

OTILLA SOLDER DE OCAMPO, ET AL., PETITIONERS, ANATALIO C. MAÑALAC, ETC., ET AL., RESPONDENTS.

G. R. No. L-5952. March 26, 1953

Ponente: PARAS, C.J.

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PARAS, C.J.:

In civil case No. 43 of the Court of First Instance of Sorsogon, in which the herein petitioners were the plaintiffs, and the herein respondent Saturnino Benito was the defendant, a decision was rendered the dispositive part of which reads as follows:

"In the light of all the foregoing, judgment is hereby rendered against the plaintiffs and in favor of Saturnino Benito, declaring and adjudging the latter rightfully entitled to the lawful ownership of one-half of the parcel in dispute as described in paragraph 11 of the complaint, and to the possession and enjoyment thereof and of its products and improvements; ordering the partition of the land in two equal parts; sentencing the plaintiffs to deliver to Saturnino Benito the one-half that he had been possessing from 1944 to 1945 and to pay to him the value of its products or P1,500 annually from 1945 until partition is effected and delivery thereof is made; and to pay, further, the costs of this action. No pronouncement and adjudication is made with respect to the ownership, possession and enjoyment of the other half and of its products and improvements."

Upon appeal by the petitioners, the Court of Appeals reversed the judgment of the Court of First Instance of Sorsogon insofar as it condemned the petitioners to pay to respondent Benito the sum of P1,500 yearly, and affirmed said judgment in all other respects. The Court of Appeals pertinently stated:

"* * *, we agree with the appellants that the grant of P1,500 damages, representing the supposed share of Saturnino Benito in the products of the land in question, is not justified by the pleadings. There is no claim presented for such kind of damages in Benito's answer or amended answer; the damages claimed in Benito's answer are the damages supposed to have been caused to him by the filing of the action, not by his being deprived of his share in the products of the land. The evidence of supposed damages for failure of Benito to receive his share in the products of the land should not have been admitted because not specifically alleged in Benito's answer, and we agree with appellants, contention that it is unjust that the appellee take advantage of the absence of the adverse party to introduce facts not alleged in his pleadings, thus depriving it of its opportunity to contest the said facts. Plaintiffs-appellants had every right to demand that any evidence introduced during the trial be confined to the issues raised by the pleadings, and we declare that a violation of this right amounts to a deprivation of the adverse party's day in court. The portion of the decision awarding the damages of P1,500 a year in favor of the appellee should, therefore, be reversed and suppressed from the judgment."

After the decision of the Court of Appeals had become final and the records returned to the Court of First Instance of Sorsogon, the respondent Saturnino Benito filed in the latter court a motion for the admission of a supplemental answer, praying that the petitioners be ordered to pay the sum of P1,500 yearly from 1945. This is the same relief eliminated by the final decision of the Court of Appeals. Over the objection of the petitioners, the Court of First Instance of Sorsogon, through the respondent judge, admitted the supplemental answer and gave the petitioners

ten days within which to plead thereto, and ordered that the case be set for hearing thereafter. The petitioners filed a motion for reconsideration and, upon its denial by the respondent judge, instituted in this court the present petition for certiorari.

The contention is made for the respondents that the supplemental answer is admissible under section 2 of Rule 17 of the Rules of Court, permitting amendments of pleadings at any stage of an action, and under section 5 of said Rule, which allows the filing of a supplemental pleading setting forth transactions, occurrence or events which have happened since the date of the pleading sought to be supplemented. This is untenable, because "any stage of an action" means "not after the rendition of a final judgment." (Moran, Comments on the Rules of Court, 1952 ed., Vol. I, p. 377, citing *Espiritu vs. Crossfield*, 14 Phil., 588, 591.) Although in one case, *Cuyugan vs. Dizon*,[*] 45 Off. Gaz., No. 2, p. 673, it was held that the complaint may be amended in the Supreme Court, even after final decision is rendered, it was only to cure the defect of party plaintiffs, without any prejudice to the defendants. (Moran, Comments on the Rules of Court, 1952 ed., Vol. I, p. 377.) In the case at bar, damages already finally disallowed by the Court of Appeals are prayed for in the supplemental answer, with the result that a final judgment is sought to be altered on a substantial matter. More or less the same reason should apply with respect to the filing and admission of supplemental pleadings, if it is desired that there be an end to litigations.

The case of *City of Texarkana, Texas vs. Arkansas Louisiana Gas Co.*, 1 Federal Rules Service, p. 275, is cited for the respondents in support of the claim that "in an action for the refund of rates charged consumers of a gas company, leave to file a supplemental petition should be granted upon the remand of the case to the trial court in order to bring the controversy up to date and permit the entire controversy to be settled." The citation is not decisive, since we find therein the following: "Where there is a good cause of action stated in the original bill, a supplemental bill setting up facts subsequently occurring which justify other or further relief is proper. If the original decree in the trial court had not been entered, this supplemental petition would simplify the controversy. We think this procedure is equally applicable after remand for further proceedings." Which goes to show that the case was specifically remanded for further proceedings and a good cause of action was stated in the original bill.

But it is argued for the respondents that the action has been converted into one for partition, and there is no final judgment until the corresponding portions of the of the parties are adjudicated, and that under section 8 of Rule 71 "one party may recover from another his just share of rents and profits received by such other party from the real estate in question, and the judgment shall include an allowance for such rents and profits." This provision, however, contemplates a case where a proper claim has been timely pleaded, clearly not a case where a decision has become final, expressly eliminating an award for such damages. That respondent Benito was aware of his right to the supposed damages mentioned in his supplemental answer and could have timely pleaded it is demonstrated by the fact that he had indeed been able to present evidence on his failure to receive his share in the products of the land.

Wherefore, the orders of the respondent judge in civil case No. 43, dated June 17 and July 12, 1952, admitting the supplemental answer in question, are hereby set aside. So ordered, with costs against the respondent Saturnino Benito.

Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo and Bautista Angelo, JJ., concur.

[*] 79 Phil., 80.

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