

PHILIPPINE AIR LINES, INC., AND FAR EASTERN AIR TRANSPORT, INC., PETITIONERS, VS. JOSE TEODORO, SR., JUDGE OF THE COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL, AND CAPITOL SUBDI...

G.R. No. L-6698. August 30, 1955

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an original action for certiorari and mandamus. It is prayed in the petition:

"1. That upon the giving by petitioners of a nominal bond in such amount as this Honorable Court may fix, a writ of preliminary injunction be issued against the respondents restraining them from continuing the hearing of civil case No. 1865 until further order from this Court;

"2. That after due hearing judgment be rendered herein

"(a) Setting aside the order of the respondent judge dated March 21, 1953 (Annex F), whereby petitioners' motion to transfer civil case No. 1865 to Branch III of the Court of First Instance of Negros Occidental for joint trial therein with civil case No. 597 was denied;

"(b) Annulling the rulings made by the respondent judge which are complained of in paragraph IX of this petition, whereby he refused to permit the witness Mariano C. Reyes to testify and explain the inconsistency between the contents of his letter Exhibit CC and his testimony before the trial court, and whereby the said respondent judge also refused to permit the witnesses Emilio Buenaventura, Jr. and Paterno M. Serrano to testify with reference to the document Exhibit 4 (Annex I herein), intimating that said document is worthless as evidence for not being a consummated contract; and

"(c) Directing the respondent judge to indorse civil case No. 1865 to Branch III of the Court of First Instance of Negros Occidental for joint trial therein with civil case No. 597 of the same Court, and further directing the trial judge to admit the testimony of the witnesses Mariano C. Reyes, Emilio Buenaventura, Jr., and Paterno M. Serrano as herein-above specified.

"Petitioners further pray for such other and further relief as the Court may deem just and equitable and for costs of suit against the respondent Capitol Subdivision, Inc." (Petition pp. 46-47.)

Soon after the institution of the case, the writ of preliminary injunction prayed for in the petition was, after due hearing, issued, upon the filing of the corresponding bond.

The issues before us are: (1) whether or not respondent judge, Hon. Jose Teodoro, Sr., should be greeted to transfer civil case No. 1865 of the Court of First Instance of Negros Occidental, pending before the second branch thereof, which is presided over by said respondent, to the third branch of the same court; and (2) whether or not respondent Judge had exceeded his jurisdiction, or committed a grave abuse of discretion, in sustaining the objections of counsel for the Capitol Subdivision, Inc., to certain questions, propounded by counsel for

petitioners herein, during the hearing of said case.

The facts pertinent to the first issue are: Petitioners herein, namely, Philippine Air Lines, Inc., and Far Eastern Air Transport, Inc., are the defendants in civil case No. 1865 of the Court of First Instance of Negros Occidental, instituted by respondent Capitol Subdivision, Inc., as plaintiff, which case is pending before Branch II of said court, presided over by respondent Judge. Claiming to be the owner of part of the land constituting Airport No. 2 of the City of Bacolod, the Capitol Subdivision instituted said case, on January 25, 1951, to recover compensation for the occupation of said portion of land by petitioners herein, as operators of the air lines using said airport. The Civil Aeronautics Administration, under whose authority the airport is now being operated, intervened in said case No. 1865, for which reason it has, also, been allowed to participate in the case at bar, as intervenor.

It appears that, several years prior to the commencement of case No. 1865, or on August 9, 1946, an issue identical to the one involved in said case was raised in civil case No. 444 of the same court of first instance, entitled "Monico Puentevella, Jr., et al., vs. Far Eastern Air Transport, Inc., Philippine Air Lines, Incv and Commercial Air Line, Inc.," namely: whether Fuentebella and the other plaintiffs in said, case No. 444, as alleged owners of other portions of land within the perimeter of said airport No. 2, had a cause of action against the defendants therein (including herein petitioners) for the use of said land as part of the airport aforementioned, and, in the affirmative case, what is the reasonable compensation for said use? After due trial, before Branch II of said court, respondent Judge, who presided it, rendered judgment on September 27, 1950, the dispositive part of which reads as follows:

"Wherefore, the Court renders judgment (I) declaring that each and all of the plaintiffs are entitled to rental at the rate of P0.02 1/2 per square meter per month for the use of the properties described in the above-mentioned titles of the plaintiffs, for a total period of 32 1/2 months; (2) sentencing the defendants herein to pay the plaintiffs or other judicial representatives, as follows: The FEATI alone, to pay the sum of P30,355.33 covering only the period from November 15, 1945 to July 16, 1946, to all the plaintiffs as per area listed in the previous paragraph, to be paid to each plaintiff as : follows,:

Arsenia R. Puentevella	
P2,008.33	
Carmen Gonzaga	
10,847.41	
Teofilo Gonsoli	
2,008.33	
Luis Harvias.....	
200.83	
Luis Hervias.....	
200.83	
Antonio P. Ciocon & Ricardo Ciocon	
10,828.93	
Rosario Consoli	
502.08	

Margarita Tolo

100.41

Dolores Vda. de Tampingco

3,185.62

Mercedes Estrologo.....

200.83

Mercedes Estrologo

150.63

Tomas Jamili.....

121.10

"(3) Sentencing defendants FEATI and PAL to pay for the period front July 16, 1946 to May 12, 1947, the total sum of P37,28047 which they may prorate and which they are to pay as follows to each plaintiff, or their judicial representative:

Arsenia R. Puentevella

P2,465.00

Carmen Gonzaga

13,322.96

Teofilo Gonsoli

2,456.00

Luis Harvias.....

246.00

Luis Hervias.....

246.00

Antonio P. Ciocon & Ricardo Ciocon

13,297.48

Rosario Gonsoli

619.68

Margarita Tolo

123.25

Dolores Vda. de Tampingco

3,913.12

Mercedes Estrologo.....

246.50

Mercedes Estrologo

148.00

"Sentencing defendant PAL alone, to pay to the hereinabove listed plaintiffs from May 13, 1947 to July 31, 1948, the total sum of P55,793.86 or to each plaintiff as follows:

Arsenia R. Puentevella

P3,690.19

Carmen Gonzaga

19,939.43

Teofilo Gonsoli

3,690.19

Luis Harvias.....

369.02

Luis Hervias.....

369.02

Antonio P. Ciocon & Ricardo Ciocon

19,903.99

Rosario Consoli

921.44

Margarita Tolo

184.51

Dolores Vda. de Tampingco

5,856.46

Mercedes Estrologo.....

369.02

Mercedes Estrologo

279.09

Tomas Jamili.....

221.50'

with legal interests from August 9, 1946, until the whole amount is fully paid, and to pay the costs of the proceedings." (Joint Memorandum for Petitioners and Intervenor, pp. 7-9.)

This decision in case No. 444 was appealed to the Supreme Court (G. R. No. L-4958), where the case was

pending at the time pertinent to the issues raised in the present case (No. 1865).

Prior to the rendition of the decision of the Court of First Instance of Negros Occidental in said case No. 444, or, to be exact, on February 20, 1947, one Andres Wenches began civil case No. 597 of the same court, against petitioners herein, the Far Eastern Air Transport, Inc., and the Philippines Air Lines, Inc., for the purpose of ejecting the latter from a portion of land alleged to be owned by Menchaca, which land is said to be within the limits of the airfield above referred to, and to recover the corresponding for the use of said land from November 15, 1945. This case No. 597 was assigned to Branch III of said court.

On March 21, 1953, petitioners herein, as defendants in civil case No. 1865, filed a motion praying that an order issue transferring case No. 1865 from Branch II to Branch III of the Court of First Instance of Negros Occidental, for joint trial therein of said case and case No. 597, upon the ground that the two cases involves the same questions, of fact and law; that the same are practically identical to those decided by respondent Judge in civil case No. 444 (G. R. No. L-4958), and that, inasmuch as the evidence sought to be presented, in said cases Nos. 1865 and 597, by petitioner herein, are substantially the same as these introduced by them in civil case No. 444, and respondent Judge, who decided that case, had already formed an opinion adverse to the contention of petitioners herein, it would be very difficult to persuade said respondent to reach a different conclusion in deciding case No. 1865. This motion was denied and so was a petition for reconsideration of the order denying said motion. On April 11, 1953, petitioners herein proposed that the hearing of case No. 1865 be deferred until after the appeal in said case No. 444 shall have been disposed of by this Court; but the proposal did not merit favorable action. Thereafter, on April 29, 1953, the trial of case No. 1865 began before respondent Judge. After the presentation of the evidence for the Capitol Subdivision, consisting of the testimony of ten witnesses and numerous exhibits, marked as Exhibits A to CC inclusive, petitioners herein, as defendants in said civil case No. 1865, proceeded with the introduction of their own evidence, namely, the testimony of Mariano C. Reyes, Emilio Buenaventura, Jr. and Paterno M. Serrano.

As above stated, the first question for determination by this Court is whether or not respondent Judge is under a ministerial duty to grant the motion for transfer of civil case No. 1865 from Branch II to Branch III of the Court of First Instance of Negros Occidental, for the Joint hearing of Cases Nos. 1865 and 597 before said Branch III.

No statute or decision has been cited in support of the affirmative view. Rule 32, Section 1, of the Rules of Court upon which petitioners rely, reads:

"When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs, or delay."

This provision does not bear out petitioners' pretense. Admittedly it grants discretion, which is incompatible with the clear legal duty the existence of which is essential to warrant the issuance of a writ of mandamus. Moreover, said section 1 must be understood to refer to the consolidation of the hearing of two or more cases which are before the same judge, not when the cases are pending before different courts or different branches of the same court. Indeed, in the latter contingency, none of the judges involved has control over the case or cases pending before the other court or judge. Similarly, neither of them may, in effect, impose, upon the other judge or court, the duty to hear and decide the case pending before the latter, jointly with the case originally belonging to the former.

Again, petitioners did not seek relief from the order denying the transfer joint hearing prayed for, upon the issuance of said order, dated March 21, 1953, copy of which was received by petitioners herein on March 25, 1953. Thereafter, the parties proceeded with the hearing on the merits of case No. 1865 and introduced their

respective evidence therein. This mandamus and certiorari proceeding was not commenced until May 16, 1953, after the taking of documentary and testimonial evidence in case No. 1865, the transcript of which covers hundred of pages. As a result, if case No. 1865 were now ordered transferred to Branch III of the Court of First Instance of Negros Occidental, taking cognizance of civil case No. 597, for a joint hearing of the two cases, the result would be that part of the evidence would have been taken before respondent Judge and the rest would be introduced before another judge. In other words, case No. 1865 would be decided by a judge who had no opportunity to observe the behaviour of the witnesses for the plaintiff in case No. 1865. Surely, such a situation should be avoided, instead of created by mandamus, particularly considering that petitioners herein have contributed to its existence. It is apparent, therefore, that the first issue must be decided in favor of respondents herein.

The second question refers to the resolutions of respondent judge sustaining the objections of counsel for respondent, Capitol Subdivision, Inc., to some questions propounded by counsel for the petitioners herein, as defendants in, said case No. 1865. In this connection, it should be noted that, admittedly, respondent Judge had, and still has, jurisdiction over civil case No. 1865. It is not denied that His Honor has authority to receive evidence and to rule on the objections thereto. The resolutions thereon, even if erroneous, are reviewable, therefore, not by certiorari, " but on appeal from such decision as may be rendered in due time. In fact, said decision may make unnecessary to pass upon the wisdom of the resolutions complained of, for the party adversely affected by the latter might be 1 favored by the former, or the decision may be predicated upon such grounds as to render said resolutions immaterial to the validity of the conclusions of fact and law that may have been reached by the lower court in disposing of the case on its merit.

The cases of *Orient Insurance Co. vs. Revilla* (54 Phil., 919) and *People vs. Concepcion* (55 Phil., 485), cited by petitioners herein, are not in point. The first refers to an action against an insurance company, counsel for which was not allowed to read the second page of a letter after the first page thereof had been read into the record by counsel for the plaintiff. Obviously, the lower court was in duty bound to permit such examination, for, otherwise, counsel for the insurance company could not properly exercise the right of cross-examination, which is essential to due process. The second case involved the refusal of a lower court to receive the testimony of a given person, because he had been accused of perjury. Not having been, as yet, convicted of perjury, by final judgment, said person was manifestly competent to testify as a witness and, hence, the court had a legal obligation to admit his testimony, regardless of the weight or credence due thereto. In other words, in both cases, the lower court had failed, or refused, to perform a clear ministerial duty, the enforcement of which by mandamus is proper. No such duty exists in the case under consideration.

Moreover, the records before this Court do not disclose sufficient facts to enable us to determine, with reasonable certainty, the materiality or propriety of the questions objected to, apart from the circumstance that an expression of our opinion thereon might be construed as a statement of our views on the merits of case No. 1865, before the same had been passed upon by the lower court. Accordingly, there is no way by which petitioners' pretense, concerning the second issue, may be sustained, and the Court of First Instance of Negros Occidental must be allowed to resume the hearing of case No. 1865. However, at the continuation of said hearing, respondent Judge, or whoever shall preside the lower court, is expected to adhere to the policy enunciated in the case of *Prats & Co. vs. Phoenix Insurance Co.* (52 Phil., 807, 816-818), in which this Court, speaking through Mr. Justice Street, said:

"In the course of long experience we have observed that justice is most effectively and expeditiously administered in the courts where trivial objections to the admission of proof are received with least favor. The practice of excluding evidence on doubtful objections to its materiality or technical objections to the form of the questions should be avoided. In a case of any intricacy it is impossible for a judge of first instance, in the early stages of the development of the proof, to know with any certainty whether testimony is relevant or not; and where there is no indication of bad faith on the part of the attorney offering the evidence, the court may as

a rule safely accept the testimony upon the statement of the attorney that the proof offered will be connected later. Moreover, it must be remembered that in the heat of the battle over which he presides a judge of first instance may possibly fail into error in judging of the relevancy of proof where a fair and logical connection is in fact shown. When such a mistake is made and the proof is erroneously ruled out, the Supreme Court, upon appeal, often finds itself embarrassed and possibly unable to correct the effects of the error without returning the case for a new trial—a step which this court is always very loath to take. On the other hand, the admission, of proof in a court of first instance, even if the question as to its form, materiality, or relevancy is doubtful, can never result in much harm to either litigant, because the trial judge is supposed to know the law; and it is its duty, upon final consideration of the case, to distinguish the relevant and material from the irrelevant and immaterial. If this course is followed and the cause is prosecuted to the Supreme Court upon appeal, this court then has all the material before it necessary to make a correct judgment." (Italics supplied.)

The necessity of adopting a long-range view and a liberal attitude, upon resumption of the hearing of case No. 1865, becomes more imperative, owing to the fact that, acting upon the appeal from the decision of respondent Judge in case No. 444 of the Court of First Instance of Negros Occidental (G. R. No. L-4958), on March 30, 1954, this Court rendered judgment the dispositive part of which reads:

"In view of the foregoing considerations, the judgment is hereby set aside and the case ordered remanded to the court a quo, with the instruction that the Bureau of Aeronautics be made a party defendant, and that thereafter the action proceed in accordance with the rules."

Although we have not as yet expressed our opinion on the merits of the cause of action involved in said case No. 444—which is substantially identical to that set up in case No. 1865—it is obvious that our aforementioned decision of March 30, 1954—particularly insofar as it directs the inclusion of the Bureau of Aeronautics as party defendant in said case No. 444—tends to broaden the perspective in both cases and indicates certain possibilities which the lower court should bear in mind in the reception of evidence in case No. 1865 and in passing upon the issues raised in the course thereof.

Wherefore, the writ of preliminary injunction issued herein is dissolved and this case is hereby dismissed, with costs against the petitioners. It is so ordered.

Bengzon, Acting C. J., Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador and Reyes, J.B.L., JJ., concur.

Case dismissed.

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