

HONORIO BULAO, PETITIONER, VS. COURT OF APPEALS, RTC JUDGE FRANCISCO VILLARTA AND SANTIAGO BELLEZA, RESPONDENTS.

G.R. No. 101983. February 01, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

On April 25, 1983, respondent Santiago Belleza filed before the Municipal Circuit Trial Court of Tayum, Peñarrubia, Abra,[1] a complaint against petitioner Honorio Bulao. It was docketed as "Civil Case No. 70-Damages." The petitioner moved to dismiss the same on the ground of lack of jurisdiction. He argued that the said case was cognizable by the Regional Trial Court, the real issue being one of ownership, possession of the land where the ditches are located, and real rights involving the use of ditches. The court denied the motion and required him to answer the complaint.

The petitioner failed to do so and was declared in default. He then moved for reconsideration and the lifting of the order of default. This time he claimed that it was the National Water Resources Council that had jurisdiction over the case because it involved rights on the utilization of water. The motion was also denied, and the court proceeded to receive the evidence of the private respondent.

On October 4, 1984, the court handed down a judgment by default ordering the petitioner to pay the following amounts in favor of the private respondent, plus the costs:

1. P6,000.00 representing the unrealized harvest of the private respondent on the land he was working on;
2. P2,625.00 representing his unrealized share from the harvest of his tenant; and
3. P2,000.00 representing attorney's fees.

The petitioner did not appeal the decision and the corresponding writ of execution was issued in due time. He moved to quash the writ but to no avail.

On March 25, 1985, the petitioner lodged before the Regional Trial Court of Abra Branch I,[2] a petition for relief from judgment/order in Civil Case 70. This was dismissed on the ground that the petitioner neither filed his answer to the complaint nor later availed himself of his right to appeal from the judgment. His motion for reconsideration was denied.

The petitioner next came to this Court to seek certiorari with preliminary injunction. His petition was referred to the Court of Appeals for consideration and adjudication on the merits. On July 5, 1991, the respondent court promulgated a decision denying the petition.[3] His motion for reconsideration having been likewise denied, the case is now before us for review.

The basic issue before us is the question of jurisdiction.

To resolve this, we have to determine first the true nature of the action filed with the court a quo. This can be

ascertained from the ultimate facts averred in the complaint as constituting the private respondent's cause of action. The settled principle is that the allegations of the complaint determine the nature of the action and consequently the jurisdiction of the courts.[4] This rule applies whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein as this is a matter that can be resolved only after and as a result of the trial. [5]

The complaint in Civil Case No. 70 is quoted as follows:

COMES undersigned counsel for the plaintiff and before this Honorable Court respectfully alleges:

1. That plaintiff is a Filipino Citizen, of legal age, married, resident of Lusuac, Peñarrubia, Abra, while defendant is also a Filipino citizen, of legal age, married and a resident of Lusuac, Peñarrubia, Abra, where he may be served with summons;

2. That the plaintiff is the owner of four parcels of land more particularly described as follows, to wit:

x x x

3. That the above described parcels of land give a yearly double crop yield in the amount of 75 cavans of clean rice for each cropping season because of the presence of an irrigation system which has existed for more than 50 years already;

4. That defendant's property is located on a higher elevation in the vicinity of the above parcels and irrigation ditch which supplies water to the above parcels must pass by the land of the defendant before it reaches the lands of plaintiff as above-described;

5. That sometime during the first week of December, 1982, defendant Bulao maliciously constructed a dam and diverted the flow of the water towards the west such that the lands of the plaintiff dried up and the rice plants withered and died;

6. That plaintiff used to harvest from the land above described 75 cavans of clean rice for every cropping season and he used to sell his rice at P6.00 a ganta or P150.00 a cavan;

7. That for the 75 cavans of rice which plaintiff failed to realize because of the malicious acts of the defendant, plaintiff failed to realize 75 cavans of clean rice or P11,250.00 by way of damages;

8. That because of the malicious acts of the defendant, plaintiff had to engage the services of counsel to protect his interest paying the amount of P2,000.00;

WHEREFORE, it is respectfully prayed that after hearing, judgment be rendered ordering the defendant -

(a) To allow the water to flow unhampered to plaintiff's properties as described in paragraph 2 hereof;

(b) To order defendant to pay damages to the plaintiff in the amount of P11,250.00 representing the value of the crops which plaintiff failed to realize;

(c) To pay attorney's fees in the amount of P2,000.00; and

(d) Such other and further reliefs as this Honorable Court may deem just and equitable in the premises.

The petitioner submits that the allegations in paragraphs 4 and 5 as well as the prayer in paragraph (a) of the above-quoted pleading show that the Civil Case 70 involves water and water rights and is thus a water dispute. The proper authority to try and decide the case is the National Water Resources Council pursuant to Article 88 of Presidential Decree 1067 providing as follows:

Art. 88. The Council shall have original jurisdiction over all disputes relating to appropriation, utilization,

exploitation, development, control, conservation and protection of waters within the meaning and context of the provision of this Code.

The petitioner invokes in this connection the cases of *Abe-abe vs. Manta*[6] and *Tanjay Water District vs. Gabaton*.[7]

In the first case, the petitioners sought a judicial confirmation of their prior vested right under Article 504 of the Civil Code to use the water of Anibungan Albay and Tajong Creeks to irrigate their ricelands upstream. They also wanted to enjoin the private respondent from using the water of the creeks at night to irrigate his riceland located downstream.

In the second case, the court was asked to prevent the Municipality of Pamplona from interfering with the management of the Tanjay Waterworks System.

It was held in both cases that jurisdiction pertained to the National Water Resources Council as the issues involved were the appropriation, utilization and control of water.

But these cases have no application to the instant controversy. It is clear from a reading of the private respondent's complaint in Civil Case 70 that it is an action for damages predicated on a quasi-delict.

A quasi-delict has the following elements: a) the damage suffered by the plaintiff; b) the act or omission of the defendant supposedly constituting fault or negligence; and c) the causal connection between the act and the damage sustained by the plaintiff. [8]

All these elements are set out in the private respondent's complaint, specifically in paragraphs 5, 7 and 8 thereof. The damage claimed to have been sustained by private respondent consists of his loss of harvest and consequent loss of income. The act constituting the fault is the alleged malicious construction of a dam and diversion of the flow of water by the petitioner. The said acts allegedly caused the interruption of water passing through petitioner's land towards respondent's lands, resulting in the destruction of the respondent's rice plants. The averments of the complaint plainly make out a case of quasi-delict that may be the basis of an action for damages.

The Court also notes that the title of the complaint is "Civil Case No. 70 - Damages." Although not necessarily determinative of the nature of the action, it would nevertheless indicate that what the private respondent contemplated was an action for damages.

It is pointed out, however, that paragraph (a) of the prayer for relief seems to convey the impression that the private respondent is asking for the right to use the irrigation water and for the recognition by the petitioner of an easement on his land. Would this change the character of Civil Case 70?

We have consistently held that the allegations of fact set forth in the complaint and not the prayer for relief will determine the nature of an action.[9] In the case of *De Tavera vs. Philippine Tuberculosis, Inc.*,[10] this Court declared:

While it is true that the complaint questions petitioner's removal from the position of Executive Secretary and seeks her reinstatement thereto, the nature of the suit is not necessarily one of quo warranto. The nature of the instant suit is one involving a violation of the rights of the plaintiff under the By-Laws of the Society, the Civil Code and the Constitution, which allegedly renders the individuals responsible therefore, accountable for damages, as may be gleaned from the following allegations in the complaint as constituting the plaintiff's causes of action.

Also worthy of note is the following pronouncement of this Court in *Bagiuoro vs. Barrios and Tupas Vda. de Atas*:[11]

It is an axiom in civil procedure that if the relief demanded is not the proper one which may be granted under the law, it does not characterize or determine the nature of the plaintiff's action, and that the relief to which the plaintiff is entitled based on the facts alleged by him in his complaint, although it is not the relief demanded, is what determines the nature of the action. And that is the reason why it is generally added to prayers for relief, though not necessary, the words "and for such other relief as the law warrants," or others to the same effect. So if a plaintiff alleges, for instance, that the defendant owes the former a certain amount of money and did not pay it at the time stipulated, and prays that the defendant be sentenced to return a certain personal property to the plaintiff, such prayer will not make or convert the action of recovery of debt into one of recovery of personal property, and the court shall grant the proper relief, or sentence the defendant to pay his debt to the plaintiff.

In any case, the injury has been done and that is what the private respondent was suing about in his action for damages. The relief he prayed for did not change Civil Case No. 70 into a water dispute coming under the jurisdiction of the National Water Research Council.

It follows that since the court a quo had jurisdiction over the action instituted by the private respondent, its decision, which has already become final and executory, can no longer be disturbed.

ACCORDINGLY, the petition is DENIED, with costs against the petitioner. It is so ordered.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] Presided by Judge Loreto L. Seares.

[2] Presided by Judge Francisco Villarta, Jr.

[3] Penned by Purisima, J., with Bengzon and Montoya, JJ., concurring.

[4] *Abrin v. Campos*, 203 SCRA 420; *Notre Dame Hospital v. Nallee-Philipps*, 197 SCRA 187; *Bautista v. Fernandez*, 38 SCRA 548.

[5] *Magay v. Estiandan*, 69 SCRA 456.

[6] 90 SCRA 526.

[7] 172 SCRA 253.

[8] *Andamo v. IAC*, 191 SCRA 195.

[9] *Bautista v. Fernandez*, *supra*; *Javellana v. D.O. Plaza Enterprises, Inc.*, 32 SCRA 261; *Schenker v. Gemperle*, 5 SCRA 1042; *Cabigao v. Lim*, 50 Phil. 844; *Rosales v. Reyes and Ordoneza*, 25 Phil. 45.

[10] 112 SCRA 243.

[11] 77 Phil. 120 cited in *De Tavera vs. Philippine Tuberculosis Society, Inc.* (*supra*) and in *Pleading and Trial Practice* by Ricardo J. Francisco, Vol. 1, 1989 Ed., pp. 178-179.

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