

UNIVERSITY OF SANTO TOMAS, PETITIONER, VS. COURT OF APPEALS AND PRISCILLA TIONGCO CANICOSA, RESPONDENTS.

G.R. No. 124250. October 18, 2004

Ponente: CORONA, J.

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CORONA, J.:

This petition for review on certiorari seeks to annul and set aside the decision[1] dated March 6, 1996 of the Court of Appeals in CA-G.R. CV No. 43248 which in turn affirmed the decision[2] dated December 21, 1992 of the Regional Trial Court of Manila, Branch 50, in Civil Case No. R-82-6145.

Petitioner is a corporation duly organized and existing under the laws of the Philippines. It owns and operates the hospital known as the Santo Tomas University Hospital (STUH). On January 1, 1976, petitioner entered into an agreement, denominated as “Indenture of Lease,” with Dr. Librado Canicosa whereby the latter leased Room 203 of the hospital for a period of two years (January 1, 1976 to December 31, 1977). Annexed to the lease agreement was a statement of “Policies in Private Clinics” in which the following restriction was specifically set forth:

- No physician accepted as lessee shall maintain or offer in the leased premises any ancillary services which is being offered by the Santo Tomas University Hospital (such as nuclear and other laboratory services, physiotherapy, x-ray, pharmacy, etc.) except upon special arrangement in writing with the hospital administration.

The lease agreement was renewed for another two years from January 1, 1978 to December 31, 1979. In February 1979, petitioner acquired two diagnostic machines — a scintillation gamma camera and an up take machine — which became fully operational on March 7, 1979. Because STUH had a similar diagnostic instrument, petitioner sent a letter to Dr. Canicosa on March 22, 1979 requesting the latter to remove his up take machine pursuant to the limitation attached to the agreement.

However, in a letter dated March 26, 1979, respondent Canicosa rejected petitioner’s request, claiming that his machine was not in the hospital premises but in the room he was leasing from the hospital. He also averred that the machine was essential to the diagnosis and treatment of thyroid disorders and was being used only for his own private patients.

Due to the refusal of respondent to remove his up take machine from Room 203 of STUH, petitioner filed an ejectment complaint on May 17, 1979 against Canicosa on the ground of violation of the terms of the lease agreement.

In his answer, Canicosa insisted that the up take machine was essential to his medical practice as an internist specializing in thyroidology. He claimed he had been using this machine since 1967. He also filed a counterclaim seeking actual, moral and exemplary damages for the following causes of action:

(1)

on October 31, 1975, petitioner dismissed him as personnel health officer, a position he had held since 1950. He

thus filed a case for illegal dismissal at the National Labor Relations Commission (NLRC) and demanded his reinstatement and payment of backwages. Canicosa claimed that his dismissal was a product of ill-will, revenge and harassment as he earlier opposed the application for Filipino citizenship of the hospital administrator, Fr. Antonio Cabezon, O.P. On February 28, 1978, the labor arbiter^[3] rendered a decision branding his dismissal as illegal and ordering his reinstatement to his former position with full backwages. Petitioner appealed to the NLRC which affirmed the decision on May 29, 1980. ^[4] Petitioner elevated the case to the Supreme Court which, on October 28, 1983, affirmed the decisions of both the labor arbiter and the NLRC.^[5]

(2)

sometime in April 1978, petitioner, through Fr. Cabezon, filed a criminal complaint for falsification against him before the City Fiscal of Manila. The complaint was, however, dismissed on August 4, 1978.

(3)

the filing of the instant suit against him was clearly motivated by malice and revenge. He suspected that petitioner had long wanted to get rid off him mainly because of his disagreement with some hospital officials, particularly Fr. Cabezon.

On October 6, 1981, while the case against him was pending, respondent Canicosa died and he was substituted by his wife, Priscilla Tiongco Canicosa.

On December 21, 1992, the trial court rendered a decision dismissing petitioner's complaint and granting private respondent's counterclaim on his first and third causes of action:

WHEREFORE, judgement is hereby rendered dismissing plaintiff's complaint and, upon the counterclaim, ordering plaintiff University of Santo Tomas to pay substituted defendant Priscilla Tiongco Canicosa the following:

- on the First Cause of action – P40,000.00 for formal damages and P10,000.00 for attorney's fees;
- on the Third Cause of action – P20,000.00 for moral damages and P10,000.00 for attorney's fees;
- plus costs of suit.

Defendant's Second Cause of action is dismissed for lack of merit.

SO ORDERED.^[6]

On appeal, the Court of Appeals affirmed in toto the decision of the trial court.

Hence, the present action, with petitioner arguing that the Court of Appeals erred in (1) not dismissing respondent's first cause of action under his counterclaim for lack of jurisdiction and (2) affirming the trial court's award of moral damages and attorney's fees in favor of respondent.

At the outset, it should be noted that petitioner filed the complaint against Dr. Canicosa to compel him to stop using his up take machine and to vacate Room 203 of the hospital for his violation of the "Indenture of Lease." However, in view of the expiration of the lease on December 31, 1979 as well as Canicosa's death in 1981, the ejectment complaint instituted by petitioner became moot. Hence, we shall focus on the issues raised by petitioner with respect to respondent's counterclaim for damages.

DAMAGES DUE TO ALLEGED ILLEGAL DISMISSAL

On the first assignment of error, petitioner argues that respondent's first cause of action under his counterclaim was the claim for damages for his alleged illegal dismissal as personnel health officer of the hospital. As such, it was the NLRC and not the trial court which had jurisdiction to hear the claim for damages, pursuant to PD 1691 which took effect on May 1, 1980.

The complaint for ejectment was filed by petitioner on May 17, 1979 while respondent's answer with counterclaim was filed on June 27, 1979. At that time, PD 1367[7] was still the prevailing law. Petitioner alleges that, although the case was filed during the effectivity of PD 1367 which vested the regular courts with jurisdiction over claims for damages arising from an employer-employee relationship, that jurisdiction was removed from the courts when PD 1691 amended PD 1367 during the pendency of the case. PD 1691 restored to the labor arbiters and the NLRC their jurisdiction over all money claims of workers and all other claims arising from employer-employee relations, including moral and exemplary damages.

On the other hand, respondent maintains that once a court has assumed jurisdiction over a case, its jurisdiction continues until the case is terminated.

Generally, jurisdiction is determined by the law in force at the time of the institution of the action.[8] When petitioner filed the ejectment case on May 17, 1979, the applicable law was PD 1367, Section 1 of which provided that:

labor arbiters shall not entertain claims for moral or other forms of damages.

However, on May 1, 1980, during the pendency of this case, PD 1691 was promulgated, amending Section 1 of PD 1367:

ART. 217. Jurisdiction of the Labor Arbiter and the Commission. -- a) The Labor Arbiters shall have the original and exclusive jurisdiction to hear and decide the following cases involving all workers whether agricultural or non-agricultural:

x x x

3) All money claims of workers, including those based on non-payment and underpayment of wages, overtime compensation, separation pay and other benefits provided by law or appropriate agreement, except claims for employees compensation, social security, medicare and maternity benefits;

x x x

5) All other claims arising from employer-employee relation, unless expressly excluded by this Code.

We now ask: did PD 1691 apply retroactively in this case so as to transfer jurisdiction over respondent's claims for damages from the courts to the labor arbiter/NLRC? Yes.

In *Atlas Fertilizer Corporation vs. Navarro*,[9] the Court had the occasion to rule on conflicts of jurisdiction between the courts and the labor agencies arising from the amendments to PD 1367 by PD 1691. The later law, PD 1691, is a curative statute which corrected the lack of jurisdiction of the labor arbiters at the start of the proceedings and therefore should be given retroactive application vis-a-vis pending proceedings. It was intended to correct a situation where two different tribunals had jurisdiction over separate issues arising from the same labor conflict.

This principle was reiterated in *Victorias Milling Co., Inc. vs. Intermediate Appellate Court*[10] where PD 1691 was given retroactive application as the amendment to the law was crafted precisely to settle once and for all the

conflict of jurisdiction between regular courts and labor agencies.

We rule therefore that the award of damages by the trial court on the first cause of action of respondent's counterclaim cannot be sustained as the court a quo was bereft of jurisdiction to grant the same.

DAMAGES FOR ALLEGED MALICE AND REVENGE

On the second assignment of error, petitioner claims that, on account of Dr. Canicosa's death in 1981 before the trial court could render its decision, respondent's counterclaim should have been dismissed pursuant to Rule 3, Section 21 of the Revised Rules of Civil Procedure.

The argument is misplaced. Rule 3, Section 21 provides that:

when the action is for recovery of money, debt or interest thereon, and the defendant dies before final judgment in the Court of First Instance,[11] it shall be dismissed to be prosecuted in the manner especially provided in these rules. (emphasis supplied)

While Canicosa was the defendant in petitioner's ejectment complaint, he was the plaintiff in his counterclaim for damages which he filed in relation to the ejectment case. A counterclaim partakes of the nature of a complaint or cause of action against the plaintiff so that a counterclaimant is the plaintiff in his counterclaim.[12] Thus, with respect to the counterclaim, respondent Canicosa was not the defendant but the plaintiff; it was petitioner which was the defendant. Thus Rule 3, Section 21 was not applicable as that provision pertains to a defendant who dies before final judgment. Hence, if it is the plaintiff who dies, as in this case, a mere substitution of the heirs or legal representative for the deceased is all that needs to be done, in accordance with procedure set out in Rule 3, Section 17 of the Revised Rules of Court:

Sec. 17. Death of a party – After a party dies and the claim is not thereby extinguished, the court shall order, upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased, x x x. The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator x x x.

Respondent's counsel filed a timely motion for substitution without any objection from petitioner. A valid substitution having been effected, respondent's counterclaim could no longer be dismissed.

Unfortunately for respondent, however, by reason of his death, Dr. Canicosa was never able to testify on the moral damages he allegedly suffered as a result of the filing of the ejectment suit against him. Moral damages are essentially personal to the party claiming them. In fact, the award of moral damages is predicated on the supposition that the person claiming it suffered mental anguish, serious anxiety or other similar injury. The burden is thus on the person seeking such damages to prove that he is entitled to recover them. Because of respondent's death, no evidence was introduced to prove injury justifying the award of moral damages. We therefore have nothing to go by in determining whether or not damages are due.

Likewise, the award of attorney's fees based on the unsubstantiated allegation that the suit was unfounded and malicious should be deleted in the absence of a deliberate intent to cause prejudice to the other party. Petitioner was just asserting its right over what it honestly perceived to be a clear violation by respondent Canicosa of the provisions of the "Indenture of Lease." There is no evidence that petitioner instituted the legal proceedings maliciously and without probable cause. Indeed, the right to litigate is so precious that a penalty should not be imposed on those who exercise it.[13]

WHEREFORE, the petition is hereby GRANTED and the decision of the Court of Appeals is hereby REVERSED and SET ASIDE.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and Garcia, JJ., concur.
Carpio-Morales, J., on leave.

- [1] Penned by Associate Justice Salome A. Montoya and concurred in by Associate Justices Godardo A. Jacinto and Oswaldo D. Agcaoili of the Sixteenth Division.
- [2] Penned by Presiding Judge Ruben T. Reyes.
- [3] Labor Arbiter Jose T. Collado, Jr.
- [4] Decision penned by Commissioner Ricardo C. Castro.
- [5] Decision penned by Associate Justice Juvenal K. Guerrero.
- [6] Rollo, pp. 40-41.
- [7] This took effect on May 1, 1978 and amended certain provisions of the Labor Code of the Philippines.
- [8] *Alarilla vs. Sandiganbayan*, 393 Phil. 143 (2000).
- [9] L-72074, 30 April 1987, 149 SCRA 432.
- [10] G.R. No. 66880, 2 August 1991, 200 SCRA 1.
- [11] Now Regional Trial Court.
- [12] *Matela vs. Chau Tay*, 115 Phil. 147 (1962).
- [13] *De la Peña vs. Court of Appeals*, G.R. No. 81827, 28 March 1994, 231 SCRA 456.

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