

ERIBERTO G. VALENCIA, SUBSTITUTED BY HIS HEIRS: REBECCA S. VDA. DE VALENCIA, MA. CAROLINA S. VALENCIA, MA. ANTONETTE S. VALENCIA, PETER GELVIC S. VALENCIA, JOSE THERONE S. VALENCI...

G.R. No. 111401. October 17, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Should the action for rescission of a lease contract (commenced by petitioner-lessor against private respondents-lessees) be deemed to bar -- on the ground of *litis pendentia* -- an action for damages brought by private respondents by reason of petitioner's violation of the restraining orders issued by the Court of Appeals which required the parties to maintain the status quo insofar as the lease relationship is concerned?

The Court answers this query in the negative while resolving the instant petition for review on certiorari, which assails the Decision[1] of the respondent Court of Appeals[2] promulgated on February 18, 1993 in CA-G.R. CV No. 27590, affirming the decision[3] of the trial court[4] awarding moral and exemplary damages plus attorney's fees to herein private respondents.

The Facts

The facts are not controverted by the parties, and therefore, the factual recitals in the trial court's decision, which were quoted by the respondent appellate court in its own Decision, are hereinbelow reproduced:[5]

"The evidence shows that (private respondents) were lessees of a 24-hectare fishpond owned by (petitioner as substituted by his heirs) located at Paombong, Bulacan. The lease is covered by a lease contract by and between the said parties (Exh. A). The lease [executed on March 1, 1982] was supposed to have expired on May 1987, but before the said date, (petitioner) filed [on June 25, 1984] a complaint against (private respondents) for the rescission of the lease contract. The Regional Trial Court of Malolos, Bulacan which took cognizance of said case issued a writ of preliminary Mandatory Injunction ordering (private respondents) to surrender to the (petitioner) possession of the fishpond. In view whereof, (private respondents) filed a Petition for Certiorari with the Intermediate Appellate Court. The said court on September 21, 1984 issued a restraining order enjoining (petitioner) and the Regional Trial Court from enforcing the mandatory injunction (Exh. J of [private respondents] and Exh. 11 of [petitioner]).

At the hearing in the Intermediate Appellate Court the parties agreed to maintain a status quo and the fishpond hut would be utilized by (private respondents) until the case is resolved by the Regional Trial Court of Malolos (Exh. N). However, despite this order of the Appellate Court (petitioner) filed an ex-parte motion for the designation of a member of the Philippine Constabulary to maintain order in the place which the Regional Trial Court of Malolos granted. With said order (petitioner) with the aid of PC men was able to eject plaintiffs from the main hut. (Petitioner) and their men also dried up a portion of the leased property where (private respondents) have previously scattered chemicals and fertilizer to grow fish food. As a result no fish food grew causing damage to (private respondents).

(Private respondents) were also prevented from transferring the bigger fish to a more spacious portion of the fishpond resulting in death to many fishes which again caused damages to (private respondents). Subsequently another person came to the fishpond and introduced himself as the new lessee. The Regional Trial Court of Malolos then issued another order (Exh. 5-2) declaring that all the fishes located in the fishpond remain the properties of (private respondents) subject to their disposal, however the same was not honored by (petitioner).

(Private respondents) then appealed again to the IAC which issued a resolution enjoining (petitioner) to maintain and observe status quo (Exh. V-VI), and subsequently another resolution categorically declaring (petitioner) Valencia without right of possession under status quo, and to vacate the main hut of the fishpond (Exh. Y). It was only then that (private respondents) gained complete and total control of the subject fishpond including its huts.

(Private respondents) are now asking [the Regional Trial Court of Manila] for exemplary damages worth P400,000.00, moral damages of P400,000.00, attorney's fees of P100,000.00 and costs of suit.

A motion to Dismiss was filed by (petitioner) on April 8, 1985 which was opposed by (private respondents). The motion to Dismiss was denied by the court on March 4, 1986. A Motion for Reconsideration was filed by (petitioner) which was denied by the court.

After (petitioner) filed his Answer, pre-trial was set on November 14, 1986 and the same was terminated on February 26, 1987. Trial on the merits was held on April 3, 1987.

The evidence for the prosecution was brought forth through the testimonies of Ricardo Bagtas and Miguel Bunye and its Exhibits A to CC.

Instead of presenting evidence x x x, (petitioner) filed [on February 24, 1989] a Second Motion to Dismiss which was opposed by counsel for (private respondents). The Second Motion to Dismiss was denied by the court [on April 13, 1989].[6]

On August 31, 1989, the (petitioner) Eriberto Valencia testified, however his testimony was not terminated in view of the objection of counsel for the (private respondents) who claimed that the questions propounded to the witness touched on matters which have been passed upon by the Regional Trial Court of Malolos.

(Petitioner) contended that proceedings in this court [RTC of Manila] should be suspended until after the case in the Regional Trial Court of Malolos which was appealed to the Court of Appeals is resolved, and filed a Motion to this effect, but the court denied the same."

The trial court gave counsel for petitioner time to file the necessary pleadings, as prayed for, but he failed to do so. During the subsequent hearing, neither petitioner nor his counsel appeared. The trial court thus deemed petitioner to have waived his right to present further evidence, and the case was considered submitted for decision. On March 23, 1990, the trial court ruled in favor of private respondents, the fallo of its decision reading as follows:[7]

"WHEREFORE, premises considered, the court orders defendant (petitioner herein) to pay the plaintiffs moral damages in the amount of P30,000.00, exemplary damages in the amount of P20,000.00 and to pay plaintiffs P10,000.00 as and for attorney's fees."

Petitioner and private respondents, being equally dissatisfied with the decision of the trial court, appealed to respondent Court. Petitioner alleged *litis pendentia* and contested the award of damages by the trial court; private respondents on the other hand were aggrieved that the trial court failed to award actual damages, and in addition sought an increase in the amount of moral and exemplary damages granted.

On appeal, respondent Court affirmed the decision of the Manila RTC, and held that there was no *litis pendentia*: [8]

"It is not disputed that there was another suit, Civil Case No. 7554-M, then pending before the Regional Trial Court in Bulacan between plaintiffs-appellants and defendant-appellant. To be sure, that case involved the same property. There, appellant Valencia sought the rescission of the lease contract he had entered into with plaintiffs on March 1, 1982. He based his claim upon the alleged failure of plaintiffs to abide by the stipulations of their agreement. In this case under consideration, plaintiffs Bagtas and Bunye are asking for compensation for the damages that they had sustained by reason of Valencia's violation of certain resolutions issued by this Court in (CA)-G.R. SP No. 04283 (Exhs. 'J' & 'N'). Clearly, the causes of action in the two cases are not the same; they are founded on different acts; the rights violated are different; and the reliefs sought are also different. Consequently, defendant-appellant's submission that *lis pendens* is a ground for dismissal of plaintiffs' suit is not valid."

The dispositive portion of the now-assailed Decision reads:[9]

"WHEREFORE, judgment is hereby rendered affirming the appealed decision with the modification that plaintiffs-appellants [private respondents herein] are hereby additionally awarded the sum of P50,000.00 as and for actual damages. Costs against defendant-appellant [herein petitioner]."

Petitioner's motion for reconsideration dated March 9, 1993 was denied by respondent Court. Thus he comes to us seeking relief.

The Issue

Petitioner raises the following lone "legal issue:"[10]

"THE DENIAL ORDERS AND THE DECISION OF THE MANILA COURT IN CIVIL CASE NO. 85-29514 AND THE DECISION OF RESPONDENT COURT IN CA-G.R. CV NO. 27590 ARE NOT IN ACCORD WITH THE LAW AND THE DECISIONS ON LITIS PENDENTIA."

Petitioner contends that the error in the Decision lies in its failure to properly appreciate the complaint filed with the Manila court, which, when taken together with private respondents' documentary and testimonial evidence, discloses that the alleged wrongful acts for which they claimed damages arose out of, were connected with, and/or were incidents of the proceedings in the action for rescission before the Bulacan court. Petitioner claims that the action for damages commenced by private respondents constitutes splitting of a single cause of action which is prohibited by the Revised Rules of Court.[11]

Petitioner argues that, for the aforesaid reasons, if indeed private respondents suffered any damage, they should have filed a compulsory counterclaim or supplemental pleading for the alleged acts of violation of restraining orders which are "transactions, occurrence or event which have happened since the date of the pleading sought to be supplemented." [12] He insists that the filing of a compulsory counterclaim is the proper recourse considering that petitioner had posted a bond in the rescission case to answer for damages that private respondents might suffer by reason of the issuance of the preliminary mandatory injunction.[13] He also ventures to say that the case filed with the Manila court can even be considered as a form of "forum shopping." [14]

In fine, petitioner asserts that under the rule on *litis pendentia* the action for rescission filed with the Bulacan court bars the action for damages filed in Manila. It is interesting to note that petitioner does not contest the correctness of the award of damages made by respondent Court; he merely insists on the dismissal (?) of the case for damages on the ground of *litis pendentia*, there being a pending case for rescission in which private respondents could have asserted their claim for damages. This being his lone assigned issue, the clear and unavoidable implication is that if his contention is struck down, he is deemed to have waived any objection against the award of damages by respondent Court.

The Court's Ruling

Petitioner's arguments are legally tenuous and patently unmeritorious.

Litis Pendencia and Splitting of a Single Cause of Action

Before discussing the petition on the merits, it is well to clarify certain concepts at the outset. If a party-litigant splits his single cause of action, the other action or actions filed may be dismissed by invoking *litis pendencia*, pursuant to Section 1(e), Rule 16 of the Revised Rules of Court.[15] A party who splits his single cause of action cannot be accused of also "violating the rule against *litis pendencia*" as the former, a malpractice, gives rise to the latter, a ground for a motion to dismiss. This is made clear by Section 4, Rule 2 of the Rules, which speaks of cause and effect:

"Sec. 4. Effect of splitting a single cause of action. -- If two or more complaints are brought for different parts of a single cause of action, the filing of the first may be pleaded in abatement of the other or others, in accordance with section 1 (e) of Rule 16, and a judgment upon the merits in any one is available as a bar in the others.

Now, to the main issues.

No Litis Pendencia

This Court has consistently held, in a long line of cases, that the requisites for the existence of *litis pendencia* as a ground for dismissal of an action are as follows:

- 1) identity of parties, or at least such parties as represent the same interest in both actions;
- 2) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and
- 3) the identity with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.[16]

There may have been identity of parties in the two actions, but the other two requisites are not similarly satisfied. The case in *Bulacan* was of course founded upon alleged violations by the private respondents as lessees of certain stipulations in their lease contract with petitioner, and therefore, it cannot be gainsaid that the rights asserted (by petitioner as lessor) and relief sought therein (i.e., rescission of the lease contract) were entirely different from those asserted in *Manila*. The latter case stemmed from the prejudice suffered by private respondents due to petitioner's violation of the IAC's restraining orders for the observance of status quo between the parties, the relief demanded therein consisting of actual, moral and exemplary damages. Thus, the respondent Court committed no reversible error in holding that "the causes of action in the two cases are not the same; they are founded on different acts; the rights violated are different; and the reliefs sought are also different."

The third requisite constitutes the test of identity in the aforestated particulars, and in connection therewith, this Court quoted 1 Cyc., 28[17] thus:

"A plea of the pendency of a prior action is not available unless the prior action is of such a character that, had a judgment been rendered therein on the merits, such a judgment would be conclusive between the parties and could be pleaded in bar of the second action." (underscoring supplied)

The *res judicata* test when applied to the two cases in question indicate in no uncertain terms that regardless of whoever will ultimately prevail in the *Bulacan* case, the final judgment therein -- whether granting or denying rescission of the lease contract -- will not be conclusive between the parties in the *Manila* case, and vice versa. In other words, to our mind, the outcome of the *Bulacan* case has nothing to do with whether petitioner should be held liable for the damage inflicted upon private respondents as a result of his violating the IAC restraining orders, the two cases having arisen from different acts and environmental circumstances.

No Forum-Shopping

Petitioner's allegations to the contrary notwithstanding, forum-shopping is not present in the case at bar. The established rule is that for forum-shopping to exist, both actions must involve the same transactions, same essential facts and circumstances and must raise identical causes of actions, subject matter, and issues.[18] As held by this Court in a recent case:[19]

"The test for determining whether a party violated the rule against forum shopping has been laid down in the 1986 case of *Buan vs. Lopez* (145 SCRA 34, October 13, 1986), also by Chief Justice Narvasa, and that is, forum shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the other x x x" (underscoring supplied)

We have already established that *litis pendentia* could not have been properly pleaded to abate the second action brought in Manila, and that a final judgment in either case would not be *res judicata* with respect to the other. Thus, the allegation of forum-shopping must fail.

In *Jose Cuenco Borromeo, et al., vs. Hon. Intermediate Appellate Court, et al.*,[20] this Court capsulized the essence of what is abhorrent in the malpractice of forum-shopping, and the following excerpt shows why there can be no forum-shopping in this case:

"Ultimately, what is truly important to consider in determining whether forum-shopping exists or not is the vexation caused the courts and parties-litigant by a party who asks different courts to rule on the same or related causes and/or to grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issue."

Claim for Damages Not A Compulsory Counterclaim

Petitioner erroneously insists that private respondents' claim for damages should have been made through a compulsory counterclaim in the same action for rescission. This could not have been done as the same cannot be considered or treated as a compulsory counterclaim in the *Bulacan* case. This Court, in an early case,[21] stated certain criteria or tests by which the compulsory or permissive nature of specific counterclaims can be determined, summarized as follows:

- "1. Are the issues of fact and law raised by the claim and counterclaim largely the same?
2. Would *res judicata* bar a subsequent suit on defendant's claim absent the compulsory counterclaim rule?
3. Will substantially the same evidence support or refute plaintiff's claim as well as defendant's counterclaim?
4. Is there any logical relation between the claim and the counterclaim?"

In this instance, the answers to all four queries are in the negative.

Was Injunction Bond Sufficient Protection?

Petitioner's argument that the bond he posted for the issuance by the *Bulacan* trial court of the writ of preliminary mandatory injunction could have answered for the damages claimed by private respondents is untenable. Such bond was required for a specific purpose, to wit:[22]

"(b) The plaintiff files with the clerk or judge of the court in which the action is pending a bond executed to the party enjoined, in an amount to be fixed by the court, to the effect that the plaintiff will pay to such party all damages which he may sustain by reason of the injunction if the court should finally decide that the plaintiff was not entitled thereto."

No further scrutiny is necessary. The said bond was supposed to answer only for damages which may be sustained by private respondents, against whom the mandatory injunction was issued, by reason of the issuance thereof, and not to answer for damages caused by the actuations of petitioner, which may or may not be related at all to the

implementation of the mandatory injunction. The purpose of the injunction bond is to protect the defendant against loss or damage by reason of the injunction in case the court finally decides that the plaintiff was not entitled to it, and the bond is usually conditioned accordingly. Thus, the bondsmen are obligated to account to the defendant in the injunction suit for all damages, or costs and reasonable counsel's fees, incurred or sustained by the latter in case it is determined that the injunction was wrongfully issued.[23]

In the case at bar, the damages and expenses sustained by private respondents were a result of the willful contravention by petitioner of the IAC restraining orders, and thus, outside the coverage of the injunction bond.

WHEREFORE, in view of the foregoing, the instant petition is hereby DENIED and the appealed Decision and Resolution are AFFIRMED. Costs against petitioner.

SO ORDERED.

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

[1] Rollo, pp. 19-30.

[2] Fourth Division, composed of J. Alfredo L. Benipayo, ponente and JJ. Serafin E. Camilon and Fermin A. Martin, Jr., concurring.

[3] In Civil Case No. 85-29514, entitled "Ricardo Bagtas and Miguel Bunye vs. Eriberto G. Valencia." Rollo, pp. 123-A, 124, & 124-A.

[4] Regional Trial Court of Manila, Branch IV, presided by Judge Elisa R. Israel.

[5] Rollo, pp. 19-21; pp. 123-A, 124, 124-A.

[6] In the meantime, on November 29, 1988, the RTC of Malolos, Bulacan rendered its decision in the lease rescission case, holding that with the return of the fishpond in question, petitioner's prayer for rescission of contract had become moot and academic; nevertheless, the court found that private respondents had fulfilled all their obligations under the contract (save one, for which they were considered legally excused, the fault being with petitioner). From the evidence on record, the court also concluded that petitioner sought rescission of the said contract merely in order to lease it out to third parties for much larger rentals. The trial court held that petitioner's behavior caused defendants unnecessary suffering and damage and entitled them to moral and exemplary damages as well as attorney's fees and costs of suit.

[7] Rollo, p. 124-A.

[8] Rollo, p. 22.

[9] Rollo, p. 30.

[10] Rollo, p. 12. The question of whether private respondents' claim for damages ought to have been filed with the IAC, was never raised by petitioner. The same is thus deemed waived, and hence will not be passed upon here.

[11] Rollo, pp. 13-14.

[12] Rollo, pp. 14-15.

[13] Rollo, p. 181.

[14] Rollo, p. 16; see also rollo, pp. 179-180.

[15] Sec. 1(e) of Rule 16 states:

"Section 1. Grounds. -- Within the time for pleading a motion to dismiss the action may be made on any of the following grounds:

x x x x x x x x

(e) That there is another action pending between the same parties for the same cause;

x x x x x x x x."

[16] Atienza vs. Court of Appeals, 232 SCRA 737, 741, June 2, 1994; Yu vs. Court of Appeals, 232 SCRA 594, 598, May 27, 1994; Buan vs. Lopez, 145 SCRA 34, October 13, 1986; Alarcon vs. Torres, 19 SCRA 706, 709, March 31, 1967; Hongkong & Shanghai Bank vs. Aldecoa & Co., 30 Phil. 255, 274, March 23, 1915. See also First Philippine International Bank, et al. vs. Court of Appeals, et al., G.R. No. 115849, January 24, 1996.

[17] Cited in Hongkong & Shanghai Bank vs. Aldecoa & Co., supra, at p. 275.

[18] International Container Terminal Services, Inc. vs. Court of Appeals, 249 SCRA 389, 394-395, October 18, 1995; GSIS vs. Sandiganbayan, 191 SCRA 655, 660, November 26, 1990; and Silahis International Hotel, Inc. vs. NLRC, 225 SCRA 94, 100, August 4, 1993.

[19] First Philippine International Bank, et al. vs. Court of Appeals, et al., G.R. No. 115849, January 24, 1996, at p. 19.

[20] G.R. No. 73592, promulgated on March 15, 1996.

[21] National Marketing Corporation vs. Federation of United Namarco Distributors, Inc., 49 SCRA 238, 257, January 31, 1973, citing Wright & Miller, 6 Federal Practice & Procedure, Civil Sec. 1410, p. 42, 1971 ed.

[22] Paragraph b, Section 4, Rule 58 of the Revised Rules of Court.

[23] Francisco, Vicente J., Revised Rules of Court in the Philippines, Second Edition, 1985, Vol. IV-A, pp. 250-251, citing 28 Am. Jur. 436-437.

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