

PHILIPPINE RECONSTRUCTION CORPORATION, INC., PLAINTIFF AND APPELLEE, VS. PABLO APARENTE, DEFENDANT AND APPELLANT.

G.R. No. L-26630. May 30, 1972

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the judgment of the Court of First Instance of Manila in its Civil Case No. 61048, an action of revival, sentencing defendant-appellant to pay a previous money judgment this wise:

"WHEREFORE, judgment is hereby rendered, ordering the defendant to pay the plaintiff the sum of P4,000.00 with interest at the rate of 12% per annum from June 15, 1950 until full payment, plus the further sum of P500.00 for and as attorney's fees, and the costs of suit."

According to the appealed decision: It appears that in Civil Case No. 13832 of Branch IX of the Court of First Instance of Manila, entitled "Philippine Reconstruction Corporation, Inc. versus Pablo Aparente", a decision was rendered dated February 9, 1953 reading as follows:

"Plaintiff sues defendant for the recovery of the sum of P4,000.00 with 12% interest annually from the date said amount became due and payable until fully paid; the sum of P900.00 for unpaid rents for the use by the defendant of plaintiff's tractor; and for damages in the form of attorney's fees and costs of suit.

"When this case was called for hearing on October 17, 1952, neither the defendant nor his counsel appeared. As prayed for by plaintiff's counsel, the Court proceeded to receive plaintiff's evidence in the absence of the defendant.

"Plaintiff's evidence shows that on March 31, 1950, defendant executed in favor of plaintiff Philippine Reconstruction Corporation, Inc. four (4) promissory notes at P1,000.00 each (Exhibits B, B-1 to B-3) maturing on April 15, 1950, May 15, 1950, May 31, 1950 and June 15, 1950, respectively, with 12% interest per annum in case of default of payment; that to secure the payment of the aforesaid obligation, defendant on March 31, 1950 executed a chattel mortgage (Exhibit A) in favor of plaintiff on certain sawmill equipments purchased by defendant from the plaintiff; that inspite of repeated demands (Exhibits G & G-1) by plaintiff, defendant has failed to redeem the aforesaid promissory notes; and that plaintiff was forced to retain the services of counsel to press payment of defendant's obligation.

"WHEREFORE, judgment is hereby rendered in favor of plaintiff Philippine Reconstruction Corporation, Inc. and against the defendant Pablo Aparente, ordering the latter to pay to the former the sum of P4,000.00 with the corresponding interest at the rate of 12% per annum each of the aforementioned promissory notes from the date each note became due and payable until fully paid, the sum of P400.00 as attorney's fees, with costs against the defendant.

"SO ORDERED."

Although this judgment became final and executory on June 28, 1955, evidently nothing was done to have it

executed until May 25, 1965 when the present action for revival was filed. To the complaint in this action reciting the usual details of the personality and status of the parties and the circumstances leading to the rendition of the aforequoted judgment, defendant filed an answer denying "specifically" these allegations because "he has no sufficient information to form a belief as to the truth" thereof and alleging as "special defenses" that (1) "plaintiff has no legal capacity", (2) "the causes of action involved in the complaint had long prescribed", and (3) "the obligations sued upon had long been paid and released." According to the trial judge, "[a]t the pre-trial * * *, the defendant abandoned his defense of payment, and the parties delimited the issues to the alleged prescription of the action and the lack of plaintiff's legal capacity to sue", which issues His Honor resolved as follows:

"The defense of prescription is obviously without merit. The judgment herein sought to be enforced became final and executory only on June 28, 1955. Hence, the ten-year period from the entry of the judgment has not yet elapsed.

"The alleged lack of legal capacity of the plaintiff is based on the defendant's contention that as a corporation, the plaintiff had long ceased to exist or to exercise its corporate powers. The defendant presented a certification of the Securities and Exchange Commission to the effect that since the incorporation of the plaintiff on May 4, 1946 and the filing of its by-laws on August 16, 1946, the said corporation has not submitted any, financial statements, and that there had been no correspondence, letter or any document received from said corporation up to the present. (Exhibit 1).

"The corporate personality of the plaintiff is not denied by the defendant. It is even inferred from the certificate presented by him (Exhibit 1). That it transacted business may also be deduced from the decision sought to be revived which was an action for recovery on four promissory notes executed by the defendant in favor of the plaintiff. It is the contention of the defendant that there was a non-user or abandonment of the corporate franchise in view of the plaintiff's failure to continue its business, maintain offices or elect officers of the corporation.

"Assuming it to be true that there was non-user or abandonment of its franchise, such fact does not cause an automatic dissolution of the corporation. The fact that a cause for forfeiture exists does not ipso facto deprive the corporation of its charter; but until a judicial decree to that effect is passed, it will continue its corporate existence and individuals cannot avail themselves of the forfeiture in collateral suits.' (13 Am. Jur., Corporations, Sec. 1335, p. 1187.) The defendant has not shown that any appropriate proceeding has been taken to dissolve the plaintiff corporation or to deprive it of its corporate existence."

In this appeal, even the issue of prescription is no longer pressed upon, the only errors assigned by appellant in his brief being that:

"I. THE LOWER COURT ERRED IN HOLDING THAT ASSUMING IT TO BE TRUE THAT THERE WAS NON-USER OR ABANDONMENT OF ITS FRANCHISE SUCH FACT DOES NOT CAUSE AN AUTOMATIC DISSOLUTION OF THE CORPORATION, AND IN NOT HAVING HELD INSTEAD THAT THE PLAINTIFF LOST ITS JURIDICAL PERSONALITY BY REASON THEREOF AND THEREFORE HAD NO PERSONALITY TO SUE AT THE TIME IT FILED ITS COMPLAINT IN THIS CASE.

"II. THE LOWER COURT ERRED CONSEQUENTLY IN NOT HAVING DISMISSED THE CASE BASED UPON SAID GROUND.

"III. THE LOWER COURT ERRED FINALLY IN ORDERING THE DEFENDANT TO PAY THE PLAINTIFF THE AMOUNT OF P4,000.00 WITH INTEREST AT THE RATE OF 12% PER ANNUM FROM JUNE 15, 1950 UNTIL FULL PAYMENT PLUS THE FURTHER SUM OF P500.00 FOR AND AS ATTORNEY'S FEES, AND THE COSTS."

Without the least hesitation, the Court declares this appeal to be completely devoid of merit. In fact, We hold that His Honor went farther than what is called for in the premises. He should not have allowed appellant to lead him into the realm of corporate law, for as correctly contended by appellee in its brief, the present suit being one merely for the revival of a previous regular and valid final judgment against appellant, the consideration of any issue affecting matters that could have been raised in the previous case must be deemed as definitely foreclosed, and, surely, the alleged lack of personality of a suing corporation is among those questions which must be considered as no longer open in an action of revival inasmuch as it does not in any manner affect the validity of the judgment sought to be enforced. It must be borne in mind that an action of revival is no more than a procedural means of securing the execution of a previous judgment which has become dormant after the passage of five years without its being executed upon motion of the prevailing party. (Section 6, Rule 39.) It is not intended to reopen any issue affecting the merits of the judgment debtor's case nor the propriety or correctness of the first judgment. As a rule, only matters of jurisdiction and those arising after the finality of the first judgment may be raised in the new action. Accordingly, We do not find it necessary to rule on appellant's pose that appellee corporation's alleged non-user of its charter has deprived it of personality to sue as a corporation, it appearing that appellee was incorporated on May 4, 1946, whereas the judgment in its favor became final on June 28, 1955, hence the alleged non-user for two years under Section 19 of the Corporation Law could at best refer only to the years 1946-1947 and 1947-1948, and could have, therefore, been raised in the first action. Nor do We feel that this is the proper occasion to elucidate in any respect as regards the statement quoted by appellant from *Perez vs. Balmaceda* (December 28, 1939, 40 O.G. No. 5, pp. 194, 196) to the effect that "[i]f a corporation formed under the Corporation Law does not organize and commence the transaction of its business within two years from the date of its incorporation, its corporate powers ceased and it is automatically dissolved", which seemingly fails to consider the latter portion of Section 19 providing that "[t]he due incorporation of any corporation claiming in good faith to be a corporation under this Act and its right to exercise corporate powers shall not be inquired into collaterally, etc."

Moreover, considering the tenor of appellant's answer as aforementioned, what the court aquo should have done was to forthwith render a judgment on the pleadings upon motion of appellee prodded by His Honor. It is time that trial judges impressed upon practitioners the proper use of the form of specific denial consisting of the allegation of "lack of sufficient knowledge or information to form a belief as to the truth of any material averment made in the complaint" permitted by Section 10 of Rule 8, to the end that sham and insincere denials may be totally discouraged, thereby saving unnecessary prolongation and even proliferation of cases. This Court already ruled in *Warner Barnes & Co., Ltd. vs. Reyes, et al.*, 103 Phil. 662, thru Chief Justice Paras, that:

"In the present appeal taken by the defendants, the question raised is whether the allegation of want of knowledge or information as to the truth of the material averments of the complaint amounts to a mere general denial warranting judgment on the pleadings or is sufficient to tender a triable issue.

"Section 7 of Rule 9 of the Rules of Court, in allowing the defendant to controvert material averments not within his knowledge or information, provides that 'where the defendant is without knowledge or information sufficient to form a belief as to the truth of material averment,' he shall so state and this shall have the effect of a denial. This form of denial was explained in one case as follows:

'Just as the explicit denials of an answer should be either general or specific, so all denials of knowledge or information sufficient to form a belief should refer either generally to all the averments of the complaint thus intended to be denied, or specifically to such as are to be met by that particular form of plea. The answer should be so definite and certain in its allegation that the pleaders' adversary should not be left in doubt as to what is admitted, what is denied, and what is covered by denials of knowledge or information sufficient to form a belief. Under this form of denial employed by the defendant, it would be difficult, if not impossible to

convict him of perjury if it should transpire that some of his denials of knowledge, etc., were false, for he could meet the charge by saying that his denials referred only to matters of which he had in fact no knowledge or information.' (Kirachbaum vs. Eschmann, 98 NE 328, 329-330.)

"This is a foreclosure suit. It is alleged that the appellants are jointly and severally indebted in the sum of P9,906.88, secured by a mortgage. A copy of the mortgage deed was attached to and made a part of the complaint. There are also allegations of partial payments, defaults in the payment of outstanding balance, and a covenant to pay interest and attorney's fees. It is hard to believe that the appellants could not have had knowledge or information as to the truth or falsity of any of said allegations. As a copy of the deed of mortgage formed part of the complaint, it was easy for and within the power of the appellants, for instance, to determine and so specifically allege in their answer whether or not they had executed the alleged mortgage. The appellants could be aided in the matter by an inquiry or verification as to its registration in the Registry of Deeds. 'An unexplained denial of information and belief of a matter of records, the means of information concerning which are within the control of the pleader, or are readily accessible to him, is evasive and is insufficient to constitute an effective denial.' (41 Am. Juris., 399, citing Dahlstrom vs. Gemunder, 92 NE 106.)

"It is noteworthy that the answer was filed after an extension granted by the lower court, and that while a reservation was made to file an amended answer, no such pleading was presented. If these show anything, it is that the appellants obviously did not have any defense or wanted to delay the proceedings.

"The form of denial adopted by the appellants, although allowed by the Rules of Court, must be availed of with sincerity and in good faith, – certainly neither for the purpose of confusing the adverse party as to what allegations of the complaint are really put in issue nor for the purpose of delay.

' * * * no court will permit the process to be trifled with and its intelligence affronted by the offer of pleadings which any reasoning person knows can not possibly be true. * * * "The general rule that the Court is not bound to accept statements in pleadings which are, to the common knowledge of all intelligent persons, untrue, applies just as well to the provisions of Rule 8(b), 28 U.S.C.A. following Section 723c, as to pleadings under the State statute.'" (Nieman vs. Long, 51 F. Supp. 30, 31.)

'This rule, specifically authorizing an answer that defendant has no knowledge or information sufficient to form a belief as to the truth of an averment and giving such answer the effect of a denial, does not apply where the fact as to which want of knowledge is asserted is to the knowledge of the court as plainly and necessarily within the defendant's knowledge that his averment of ignorance must be palpably untrue.' (Ice Plant Equipment Co. vs. Martocello, D.C. Pa. 1941, 43 F. Supp. 281.)" (At pp. 664-665)

We reiterate emphatically this ruling. In other words, specific denials in the form indicated must be made "in sincerity and good faith" and whenever it is apparent from the circumstances extant in the pleadings that from the very nature of things, the defendant has or ought to have, by diligent investigation, sufficient knowledge or information as to the matter treated in the denial, this form of denial, if resorted to despite such knowledge, must be considered by the court as an implied admission for the purpose of enabling it to render a judgment on the pleadings in appropriate cases under Rule 19. The members of the bar are admonished to refrain from indulging in such an improper and undesirable practice. Withal, counsel appearing for the parties concerned should be quick in availing of the right to a judgment in the pleadings, and trial judges may, without feeling any sense of impropriety, suggest to them at the earliest opportunity to resort thereto, while bearing in mind, of course, that admissions in pleadings, whether express or implied, may, in the interest of justice and under such conditions as the court may deem just including the least loss of time, be withdrawn by corresponding adequate allegations of genuine issues and with due regard to the observations of this Court in PNB vs. Lacson, G.R. No. L-9419, May 29, 1957, 101 Phil. 1229 and Benavides vs. Alabastro, G.R. No. L-19762, December 23, 1964, 12 SCRA 553.

We are not unmindful of the fact that this matter has not been touched upon by the parties in their briefs, but We consider it opportune in this case to elucidate on the points of pleadings and practice We have adverted to for the guidance of all concerned, particularly, the trial judges and the practitioners. The demand nowadays for substantial justice above technicalities of form and procedure calls more urgently for immediate and effective response within the boundaries of constitutional due process. Withal, it is within the authority of this Court to note in appeals before it plain errors of the lower courts (Section 7, Rule 51; *Dilag vs. Heirs of F. Resurreccion*, 76 Phil. 650; *Paulino vs. Belen*, G.R. No. L-28863, January 30, 1971, 37 SCRA 357), whether by doing so, it is the appellant or the appellee who would be favored, the latter being entitled anyway to make assignments of errors which would have the effect of fortifying the judgment he would have affirmed. (*Relativo vs. Castro*, 76 Phil. 563; *Garcia Valdez vs. Tuason*, 40 Phil. 943; *Lucero vs. De Guzman*, 45 Phil. 852.)

In the case at bar, We hold, therefore, that appellant's contention regarding alleged lack of legal capacity to sue must be as it is hereby, overruled, not only because it has no place in this case since such defense was not raised by hint in the first case before final judgment therein, this being merely an action of revival of the judgment in said case, but also for the equally if not more important reason that the form of his denial in this regard in his answer has the effect, under the rules on specific denials, of an admission of appellee's allegation of its legal personality.

In consequence, the judgment appealed from is affirmed intoto, with TRIPLE costs against appellant.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Makasiar, and Antonio, JJ., concur.

Concepcion, C.J., on leave.

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