

MANILA RAILROAD COMPANY, ET AL., PETITIONERS, VS. HON. ZOILO HILARIO, ETC., ET AL., RESPONDENTS.

G.R. No. L-14913. January 30, 1962

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Before the Court of First Instance of Tarlac, the Manila Railroad Co. and Andres Garcia were sued for damages for personal injuries on account of a collision, between its train (driven by Garcia) and the truck wherein Emilia de la Cruz (deceased wife and mother of plaintiffs) was riding. Defendants moved to dismiss on the ground of improper venue, because the complaint alleged: (1) residence of the plaintiffs in Nueva Ecija; (2) location of the Railroad's main office in Manila; and (3) residence of the other defendant in Manila.

The motion to dismiss was denied. Whereupon, the Railroad and its co-defendant filed this certiorari and prohibition proceeding alleging lack of jurisdiction and/or abuse of discretion.

It appears from the answer submitted here that immediately after the defendants had filed their motion to dismiss, plaintiffs amended their complaint on January 6, 1959, by alleging that one of them, Fortunato Pano was a resident of Paniqui, Tarlac. And on January 10, 1959, the respondent judge denied, as stated, the motion to dismiss, holding it to be not well taken.

Under the Rules, there being an allegation that one of the plaintiffs was a resident of Tarlac, the court of that province could not, at this stage, be prohibited to take cognizance of the litigation. (See Rule 5, sec. 1)

Petitioners here submitted certificates signed by the Chief of Police, and the Mayor of Paniqui to the effect that Fortunato Pano was not a resident of that town. But the papers should be exhibited to the trial court as evidence, if and when the defendants take their turn to present their side of the controversy.

In this connection, it should be remembered that the question here is venue, not jurisdiction. As to "abuse of discretion" there being an affirmative allegation before him that one of the plaintiffs resided in Paniqui, Tarlac, the trial judge may not certainly be charged with abuse for having accepted such allegation prima facie for the purposes of denying defendant's motion to dismiss. Specially because at that time the official certificates—which by the way are not conclusive—had not been shown to him.

His Honor made these pertinent remarks which, though not totally acceptable, may have some bearing on the matter of discretion, if any:

"It is true that railroad company, ordinarily is deemed to be a resident of, or domiciled in, the place where its principal business is transacted, but "for some purposes" it may be regarded as a resident of any city, province or town in which it has an office or place of business or wherein, its railroad is operated and it has an agent and a station, this interpretation being applicable where such application like in said civil case No. 3352 accomplishes the substantial purpose of the rule about venue, which is to give the plaintiff an opportunity to file easily his complaint, at the convenience of the witnesses in the place of collision and expediency of the

ocular inspection that may be needed."

Wherefore, petitioners having failed to make out a case for certiorari or prohibition, their petition is hereby dismissed. Without costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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