

**VICENTE MIJARES AND SULPICIA GUANZON, PETITIONERS, VS.
HONORABLE EDMUNDO S. PICCIO, JUDGE OF THE COURT OF FIRST
INSTANCE OF CEBU AND PASTORA ALVAREZ GUANZON,
RESPONDENTS.**

G. R. No. 10458. April 22, 1957

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for prohibition and certiorari with preliminary injunction seeking to enjoin respondent Judge from enforcing his order requiring petitioners to answer the complaint and proceed with the trial in Civil Case No. R-3822 and asking at the same time that said order be set aside and the case be dismissed as regards said petitioners.

On December 24, 1954, Pastora Alvarez Guanzon filed a complaint in the Court of First Instance of Cebu against her husband Jose M. Guanzon containing two causes of action: one for the annulment of a deed of sale in favor of Sulpicia Guanzon of certain, real properties situated in the province of Negros Occidental, and the annulment of a deed of donation inter-vivos in favor of Joven Salvador Guanzon of another set of real properties situated in the province of Cebu; and another for the separation of their conjugal properties, which include both real and personal acquired during marriage (Civil Case No. R-3823).

On October 19, 1955, plaintiff filed a motion to bring into the case Sulpicia Guanzon and her husband Vicente Mijares as parties defendants alleging that their presence therein is indispensable. This motion was granted and said defendants were duly summoned in accordance with law.

On January 17, 1956, the new defendants Sulpicia Guanzon and Vicente Mijares, instead of filing their answer, filed a motion to dismiss based on three grounds, to wit: (1) that venue is improperly laid, (2) that there is a misjoinder of causes of action and of parties defendants, and (3) that the court has no jurisdiction over the persons of said defendants. After hearing the parties on this motion, the court denied the same on February 7, 1956, holding that the action is in personam as it does not affect title to real property, that there is no misjoinder of causes of action, and that it has jurisdiction over the persons of the movants. The movants filed a motion for reconsideration, and when this was denied, they interposed the present petition for prohibition and certiorari seeking to set aside the two orders adverted to.

The present case involves the rule which allows the joinder of several causes of action, the pertinent provision of "which is embodied in Rule 2, section 5, which provides that "Subject to. rules regarding venue and joinder of parties, a party may in one complaint, counterclaim, cross-claim and third-party claim state, in the alternative or otherwise, as many different causes of action as he may have against an opposing party."

While this rule appears simple, however, difficulties may arise in its application, for it does not state specifically the cases where several causes of action, may be joined, each case apparently depending upon the nature of the

transactions involved. But one thing is clear: That the joining of causes of action must be subject to the rules regarding venue and joinder of parties. If these rules are violated, then a misjoinder of causes of action may arise.

Former Chief Justice Moran gives several illustrations of how this rule may be applied which are interesting. On this point he makes the following comment:

"This rule, which is now expressly extended to counterclaims, cross-claims, and third-party claims, is subject to the limitation regarding venue, whereby several causes of action with no common venue cannot be joined. For instance, if A, a resident of Manila, has against E, a resident of Baguio, two causes of action, one for money, and another for title to real property located in Zamboanga, he cannot join them in a single complaint, for the venue of the first action, which is either Manila or Baguio, is different from the venue of the second, which is Zamboanga.

The rule is likewise subject to the limitation regarding joinder of parties. For instance, if plaintiff A has a cause of action against B, another cause of action against C, and another cause of action against T, the three causes of action cannot be joined, because there would be a misjoinder of parties defendant, each of them being interested in the cause of action alleged against him but not in the other causes of action pleaded against the others.[1] A claim on a promissory note against three defendants may not be joined with a claim on another promissory note against two of the defendants, for again there is a misjoinder of parties, the third defendant in the first cause of action not having an interest in the second cause of action." [2] (Moran, Comments on the Rules of Court, Vol. I, 1952 Ed., p. 24).

In the light of the instances cited by former Chief Justice Moran, it may be stated that there is a misjoinder of causes of action in the present case not only as regards venue but also as regards the defendants. With regard to the first, it should be noted that the first cause of action stated in the complaint refers to the annulment of a deed of sale of certain real properties situated in the province of Negros Occidental, and of a deed of donation inter vivos of another set of real properties situated in the province of Cebu. They therefore refer to two different transactions which affect properties situated in two different provinces. The venue has therefore been improperly laid as regards the properties in Negros Occidental. With regard to the second, it also appears that the deed of sale which is sought to be annulled was made in favor of Sulpicia Guanzon whereas the deed of donation was made in favor of Joven Salvador Guanzon, and there is nothing from which it may be inferred that the two defendants have a common interest that may be joined in one cause of action. On the contrary, their interest is distinct and separate. They cannot therefore be joined in one cause of action.

In the light of the above considerations, it may therefore be stated that the motion to dismiss filed by petitioners in so far as the cause of action involving the annulment of the deed of sale covering the properties in Negros Occidental is well taken and should have been sustained by the lower court.

Petition is granted. The orders of respondent Judge dated February 7, 1956, and March 5, 1956 are hereby set aside. The complaint in so far as the cause of action affecting petitioners is hereby dismissed, leaving the complaint valid as regards the other defendants, with costs against respondent Pastora Alvarez Guanzon.

Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., Endencia. and Felix, JJ., concur.

[1]Gacula vs. Martinez et al., 88 Phil., 142.

[2] Federal Housing Administrator vs. Christianson, 1 Fed. Bules

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