

**PRISCILLA SUSAN PO, PETITIONER, VS. HON. COURT OF APPEALS,
HON. JUDGE JULIAN LUSTRE, AND JOSE P. MANANZAN,
RESPONDENTS.**

G.R. No. L-34341. August 22, 1988

Ponente: GRIÑO-AQUINO. J.

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GRIÑO-AQUINO. J.

This case demonstrates the adage that sometimes "haste makes waste." Seventeen (17) years after the petitioner Priscilla Susan Po filed a motion for summary judgment in the damage suit which she filed against the private respondent, her refusal to abide by the trial court's order and the Appellate Court's resolution denying her motion, has kept her complaint waiting in the wings to be called for pre-trial. Had she been less intransigent, the case might have been finished long ago.

The petitioner filed in 1971 a complaint for P35,000 damages against the private respondent Jose P. Mananzan as operator of a banca service for shooting the rapids at Pagsanjan Falls, arising from an accidental spill into the water, which she and her friend suffered when the banca in which they were riding capsized during their trip back to town. After Mananzan had answered the complaint, petitioner served upon him a request for admission.

On February 27, 1971, Mananzan asked for an extension of time to answer the request for admission. The petitioner opposed the motion for extension of time on account of alleged defects in the notice of hearing.

On March 4, 1971, the petitioner filed a motion for summary judgment on the ground that there exists no genuine or substantial controversy on any issue of fact raised in the complaint because the defendant, by failure to answer her request for admission within the reglementary period (Sec. 2, Rule 26, Rules of Court) is deemed to have admitted the facts set forth in the request.

Mananzan answered the request for admission and sent a copy of the answer to the petitioner. He filed an opposition to the petitioner's motion for summary judgment.

On April 16, 1971, respondent Judge Lustre denied the motion for summary judgment, observing that "the interrogatories x x x are nothing but a reiteration of a portion of the plaintiff's allegations in the complaint, which have already been answered and denied by the defendant in his answer" hence, they "need not be answered again if asked in the form of interrogatories." (p. 10, Brief for the Respondents, p. 151, Rollo.)

After the trial court had denied her motion for reconsideration of its order, the petitioner elevated the matter to the Court of Appeals on a petition for certiorari (CA-G.R. No. 00220-R entitled, "Priscilla Susan Po vs. Hon. Julian Lustre, et al.") which the Court of Appeals likewise denied on September 23, 1971 for lack of merit. The pertinent observations of the Court of Appeals are quoted hereunder:

"x x x With the absolute denial of private respondent in his answer to the complaint, petitioner's subsequent request for admission of the same facts already denied does not serve the purpose of Rule 26 as a mode of

discovery. As aptly stated by respondent Judge, Rule 26 contemplates interrogatories that would clarify and tend to show light on the truth or falsity of the allegations of the complaint, and does not refer to a mere reiteration of what has been alleged in the complaint and unconditionally denied in the answer. Petitioner's request constitutes an utter redundancy and a useless, pointless process which private respondent should not be subjected to and which the lower court should not countenance as the respondent Judge rightfully did. Respondent Judge did not commit any grave abuse of discretion amounting to lack of Jurisdiction nor has he unlawfully deprived petitioner of any right in concluding that petitioner's request for admission does not fall under Rule 26 and that therefore the same need not be answer[ed] by private respondent. The allegations of facts in the complaint remain to have been controverted by the answer of private respondent to the complaint. There being genuine issues between the parties, respondent Judge correctly denied petitioner's Motion for Summary Judgment. Unless it is shown that respondent Judge has committed a palpable grave abuse of discretion, amounting to lack of Jurisdiction, this Court will not issue the writs prayed for. " (pp. 19-20, Rollo.)

Nothing daunted, the petitioner appealed to this Court.

An examination of petitioner's complaint and her request for admission confirms Judge Lustre's finding (which the Court of Appeals upheld) that the "facts" set forth in the request for admission, including the amount of damages claimed, are the same factual allegations set forth in her complaint which the defendant either admitted or denied in his answer.

A party should not be compelled to admit matters of fact already admitted by his pleading and concerning which there is no issue (Sherr vs. East, 71 A2d, 752, Terry 260, cited in 27 C.J.S. 91), nor should he be required to make a second denial of those already denied in his answer to the complaint. A request for admission is not intended to merely reproduce or reiterate the allegations of the requesting party's pleading but should set forth relevant evidentiary matters of fact, or documents described in and exhibited with the request, whose purpose is to establish said party's cause of action or defense. Unless it serves that purpose, it is, as correctly observed by the Court of Appeals, "pointless, useless," and "a mere redundancy."

WHEREFORE, the judgment of the Court of Appeals is affirmed with costs against the petitioner. This decision is immediately executory hence no motion for extension of time to file a motion for reconsideration will be entertained.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Medialdea, JJ., concur.

Gancayco, J., On leave.

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