

TRIMICA, INCORPORATED, PETITIONER, VS. POLARIS MARKETING CORPORATION AND THE HON. DELFIN B. FLORES IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH XI, A...*G.R. No. L-29887. October 28, 1974*

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5a59e18cfd30/>**AQUINO, J.:**

Trimica, Inc. filed this special civil action of certiorari in order to set aside the decision of the Court of First Instance of Rizal, Pasig Branch XI, ordering it to pay Polaris Marketing Corporation (Polaris for short) the sum of P7,057.78 with twelve percent interest per annum from June 13, 1965 until fully paid. The facts of the case are as follows:

On October 27, 1966 Polaris sued the House of Fine Furnitures, Inc. (hereinafter called Fine Furnitures) in the municipal court of Makati, Rizal for the recovery of the price of foam products. Fine Furnitures, through its counsel, Francisco Capistrano, Jr., filed an answer, denying that it purchased foam products from Polaris and alleging that it never received the items mentioned in the complaint. Its counsel did not appear at the trial. On the basis of the evidence adduced by Polaris, the municipal court rendered a judgment ordering Fine Furnitures to pay Polaris the sum of P7,057.78 plus twelve percent interest per annum from June 13, 1965 and P1,764.45 as attorney's fee.

Fine Furnitures, through Attorney Capistrano, appealed to the Court of First Instance of Rizal. A trial de novo was held (that was before Republic Act No. 6031 amended section 45 of the Judiciary Law). After Polaris had offered its evidence, Fine Furnitures presented as witnesses Capistrano and Constantino B. Torre, the storekeeper of Trimica, Inc.

Torre testified that the foam products, which according to the complaint were sold to Fine Furnitures, were actually received and utilized by Trimica, Inc. Capistrano, testifying on self-interrogation, revealed that he was the secretary of Fine Furnitures and at the same time the president of Trimica, Inc. and that the two companies had offices in his residence at 1831 Otis Street, Paco, Manila.

Capistrano further testified that he was informed by the production manager of Trimica, Inc. that, inasmuch as Polaris could give only a maximum credit of five thousand pesos to a customer, it was arranged that Polaris should extend credit to Fine Furnitures so that Trimica, Inc. could buy more materials on credit from Polaris by using the name of Fine Furnitures. He said that he stopped that practice. The production manager was later dismissed due to anomalies.

In view of that disclosure, Judge Delfin B. Flores on June 13, 1968 ordered Polaris to amend its complaint within five days by impleading Trimica, Inc. He gave Capistrano five days to file an opposition. On June 17, 1968 Polaris filed its amended complaint by joining Trimica, Inc. as a defendant and by alleging that Trimica, Inc. and

Fine Furnitures Were solidarily liable for the price of the foam products. Capistrano did not file any opposition.

The amended complaint, was admitted by Judge Flores on July 22, 1968. On August 3, 1968 he rendered the decision already mentioned, absolving Fine Furnitures from any liability and ordering Trimica, Inc. to pay Polaris' claim. Judge Flores reasoned out that Trimica, Inc. profited from the foam products and did not return them to Polaris when Capistrano allegedly stopped the practice of using the name of Fine Furnitures.

On October 9, 1968, after the judgment had become final, Trimica, Inc., through Romelito J. Toledo (a lawyer whose office address was 610 Don Santiago Bldg., Taft Avenue, Manila while Capistrano's office address was Suite 604 in the same building) filed a motion to set aside the judgment against it on the ground that the judgment was void for lack of due process since Trimica, Inc. was never summoned.

Judge Flores denied the motion. He observed that Trimica, Inc. had been given its day in court through Capistrano, its president, and that to retry the case would just be a waste of time because of Capistrano's admission that Trimica, Inc. had used the foam products. Judge Flores noted that the decision had already become final.

Trimica, Inc., through Toledo, its lawyer, moved for the reconsideration of the order denying its motion to set aside the decision. It argued that Capistrano's personality is distinct from that of Trimica, Inc.; that it was necessary to summon Trimica, Inc. in order that jurisdiction could have been acquired over it; that the amended complaint constituted a change of theory which could not be allowed in an appeal from the municipal court to the Court of First Instance, and that the service of the decision on Capistrano was not binding on Trimica, Inc.

Judge Flores denied the motion and ordered the execution of the judgment. This Court enjoined the execution after Trimica, Inc. had filed its petition for certiorari and had posted a bond in the sum of five hundred pesos.

Polaris, in its hardly legible answer to the petition, adopted the trial court's theory that, because of Capistrano's appearance in court and because of his aforementioned admission, which was the basis of the amended complaint, Trimica, Inc. was not denied due process. Polaris contended that petitioner's remedy was appeal and not certiorari and that the petition was dilatory in character.

We are of the opinion that the judgment against Trimica, Inc. was void for lack of jurisdiction and lack of due process and that the judgment could be attacked directly although it had allegedly become executory (2) Moran's Comments on the Rules of Court. 1970 Ed. 200, 245-6; Rueda vs. Juan, 106 Phil. 1069, 1972; Banco Espanol-Filipino vs. Palanca, 37 Phil. 921, 949; Anuran vs. Aquino, 38 Phil. 29).

No jurisdiction was acquired over Trimica, Inc. because it was never summoned. The appearance in court of its president, Capistrano, was in the capacity of counsel for Fine Furnitures and not as representative or counsel of Trimica, Inc. Hence, such appearance cannot be construed as a voluntary submission of Trimica, Inc. to the court's jurisdiction. (Johnlo Trading Co. vs. Flores, 88 Phil. 741, 743).

The lower court, in its order admitting the amended complaint, should have ordered that the new defendant, Trimica, Inc., be summoned in order that jurisdiction could be acquired over it and so that it could answer the amended complaint and have a chance to be heard. Where the defendant had not been summoned, the court did not acquire jurisdiction over his person. The judgment against him is void. (Echevarria vs. Parsons Hardware Co., 51 Phil. 980; Reyes vs. Paz and Judge of First Instance, 60 Phil. 440; Cañeda vs. Court of Appeals, 62 O.G. 1179, 5 SCRA 1131).

The fact that Capistrano, the president of Trimica, Inc., appeared in court as counsel for Fine Furnitures and was aware of the joinder of Trimica, Inc. as a defendant, was not a valid excuse for dispensing with the rudimentary

requirements that Trimica, Inc. should be summoned, that a copy of the amended complaint should be served upon it in due course, that it should be afforded an opportunity to file an answer with defenses and that a trial should be held to determine its liability.

Those indispensable ingredients of due process or fundamental fairness were not expendable and could not be sacrificed on the altar of expediency on the pretext that a pragmatic approach and a speedy administration of justice demanded that technicalities should be jettisoned and that procedural shortcuts be tolerated.

Procedural requirements; which have often been disparagingly labelled as mere technicalities, have their own valid *raison d'être* in the orderly administration of justice. To summarily brush them aside may result in arbitrariness and injustice.

Trimica, Inc. invoked the rule that the parties in a case appealed from the municipal or city court to the Court of First Instance cannot in their new pleadings change the nature of the causes of action or defenses (*Yu Lay vs. Galmes*, 40 Phil. 651). Under the peculiar facts of this case, it would not be just to apply that rule because Capistrano himself had supplied the justification for allowing Polaris to rectify its cause of action against Fine Furnitures and for impleading Trimica, Inc. which appears to be the real obligor.

WHEREFORE, the trial court's decision dated August 3, 1968 (Annex J of the petition) is set aside. The case is remanded to the lower court with the instruction that petitioner Trimica, Inc. be duly summoned and given an opportunity to present its side of the case. No Costs.

SO ORDERED.

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

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