

GLORIA PAJARES, PETITIONER-APPELLANT, VS. JUDGE ESTRELLA ABAD SANTOS, MUNICIPAL COURT OF MANILA AND UDHARAM BAZAR CO., RESPONDENTS-APPELLEES.

G.R. No. L-29543. November 29, 1969

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

We dismiss as frivolous petitioner-appellant's appeal from the lower Court's Order of dismissal of her petition for a writ of certiorari with prayer for preliminary injunction against respondent judge's order denying her motion for a bill of particulars as the defendant in a simple collection case.

The origin of the case is narrated in the Court of Appeals' Resolution dated August 16, 1968 certifying the appeal to this Court as involving purely questions of law: -

"This is an appeal interposed by petitioner Gloria Pajares from the order dated July 21, 1962 issued by the Court of First Instance of Manila, dismissing her petition for certiorari with preliminary injunction against respondent Judge Estrella Abad Santos of the Municipal Court of Manila and respondent Udharam Bazar & Co.

"There is no dispute that on April 25, 1962, the Udharam Bazar & Co. sued Gloria Pajares before the Municipal Court of Manila for recovery of a certain sum of money. The lawsuit was docketed in the inferior court as Civil Case No. 97309 and was eventually assigned to the sala of the respondent Judge Abad Santos.

"In its complaint the Udharam Bazar & Co. averred, among others, as follows:

"2. That defendant in 1961, ordered from the plaintiff quantities of ready made goods and delivered to her in good condition and same were already sold, but did not make the full payment up to the present time;

"3. That defendant is still indebted to the plaintiff in the sum of P354.85, representing the balance of her account as the value of the said goods, which is already overdue and payable."

"Instead of answering the complaint against her, Gloria Pajares, however, moved for a bill of particulars praying the inferior court to require the Udharam Bazar & Co. to itemize the kinds of goods which she supposedly purchased from the said company, the respective dates they were taken and by whom they were received as well as their purchase prices, alleging that without this bill she would not be able to meet the issues raised in the complaint.

"After due hearing, the inferior court denied the motion of Gloria Pajares for a bill of particulars. Her motion for reconsideration having been denied too by the said court, she then brought the incident on certiorari to the Court of First Instance of Manila, alleging in support of her petition that in denying her motion for a bill of particulars, the respondent judge acted in grave abuse of discretion.

"But on July 19, 1962, herein respondent Udharam Bazar & Co. filed a motion to dismiss the petition for a writ of certiorari, as well as the petition for a writ of preliminary injunction, for the reasons: (1) that the allegations

of the complaint filed by the said company in the inferior court, particularly paragraphs 2 and 3 thereof, are clear, specific and sufficiently appraise the defendant, now herein petitioner Gloria Pajares, of the nature of the cause of action against her so as to enable her to prepare for her defenses; and (2) that the things asked for in the motion for a bill of particulars are evidentiary matters, which are beyond the pale of such bill. Convinced that the said motion of the company is well founded, the lower court accordingly dismissed the petition on April 21, 1962.

"Her subsequent motion for reconsideration having been similarly denied by the court below, Gloria Pajares undertook the present appeal to this Court, contending under her lone assignment of error to maintain her such appeal that the lower court erred in dismissing her petition for certiorari with preliminary injunction, in its order dated July 21, 1962, as amended by its order dated August 18, 1962.

"The only genuine issues involved in the case at bar are: (1) whether the allegations of the complaint sufficiently appraise Gloria Pajares of the nature of the cause of action against her; and (2) whether the items asked for by the said Gloria Pajares in her motion for a bill of particulars constitute evidentiary matters. To our mind these are purely legal questions. A perusal of the brief of the parties has shown that no genuine factual questions are at all involved in this appeal."

It is plain and clear that no error of law, much less any grave abuse of discretion, was committed by respondent judge in denying appellant's motion for a bill of particulars in the collection case instituted in the Municipal Court of Manila by private respondent-appellee for the recovery of her indebtedness of P354.85 representing the overdue balance of her account for ready-made goods ordered by and delivered to her in 1961. Appellee's complaint precisely and concisely informed appellant of the ultimate or essential facts constituting the cause of action against her, in accordance with the requirements of the Rules of Court.[1]

It was therefore improper for appellant, through her counsel, to insist on her motion that appellee as plaintiff "submit a bill of particulars, specifying therein in detail the goods represented by the alleged amount of P354.85, giving the dates and invoice numbers on which they were delivered to the defendant, the amount due on each such invoice and by whom they were received." These particulars sought all concerned evidentiary matters and do not come within the scope of Rule 12, section 1 of the Rules of Court which permits a party "to move for a definite statement or for a bill of particulars of any matter which is not averred with sufficient definiteness or particularly to enable him to prepare his responsive pleading or to prepare for trial."

Since appellant admittedly was engaged in the business of buying and selling merchandise at her stall at the Sta. Mesa Market, Quezon City, and appellee was one of her creditors from whom she used to buy on credit ready-made goods for resale, appellant had no need of the evidentiary particulars sought by her to enable her to prepare her answer to the complaint or to prepare for trial. These particulars were just as much within her knowledge as appellee's. She could not logically pretend ignorance as to the same, for all she had to do was to check and verify her own records of her outstanding account with appellee and state in her answer whether from her records the outstanding balance of her indebtedness was in the sum of P354.85, as claimed by appellee, or in a lesser amount.

The record shows, furthermore, that a month before appellee filed its collection case, it had written appellant a demand-letter for the payment of her outstanding account in the said sum of P354.85 within one week. Appellant, through her counsel, wrote appellee under date of March 23, 1962, acknowledging her said indebtedness but stating that "Due to losses she has sustained in the operation of her stall, she would not be able to meet your request for payment of the full amount of P354.85 at once. I would therefore request you to be kind enough to allow her to continue paying you P10.00 every 15th and end of the month as heretofore."

No error was therefore committed by the lower court in summarily dismissing appellant's petition for certiorari

against respondent judge's order denying her motion for a bill of particulars, as pretended by appellant in her lone assignment of error: Well may we apply to this appeal, the words of Mr. Justice J. B. L. Reyes in an analogous case,[2] that "the circumstances surrounding this litigation definitely prove that appeal is frivolous and a plain trick to delay payment and prolong litigation unnecessarily. Such attitude deserves condemnation, wasting as it does, the time that the courts could well devote to meritorious cases."

Here, this simple collection case has needlessly clogged the court dockets for over seven years. Had appellant been but prudently advised by her counsel to confess judgment and ask from her creditor the reasonable time she needed to discharge her lawful indebtedness, the expenses of litigation that she has incurred by way of filing fees in the Court of First Instance, premiums for her appeal bond, appellate court docket fees, printing of her appellant's brief, and attorney's fees would have been much more than sufficient to pay off her just debt to appellee. Yet, here she still remains saddled with the same debt, burdened by accumulated interests, after having spent uselessly much more than the amount in litigation in this worthless cause.

As we recently said in another case,[3] the cooperation of litigants and their attorneys is needed so that needless clogging of the court dockets with unmeritorious cases may be avoided. There must be more faithful adherence to Rule 7, section 5 of the Rules of Court which provides that "the signature of an attorney constitutes a certificate by him that he has read the pleading and that to the best of his knowledge, information and belief, there is good ground to support it; and that it is not interposed for delay" and expressly admonishes that "for a willful violation of this rule an attorney may be subjected to disciplinary action."

WHEREFORE, the order appealed from is affirmed, and petitioner-appellant's counsel shall pay treble costs in all instances. This decision shall be noted in the personal record of the attorney for petitioner-appellant in this Court for future reference.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, and Barredo, JJ., concur.

[1] Rule 6, section 3, formerly Rule 6, section 1.

[2] Uypuanco vs. Equitable Banking Corporation, 27 SCRA 1272 (April 30, 1969).

[3] J.P. Juan & Sons, Inc. vs. Lianga Industries, Inc. 28 SCRA 807 (July 28, 1969).

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