

MAXIMO SANTOS, BENJAMIN BAYONETA, JAIME SANTOS, MARIANO LAUREA, LADISLAO BAUTISTA, ROLAND FRAZIER, LUIS SANTOS, FLORENCIO FONTANILLA, ALFREDO SANTOS AND LEOPOLDO VICENTE, PLAINT...

G.R. No. L-28996. September 30, 1982

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

This is an appeal, perfected before the effectivity of Republic Act 5440, to set aside the order of the Court of First Instance of Rizal, dated September 16, 1967, dismissing the plaintiffs' complaint for failure to state a cause of action.

On November 3, 1966, the plaintiffs instituted an action for collection of separation pay, overtime compensation and vacation and sick leave benefits against their employer, General Woodcraft and Design Corporation and its officers, Romeo Gonzales and Nestor Marfori, chairman of the company's board of directors and president, respectively. Plaintiffs claimed that their services were terminated by defendants on October 3, 1966 without just cause.

In their answer, defendants alleged that they did not terminate the employment of plaintiffs, but they merely suspended their (defendants') business operations until their credit standing with suppliers of raw materials could have been reestablished. As affirmative defense, defendants advance that because of the existing employer-employee relationship between plaintiffs and the defendants, the former's claim for overtime pay, vacation and sick leave benefits are essentially labor disputes which fall within the jurisdiction of the Court of Industrial Relations, and not of the Court of First Instance. Hence, they prayed for dismissal of the complaint[1].

At the pre-trial conference on August 9, 1967, the trial court noted that plaintiffs' complaint contained no clear and categorical allegations as would entitle them to overtime pay and to sick vacation leave. The court thus required plaintiffs' counsel to file, within ten days from August 9, 1967, a motion to amend the complaint. It appears, however, that the 10-day period lapsed without the plaintiffs' having filed the required motion for amendment.

On September 14, 1967, defendants moved to dismiss the complaint on grounds that it failed to state a cause of action, and that plaintiffs were not entitled to separation and overtime pay and to vacation and sick leave benefits[2].

Acting on this motion, the trial court issued an order dated September 16, 1967, dismissing the complaint because it "fails to state a cause of action, there being no showing that plaintiffs are entitled to overtime pay and to vacation and sick leaves."

Hence, this appeal.

We have carefully scrutinized the plaintiffs' complaint and while the same is unskillfully drafted, its allegations nevertheless sufficiently assert certain rights against the defendants and likewise state that demands for such rights had not been complied with. We share the lower court's observation that the complaint is deficient in the material details with respect to the factual bases of each and every item of the plaintiffs' claims. This deficiency, however, does not amount to a failure to state a cause of action. It is curable by amendment of the complaint or by a motion for bill of particulars.

Upon this premise, the trial court acted properly in ordering the plaintiffs to amend their complaint to make the claims asserted more definite and certain. Since the plaintiffs failed to comply with the order, the court a quo acted within its prerogative in dismissing the complaint, pursuant to Section 3, Rule 17 of the Rules of Court, which provides that:

"If the plaintiff fails to appear at the time of the trial, or to prosecute his action for unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless provided by the court." (Underscoring supplied).

in relation to Section 1, par. (c) of Rule 12 that:

"If an order of the court to make a pleading more definite and certain or for a bill of particulars is not obeyed within ten (10) days after the notice of the order or within such other time as the court may fix, the court may order the striking out of the pleading to which the motion is directed or make such other order as it deems just.
x x x."

Thus, in *Bautista vs. Teodoro, Jr.*[3], this Court held that:

"Where the plaintiff is ordered either to amend the complaint or to file a bill of particulars within ten days from receipt of notice and an extension of two weeks granted by the Court and plaintiff fails to comply with said order, the action may be dismissed upon motion of the defendant or upon the Court's own motion pursuant to Section 3, Rule 30 and Section 3, Rule 16 of the Rules of Court (now Sec. 3, Rule 17 and Sec. 1 (c), Rule 12 of the Rules of Court)."

The lower court, therefore, cannot be faulted for dismissing the complaint. Such dismissal, however, should not operate as an adjudication on the merits as to bar the plaintiffs, who are employees and laborers of defendant company, from further enforcing their rights under the law. It is in the interest of justice that they be allowed to refile their claims with the Labor Arbiter who has now jurisdiction over their claims[4].

WHEREFORE, the order of dismissal appealed from is hereby affirmed, without prejudice to the right of the plaintiffs to refile their claims before the Labor Arbiter and without bar by the statute of limitations. No costs.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, and De Castro, JJ., concur. Aquino, J., see dissent.

[1] pp. 9-12, Record on Appeal.

[2] pp. 19-21, *Ibid*.

[3] 101 Phil. 701.

[4] Section 3, PD No. 1691.

DISSENTING OPINION

AQUINO, J.:

I dissent with all due deference to the well-written opinion of Mr. Justice Escolin.

Judge Masakayan erred in ordering the amendment of the complaint of the ten pauper litigants and in dismissing it.

Although not expertly drafted, the complaint contains a sufficient cause of action for separation and overtime pay, a claim which was within the jurisdiction of the Court of First Instance at the time the action was filed (*Nobel vs. Cabije*, 117 Phil. 711).

I vote to reverse the order of dismissal and to order the lower court to try the case unless some supervening event has rendered the case moot.

It is unfortunate that the appeal in this case was buried in the mountain of thousands of cases which accumulated in this Court during the sixties and seventies. This Court's monumental problem is the monumental backlog of judicial, administrative and disbarment cases.

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