

EFRENCIA TAMO, PETITIONER, VS. HON. LEOPOLDO B. GIRONELLA, CFI OF ABRA, CLARO GONZALES, NENEC TRONCO AND MARTIN PISCO, RESPONDENTS.*G.R. No. L-41714. October 29, 1976*

Ponente: TEEHANKEE, J.

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The Court sets aside respondent judge's summary judgment dismissing the case as an arbitrary action devoid of basis in fact and in law. Respondent judge plainly disregarded the fundamental rule that where there are issues of fact joined by the parties as in this case, summary judgment may not issue, for it cannot take the place of a trial wherein the parties may submit their respective evidence for determination of the true facts by the trial court. If all the factual averments of the complaint were admitted by defendant at the pre-trial as self-contradictorily stated by respondent judge in another part of his summary judgment, then he should have rendered judgment for the plaintiff (petitioner) instead of dismissing the case on a flimsy "legal" ground. Respondent judge and his stenographer are further required to answer petitioner's charge that they failed and refused to furnish her counsel with a copy of the transcript of the pre-trial proceedings.

In a complaint for "Declaration of Ownership and (to) Quiet Title" filed on March 25, 1975 by petitioner as plaintiff against private respondents as defendants in the Abra court of first instance presided by respondent Judge Leopoldo B. Gironella (docketed as Civil Case No. 855), petitioner alleged that she is the owner of the 5,197-square meter riceland subject of the complaint, having inherited it from her father who had purchased it in 1925 and had since then been in possession thereof as owner.

An earlier case filed by her against one Patricia Arias and respondent Claro Gonzales, mayor of Bucay, Abra (where the land is situated) to quiet title against therein defendants who were disturbing her possession and ownership (docketed as Civil Case No. 743) was dismissed without prejudice for failure to appear. Petitioner refiled the action against Patricia Arias alone (docketed as Civil Case No. 781) and after said Arias interposed no adverse claim to the land in her answer, respondent judge rendered his decision of October 16, 1974 on the pleadings "declaring the (petitioner) as the true and absolute owner of the property".

Petitioner alleged further in her present complaint that respondent Claro Gonzales "knew very well civil case No. 743 as he was no less than one of the defendants, and same thing with civil case No. 781, despite which, being as he is very familiar with the land and the decision of the court favorable to the plaintiff, maliciously and in bad faith bought the land from Patricia Arias, his co-defendant in civil case No. 743, for the sum of P2,000.00, according to information, and subsequently mortgaged, according also to information, the land to the defendant Nenec Tronco and her husband Martin Pisco, who are mortgagees in bad faith because the plaintiff had been warning them not to enter into any transaction on the land with Claro Gonzales, because said land is her property," and that "in the year 1967, Patricia Arias and Claro Gonzales grabbed (the land)".[1]

Petitioner therefore prayed for judgment against respondents: (1) ordering them to "respect" the earlier decision in

Civil Case No. 781 recognizing petitioner as "true and absolute owner of the property"; (2) ordering them to deliver the land to petitioner and "to abstain from molesting (her) in the peaceful possession and enjoyment of the land;" and for P3,000.00 in damages.

In respondents' answer, they "admitted the legal capacity and residence of the parties and the fact that Claro Gonzales was a co-defendant in Civil Case No. 743; and specifically denied the rest of plaintiff's allegations".[2]

Respondent judge held a pre-trial on August 29, 1975 at which the parties and their counsels (except respondents Nenec Tronco and Martin Pisco) were present.

According to petitioner, at the pre-trial "the court motu proprio had been discussing the complaint, stating that it was a mere legal question, to wit, whether Claro Gonzales was bound or not bound by the decision in Civil Case No. 781, in favor of Efren Tamo, he not being a party thereof. The resolution of the court was that Claro Gonzales was not a party, and therefore not bound by said decision, so on this ground the court dismissed the case in open court dictating a short order to the stenographer to the effect".[3] Petitioner further averred that what was issued by respondent judge was not a "short order" but a decision of five pages "adding facts and attributing to parties acts which they did not make" so as "to bar the petitioner from proving her side through a trial on the merits".[4]

Petitioner's counsel further makes the serious charge under oath that "(T)he undersigned requested the stenographer to furnish him a transcript of the pre-trial on August 29, 1975, including that order dictated to her immediately after the court had discussed his views on the merits of the complaint, but she refused to give a transcript of the order, and upon insisting why she refused, she stated that when she presented the order for the signature of the respondent judge, said judge crossed it, and changed it with the decision, but that any way it is substantially the same. The undersigned counsel, however, finds it to be not substantially the same."[5]

Respondent judge in his five-page decision restated the parties' contentions as follows:

"Plaintiff's contention: Since defendant Claro Gonzales knew or was aware of Civil Cases Nos. 743 and 781 and judgment adjudicating ownership in favor of the plaintiff had already become final, plaintiff is the true and absolute owner also as against defendant Claro Gonzales.

"Defendant Claro Gonzales thru counsel admitted all the facts stated by the plaintiff but maintained that he is not bound (by) the final judgment rendered in Civil Case No. 781 with which plaintiff predicates her title against him because he is not a party in said case. Defendant forthwith moved for a summary judgment.

"The motion for summary judgment was opposed by plaintiff's counsel and insisted for trial to present evidence."

He then ruled, as against petitioner's insistence on the right to present evidence, that a summary judgment was in order as there was "no factual issue" and only "the legal issue whether (respondent) Claro Gonzales is bound by the judgment rendered in Civil Case No. 781 or not" and ordered the dismissal of the case, as follows:

"Upon consideration of the pleadings of both parties and further considering that all the facts as stated by the plaintiff during the pre-trial today were all admitted by the defendant Claro Gonzales leaving no factual issues to be resolved except the legal issue whether defendant Claro Gonzales is bound by the judgment rendered in Civil Case No. 781 or not, the Court believes that a summary judgment is in order and hereby grants the same.

"Anent plaintiff's insistence that defendant Claro Gonzales is bound by the judgment rendered in Civil Case No. 781 although not a party but knew or was aware of all the proceedings, the Court finds the contention devoid of any legal basis. In instituting any action, it is incumbent upon the plaintiff to bring all the parties who had any interest adverse to his/her claim. Failing to do this, any judgment rendered in his favor shall only bind

the parties and does not affect third parties. (Cases cited x x x)

"WHEREFORE, in view of the foregoing, the Court finds that there is no genuine issue between the parties as to any material fact and hereby renders a summary judgment ordering the dismissal of the case. Without pronouncement as to costs."[6]

Petitioner "just to suit the way (counsel) believes that the court or respondent judge wanted to be the allegations of the complaint" filed on September 1, 1975 an Urgent Motion for admission of an Amended Complaint which was filed on the same date.

Petitioner entitled her complaint simply one for "Reivindicacion", eliminated all specific reference to the previous cases and reasserted her ownership of the land "by succession and adjudication by a competent court in her favor" as against the conflicting claim of respondent Claro Gonzales and asked for judgment declaring her "the absolute and exclusive owner of the land", ordering said respondent to vacate and deliver the land to her and to pay her damages with costs.

In petitioner's Urgent Motion for admission of the Amended Complaint, her counsel explained that he "knows this elemental principle of law" that a judgment generally binds only the parties thereto as cited by respondent judge in his dismissal decision and asked for the admission of the Amended Complaint so that she may have a chance "to expose the truth" and establish her ownership of the land "so that justice be administered and given to the parties".

Respondent judge, however, inexplicably "considering that no leave of court was begged by counsel for the plaintiff to file an amended complaint" denied reconsideration and admission of the amended complaint "for lack of merit and not being in order", per his order of September 12, 1975.[7]

Going along with respondent judge's said order of denial (although he had in fact duly filed a motion for leave for admission of amended complaint as above referred to) petitioner's counsel filed still another motion on September 17, 1975 for leave, literally entitling the same "Motion begging for the admission of the Amended Complaint filed without asking first permission" obviously to satisfy respondent judge's own peculiar conception and perspective and praying "humbly that in the interest of justice and equity the Amended Complaint be admitted".[8]

This was all in vain, though - for respondent judge in his Order of September 30, 1976 denied the motion "finding the same not to be in order and for lack of merit" for the stated reason that "the case has been dismissed and said order was not reconsidered"

Hence, the petition at bar for annulment of respondent judge's decision of dismissal "so that either the original complaint be given due course or the amended (complaint) be admitted and the parties (enabled) to prove who of them is entitled to the ownership and possession of the land by the strength of their respective evidence in a trial on the merits".[9]

The petition is patently meritorious.

1. Respondent judge's summary dismissal of the case without trial on the misconception that there were no factual issues between the contending parties (as against his own statement in the same decision that respondent Claro Gonzales "specifically denied the rest of plaintiff's allegations" other than the parties' legal capacity and residence and that he was a co-defendant in Civil Case No. 743) was plainly issued without basis in fact and in law - and with grave abuse of discretion since it amounted to capricious and whimsical action.

The dismissal was without basis in fact - for in reality there exist materialfactual issues between the parties, viz, whether respondent Claro Gonzales "maliciously and in bad faith" bought the land from his co-defendant Patricia

Arias in the first case, knowing petitioner's claim of ownership which was eventually upheld by respondent court but that respondent Claro Gonzales nevertheless "grabbed the land" in 1967, as duly alleged by petitioner in her complaint and specifically denied by said respondent in his answer.

The dismissal was without basis in law - for it is clear from the Rule as well as from established doctrinal jurisprudence that a summary judgment can only be entertained and rendered where there are no genuine questions of fact in issue or where the material allegations of the pleadings are not disputed. As provided in the Rule, relief by summary judgment may be applied for, after the hearing for the purpose, "if the pleadings, depositions, and admissions on file together with the affidavits, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law".[10] Where there are issues of fact joined by the parties, as in the case at bar, neither one of the parties may pray for a summary judgment. Where the facts pleaded by the parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial wherein the parties may submit their respective witnesses and evidence in support of their respective factual contentions.[11]

2. Now if at the pre-trial "all the facts ... were all admitted by the defendant Claro Gonzales leaving no factual issues to be re-solved except the legal issue whether defendant Claro Gonzales is bound by the judgment in Civil Case No. 781 or not", as self-contradictorily stated by respondent judge in the latter part of his questioned decision, *supra*, [12] then the summary judgment that should have been rendered by him is not one of dismissal of the case but judgment for the petitioner (plaintiff) as prayed for in the complaint.

The legal issue would be, not as mistakenly perceived by respondent judge, whether respondent Claro Gonzales is bound by the earlier judgment against Patricia Arias (wherein Claro Gonzales was not a party), but whether given the facts as admitted by said respondent, petitioner is entitled to take judgment as a matter of law, since in such case her material averments of ownership of the land, including her muniments of title, and respondent's bad faith in having purportedly purchased the land from Patricia Arias who had no right thereto would be deemed as not in issue as a result of respondent's admission.

3. Respondent judge's orders denying reconsideration and admission of the amended complaint which at least would serve to clarify - contrary to his misconception - that there exist material issues of fact on the conflicting claims of the parties to ownership over the same land were equally capricious and whimsical. His first order of September 12, 1975 denying admission of the Amended Complaint for lack of leave of court was capricious because petitioner did file an Urgent Motion for leave and for admission, which he arbitrarily denied. His second order of September 30, 1975 still denying admission of the Amended Complaint notwithstanding that petitioner filed a second motion expressly "begging for admission" on the ground that "the case has been dismissed and said order was not reconsidered" is a classic example of *petitio principii*. He was precisely being begged for admission of the amended complaint and for reconsideration of his dismissal of the case (for alleged lack of leave), yet disregarded the very motion for leave and cited the very dismissal of the case and denial of reconsideration (for alleged lack of leave) for denying reconsideration.

The question of admission of the Amended Complaint - filed to suit respondent judge's thinking - becomes moot, however, in view of the result herein reached. Prescinding from the imperfections of the language of petitioner's complaint, it nevertheless adequately states petitioner's cause of action and the factual issues raised therein were specifically joined by respondent Claro Gonzales and the case must therefore go to trial for determination of the true facts and adjudication of the parties' conflicting claims.

The Court has gone to some length in discussing this elementary case because respondent judge's arbitrary actions sadly show either an unfamiliarity with the Rules of Court or a wanton distortion of their provisions,

which will not be tolerated or sanctioned. Here, petitioner has been unduly put to great effort, time and expense to seek just recourse from this Court. The Court's time and attention which could be well devoted to meritorious and truly controversial cases have thus been needlessly occupied by this unproductive matter - due to respondent judge's evident failure to exercise circumspect care and attention in adjudging the simple procedural issue confronting him.[13]

The refusal and failure of respondent judge and of his stenographer to furnish petitioner's counsel with a transcript of the pretrial and of the order issued in open court constitute misconduct and a gross denial of a litigant's rights, if true as charged by counsel. Respondent judge is required to explain within ten (10) days from notice hereof why he should not be administratively charged therefor. He is also directed to require his stenographer likewise to explain within the same period why said stenographer should not likewise be administratively charged for failure and refusal to furnish a party's counsel with a transcript of the proceedings in disregard of his right thereto.

ACCORDINGLY, judgment is hereby rendered setting aside respondent judge's decision dismissing the case and in lieu thereof, the case is ordered remanded to respondent court for trial and respondent judge or his successor is hereby directed to hear and determine the case on the merits, after reception of the parties' evidence, with due dispatch. Respondent judge and his stenographer are also directed to submit the explanation required in the preceding paragraph within the stated period. With costs against respondent Claro Gonzales.

SO ORDERED.

Makasiar, Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

[1] Rollo, pp. 18-19.

[2] Decision of Aug. 29, 1975, Rollo, page 6.

[3] Rollo, page 1.

[4] *Idem*, page 3.

[5] *Idem*, page 3.

[6] Note in parentheses and emphasis supplied.

[7] Rollo, page 27.

[8] Rollo, page 28.

[9] *Idem*, page 3; insertions supplied.

[10] Rule 34, sec. 3 which reads:

"SEC. 3. Motion and proceedings thereon. - The motion shall be served at least ten (10) days before the time specified for the hearing. The ad-verse party prior to the day of hearing may serve opposing affidavits. After the hearing, the judgment sought shall be rendered forthwith if the pleadings, depositions, admissions on file together with the affidavits, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law".

[11] See *Loreno v. Estenzo*, L-43306, per Martin, J., promulgated this month; *Auman vs. Estenzo*, L-40500, Feb. 27, 1976; *Constantino vs. Estenzo*, L-40403, July 31, 1974; *Ibañez vs. United Negros Sugar Co.*, 96 Phil. 980 (1955).

[12] At page 4 hereof.

[13] Cf. *Cucio vs. Court of Appeals*, 57 SCRA 64 (1974); and *Piedad vs. Batuyong*, 55 SCRA 763 (1974).

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