

**JUAN ENAJE, PETITIONER-APPELLANT, VS. VICTORIO RAMOS,
JUSTICE OF THE PEACE OF THE MUNICIPALITY OF GUBAT,
SORSOGON, AND FELIPE F. DUGAN, RESPONDENTS-APPELLEES.**

G.R. No. L-22109. January 30, 1970

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The focal point of the certiorari petition before the Court of First Instance of Sorsogon is whether or not, upon the facts hereinafter set forth, petitioner should be allowed to litigate as pauper before the Municipal Court of Gubat, Sorsogon, for the recovery of P85.00 with legal interest, and attorneys' fees, in a civil case in which petitioner is plaintiff and respondent Felipe F. Dugan is defendant.

It would appear that to prosecute the civil case aforesaid in the inferior court as pauper, petitioner filed an affidavit stating that he had been owner of several parcels of land, but that for several years prior to the filing of the complaint in the inferior court said parcels of land had been divided and partitioned amongst his children who had since been in possession thereof and paying the taxes thereon; and that he no longer owned nor possessed "a single parcel of land", and had "no income or means of livelihood." The municipal judge denied the petition for authority to litigate as pauper. This denial was based upon a certification of the municipal treasurer that a man by the name of Juan Enaje was owner of lands under Tax Declarations 1100 and 1106. Petitioner moved to reconsider, emphasizing that he was not the same Juan Enaje referred to in said tax declarations and that said Juan Enaje could have been the deceased Juan Enaje I or Juan Enaje II; and that in truth and in fact, he was without any means of livelihood as stated in the affidavit submitted with the petition for leave to litigate as pauper. This motion for reconsideration was also rejected by the inferior court.

Petitioner then went to the Court of First Instance of Sorsogon on certiorari, the present case.[1] He was there allowed to litigate as pauper. Thereafter, the latter court, in its order of June 4, 1963, ruled that the municipal judge had not gravely abused his discretion in disallowing petitioner to sue as pauper. Petitioner's motion to reconsider was thwarted in the lower court's order of June 27, 1963.

The present proceeding before us is an appeal from the orders of June 4 and June 27, 1963. We granted petitioner permission to continue prosecuting as pauper and to file a type-written brief.[2] The case is now before us for decision.

"Free access to the courts shall not be denied to any person by reason of poverty." Thus runs paragraph 21, Section 1, Article III (Bill of Rights) of the Constitution. Implementing this constitutional precept is Section 22, Rule 3 of the Rules of Court, which in part provides that "[a]ny court may authorize a litigant to prosecute his action or defense as a pauper upon a proper showing that he has no means to that effect by affidavits, certificate of the corresponding provincial, city or municipal treasurer, or otherwise."

There should not be any misapprehension as to the concept of the term "pauper litigant". Under the Constitution and the rule just cited, a "pauper litigant" is not what the nomenclature literally means - that the petitioner must

be so destitute as to have no means at all of even supporting himself. In *Acar vs. Rosal* (March 18, 1967), 19 SCRA 625, which is an expositor of the constitutional precept, our language is this - "As applied to statutes or provisions on the right to sue in forma pauperis, the term has a broader meaning. It has thus been recognized that: 'An applicant for leave to sue in forma pauperis need not be, a pauper; the fact that he is able-bodied and may earn the necessary money is no answer to his statement that he has not sufficient means to prosecute the action or to secure the costs' (14 Am. Jur. 31). It suffices that plaintiff is indigent (*Ibid.*), tho not a public charge. And the difference between 'paupers' and 'indigent' persons is that the latter are 'persons who have no property or source of income sufficient for their support aside from their own labor, though self-supporting when able to work and in employment' (Black's Law Dictionary, p. 913, 'Indigent', citing *People vs. Schoharie County*, 121 NY 345, 24 NE 830). It is therefore in this sense of being indigent that 'pauper' is taken when referring to suits in forma pauperis. Black's Law Dictionary in fact defines pauper, thus: 'A person so poor that he must be supported at public expense; also a suitor who, on account of poverty, is allowed to sue or defend without being chargeable with costs' (p. 1284, italics supplied)."[3]

Not that the foregoing view stands alone. This concept of pauper litigant has been incorporated in recent (1969) legislations. In Republic Act 6033, "An Act Requiring Courts to Give Preference to Criminal Cases Where the Party or Parties Involved are Indigents", and Republic Act 6034, "An Act Providing Transportation and Other Allowances for Indigent Litigants", both approved on August 16, 1969, Congress has defined the term "indigent" to refer to a person "who has no visible means of income or whose income is insufficient for the subsistence of his family." Of particular interest is a third statute, Republic Act 6035, also approved on August 16, 1969, entitled "An Act Requiring Stenographers to Give Free Transcript of Notes to Indigent and Low Income Litigants and Providing a Penalty for the Violation Thereof." This refers to the transcript of stenographic notes of "a hearing before an investigating fiscal or trial judge or hearing commissioner of any quasi-judicial body or administrative tribunal." For, indeed, the term "indigent litigant" for the purpose of this statute (R.A. 6035) was given a more expansive meaning to include "anyone who has no visible means of support or whose income does not exceed P300 per month or whose income even in excess of P300 per month is insufficient for the subsistence of his family."

Of course, the present case came up before the decision in *Acar vs. Rosal* and the approval of the statutes just mentioned. Nonetheless, we believe that in the resolution of the issue involved we should not lose sight of the liberal views expressed in said decision and laws. For, these views are but expressions of the constitutional policy that proscribes denial of free access to the courts by reason of poverty. Which policy should be liberally applied, the better to approximate the constitutional intent.

There is in the record the affidavit of petitioner stating that he has neither property nor income. And yet, the municipal judge misconceived the impact of this affidavit by relying merely on a certificate of the municipal treasurer stating that a man by the name of Juan Enaje appears to own property. Such certificate was mistakenly given importance by the municipal judge. His Honor should have taken stock of petitioner's vehement assertion that he is not the Juan Enaje mentioned in those tax declarations; and that, in truth and in fact, he (petitioner) had no source of income at all.

Even on the assumption that petitioner owns property, he may still be an indigent,[4] considering his sworn statement that he had no income. Under the standard set forth in *Acar vs. Rosal* as well as the recent legislations heretofore adverted to, it is the income of a litigant that is the determinative factor. For, really, property may have no income. It may even be a financial burden.

For the reasons given, we hold that the judges below committed a grave abuse of discretion in refusing to allow petitioner to prosecute his action in the inferior court as pauper litigant.

ACCORDINGLY, the orders of the Court of First Instance of Sorsogon dated June 4 and June 27, 1963 are hereby set aside; and petitioner is allowed to litigate as pauper in the civil case before the Justice of the Peace (now Municipal) Court of Gubat, Sorsogon, entitled "Juan Enaje, Plaintiff, versus Felipe F. Dugan, Defendant.

Costs against respondent Felipe F. Dugan.

SO ORDERED.

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

[1] Civil Case No. 236, Court of First Instance of Sorsogon, entitled "Juan Enaje, Petitioner, versus Victorio Ramos, Justice of the Peace of the Municipality of Gubat, Sorsogon, and Felipe F. Dugan, Respondents."

[2] Rollo, p. 15, January 8, 1964 Resolution.

[3] At p. 629.

[4] Alameda Country vs. Janssen, 130 A.L.R. 1141, 1147.

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