

**ARTURO BALBASTRO, JOSE PEREZ, EDGARDO DE LA CRUZ,
LEONARDO VILLANUEVA AND CONSORCIA HALILI, PETITIONERS,
VS. COURT OF APPEALS, HON. WALFRIDO DE LOS ANGELES, IN HIS
CAPACITY AS J...**

G.R. No. L-33255. November 29, 1972

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal by Certiorari from the decision dated January 20, 1971, of the Court of Appeals, sustaining the orders of November 17, 1969 and May 18, 1970 of the Court of First Instance of Rizal, Quezon City Branch IV, in Civil Case No. Q-13297, an action for interpleader against Francisco E. Fernandez and Angela M. Butte, and also from the resolution dated February 16, 1971, of the Special Division of the Court of Appeals denying petitioners' motion for re-consideration.

The only issue raised in this Petition is whether or not the respondent Judge has committed a grave abuse of discretion in allowing the inclusion of petitioners as parties in the aforecited interpleader case on the basis of a pleading designated as "third-party complaint" of respondent Francisco E. Fernandez.

The facts are undisputed. As correctly found by the Court of Appeals, on July 17, 1969, Chin Keng long, Lim Bun Kong, and Rajindar Singh, lessees of three doors of a 10-door apartment situated at E. Rodriguez St., Quezon City, filed a complaint for interpleader and consignment with the respondent Court of First Instance of Rizal, Quezon City Branch IV, which was docketed as Civil Case No. Q-13297 against private respondent Francisco E. Fernandez and Angela M. Butte, each of whom was claiming ownership over the aforementioned 10-door apartment and of the right to collect the rents therefrom. In their complaint, plaintiffs alleged that they have no means of knowing definitely to whom they should pay rentals - whether to defendant Angela M. Butte or defendant Francisco E. Fernandez.

In answer to plaintiffs' complaint defendant Francisco E. Fernandez alleged among others that pending determination of the conflicting claims involved in the case he was granted an ad interim authority to collect and deposit with the court the rentals due on the subject property which authority was allegedly upheld by the Court of Appeals in its decision of July 17, 1970 in CA-G.R. No. 44341-R entitled Angela M. Butte vs. Francisco E. Fernandez. On the other hand defendant Angela M. Butte claims that being the owner of the 10-door apartment in question, she has every right to collect the rents of the property.

On October 29, 1969, private respondent Francisco E. Fernandez filed a Third-Party Complaint against the third-party defendants (petitioners herein) who are the lessees of the remaining doors of the 10-door apartment because of their refusal to recognize the authority of private respondent Francisco E. Fernandez to collect the rents on the doors leased by them. The third-party defendants who are now the petitioners herein filed with the respondent court a "Motion to Strike Out And/Or To Dismiss The Third-Party Complaint" filed by Francisco E. Fernandez on the ground that the filing of said Third-Party Complaint against them is in violation of the express

provisions of Section 12, Rule 6 of the Revised Rules of Court and not in accord with established jurisprudence on the matter and on the further ground that said Third-Party Complaint does not state any cause of action.

On November 14, 1969 private respondent Francisco E. Fernandez filed his opposition to petitioners' Motion to Strike And/Or To Dismiss The Third-Party Complaint. The motion of petitioners To Strike Out And/Or To Dismiss the third-party complaint, was denied by the Court a quo on November 17, 1969, and upon receipt of the order of denial petitioners filed a Motion for Reconsideration of the same. This motion for reconsideration was likewise denied on May 18, 1970.

In due time petitioners appealed to the Court of Appeals and sought (1) to annul and set aside the Order of the respondent Judge dated November 17, 1969 denying their Motion to Strike Out and/or Dismiss the Third-Party Complaint and its Order of May 18, 1970 denying their motion for reconsideration; (2) the dismissal of the Third-Party Complaint of October 28, 1969; and (3) to prohibit and restrain the respondent Judge from proceeding with the hearing of the said Third-Party Complaint and/or said Civil Case No. Q-13297.

On January 20, 1971, the respondent Court of Appeals rendered its decision dismissing the petition and dissolved the writ of preliminary injunction previously issued. A motion for reconsideration filed by petitioners was denied on February 16, 1971 by respondent Appellate Court. Hence this petition for certiorari.

In ruling for the private respondents, the Court of Appeals stated:

"The focal issue in this petition is whether or not the respondent Judge has committed a grave abuse of discretion in allowing the defendant Francisco E. Fernandez in Civil Case No. Q-13297 (now respondent herein) to file a third-party complaint against the third-party defendants. It is well-settled in our jurisdiction that the admission of third-party complaint is discretionary with the court. The exercise of this discretion should of course be guided by well-established doctrines promulgated by our courts. In the same case cited by the petitioners this Court held that:

'Leave to bring in a third-party should be granted only if it will result in simplifying procedure, expediting the litigation and reducing expenses. (J.M. Tuason & Co., Inc. vs. Puno, CA-G.R. No. 25474-R, May 31, 1966).'

Also in another case we held that:

'Rule 6, Sec. 12, allows third-party complaint in order to minimize the number of lawsuits and avoid the necessity of bringing two or more actions involving the same subject matter. (Republic of the Philippines vs. Cleofe Ramos, et al., CA-G.R. No. L-18911, April 27, 1967).'

Will the filing of the third-party complaint against the third-party defendants result in simplifying procedure, expediting the litigation, and reducing expenses of the parties in the present controversy? If it will, then definitely the respondent court has not abused its discretion in denying the motion of petitioners to strike out and or dismiss the third-party complaint filed against them. It is admitted that both the plaintiffs and the third-party defendants (who are petitioners herein) are the common lessees of the 10-door apartment the ownership of which is being litigated between defendant Angela M. Butte and third-party plain-tiff Francisco E. Fernandez. As such lessees they have the same problem of determining the right person to whom they should pay the corresponding rents of the particular doors they are occupying. Because of the raging conflict between the defendant Angela M. Butte and third-party plaintiff ultimately they would resort to an action for interpleader against the conflicting claimants of the subject property. To require each of the petitioners to file an action for interpleader against the conflicting claimants of the subject property will undoubtedly go against the rule on multiplicity of suits. On the other hand by allowing the filing of the third-party complaint against the petitioners, the latter will not only be spared of the trouble of filing an action for interpleader. It will likewise save the third-party plaintiff from filing the necessary action for the collection of rents in case the respondent court finally decides that said party-plaintiff is the one

entitled to collect the rents on the subject property. In our assessment of the facts and circumstances, we are convinced that the respondent court did what it considered was necessary to shorten the litigation between the parties by allowing the settlement of related or similar problems confronting them in one single proceeding and avoiding multiplicity of actions. Certainly, this actuation cannot be challenged as an abuse of discretion, much less a grave one."

Petitioners contending that the Appellate Court mis-applied the applicable rule, and insisting that the "Third-Party Complaint" in Civil Case No. Q-13297, does not fall within the context of Section 12 of Rule 6 of the Revised Rules of Court and that the court a quo in admitting the aforesaid "third-party complaint" gravely abused its discretion, now raises those questions to Us for review.

I

Section 12 of Rule 6 of the Revised Rules of Court[1] authorizes a defendant to bring into a lawsuit any person "not a party to the action * * * for contribution, indemnity, subrogation or any other relief in respect of his opponent's claim". From its explicit language it does not compel the defendant to bring the third-parties into the litigation, rather it simply permits the inclusion of anyone who meets the standard set forth in the rule. The secondary or derivative liability of the third-party is central - whether the basis is indemnity, subrogation, contribution, express or implied warranty or some other theory. The impleader of new parties under this rule is proper only when a right to relief exists under the applicable substantive law.[2] This rule is merely a procedural mechanism, and cannot be utilized unless there is some substantive basis under applicable law.[3]

Apart from the requirement that the third-party complainant should assert a derivative or secondary claim for relief from the third-party defendant, there are other limitations on said party's ability to implead. The rule requires that the third-party defendant is "not a party to the action" for otherwise the proper procedure for asserting a claim against one who is already a party to the suit is by means of counterclaim or cross-claim under sections 6 and 7 of Rule 6. In addition to the aforesaid requirement, the claim against the third-party defendant must be based upon plaintiff's claim against the original defendant (third-party claimant). The crucial characteristic of a claim under section 12 of Rule 6, is that the original "defendant is attempting to transfer to the third-party defendant the liability asserted against him by the original plaintiff." [4]

In *Capayas vs. Court of First Instance*[5] this Court enunciated the same principle, when the court ruled: "* * * when the law says that a third-party complaint may be filed with leave of court, it refers to a complaint that alleges facts which prima facie show that the defendant is entitled against the third-party defendant to contribution, etc., etc. Otherwise the court can not legally grant leave to a defendant to file it, because it would not be a third-party complaint. * * *. The test to determine whether the claim for indemnity in a third-party complaint, 'in respect to plaintiff's claim' is, whether it arises out of the same transaction on which the plaintiff's claim is based, or the third-party's claim, although arising out of another or different contract or transaction; is connected with the plaintiff's claim."

The requirement that for a third-party complaint to be available the third-party defendant must be liable secondarily to the original defendant in the event that the latter is held liable to the plaintiff was reiterated in *Commercial Bank & Trust Company of the Philippines vs. Republic Armored Car Service Corp.*[6] where this Court thru Justice Labrador ruled that "a third-party complaint is, under the Rules, available only if the defendant has a right to demand contribution, indemnity, subrogation or any other relief from the supposed third-party defendants in respect to the plaintiff's claim."

Absent therefore in the case at bar the nexus between petitioners as third-party defendants and Francisco E. Fernandez, the third-party plaintiff, showing the existence of a secondary or derivative liability of the former in

favor of the latter "in respect of his opponent's claim" the third-party action would not be proper.

On the issue therefore, as to whether or not section 12 of Rule 6 of the Rules authorizes a defendant to bring into the case any person not a party to the action, who is not secondarily liable to said defendant for contribution, in-demnity, subrogation or any other relief in respect to the claim of the plaintiff against the defendant, the answer appears plain. In the context of the aforecited rule and applicable jurisprudence the answer must be in the negative.

II

Countervailing policy considerations however in view of the factual environment such as the equity rule against multiplicity of suits precludes Us from reversing the challenged decision.

As aptly stressed by the Appellate Tribunal, "it is admitted that both the plaintiffs and the third-party defendants* * * are the common lessees of the 10-door apartment the ownership of which is being litigated between defendant Angela M. Butte and third-party plaintiff Francisco E. Fernandez. As such lessees they have the same problem of determining the right person to whom they should pay the corresponding rents of the particular doors they are occupying. Because of the raging conflict between the defendant Angela M. Butte and third-party plaintiff ultimately they would resort to an action for interpleader against the conflicting claimants of the subject property. To require each of the petitioner to file an action for interpleader against the conflicting claimants of the subject property will undoubtedly go against the rule on multiplicity of suits. * * * In our assessment of the facts and circumstances, We are convinced that the respondent court did what it considered was necessary to shorten the litigation between the parties by allowing them in one single proceeding and avoiding multiplicity of actions." The correctness of this factual observation cannot be seriously disputed. Of course petitioners suggest that the question as who should be entitled to collect the rentals of the apartment must be ventilated in the case for rescission and damages between Angela M. Butte and Francisco E. Fernandez, pending before another court, but such a suggestion does not solve the problem. It cannot be denied that Civil Case No. Q-13292, subject of this appeal by certiorari, presents only one question, and that is - who of the defendants therein are entitled to collect the rentals? Undoubtedly, it would be to the interests of all concerned, if all of the tenants of the 10-door apartment were included in the suit. The findings of the Appellate Court that petitioners are all common lessees of the apartment is conclusive upon Us. The inclusion of the other tenants would necessarily do away and avoid the filing of independent actions. With the inevitable trouble, expense and loss of time it would entail. The leading principle in our system of procedure is the avoidance of multiplicity of suits and whenever possible, to permit and sometimes require the parties to thresh out in one litigation all claims which arise out of the same transaction.

Faithful adherence to the aforecited principle compels Us to view the inclusion of petitioners not as third-party defendants but as proper parties in the action because "there is a question of law or fact common to the right or duty in which" they are "interested and another right sought to be, enforced in the action." [7] The act of the court a quo in permitting their joinder is sanctioned by section 6 of Rule 3 of the Revised Rules of Court. Section 6, which is taken from Rule 20 (a) and (b) of the Federal Rules of Civil Procedure, "is based on trial convenience and is designed to permit joinder of plaintiffs or defendants whenever there is a common question of law or fact." [8] Since rules on joinder of parties must be allowed considerable flexibility to meet the requirements of justice and convenience and considering the broad discretion of the Courts in determining who are properly to be joined, the action of the trial court in the case bar allowing the joinder of petitioners, to settle in the most convenient manner the question as to whom the tenants should pay the rentals, in one single proceedings could not therefore be considered as a grave abuse of discretion.

WHEREFORE , finding no error in the decision of the Court of Appeals now under review, the petition is hereby

dismissed. Without costs.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Esguerra, JJ., concur.

Makasiar, J., reserves his vote.

[1] This rule is from Section 1 of Rule 12 of the old Rules, which in turn was taken from Section 1 of Art. 13, of the Rules of Civil Procedure by the American Judicature Society in combination with Rule 14(a) of the Federal Rules of Civil Procedure. (Cf. I Moran, Rules of Court, 1958 Ed., p. 184.)

[2] General Dynamics Corp. vs. Adams, C.A. 5th, 1965, 340 F.2d 271. Travelers Ins. Co. vs. Busy Elec. Co., C.A. 5th 1961, 294 F.2d 139. Godlawr, Inc. vs. Shubert, C.A. 3d, 1960, 276 F.2d 614. Brown vs. Cranston, C.A. 2d, 1942, 132 F.2d 631, 148 A.L.R. 1178, certiorari denied 63 S. Ct. 1028, 319 U.S. 741, 87 L.Ed. 1968. Behar vs. Savard, D.C.N.Y. 1958, 21 F.R.D. 367, 369.

[3] Kantlehner vs. U.S., D.C.N.Y. 1967, 279 F. Supp. 122.

[4] Wright & Miller, Federal Practice and Procedure: Civil, Vol. 6, p. 257, citing: U.S. Fidelity & Guar. Co. vs. American State Bank, C.A. 10th, 1967, 372 F.2d 449. U.S. vs. Hutchins, D.C. Or. 1969, 47 F.R.D. 340. U.S. vs. Mullins, D.C. Va. 1964, 228 F. Supp. 748. Non-Ferrous Metals, Inc. vs. Saramar Aluminum Co., D.C. Ohio 1960, 25 F.R.D. 102.

[5] 77 Phil. 181.

[6] 8 SCRA 425.

[7] "In general it can be said that a proper party is one who may join as plaintiff or be joined as defendant because there is a question of law or fact common to the right or duty in which he is interested and another right sought to be enforced in the action. Here the joinder is permissive and is governed by Rule 20 * * *." (2 Moore's Federal Practice, p. 2135.)

[8] 2 Moore's Op. Cit., p. 2165.

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