origin in an unfortunate vehicular accident. Two (2) children ran across the path of a vehicle as it was running along the national highway at barrio Makiling, Calamba, Laguna. They were killed.

The vehicle, a Chevrolet "Carry-All," belonged to a partnership known as Diman & Company, and was then being driven by its driver, Perfecto Amar. It was insured with the Empire Insurance Co., Inc. under a so-called "comprehensive coverage" policy, loss by theft excluded. The policy was in force at the time of the accident.

Placida Peza, the managing partner of Diman & Co. filed a claim with the insurance company, hereafter simply, Empire, for payment of compensation to the family of the two (2) children who died as a result of the accident. Empire refused to pay on the ground that the driver had no authority to operate the vehicle, a fact which expressly excepted it from liability under the policy. What Peza did was to negotiate directly with the deceased children's father for an out-of-court settlement. The father agreed to accept P6,200.00 in full settlement of the liability of the vehicle's owner and driver, and Peza paid him this sum.

Peza thereafter sued Empire to recover this sum of P6,200.00 as actual damages, as well as P20,000.00 as moral damages, P10,000.00 as exemplary damages, and P10,000.00 as attorney's fees. She amended her complaint shortly thereafter to include Diman & Co. as alternative party plaintiff.[1]

Empire's basic defense to the suit was anchored on the explicit requirement in the policy limiting the operation of the insured vehicle to the "authorized driver" therein defined, namely, (a) the insured, or (b) any person driving on the insured's order or with his permission, provided that -

> " ** that the person driving is permitted in accordance with the licensing or other laws or regulations to drive the Motor Vehicle or has been so permitted and is not disqualified by order of the Court of Law of by reason of any enactment or regulation in that behalf from driving such Motor Vehicle."

It appearing, according to Empire, that at the time of the mishap, the driver Perfecto Amar only had a temporary operator's permit (TVR) -- already expired -- his driver's license having earlier been confiscated by an agent of the Land Transportation Commission for an alleged violation of Land Transportation and Traffic Rules, he was not permitted by law and was in truth disqualified to operate any motor vehicle; and this operated to relieve it (Empire) from liability under its policy.

The fact of Amar's having only an expired TVR at the time of the accident was duly established during the trial. It

does not seem to have been seriously disputed by the plaintiffs. What plaintiffs' counsel attempted to do, to neutralize that fact, was to offer rebuttal testimony (1) to explain the circumstances attending the issuance of the TVR by the LTC officer to Amar -- in proof of the proposition that there was no reason for confiscation of Amar's license and the issuance to him of a TVR, and the LTC agent was wrong in doing so, and also, to (2) prove that, "contrary to the implication" of one of Empire's exhibits, Amar's license had not expired, but had been renewed. The respondent Judge however sustained the objection of Empire's counsel to the evidence on the ground that it was irrelevant to the issue.[2] The Judge also denied plaintiffs' request for time to present additional rebuttal evidence in proof of the same propositions.[3]

The plaintiffs having moved for reconsideration, and the Court having refused, said plaintiffs have come to this Court seeking nullification on certiorari of the above described orders, assailing them as being tainted by grave abuse of discretion.

It would seem fairly obvious that whether the LTC agent was correct or not in his opinion that driver Amar had violated some traffic regulation warranting confiscation of his license and issuance of a TVR in lieu thereof, this would not alter the undisputed fact that Amar's license had indeed been confiscated and a TVR issued to him, and the TVR had already expired at the time that the vehicle being operated by him killed two children by accident. Neither would proof of the renewal of Amar's license change the fact that it had really been earlier confiscated by the LTC agent. The plaintiffs' proferred proof therefore had no logical connection with the facts thereby sought to be refuted; the proof had no rational tendency to establish the improbability of the facts demonstrated by Empire's evidence. The proofs were thus correctly refused by the respondent Judge as being irrelevant.

Even positing error in the Judge's analysis of the evidence attempted to be introduced and his rejection thereof, it is clear that it was at most an error of judgment, not such an error as may be branded a grave abuse of discretion, i.e., such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, against which the writ of certiorari will lie.[4] In any event, the established principle is "that rulings of the trial court on procedural questions and on admissibility of evidence during the course of the trial are interlocutory in nature and may not be the subject of separate appeal or review on certiorari, but are to be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case."[5]

In the meantime, respondent Judge Alikpala rendered judgment on the merits, since the case was then already ripe for adjudication. The judgment ordered dismissal of the case for failure on the part of the plaintiffs to prove their cause of action against Empire. Notice of the judgment was served on the parties in due course. The plaintiffs did not appeal. Instead, they filed a motion praying that Judge Alikpala be declared guilty of contempt of court for having decided the case on the merits despite the pendency in this Court of the instant certiorari action instituted by the plaintiffs.

It is elementary that the mere pendency of a special civil action for certiorari, commenced in relation to a case pending before a lower Court, does not interrupt the course of the latter when there is no writ of injunction restrining it. This was particularly true in the case of the respondent Judge in the light of the requirement of the Judiciary Act that a case be decided within ninety (90) days from date of submission.[6] As His Honor has pointed out, he but did his duty under the law, and hence, by no stretch of the imagination may his act be regarded as contempt of court, much less an "affront to the Tribunal." He is right, and must therefore be absolved of any responsibility for contempt.

In their eagerness to prove the respondent Judge wrong in sustaining objections to their proffered proofs, and to have him punished for contempt for rendering judgment on the merits adversely to them despite his being a respondent in their certiorari suit before this Court, the plaintiffs failed to perfect an appeal from that judgment on

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the merits. Judge Alikpala's judgment has thus become final and executory, and this is an additional factor precluding relief to the petitioners.

WHEREFORE, the petition is DISMISSED for lack of merit, without pronouncement as to costs.

Teehankee, C.J., Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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[1] All the facts thus narrated are not in dispute and have been taken from the decision of the respondent Judge, since deceased.

[2] TSN, Oct. 14, 1968, pp. 55-55

[3] Id., pp. 57-59

[4] SEE Dulos Realty & Dev. Corp. v. C.A., et al., G.R. No. 76668, Jan. 28, Franklin Baker Co. v. Trajano, et al., G.R. No. 59880, Jan. 28, 1988, citing Arguelles v. Yang, G.R. No. 59880, Sept. 11, 1987; Hermogenes v. Amores, 111 SCRA 652; Bautista v. Sarmiento, 138 SCRA 587

[5] Lazatin v. Campos, 92 SCRA 266

[6] Sec. 5, R.A. 296; SEE Beduya v. Alpuerto, 96 SCRA 673; Penera v. Dalocanog, 104 SCRA 193; Ubarra v. Tecson, 134 SCRA 4

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