

MAXIMO C. TRIAS, PETITIONER, VS. THE COURT OF FIRST INSTANCE OF CAVITE, PEDRO TRIAS, FELISA TRIAS GERONIMO T. REYES, CRESENCIA T. REYES, FELISA TRIAS, GERONIMO T. REYES, CRESENC...

G.R. No. L-95. January 24, 1946

Ponente: OZAETA, J.

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OZAETA, J.:

Certiorari to annul an order entered by Judge Antonio Quirino in civil case No. 193 of the Court of First Instance of Cavite whereby he admitted the amended answer presented by five of the fourteen defendants and denied plaintiff's motion for judgment on the pleadings, upon the following facts:

- On or about June 12, 1944, the herein petitioner instituted said civil case No. 193 against the herein respondents (other than the Court of First Instance) for the partition of a parcel of land with an area of 100 hectares and for the recovery of damages at the rate of P3,000 per annum beginning the year 1936. According to the complaint the land in question was inherited by the plaintiff and the defendants from their common ancestor Balbino Trias, who died during the Philippine Revolution; that said parcel of land was administered as a community property first by Gen. Mariano Trias (one of the children of Balbino Trias) during his lifetime and by his widow after his death, until 1926. The complaint further alleged:

* * * * *

"7. That since the year 1926 up to the present date, the defendant Miguel F. Trias has administered and managed the said community property in behalf of himself, the plaintiff and all the other codefendants, deriving therefrom an income of at least three thousand pesos (P3,000.00) per annum, or a total income of at least fifty-four thousand pesos (P54,000.00), up to the present time, but notwithstanding repeated demands made by the plaintiff on the said defendant for an accounting of the said proceeds and distribution among the co-owners and coheirs, the said defendant has failed and neglected to do so;

"8. That notwithstanding repeated demands made by the herein plaintiff on the aforesaid heirs of the late General Mariano Trias, namely, Rafael, Miguel, Soledad, Clara, Gabriel and the aforementioned heirs of the late Constancia Trias, for the partition of the above-described real property inherited from the deceased Balbino Trias, the said defendants have refused and failed and still refuse and fail to do so."

- On or about July 4, 1944, the defendants Miguel, Rafael, Soledad, Clara, and Gabriel Trias, children of the deceased Gen. Mariano Trias, filed an "answer ad cautelam" in which they admitted the residences of the parties and their capacity to sue and be sued but denied "generally and specifically each and every other allegation in the complaint," "without prejudice to the filing later on of an amended answer with all the necessary details after they shall have gathered the corresponding data." The other defendants did not contest the action.

- On August 9, 1944, the plaintiff (petitioner herein) filed a motion for judgment on the pleadings on the ground that said defendants' answer "does not constitute a specific denial as required under Rule 9 of the Rules of Court,

but instead is an admission of all the material allegations of the complaint," citing *El Hogar Filipino vs. Santos Investments, Inc.*, G.R. No. 48244, January 22, 1943, and *Philippine Trust Co. vs. Reyes*, G.R. No. 48844, April 30, 1943.

- On August 18, 1944, the said five defendants filed an amended answer with the corresponding motion to admit it, which amended answer contained special defenses to the effect that there had been a partition of all the properties of the deceased Balbino Trias among his heirs; that Mariano Trias during his lifetime, and after his death his widow and children, had been in possession of the property in question as absolute owners thereof continuously, peaceably, and adversely against the whole world for more than thirty years; and that plaintiffs cause of action, if any, had prescribed.

- On August 21, 1944, the said five defendants also filed an opposition to the plaintiff's motion for judgment on the pleadings, calling attention to the fact that they had just filed an amended answer "which conforms strictly with the Rules of Court," and alleging that the contents of the amended answer had not been alleged in the original answer and oautelam because the defendants and their attorney had not yet then studied the case, and that no prejudice would be caused to the plaintiff if the amended answer was admitted and the case tried on the merits.

- The incident was not resolved by the court until after the liberation. Judge Quirino reset it for hearing on August 28, 1945. At the hearing the said five defendants submitted a supplementary statement in support of their motion to admit their amended answer, alleging under oath among other things:

"4. That we beg to state now (a fact which could-not be revealed at the time we filed our amended answer on August 18, 1944) that defendants afael Trias and Miguel Trias, who took and are taking charge of this case in behalf of the defendants represented by the undersigned, were greatly hampered in their work of assisting the undersigned prepare the amended answer due to their activities in the resistance movement and their being thus harassed by the Japanese."

- After the hearing and on the same day Judge Quirino issued the order complained of, sustaining the said defendants' contentions and admitting their amended answer.

The only question before us now is whether the respondent court acted without jurisdiction or with grave abuse of discretion in admitting the amended answer and in not rendering judgment then and there as prayed for in the complaint.

The petitioner invokes Rule 9, the pertinent sections of which read as follows:

"SEC. 6. Defenses.—The answer shall contain either a specific denial or a statement of matters in avoidance of the cause or causes of action asserted in the complaint.

"SEC. 7. Specific denial.—The defendant must deal specifically with each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters which he will rely upon to support his denial. Where a pleader desires to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Where the defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state, and this shall have the effect of a denial.

"SEC. 8. Allegations not specifically denied.— Material averment in the complaint, other than those as to the amount of damage, shall be deemed admitted when not specifically denied. Allegations of usury are deemed admitted if not denied specifically and under oath."

The respondents on the other hand invoke section 2 of Rule 17, which provides as follows:

"SEC. 2. By leave.—The court may, upon motion at any stage of an action, and upon such terms as may be just,

order or give leave to either party to alter or amend any pleading, process, affidavit, or other document in the cause, to the end that the real matter in dispute and all matters in the action in dispute between the parties may, as far as possible, be completely determined in a single proceeding. But such order or leave shall be refused if it appears to the court that the motion was made with intent to delay the action."

Taking into consideration all the facts, and circumstances hereinbefore set forth—that the cause of action alleged in the complaint originated from the demise of Balbino Trias, which occurred more than half a century ago, probably before the said defendants were born, for which reason it was not possible for them to plead intelligently to the complaint without a full and careful investigation of the facts therein alleged; that the complaint alleged and claimed damages aggregating more than P50,000, which after all had to be proved at the trial because under section 8 of Rule 9 the amount of damages is not deemed admitted even though not specifically denied; that the amended answer was filed before the case was set for trial and before the hearing of plaintiff's motion for judgment on the pleadings; that the filing of the amended answer and of the motion to admit it did not appear to the court to have been made with intent to delay the action; and that the inability of the defendants to investigate, ascertain, and allege in their original answer the facts alleged in their amended answer was satisfactorily explained to the respondent court by the two defendants Rafael Trias and Miguel Trias, who were taking charge of the case in behalf of their brothers and codefendants but who were then engaged in underground movements and were hampered and harassed by the Japanese—we find that the respondent court not only did not abuse its discretion but acted in consonance with law and justice in the premises.

The case relied upon by the petitioner—*El Hogar Filipino vs. Santos Investments, Inc.*, (G.R. No. 48244, 2 O.G. 493)—is different from the case at bar. That was an action for a sum of money in which the defendant filed a general denial and did not seek to amend that answer. Upon motion of the plaintiff the court rendered judgment on the pleadings, considering the general denial as an admission of the material averments in the complaint, in accordance with section 8 of Rule 9. Upon appeal this Court affirmed the judgment. Thus it will be noted that the jurisdiction and authority of the trial court to admit an amended answer were not Invoked therein.

We are not in a position to comment on the other case cited by the petitioner, *Philippine Trust Co. vs. Reyes*, G.R. No. 48844, because the record of this Court including the decision in that case was burned; but judging from the quotation made therefrom by counsel for the petitioner in his petition (page 4), we believe that that case is similar to the *Hogar Filipino* case.

There is another case which the petitioner could have cited and upon which we deem it necessary to comment to avoid misunderstanding; namely, that of *Baetamo vs. Amador et al.*, G.R. No. 49255, promulgated September 18, 1944. That was an action to annul the sales of certain parcels of land on the ground that they were fictitious and were made solely to defraud the heirs of the deceased wife of the alleged seller. The defendant denied "specifically" each and every allegation contained in each and every paragraph of plaintiff's complaint, and added that he "reserves his right to file later on an amended answer containing such special affirmative defenses and counterclaims as he may deem necessary and proper in the premises." After the case was set for trial, the plaintiff filed a motion for judgment on the pleadings, but the trial court denied the motion notwithstanding that the defendant had not amended his answer but relied thereon, insisting that it was not a general denial because he used the adverb "specifically" and not "generally" in dehying the allegations of the complaint. This Court held that the answer was a mere general denial, and set aside the order of the respondent judge in that case and required him to render judgment on the pleadings. It will likewise be seen that neither were the jurisdiction and authority of the trial court to admit an amended answer under section 2 of Rule 17 invoked therein.

In conclusion we hold (1) that the admission of the material averments of the complaint imposed by section 8 of Rule 9 is not irrevocable and, like any other admission in court, may be withdrawn with leave of the court if there

is a justifiable reason therefor and if "the interests of justice so require; and (2) that an answer consisting of a general denial may, with leave of the court obtained under section 2 of Rule 17, be so amended as to do away with the implied statutory admission.

The petition is denied and the order complained of is affirmed, with costs.

Moran, C.J., Paras, Jaranilla, Feria, De Joya, Pablo, Bengzon, and Briones, JJ., concur.

CONCURRING

PERFECTO, J.:

We concur in the decision, but this concurrence should not be understood as agreeing with the doctrine laid down in the cited case of *Baetamo vs. Amador* (G. R. No. 49255). We do not believe there is any logic or reason to declare an answer as one of a "mere general denial" where defendant denied "specifically" each and every allegation contained in each and every paragraph of plaintiff's complaint. Unless we choose to live in a topsy-turvy world, there is no way of confusing metaphysically opposite ideas, or to make "general" of what is "specific", or vice versa.

CONCURRING

HILADO, J.:

I concur in the majority opinion, with the sole exception of such portions thereof as cite decisions rendered during the Japanese occupation of the Philippines.

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