

**KERAMIK INDUSTRIES, INC., PETITIONER, VS. HONORABLE
BUENAVENTURA J. GUERRERO IN HIS OFFICIAL CAPACITY AS THE
PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL,
BRANCH XXIV...**

G.R. No. L-38866. November 29, 1974

Ponente: AQUINO, J.

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AQUINO, J.:

Keramik Industries, Inc. (Keramik for short), in this special civil action for certiorari, seeks to annul the dated May 31, 1974 of the Court of First Instance of Rizal, Pasig Branch XXIV, denying its motion to file an amended complaint in Civil Case No. 16540. The certiorari action is based on the following salient allegations of the petition and its annexes:

On October 7, 1964, Keramik obtained a loan of two million four hundred thousand pesos (P2,400,000) the Government Service Insurance System (GSIS). As security, it mortgaged to the GSIS certain lands, buildings, machineries and equipment used in its ceramic business.

After Keramik's default, the GSIS extrajudicially foreclosed the real and chattel mortgages. The mortgaged properties were sold at public auction on March 2, 1971 to satisfy the claim of the GSIS amounting to P3,461,138.09. The GSIS, as the highest bidder, bought them for P5,129,145.

On August 17, 1972 Keramik sued the GSIS. It asked for the nullification of the extra judicial foreclosure due to supposed irregularities. In the alternative, it prayed that the GSIS be ordered to pay to it the sum of P1,668,006.91 which amount allegedly constitutes the difference between the GSIS bid of P5,129,145 at the foreclosure sale and the actual mortgage debt of P3,461,138.09. Other minor reliefs were sought. The GSIS answered the complaint. No pre-trial has as yet been held.

On March 26, 1974 Keramik filed a motion for the admission of its amended complaint. The amendment refers to the insurance in the sum of P2,400,000 which Keramik had allegedly secured from the GSIS for the mortgaged buildings, machineries and equipment. The insurance was an additional security for the loan. Keramik alleged that through inadvertence it failed to mention in its original complaint the insurance and the circumstance that the typhoon Yoling totally damaged the insured properties. Its alternative contention was that the proceeds of the insurance and the excess premiums paid should be deducted from its indebtedness because the GSIS was in effect both the insurer and the insured.

The GSIS opposed the admission of the amended complaint on the ground that the amendment altered the plaintiff's causes of action by supposedly injecting "new, distinct and entirely foreign causes of action".

The lower court, in its minute order dated May 31, 1974, sustained the opposition and denied the admission of the amended complaint.

Keramik then filed the instant special civil action of certiorari. It contends that the lower court acted with grave abuse of discretion in not admitting its amended complaint.

We hold that the trial court committed a grave abuse of discretion in not allowing Keramik to amend its complaint. Keramik's alternative cause of action is predicated on the major premise that the GSIS, as mortgagee, should not enrich itself unjustly at its expense. Although not so explicitly and succinctly spelled out in its complaint, Keramik's theory is that the mortgaged properties and the proceeds of the insurance were more than sufficient to cover its aggregate debt to the GSIS and, therefore, the latter, as bidder at the foreclosure sale, should refund to the mortgagor the excess or "the difference between the price at which the foreclosed property was bought and the actual indebtedness of defendant" (should be plaintiff). (Par. 3 of prayer of original and amended complaints, Annexes A and C of the petition).

The allegations in the amended complaint regarding the insurance for the mortgaged properties did not change at all Keramik's theory of the case and did not introduce a new cause of action. As may be seen from the original and amended complaints, the causes of action remained the same. The prayers of the two complaints are identical verbatim et literatim.

The new matter concerning the insurance merely reinforced, amplified or enlarged Keramik's alternative cause of action for the recovery of the surplus or excess (See sec. 4, Rule 68 of the Rules of Court). Whether Keramik's theory is sustainable would depend on the evidence and the applicable substantive law.

To deny the admission of Keramik's amended complaint would constrain it to bring a separate action for the purpose of compelling the GSIS to credit the proceeds of the insurance against its mortgage debt. That remedy would be repugnant to the rule which discourages multiplicity of suits. A separate action for that purpose would amount to splitting a cause of action. "It is a cherished rule of procedure that a court should always strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation" (Marquez vs. Marquez, 73 Phil. 74, 78).

The allowance of the amendment would be in the furtherance of justice and would not prejudice at all the GSIS or place it at a disadvantage since it could controvert the new matters constituting the amendment in an amended answer and during the trial (See Shaffer vs. Palma, L-24115, March 1, 1968, 22 SCRA 934; Rubio vs. Mariano, L-30404, January 31, 1973, 49 SCRA 319)

Wherefore, the trial court's order of May 31, 1974 is set aside and it is directed to admit petitioner's amended complaint dated March 20, 1974. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Fernandez, JJ., concur.

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