

MARIO RODIS MAGASPI, JUSTINO R. MAGASPI, BALDOMERA M. ALEJANDRO, AND MANOLITA M. CORTES, PETITIONERS, VS. HONORABLE JOSE R. RAMOLETE, JUDGE OF THE COURT OF FIRST INSTANCE OF CEB...

G.R. No. L-34840. July 20, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition for certiorari to review the actuations of the Court of First Instance of Cebu in Civil Case No. R-11882 in respect of the correct amount to be paid for the filing of the case as provided in Sec. 5, par. (a), Rule 141 of the Rules of Court.

On September 16, 1970, the petitioners filed a complaint for the recovery of ownership and possession of a parcel of land with damages against The Shell Co. of the Philippines, Ltd. and/or The Shell Refining Co. (Phil.) Inc., Central Visayan Realty & Investment Co., Inc. and Cebu City Savings & Loan Association in the Court of First Instance of Cebu. Upon filing and the payment of P60.00 as docketing fee and P10.00 for sheriff fees, the complaint was assigned Civil Case No. R-11882.

The complaint contains, among other prayers, the following:

“3. To declare Transfer Certificate of Title No. 41215 issued in the name of the defendant Central Visayan Realty & Investment Co., Inc. as null and void and hence of no legal effect;

“4. That the herein plaintiffs in their capacity as heirs of the deceased spouses Crispulo Magaspi and Rosalia Rodis be declared as owners of the land in question;

“5. That once declared as null and void, The Register of Deeds for the City and Province of Cebu be ordered to cancel the above-mentioned Transfer Certificate of Title and issue another in their place in the name of the herein plaintiffs;

“6. To order the defendants, The Shell Company of the Philippines Limited, formerly known as The Asiatic Petroleum Co. (P. I.), Ltd., and/or The Shell Refining Company, (Phil), Inc. to pay the plaintiffs the amount of P3,500.00 a month representing unpaid monthly rentals starting from June 2, 1948 up to May 15, 1968, and to order all the defendants jointly and solidarily to pay the plaintiffs the amount of P 3,500.00 a month representing unpaid monthly rentals starting from May 16, 1968 up to the date that the land is actually delivered to the herein plaintiffs;

“7. To order the defendants jointly and solidarily to return the ownership and possession of the lot in question to the herein plaintiffs;

“8. To order the defendants jointly and solidarily to pay the plaintiffs the amount of P500,000.00 as moral damages and attorney's fees in the amount of P250,000.00 and the cost of this action;

"9. Exemplary damages be imposed on the defendants jointly and solidarily in the amount of P500 ,000.00 as an example and deterrent to any similar acts in the future."

On September 18, 1970, Central Visayan Realty & Investment Co., Inc. and Cebu City Savings and Loan Assn. filed a motion to compel the plaintiffs to pay the correct amount for docket fee. The motion, omitting the confusing footnotes, reads:

"1. That the complaint of the plaintiffs contains or states two, if not three alternative causes of action:

a) Reconveyance of real property. -

Par. 4. - That the herein plaintiffs in their capacity as heirs of the deceased spouses Crispulo Magaspi and Rosalia Rodis be declared as owners of the land in question;

Par. 5. - That once declared null and void, the Register of Deeds for the City and Province of Cebu are ordered to cancel the above-mentioned Transfer Certificate of Title and issue another in their place in the names of the herein plaintiffs.

"If the plaintiffs are unable to have the property reconveyed and the title cancelled, having passed to an innocent purchaser for value, their recourse would be for damages, i.e., recovery of the value of the land and other damages.

b) Recovery of the value of the land and Damages. -

1. To order the defendants, to pay plaintiffs the amount of P3 ,500.00 a month representing unpaid monthly rentals starting from June 2, 1948 up to May 15, 1968, and to order all the defendants jointly and severally to pay the plaintiffs the amount of P3,500.00 a month starting from May 16, 1968 up to the date that the land is actually delivered to the herein plaintiffs;

2. To order the defendants jointly and solidarily to pay the plaintiffs the amount of P500 ,000.00 as moral damages and attorney's fees in the amount of P250, 000.00;

3. Exemplary damages be imposed on the defendants jointly and severally in the amount of P500, 000.00;

4. That because of the unlawful occupation and usurpation the plaintiffs suffered damages in the amount of P1 ,250,000.00 which is the reasonable market value of the land in question it being a first class commercial land.

c) Cancellation of Titles. -

1. To declare Transfer Certificate of Title No. 41215 null and void;

2. That each of these alternative causes of action is distinct and separate from each other. Each may be instituted by plaintiffs against the defendants and the same may constitute a valid cause of action. Each constitutes an appropriate basis therefore; for determining the correct amount of the docket fee in this case;

3. That in the suit for reconveyance, the recovery of the improvements existing on the land is deemed included, since defendant Cebu City Savings is alleged to be a builder in bad faith. The value of existing improvement, i.e., assessed value is P70 ,000.00;

4. Therefore, the docket fee should be:

Land and Improvement at P87 ,280.00 Docket fee
assessed value P 100.00
Recovery of Value of the Land
and damages:

- a) P1 ,250,000.00 - Land value
- b) 500,000.00 - Moral Damages
- c) 500,000.00 - Exemplary Damages
- d) 250,000.00 - Attorney's fees
- e) 890,633.24 - Monthly rentals up
_____ - to date of filing of

P3 ,390,633.24 complaint 6,632.00
(Six Thousand Seven Hundred
Thirty Two Pesos) 6,732.00
vvvvvvvvvv

5. That under the Old Rules of Court, Sec. 5, Rule 130 provides that it is the sum claimed, 'exclusive of interest and damages;' while under the new Rules of Court, Sec. 5, Rule 141, it is the sum claimed, 'exclusive of interest,' the word 'damages' having been excluded purposely, indicating the intent to include damages in the computation of the docket fee;

"WHEREFORE, it is respectfully prayed that the plaintiffs be made to pay the correct docket fee within the time prescribed by this Honorable Court, as properly computed by the Clerk of Court and failing to pay the same within the prescribed period to dismiss the case.

"Further, until such time as the correct docket fee is paid, the time for filing of responsive pleadings by the defendants be suspended."

The motion was opposed by the plaintiffs (petitioners herein) who claimed that the main cause of action was the recovery of a piece of land and on the basis of its assessed value, P60.00 was the correct docketing fee and that although the Revised Rules of Court do not exclude damages in the computation of the docket fee, damages are nonetheless still to be excluded.

On October 5, 1970, the presiding judge ordered the Clerk of Court to comment on the motion and the opposition. The following comment was submitted:

"1. That in the matter of fixing the amount of fees that shall be collected by the Clerks of Court of First Instance for the filing of an action or proceeding, Section 5, Rule 141 of the Rules of Court provides as follows:

Sec. 5. Clerks of Court of First Instance. - (a) For filing an action or proceeding, or a permissive counterclaim or cross-claim not arising out of the same transaction subject of the complaint, a third-party complaint and a complaint in intervention and for all services in the same, if the sum claimed, exclusive of interest, or the value of the property in litigation, or the value of the estate, is:

- 1. Less than P200.00 P 16.00
- 2. P200.00 or more but less than P600.00 24.00
- 3. P600.00 or more but less than P3, 000.00 32.00
- 4. P3, 000.00 or more but less than P5, 000.00 40.00
- 5. P5, 000. 00 or more but less than P20, 000.00 60.00
- 6. P20, 000.00 or more but less than P50, 000.00 80.00

7. P50, 000.00 or more but less than P100, 000.00 100.00
8. P100, 000.00 or more but less than P150, 000.00 150.00
9. And for each P1, 000. 00 in excess of P150, 000.00 . . . 2.00
10. When the value of the case cannot be estimated 200.00
11. When the case does not concern property
(naturalization, adoption, legal separation, etc.) 32.00
12. In forcible entry and illegal detainer cases
appealed from inferior cases 20. 00

If the case concerns real estate, the assessed value thereof shall be considered in computing the fees.
(Underscoring supplied)

In case the value of the property or estate of the sum claimed is less or more in accordance with the appraisal of the court, the difference of fee shall be refunded or paid as the case may be.

"2. That a reading of the complaint in this case would show that the action is not only for recovery of property but also for actual and moral damages as well as for attorney's fees;

"3. That under the provisions of Sec. 5, Rule 141 of the Rules of Court, already cited above, it appears that for the purpose of determining the amount of the fees that should be collected for the filing of an action or proceeding, the basis should be the totality of the sum or sums claimed, exclusive of interest, except in the case of real estate where the assessed value thereof shall be considered in computing the fees;

"4. That in the light of the foregoing, it is the opinion of the undersigned that the basis for computing the fees for the filing of the complaint in this case should be as follows:

(a) Assessed value of the land

(please see par. 4of complaint) P17 ,280.00

(b) Moral damages 500,000.00

(c) Attorney's fees 250,000.00

(d) Monthly rentals at P3 ,500.00 a month

up to the filing of complaint 890,633.24

TOTAL - P1 ,657,913.24

"Accordingly, the correct amount of the legal fees for the filing of this case should be fixed at P3 ,164.00 plus P2.00 Legal Research fee;"

On October 14, 1970, Judge Mateo Canonoy issued the following order:

"This is a motion of the defendants to order the plaintiffs to pay a filing fee of P6 ,730.00 on the ground that the total demand of the said plaintiffs (the value of the land, which is P17,280.00, plus the damages amounting to P3,390,633.24) should be the basis for computing the filing fee and not the value of the land alone. The plaintiffs paid the amount of P60.00 as filing fee in this case.

"Examining the allegations of the complaint, the Court is constrained to sustain the Manifestation or contention of the Clerk of Court, dated October 14, 1970. The damages are not merely incidental or ancillary

but are principal demands. Besides, Rule 141, Sec. 5 (a) of the new Rules of Court no longer excludes damages, like interest, from computing the filing fees. (The Old Rules of Court, Rule 130, Sec. 5 (a), expressly includes damages and interest in the exemption.) The exclusion of damages from the exemption in the computation of the filing fees in the new Rules of Court is intentional, since oftentimes, as in the present case, the claim for damages far exceeds the value of the land. To thus exempt the plaintiffs from paying the filing fee for damages is against reason. Besides, in determining the jurisdiction of the court, the amount of damages claimed is taken into account.

"The opinion of Undersecretary Guillermo Santos that the Court ought to be left alone to determine the question of the filing fee of cases pending therein without any interference from the Secretary of Justice (Attorney General) is commendable.

"IN VIEW OF THE FOREGOING, the Court hereby overrules the opposition of the plaintiffs and orders them to pay an additional sum of P3 ,104.00 as filing fees."

On October 19, 1970, the Shell companies filed their respective answers.

On October 23, 1970, Central Visayan Realty and Cebu City Savings filed the following manifestation:

"1. That this Honorable Court issued an Order, dated October 14th, 1970 for the plaintiffs to pay an additional P3,104.00 docket fee, per computation and manifestation of the Clerk of Court;

"2. That the Clerk of Court manifestations is predicated on the following:

Land Value P17, 280.00 P60.00

Damages:

a) Moral Damages P500 ,000.00

b) Attorney's fees 250,000.00

c) Monthly Rental 890,633.24

P1 ,640,633.24

and excusably excluded was the exemplary damages sought (Par. 22 Complaint; Par. 9, Prayer) in the amount of Five Hundred Thousand Pesos (P500,000.00);

"WHEREFORE, it is respectfully prayed that in the computation of the correct docket fee, besides the sum of P3 ,104.00, an additional sum of P1,000.00 be imposed in accordance with Sec. 5 (Par. 9) Rule 141 of the Rules of Court; and should the plaintiffs within a period fixed by this Honorable Court fail to pay the same, the complaint be dismissed with prejudice, and for such other reliefs as this Honorable Court may deem just under the premises."

On November 3, 1970, the plaintiffs filed a motion for leave to amend the complaint so as to include the Government of the Republic of the Philippines as a defendant. The amended complaint still sought the return of the lot in question but the pecuniary claim was limited to the following:

"8. To order the defendants jointly and solidarily except the Government of the Republic of the Philippines moral damages in such amount as this Court may determine and attorney's fees in the amount of P100,000.00 and the cost of this action;

"9. Exemplary damages be imposed on the defendants jointly and solidarily except the Government of the Republic of the Philippines in the amount as this Court may deem just and proper as an example and deterrent to any similar acts in the future." (Underscoring not supplied.)

On November 12, 1970, the defendants (herein respondents) filed an opposition to the admission of the amended complaint. They based their opposition on the following grounds:

"1. That while the only reason given for the amendment of the complaint is the inclusion of the Government of the Philippines as an indispensable party; the plaintiffs have taken the improper liberty of amending portions of the allegations in the complaint and even has eliminated entire paragraph, thus:

a) By not mentioning the previously alleged value of the land at P1 ,250,000.00 in paragraph 19;

b) By not mentioning the previously averred to monthly rentals due at P3 ,500.00 from June 2, 1948, or computed at P890,633.24;

c) By eliminating completely the claim for moral damages of P500 ,000.00 and reducing attorney's fees from P250,000.00 to P100,000.00 under par. 21;

d) By not mentioning the amount previously claimed as exemplary damages in the sum of P500,000.00, as alleged in par. 21; substituting thereto, the averment that, the amount of these various claims for damages will be proven during the trial of the case;

"2. That these amendments are obviously intended to circumvent, if not entirely subvert, the lawful Order of this Honorable Court for the plaintiff to pay the amount of P3,104.00 as docket fee, on the basis of the total amount claimed for damages (plus P1,000.00 docket fee on the P500,000.00 exemplary damages, pending resolution before this Honorable Court);

"3. That if the amended complaint is admitted as it is, plaintiffs would effect, have their cakes and eat it too, in the manner of speaking;

"4. That the payment of the correct and in this case, by an Order of this Honorable Court of the docket fee, is a condition precedent for the complaint, amended or otherwise, of the plaintiff to be given due course;"

On November 16, 1970, Judge Canonoy admitted the amended complaint although the plaintiffs had not yet complied with his order of October 14, 1970, that they should pay an additional P3 ,104.00 docket fee.

On December 2, 1970, Central Visayan Realty and Cebu City Savings filed the following motion:

"1. That this Honorable Court issued an Order dated October 14, 1970, for the plaintiffs to pay an additional docket fee of P3 ,104.00;

"2. That such an Order has not been complied with by the plaintiffs nor an appeal or a petition for review filed and the same has become final;

"3. That Sec. 3 Rule 17 of the Rules of Court provides that if plaintiff fails:

' to comply with these rules of any order of the court, the action may be dismissed upon motion of the defendant, or upon the court's own motion.'

"4. That the filing of the answer by these defendants is premised on the payment of the correct or as ordered docket fee by the plaintiffs; for which reason, no answer has yet been filed;

"WHEREFORE, it is respectfully prayed that the plaintiffs be ordered to pay the additional docket fee within seven (7) days, otherwise the complaint will be dismissed with prejudice."

The above motion was opposed by the plaintiffs on the ground that the amended complaint which had been admitted by the court had replaced the original complaint.

On February 12, 1971, the Republic filed its answer to the amended complaint and the plaintiffs filed a reply on

February 23, 1971.

On March 13, 1971, Central Visayan Realty and Cebu City Savings filed a petition to have their motion of December 2, 1970, resolved by the court.

On April 3, 1971, Judge Jose R. Ramolete who had replaced Judge Canonoy issued the following order:

"This is a petition of the defendants praying for the resolution of their motion dated December 3, 1970. This motion was brought about by virtue of the order of this Court dated October 14, 1970, ordering the plaintiffs to pay additional docket fees of P3,104.00.

"Going over the record of the case, it appears that after the issuance of the above order, the plaintiffs filed their amended complaint which was also admitted on November 16, 1970.

"At the hearing of this petition the parties supported their respective positions with oral arguments after which they submitted the matter for resolution.

"It is a rule that the correct docket fee must be paid before the Court will act on the petition or complaint. The Court of Justice is not called upon to act on a complaint or a petition in the absence of payment of a corresponding docket fee. (Garcia vs. Vasquez, 28 SCRA 330, 331.) Before the payment of the docket fee, the case is not deemed registered and docketed (Lazaro vs. Endencia, 57 Phil., 552; Malimit vs. Degamo, 12 SCRA, 454; Lee vs. Republic, 10 SCRA, 67).

"In the light of the above rulings on the matter, the original complaint, up to the present, is not deemed registered or docketed. It follows, therefore, that there is likewise no amended complaint deemed to have been filed and admitted.

"The Court, therefore, is of the view that up to the present the parties are in the same situation as they were before this proceeding was started. It cannot also order the plaintiffs to comply with the order of this Court dated October 14, 1970, because it has not yet acquired jurisdiction over them neither can it order the dismissal of the complaint for noncompliance of the order of October 14, 1970, by the plaintiffs, for obvious reasons. The plaintiffs are given the choice to pay the docket fee assessed or to forego this proceeding."

The petitioners assail the above order. They insist that they had correctly paid the docketing fee in the amount of P60.00, or in the alternative, that if they are to pay an additional docketing fee, it should be based on the amended complaint.

For initial determination is the question as to whether or not Civil Case No. 11882 may be considered as having been filed and docketed when P60.00 was paid to the Clerk of Court even on the assumption that said payment was not sufficient in amount.

The rule is well-settled that a case is deemed filed only upon payment of the docket fee regardless of the actual date of its filing in court. (Malimit vs. Degamo, No. L-17850, Nov. 28, 1964, 12 SCRA 450, 120 Phil. 1247; Lee vs. Republic, L-15027, Jan. 31, 1964, 10 SCRA 65.)

Is the case at bar covered by the above rule? It is not because the question posed in the Malimit and Lee cases was the timeliness of the payment of the docket fee whereas the case at bar has no reference to the time of payment but concerns the amount that has to be paid.

The case of Garcia vs. Vasquez, L-26808, May 23, 1969, 28 SCRA 330, mentioned in the order of Judge Ramolete will be discussed below. And as to Lazaro vs. Endencia, 37 Phil. 552 (1932), it does not appear to have relevance to the question. In that case an appeal in an ejectment case was made and the appellant deposited only P8.00 as docket fee instead of P16.00 as required by law. It was only after the period for perfecting an appeal that

the appellant deposited the additional P8.00 to complete the amount of said docket fee. This Court dismissed the appeal on the ground "that payment of the full amount of the docket fees is an indispensable step for the perfection of an appeal." (At p. 553.)

The case at bar can be distinguished from the Lazaro case in at least two respects, namely: (a) The Lazaro case involved the timeliness of the perfection of the appeal which was made to depend in turn on the timeliness of the full payment of the docket fee whereas the instant case does not involve an appeal nor the timeliness of the payment of the docket fee; and (b) in the Lazaro case, the amount (P8.00) which was initially paid was palpably inadequate, whereas in the case at bar there is an honest difference of opinion as to the correct amount to be paid as docket fee.

The Garcia case, *supra*, appears to favor the petitioners. In that case, a will was sought to be probated in Special Proceeding No. 62818. Docket fees amounting to P940.00 were paid. Later, a second will was sought to be probated in the same special proceeding. This Court held that there was no need to pay a separate docket fee because the probate of the second will was not sought in another proceeding.

We hold that under the circumstances, Civil Case No. R-11882 was docketed upon the payment of P60.00 although said amount is insufficient. Accordingly, the trial court had acquired jurisdiction over the case and the proceedings thereafter had were proper and regular.

The next question is in respect of the correct amount to be paid as docket fee. Judge Canonoy on October 14, 1970, ordered the payment of P3 ,104.00 as additional docket fee based on the original complaint. However, the petitioners assert as an alternative view, that the docket fee be based on the amended complaint which was admitted on November 14, 1970, also by Judge Canonoy.

The petitioners have a point. "When a pleading is amended, the original pleading is deemed abandoned. The original ceases to perform any further function as a pleading. The case stands for trial on the amended pleading only." (1 Moran, *Rules of Court*, 363 [1970], citing *Reynes v. Compañia, General de Tabacos de Filipinas*, 21 Phil. 417; *Reyman v. Director of Lands*, 34 Phil. 428.)

On the basis of the foregoing, the additional docket fee to be paid by the petitioners should be based on their amended complaint.

WHEREFORE, the petition is hereby granted; the petitioners shall be assessed a docket fee on the basis of the amended complaint; and after all of the lawful fees shall have been paid, the proceedings in Civil Case No. R-11882 shall be resumed. No special pronouncement as to costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, and De Castro, JJ., concur.
Escolin, J., in the result.

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