

BENVENENCIO VALENCIA, ET AL., PLAINTIFFS AND APPELLANTS, VS. THE CITY OF DUMAGUETE, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-17799. August 31, 1962

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a1a081cbc164/>

DIZON, J.:

It appears that on June 6, 1959, Benvenencio Valencia and 28 other residents of different municipalities of Negros Oriental filed an action against the City of Dumaguete S. L. Teves, Inc., Lorenzo Roberto and Eddie Go You Lee to recover from them the surcharges they had collected from the customers of four movie houses operated in Dumaguete City, pursuant to City Ordinance No. 76, Series of 1954, as amended. The complaint alleged, among other things, the following:

"5. That the subject matter of this case is one of common or general interest to about thirty (30) thousand persons residing in the different municipalities of Negros Oriental and the plaintiffs being so numerous it is impracticable to bring them all before the Court and for that reason only 29 of the plaintiffs, (chosen one from every municipality), appear in the title of this case in representation of all the others.

"6. That S. L. Teves, Inc. is the proprietor and operator of three movie houses or cinematographs operated in the City of Dumaguete known as "MAIN", "PARK", and "TOWN".

"7. Defendants Lorenzo Eoberto and Eddie Go You Lee, were the joint managers and operators of "Gets Theater", a cinematograph operated in Dumaguete City from September 30, 1955 to December 31, 1956.

"8. That in 1954 defendant, the City of Dumaguete enacted City Ordinance No. 76, series of 1954, which was amended by Ordinance No. 35, series of 1955, and required the operators, managers and proprietors of all cinematographs operated in Dumaguete City to collect from each and every movie-goer a surcharge of P.05 and P.10 in addition to the regular admission fee required from every person.

"9. That in pursuance of said ordinance, defendant S. L. Teves, Inc., upon pressure from defendant City of Dumaguete, exacted and illegally collected the sum of P.05 and P.10 as stated above in addition to the regular admission fee from each and every moviegoer, from July 1954 to December 1956, and was able to realize the total sum of not less than P59,433.54 from the three cinematographs named MAIN, PARK and TOWN; and, in like manner, defendants Lorenzo Roberto and Eddie Go You Lee collected and realized the sum of P50,000.58 from Gets Theater from October 1955 to December 31, 1956.

"10. That out of said sum of P59,433.54, collected from MAIN, PARK, and TOWN, defendant S. L. Teves Inc. turned over by way of deposits to defendant City of Dumaguete the sum of P47,344.14 on or about the middle of 1958 plus P6,017.60 delivered subsequently also by way of deposit, and retained in her possession the sum of P6,071.80 in trust for the lawful owneis thereof.

"11. That out of ths sum of P15,000.58 collected from Gets Theater, defendants Lorenzo Roberto and Eddie Go You Lee, in like manner, turned over to defendant, City of Dumaguete, the sum of P10,624.08 on or about

the middle of 1958, and shortly thereafter delivered also P598.65 corresponding to the collection made from September 1, 1956 to September 15, 1956, but retained in their possession the sum of P3,877.90 corresponding to the collection covering September 16, 1956 to December 31, 1956.

"12. That defendant City of Dumaguete did not have any authority or power to enact an ordinance imposing a surcharge of P.05 and P.10 per admission ticket in addition to the regular admission fee, and City Ordinance No. 76-S of 1954 and Ordinance No. 35-S of 1955 are illegal and null and void from the beginning and therefore the collection of said surcharge is ultra vires, illegal and null and void.

"13. That payment of said surcharge was forced upon the moviegoers who had no other alternative than to pay as required under protest.

"14. That knowing the illegality of said surcharge, and aware of the fraud committed to the public, defendants herein have stopped their nefarious and fraudulent exaction after December 31, 1956; but have not refunded the money collected to the owners thereof.

"15. That defendants have no right to keep or retain, much less use any of the sums abovementioned and are duty bound to return or refund said sums of money to the plaintiffs herein without delay, together with interests thereon."

On June 16, 1959, the City of Dumaguete filed a motion to compel the plaintiffs to amend their complaint or to submit a Bill of Particulars specifying therein with definiteness the following:

"a. The exact sum or sums of money that each and every plaintiff moviegoer is seeking to recover; the number of times he has attended cinematographic performance; the date and/or dates of his attendance; and the moviehouse where he attended on each particular date;

"b. The names of all the plaintiffs who paid the tax under protest, stating also the dates and the amounts that they paid under protest; and to whom such protests were made;

"c. The computation whereby the plaintiffs arrived at the amounts of P59,433.54 and P15,000.58."

On June 27, 1959, defendant S. L. Teves, Inc. filed its answer to the complaint denying its liability to the plaintiffs, and incorporating therein, as an affirmative defense, the motion for a bill of particulars filed by co-defendant City of Dumaguete. Defendant Eddie Go You Lee, for his part, moved to dismiss the complaint on the ground that the case is not a proper class suit.

On July 6, 1959, plaintiffs filed an opposition to the motion for a bill of particulars, alleging that the case is a class suit; that there were about 30,000 plaintiffs having a common or general interest in its subject matter, and that it would be impracticable and unnecessary to bring them all before the Court or to give out in detail all the names and personal circumstances of each and every individual plaintiff or the exact date or dates of payment and amounts collected individually from them by the defendants.

On July 14, 1959, the Court issued an order requiring the plaintiffs to comply with the motion for a Bill of Particulars either by amending their complaint accordingly, or submitting, within a period of ten days from notice thereof, a Bill of Particulars regarding the matters set forth in said motion.

On, July 31, 1959 plaintiffs filed an amended complaint with a motion for its admission. As in the original complaint, it was alleged therein, inter alia, that City Ordinance No. 76, Series of 1954, as amended, of the City of Dumaguete, was ultra vires, illegal and void and that plaintiffs had no alternative but to pay, as in fact they paid, the illegal surcharge imposed by said ordinance. New allegations, however, were made to the effect that defendants had "stopped their illegal and fraudulent collection after December 31, 1956" upon orders from the Secretary of Finance, but that they had failed to refund the money they had theretofore collected. A copy of the

ruling of the Secretary of Finance was attached to the amended complaint, as Annex C and the same enjoined the City Treasurer of Dumaguete "to desist from further collecting the taxes in question".

Considering the above stated circumstances, it seems clear that the validity of the city ordinance already referred to was no longer an issue before the lower court, the amended complaint having rendered the matter purely academic or moot. The case was one, therefore, exclusively for the recovery of the surcharges collected by the defendants from the 28 plaintiffs and their alleged more than 30,000 co-parties.

Section 12, Rule 3 of the Rules of Court—substantially the same as Section 118 of Act 190—provides that when the subjectmatter of an action is of common or general interest to many persons and these persons are so numerous that it is impracticable to bring them all before the court, one or more of them may sue for the benefit of all.

We have held heretofore that in an action where numerous defendants, individually occupying different portions of a big parcel of land, were sued as a class represented only by some of them, a class suit would not lie because each of the defendants had an interest only in the particular portion of the land he was actually, occupying, which was completely different from the other portions individually occupied by the other defendants' (*Berces vs. Villanueva*, 25 Phil. 473). Prior to this ruling we had also held that a class suit does not lie in actions for the recovery of real property where separate portions of the same parcel are occupied and claimed individually by different parties, to the exclusion of each other (*Rallonza vs. Evangelista*, 15 Phil. 531).

The case now before us is analogous to the two mentioned above in the sense that each one of the herein plaintiffs and each of the more than 30,000 other parties in interest referred to in the amended complaint, has an interest exclusively in the amounts allegedly collected from each of them by the defendants. Under the facts alleged in the amended complaint it is clear that no one plaintiff has any right to, or any share in the amounts individually claimed by the others, each of them being entitled, if at all, only to the return of what he had personally paid.

Moreover, assuming that the case is allowed to proceed as filed, and that judgment is rendered sentencing the defendants to pay the amounts claimed in the amended complaint, it is obvious that the plaintiffs—whether individually or as a group—would not be entitled to appropriate for themselves the amounts so adjudged. And yet, while the amended complaint avers that numerous other parties have an interest in the issue, it does not allege and specify the amounts claimed by, and payable to each of them nor to each of the plaintiffs named in the pleading.

All the foregoing considerations clearly support the order of the Jpwer court requiring the plaintiffs to submit a bill of particulars or to amend their complaint in the sense prayed for in the motion filed by the defendant City of Dumaguete.

Upon the other hand, pursuant to the provisions of Section 3, Rule 30 of the Rules of Court, an action may be dismissed when the plaintiff fails to comply with the Rules of Court or any order of the court. It being obvious in this case that appellants had failed to comply with the order of the lower court requiring them to submit a bill of particulars, the order of dismissal appealed from must be, as it is hereby, upheld. Without pronouncement as to costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Regala, and Makalintal, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.