

ARTURO ALANO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. ENRICO A. LANZANAS, PRESIDING JUDGE, REGIONAL TRIAL COURT, NATIONAL CAPITAL JUDICIAL REGION, MANILA, BRANCH 37...

G.R. No. 111244. December 15, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

Petitioner Arturo Alano has filed this petition for review of the decision[1] of the Court of Appeals in CA-G.R. SP No. 28150 which affirmed in toto the order of the Regional Trial Court of Manila, Branch 37[2] denying petitioner's motion for the suspension of proceeding of Criminal Case No. 90-84933, entitled "People of the Philippines vs. Arturo Alano" as well as his motion for reconsideration.

Criminal Case No. 90-84933 is a prosecution for the crime of estafa. The information[3] alleges:

"That on or about June 10, 1986, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously defraud Roberto S. Carlos in the following manner, to wit: the said accused, pretending to be still the owner of a parcel of land with an area of 1,172 square meters, more or less, located at Bicutan, Taguig, Metro Manila, covered by Tax Declaration No. 120-004-00398, well knowing that he had previously sold the same to the said Roberto S. Carlos for P30,000.00, sold the aforesaid property for the second time to one Erlinda B. Dandoy for P87,900.00, thereby depriving the said Roberto S. Carlos of his rightful ownership/possession of the said parcel of land, to the damage and prejudice of the said Roberto S. Carlos in the aforesaid amount of P30,000.00, Philippine currency.

Contrary to law."

Petitioner moved for the suspension of the criminal case on the ground that there was a prejudicial question pending resolution in another case being tried in the Regional Trial Court, National Capital Region, Pasig, Branch 68. The case, docketed as Civil Case No. 55103 and entitled "Roberto Carlos and Trinidad M. Carlos v. Arturo Alano, et al.," concerns the nullity of the sale and recovery of possession and damages. In the aforementioned Civil Case, private respondent filed a complaint against the petitioner seeking the annulment of the second sale of said parcel of land made by the petitioner to a certain Erlinda Dandoy on the premise that the said land was previously sold to them. In his answer, petitioner contends that he never sold the property to the private respondents and that his signature appearing in the deed of absolute sale in favor of the latter was a forgery, hence, the alleged sale was fictitious and inexistent. At this juncture, it is worth mentioning that the civil case was filed on March 1, 1985, five years before June 19, 1990 when the criminal case for estafa was instituted.

On October 3, 1991, the trial court denied the petitioner's motion as well as a subsequent motion for reconsideration.

Aggrieved, petitioner filed a petition for certiorari and prohibition before the Court of Appeals seeking the

nullification of the assailed order.

On July 26, 1993,[4] the Court of Appeals dismissed the petition for lack of merit, the decretal portion of which reads:

“WHEREFORE, finding no merit to the petition, the same is hereby DISMISSED, with cost against petitioner.”

Hence, this petition.

The only issue in this petition is whether the pendency of Civil Case No. 55103, is a prejudicial question justifying the suspension of the proceedings in Criminal Case No. 90-84933 filed against the petitioner.

Petitioner alleges that his signature appearing in the first deed of absolute sale in favor of private respondent was a forgery, such that there was no second sale covering the said parcel of land. Otherwise stated, if the Court in the said Civil Case rules that the first sale to herein private respondent was null and void, due to the forgery of petitioner’s signature in the first deed of sale, it follows that the criminal case for estafa would not prosper.

While at first blush there seems to be merit in petitioner’s claim, we are compelled to affirm the Court of Appeals’ findings.

The doctrine of prejudicial question comes into play in a situation where a civil action and a criminal action are both pending and there exists in the former an issue which must be preemptively resolved before the criminal action may proceed, because howsoever the issue raised in the civil action is resolved such resolution would be determinative of the guilt or innocence of the accused in the criminal action.[5] In other words, if both civil and criminal cases have similar issues or the issue in one is intimately related to the issues raised in the other, then a prejudicial question would likely exist, provided the other element or characteristic is satisfied.[6]

On the basis of the foregoing and a perusal of the facts obtaining in the case at bar, the disposition of the issue raised need not unduly detain us. We have already ruled that a criminal action for estafa (for alleged double sale of property) is a prejudicial question to a civil action for nullity of the alleged deed of sale and the defense of the alleged vendor is the forgery of his signature in the deed.[7]

Notwithstanding the apparent prejudicial question involved, the Court of Appeals still affirmed the Order of the trial court denying petitioner’s motion for the suspension of the proceeding on the ground that petitioner, in the stipulation of facts, had already admitted during the pre-trial order dated October 5, 1990 of the criminal case the validity of his signature in the first deed of sale between him and the private respondent, as well as his subsequent acknowledgment of his signature in twenty-three (23) cash vouchers evidencing the payments made by the private respondent. [8] Moreover, it was also noted by the Court of Appeals that petitioner even wrote to the private respondent offering to refund whatever sum the latter had paid.[9]

In this regard, the pre-trial provision on criminal procedure found in Rule 118 of the Rules of Court provides:

“Sec. 2. Pre-trial conference; subjects. x x x. The pre-trial conference shall consider the following:

(a) Plea bargaining

(b) Stipulation of facts”

From the foregoing, there is no question that a stipulation of facts by the parties in a criminal case is recognized as declarations constituting judicial admissions, hence, binding upon the parties[10] and by virtue of which the prosecution dispensed with the introduction of additional evidence and the defense waived the right to contest or dispute the veracity of the statement contained in the exhibit.[11]

Accordingly, the stipulation of facts stated in the pre-trial order amounts to an admission by the petitioner resulting in the waiver of his right to present evidence on his behalf. While it is true that the right to present evidence is guaranteed under the Constitution,[12] this right may be waived expressly or impliedly.[13]

Since the suspension of the criminal case due to a prejudicial question is only a procedural matter, the same is subject to a waiver by virtue of the prior acts of the accused. After all, the doctrine of waiver is made solely for the benefit and protection of the individual in his private capacity, if it can be dispensed with and relinquished without infringing on any public right and without detriment to the community at large.[14]

Accordingly, petitioner's admission in the stipulation of facts during the pre-trial of the criminal amounts to a waiver of his defense of forgery in the civil case. Hence, we have no reason to nullify such waiver, it being not contrary to law, public order, public policy, morals or good customs, or prejudicial to a third person with a right recognized by law.[15] Furthermore, it must be emphasized that the pre-trial order was signed by the petitioner himself. As such, the rule that no proof need be offered as to any facts admitted at a pre-trial hearing applies.[16]

WHEREFORE, in view of the foregoing, the appealed decision of the Court of Appeals dated July 26, 1993 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] Penned by Justice Regina G. Ordoñez-Benitez and concurred in by Justice Manuel C. Herrera and Bernardo P. Pardo.

[2] Per Judge Angelina Gutierrez.

[3] Rollo, p. 30.

[4] Id., pp. 96-101.

[5] *Flordelis v. Castillo*, 58 SCRA 301 (1974); *Donato v. Luna*, 160 SCRA 441 (1988).

[6] *Benitez v. Concepcion, Jr.*, 2 SCRA 178 (1961).

[7] *Ras v. Rasul*, 100 SCRA 125 (1980).

[8] Pre-trial Order, Rollo, pp. 134-140.

[9] Decision, Rollo, p. 101.

[10] *People v. Hernandez*, 260 SCRA 25 (1996).

[11] *People v. Bocar*, 27 SCRA 512 (1969).

[12] Sec. 14, Art. 3, 1987 Constitution.

[13] *People v. Dichose*, 96 SCRA 957 (1980).

[14] *People v. Donato*, 198 SCRA 130 (1991).

[15] Article 6, Civil Code.

[16] *Afable, et al. v. Ruiz, et al.*, 56 O.G. 3767; *Permanent Concrete Products, Inc. v. Teodoro*, 26 SCRA 339 (1969); *Munasque v. Court of Appeals*, 139 SCRA 533 (1985).

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