

ADELA J. CAÑOS, PETITIONER, VS. HON. E.L. PERALTA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF DAVAO DEL SUR AND ROLANDO APAS, RESPONDENTS.

G.R. No. L-38352. August 19, 1982

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Petition to annul and set aside the order of the respondent Judge E.L. Peralta, presiding judge of the Court of First Instance of Davao del Sur, ordering the consolidation and joint trial of Criminal Case No. 326 and Civil Case No. 558.

The facts pertinent to this case are as follows: On December 23, 1971, petitioner Adela C. Caños was charged in the Court of First Instance of Davao del Sur with violation of Section 3[a] of Rep. Act No. 602, as amended, otherwise known as the Minimum Wage Law, for alleged non-payment of the minimum wage to her employee, respondent Rolando Apas. The case was docketed as Criminal Case No. 326.

On August 4, 1972, respondent Apas instituted an action against petitioner for collection of differential, overtime and termination pay, plus damages, docketed as Civil Case No. 558 of the same court. The complaint averred that respondent Apas had been employed by petitioner as cashier in her gasoline station since August 1965 up until he was illegally dismissed on January 15, 1971; that during his employment, he was not paid the minimum wage or the overtime pay prescribed by law, neither was he given termination pay after his dismissal. Respondent, however, did not pray for reinstatement.

After joinder of issues, the provincial fiscal of Davao del Sur and respondent Apas filed a "motion for consolidated trial" of the criminal and civil cases, alleging in support thereof –

"That the defendant in each of the two cases is one and the same person; that the complaining witness in the criminal case is also the plaintiff in the civil case; that the nature of the issues, at least, the factual issues, in both cases are almost identical; and that the evidence in both cases would virtually be the same, so that a consolidated trial of both cases would be conducive to the early termination of the two cases and would greatly enhance the convenience of the parties and the speedy administration of justice." [1]

Acting on the motion, respondent judge issued the challenged order, directing the joint trial of the two cases, in this wise:

"Since Rolando Apas, complainant, is not insisting on the trial of this case ahead of his civil case against the accused, for practical purpose, that is, to save time and effort of the parties and the court, the court is of the view that this case and the civil case be jointly tried. We shall be shooting two birds with a single shot."

Petitioner moved for reconsideration of the order, but the same was denied.

Hence, this petition.

Petitioner contends that after the institution of Criminal Case No. 326, the proceedings in Civil Case No. 558 should be suspended until final judgment in the criminal action has been rendered. Petitioner relies on Section 3, pars. [a] and [b], Rule 111 of the Rules of Court, which we quote:

"[a] Criminal and civil actions arising from the same offense may be instituted separately, but after the criminal action has been commenced the civil action can not be instituted until final judgment has been rendered in the criminal action;

"[b] After a criminal action has been commenced, no civil action arising from the same offense can be prosecuted, and the same shall be suspended, in whatever stage it may be found, until final judgment in the criminal proceedings has been rendered;"

The argument fails to consider the provisions of Article 31 of the Civil Code. Civil Case No. 558 is a separate and distinct action from Criminal Case No. 326. The former is based upon a contract of services entered into by the parties, not upon the civil liability arising from the offense charged in Criminal Case No. 326, i.e., non-payment of the minimum wage, punishable under Section 3(a) of Rep. Act 602, as amended, in relation to Section 15(a) of the same Act.[2] Being essentially an action for enforcement of an obligation ex-contractu, the civil case can proceed independently of the latter, in accordance with Article 31 of the Civil Code:

"Art. 31. When the civil action is based on an obligation not arising from the act or omission complained of as a felony, such civil action may proceed independently of the criminal proceedings and regardless of the result of the latter."

But did respondent judge abuse his discretion in ordering the consolidation and joint trial of the criminal and civil cases? A court may order several actions pending before it to be tried together where they arise from the same act, event or transaction, involve the same or like issues, and depend largely or substantially on the same evidence, provided that the court has jurisdiction over the cases to be consolidated and that a joint trial will not give one party an undue advantage or prejudice the substantial rights of any of the parties.[3] Consolidation of actions is expressly authorized under Section 1, Rule 31 of the Rules of Court:

"Section 1. Consolidation. - 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."

The obvious purpose of the above rule is to avoid multiplicity of suits, to guard against oppression and abuse, to prevent delays, to clear congested dockets, to simplify the work of the trial court; in short the attainment of justice with the least expense and vexation to the parties litigants.[4]

Consolidation of actions is addressed to the sound discretion of the court, and its action in consolidating will not be disturbed in the absence of manifest abuse of discretion. In the instant case, respondent judge did not abuse his discretion in ordering the joint trial of the two cases. There is no showing that such joint trial would prejudice any substantial right of petitioner. Neither does the latter question the court's jurisdiction to try and decide the two cases.

WHEREFORE, the petition is hereby dismissed with costs against petitioner. The lower court is directed to proceed with the joint trial of the two cases without unnecessary delay.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and De Castro, JJ., concur.

[1] Annex C.

[2] "Sec. 15. Penalties and recovery of wage due under this Act. - (a) Any person who wilfully violates any of the provisions of this Act shall upon con-viction thereof be subject to a fine of not more than two thousand pesos, or, upon second conviction, to imprisonment of not more than one year, or to both such fine and imprisonment, in the dis-cretion of the court."

[3] 1 CJS 1347

[4] 1 CJS 1342-1343

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