

CONRADO COLARINA, PETITIONER, VS. COURT OF APPEALS, JUDGE NILO MALANYAON, RTC-BR. 32, PILI, CAMARINES SUR; ASSET PRIVATIZATION TRUST; COMMITTEE ON PRIVATIZATION; DEPARTMENT OF A...*G.R. No. 117439. February 25, 1999*

Ponente: BELLOSILLO, J.

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In *Tacay v. RTC of Tagum, Davao del Norte*[1] we decreed that when an action involves real property the legal fees for the filing thereof shall be assessed on the basis of its value. We have no reason to deviate therefrom. Conrado Colarina alleges that he was the owner of several parcels of land with a total land area of 6,340 hectares, more or less, which were placed under the compulsory coverage of RA No. 6657 otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988 under which the landowner is given the option to choose the mode of payment for his land. Since petitioner had not yet been accordingly compensated he therefore sought to exchange his land with the physical assets of the government.

Petitioner was particularly interested in the assets of the Bicol Sugar Development Corporation (BISUDECO) which was foreclosed by the Philippine National Bank and turned over to the Assets Privatization Trust (APT) for disposition to interested buyers. Thus he informed the APT, the Committee on Privatization (COP) and the Department of Agrarian Reform (DAR) of his desire to be paid with BISUDECO assets. Nevertheless, the APT published and offered the BISUDECO assets for sale at public auction.

On 22 June 1992 petitioner submitted a bid of P270,000,000.00 plus 3% of the gross sales for the next five (5) years. He stated in his bid that the entire amount would be paid for with his lands that were taken and placed by the DAR under the operation of RA No. 6657. He also prayed that he be exempted from putting up the required cash deposit equivalent to ten percent (10%) of his bid.

Petitioner's request for exemption from the bonding requirement was however denied. Since he failed to put up the required cash bond, he was disqualified from the bidding thus leaving respondent Bicol Agro-Industrial Producers Cooperative (BAPCI) as the only qualified bidder. On 22 June 1992 a deed of sale over the BISUDECO assets for P160,000,000.00 was executed in favor of respondent BAPCI.

On 4 November 1992 petitioner filed a complaint for Cancellation and Annulment of Sale or Award, Mandamus with Preliminary Injunction, Restraining Order and Damages before the RTC of Camarines Sur against the APT, the COP, the DAR and the BAPCI. On 1 December 1992 he filed his Amended Complaint praying that -

x x x upon receipt of this complaint, a restraining order be issued by the court, enjoining and commanding the BICOL AGRO INDUSTRIAL PRODUCERS COOPERATIVE (BAPCI) to stop and desist in taking possession the assets of BISUDECO, and to make such order permanent thereafter through a writ of Preliminary Mandatory Injunction. After due notice and hearing judgment be rendered:

- Declaring the sale, award and grant of the BISUDECO assets to the BAPCI by the APT/COP null and void.
- Ordering the APT, the COP and the DAR to grant, approve, effect and materialize the swapping of the plaintiff's land with the BISUDECO assets pursuant to R.A. No. 6657, and the plaintiff being the highest bidder.
- Ordering the defendants to pay the plaintiff the amount of P200,000.00 for attorney's fee and for necessary and related expenses of suit.

For the filing of his complaint in the Regional Trial Court petitioner paid the amount of P415.00 as docket fees.

In its Answer with Counterclaim respondent BAPCI argued that the trial court did not acquire jurisdiction over the complaint since plaintiff (petitioner herein) failed to pay the docket fee of P1,350,850.00, which was based on the value of the disputed property pegged by petitioner himself at P270,000,000.00. On 23 March 1993 the trial court directed petitioner to complete within twenty (20) days payment of the proper docket fees computed at "P1,350,850.00, less the P415.00 he has already paid." The trial court likewise denied petitioner's motion for reconsideration and directed him to pay the legal fees in full within thirteen (13) days from notice or the case would be dismissed.

On 3 June 1993 petitioner went to the Court of Appeals on certiorari but on 22 July 1994 the appellate court[2] dismissed the petition -

A closer look at the allegations of the amended Complaint together with the prayer sought to be attained in the case, shows that petitioner is actually demanding payment for his sequestered 6,340 hectares placed under the Agrarian Reform Law with the BISUDECO properties bidded on June 22, 1992. In the process, petitioner necessarily had to ask for the annulment or the invalidity of the sale, award and grant of the same BISUDECO properties in favor of the Bicol Agro Industrial Producers, Inc. Conclusively, the lower court did not err or commit a mistake in assessing plaintiff with additional filing fee computed at plaintiff's bid price of P270,000,000.00 submitted at the public auction sale on June 22, 1992, since the case is not one which is beyond pecuniary estimation but rather a simple collection case where value of the subject property or amount of demand is pecuniarily discernible.[3]

On 7 September 1994 the motion for reconsideration was denied; hence, the instant petition for review on certiorari.

Petitioner asserts that the complaint he filed before the trial court, i.e, for cancellation and annulment of sale or award, mandamus with preliminary injunction, restraining order and damages, is not capable of pecuniary estimation; as such he should not be required to pay a docket fee based on the assessed value of the BISUDECO assets. He contends that the subject matter of litigation is not the assets of BISUDECO but his claim for a better right to the sale or award. Therefore, the amount of P270,000,000.00 which he offered for the BISUDECO assets cannot be used as basis in computing the filing fees. Rather, he should only be assessed P415.00 based on the amount of P200,000.00 which he claimed as attorney's fees.

We disagree. The Amended Complaint filed by petitioner readily shows that his primary and ultimate intention is to recover the BISUDECO assets as payment for his landholdings which were put under the coverage of the CARL. This is quite evident from his allegations -

- That in clear and willful disregard and violation of R.A. No. 7181, Section 1, paragraph 2 hereto, and in full disregard of the plaintiff's right afforded to him by R.A. 6657, defendant COMMITTEE ON PRIVATIZATION, informed the plaintiff last October 22, 1992, that it has already approved the sale of the BISUDECO assets to defendant BICOL AGRO INDUSTRIAL PRODUCERS COOPERATIVE (BAPCI), the latter being the alleged only bidder and offered during the public bidding, which conclusion and action of the

COP, is clearly and patently false, fabricated and baseless, as plaintiff has already submitted his written bid last June 22, 1992.

- That the alleged grants, approval, award and sale made by the COP of the BISUDECO assets to the BAPCI, for a total amount of P160,000,000.00 as compared to the plaintiff's bid of P270,000,000.00 is not only fishy, disadvantageous, but also prejudicial to the interest and benefits of government.
- That the BAPCI is now claiming as owner of the BISUDECO assets, and is intending to take actual, physical and material possession of the same, cannot be stopped, unless so ordered by the court through a restraining order and after due notice and hearing by way of writ of Preliminary Mandatory Injunction x x x
- That plaintiff is entitled to the relief demanded, for the enforcement and protection of his right to the option he has chosen and for compensation of his agricultural lands taken over by the DAR, under R.A. No. 6657.
- That the intended taking over of the BISUDECO assets by the BAPCI shall clearly prejudice the right of the plaintiff and shall create injustice on the (sic) part, unless stopped x x x[4]

Thus he prays for the nullification of the sale, award and grant by APT of the BISUDECO assets to the BAPCI, and prays the trial court to order the APT, the COP and the DAR to "grant, approve, effect and materialize" the swapping of his land with the BISUDECO assets pursuant to RA No. 6657.[5] Consequently, petitioner was not merely seeking the annulment of the sale of the BISUDECO assets to respondent BAPCI to rectify what he terms as a "fishy, disadvantageous x x x x prejudicial" sale, but was really asking the court to declare him as the winning bidder and ultimately give him possession and ownership of the BISUDECO assets which he himself pegged at P270,000,000.00. Hence, this case is one which is really not beyond pecuniary estimation but rather a simple collection case where the value of the subject property or amount demanded is pecuniarily determinable.

Thus, the trial court did not abuse its discretion, much less gravely, when it refused to dismiss the complaint filed by petitioner, directing him instead to complete payment of the required docket fees. This is conformably with our ruling in *Sun Insurance Office, Ltd. v. Judge Asuncion*[6] where we said that if the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglemenatry period. The disposition of the trial court is likewise in conformity with *De Zuzuarregui, Jr. v. Court of Appeals*[7] where we reiterated that the court may allow the payment of the docket fee within a reasonable time. While the payment of docket fees, like other procedural rules, may have been liberally construed in certain cases if only to secure a just and speedy disposition of every action and proceeding, it should not be ignored or belittled lest it scathes and prejudices the other party's substantive rights. The payment of the docket fee in the proper amount should be followed subject only to certain exceptions which should be strictly construed.

The Court of Appeals was also correct when it ruled that certiorari was not the proper remedy since an appeal would still be available should the trial court ultimately dismiss the civil case. For, before certiorari could lie, all the remedies available in the trial court should have first been exhausted. Accordingly, we find no reason to reverse the Decision sought to be reviewed as it is in accord with the facts and the law.

WHEREFORE, the instant petition for review on certiorari is DENIED. The 22 July 1994 Decision of respondent Court of Appeals sustaining the 10 May 1993 Order of the Regional Trial Court of Pili, Camarines Sur, Br. 32, in Civil Case No. P-1865, is AFFIRMED. Costs against petitioner.

SO ORDERED.

Puno, Mendoza, Quisumbing, and Buena, JJ., concur.

[1]G.R. Nos. 880075-77, 20 December 1989, 180 SCRA 433.

[2]Decision penned by Associate Justice Conrado M. Vasquez, Jr., concurred in by Associate Justices Jorge S. Imperial and Pacita Canizares-Nye, Fourteenth Division, Court of Appeals.

[3]Decision of the Court of Appeals, p. 3; Rollo, p. 35.

[4]Amended Complaint, pp. 4-5; Rollo, pp. 27-28.

[5] Id., p. 6; Rollo, p. 29.

[6]G.R. Nos. 79937-38, 13 February 1989, 170 SCRA 274.

[7] G.R. No. 81951, 6 June 1989, 174 SCRA 54.

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