

ESTHERLITA CRUZ-AGANA, PETITIONER, VS. HON. JUDGE AURORA SANTIAGO-LAGMAN (IN HER CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 77, MALOLOS, BULACAN) AND B. SERRANO...

G.R. NO. 139018. April 11, 2005

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for certiorari^[1] seeks to reverse the Order of the Regional Trial Court, Branch 77, Malolos, Bulacan ("trial court"), dated 4 June 1999, recalling its previous Order dated 25 May 1999 dismissing B. Serrano Enterprises, Inc.'s ("respondent") counterclaim upon a motion to dismiss filed by petitioner Estherlita Cruz-Agana ("petitioner").

Antecedent Facts

On 18 March 1996, petitioner filed a Complaint for annulment of title with prayer for preliminary mandatory injunction against respondent. Petitioner claims that as the sole heir of one Teodorico Cruz, she is the sole owner of a lot covered by Transfer Certificate of Title No. T-3907. Petitioner further claims that the lot was fraudulently sold to Eugenio Lopez, Jr. who later on transferred the lot to respondent. The case was raffled to the Regional Trial Court, Branch 77, Malolos, Bulacan presided by Judge Aurora Santiago-Lagman and docketed as Civil Case No. 210-M-96.

Respondent seasonably filed its Answer with compulsory counterclaim. Petitioner moved to dismiss respondent's counterclaim for lack of a certificate of non-forum shopping.

In an Order dated 11 March 1999, the trial court denied petitioner's motion to dismiss respondent's counterclaim. The trial court reasoned that respondent's counterclaim is compulsory and therefore excluded from the coverage of Section 5, Rule 7 of the Rules of Court. Petitioner moved that the trial court reconsider its Order invoking the mandatory nature of a certificate of non-forum shopping under Supreme Court Administrative Circular No. 04-94.^[2] On 25 May 1999, the trial court reversed its 11 March 1999 Order and dismissed respondent's counterclaim for lack of a certificate of non-forum shopping.

Respondent seasonably filed a motion for reconsideration arguing that Administrative Circular No. 04-94 does not apply to compulsory counterclaims following the ruling in *Santo Tomas University Hospital v. Surla*.^[3] On 4 June 1999, the trial court again reversed itself and recalled its Order dismissing respondent's counterclaim.

Petitioner now comes before this Court through Rule 65 of the 1997 Rules of Civil Procedure.

The Trial Court's Ruling

The trial court found that respondent's counterclaim is compulsory in nature. The trial court ruled that the filing of a compulsory counterclaim does not require a certificate of non-forum shopping. On the effect of Santo Tomas on Administrative Circular No. 04-94, the trial court explained:

It is settled rule that it is one of the inherent powers of the court to amend and control its processes and orders so as to make them conformable to law and justice. This power includes the right to reverse itself, specially when in its honest opinion, it has committed an error or mistake in judgment, and that to adhere to its decision will cause injustice to a party litigant.

The Issue

Petitioner raises the following issue:

WHETHER THE TRIAL COURT COMMITTED
GRAVE ABUSE OF DISCRETION IN REFUSING
TO DISMISS RESPONDENT'S COUNTERCLAIM.

The Ruling of the Court

The petition lacks merit.

The issue presented is not novel. This Court has squarely settled this issue in *Santo Tomas University Hospital v. Surla*.^[4] Writing for the Court, Justice Jose C. Vitug began his ponencia thus:

Can a compulsory counterclaim pleaded in an Answer be dismissed on the ground of a failure to accompany it with a certificate of non-forum shopping? This question is the core issue presented for resolution in the instant petition.

Santo Tomas clarified the scope of Administrative Circular No. 04-94 with respect to counterclaims. The Court pointed out that this circular is intended primarily to cover "an initiatory pleading or an incipient application of a party asserting a claim for relief." The distinction between a compulsory and a permissive counterclaim is vital in the application of the circular. The Court explained:

It should not be too difficult, the foregoing rationale of the circular aptly taken, to sustain the view that the circular in question has not, in fact, been contemplated to include a kind of claim which, by its very nature as being auxiliary to the proceedings in the suit and as deriving its substantive and jurisdictional support therefrom, can only be appropriately pleaded in the answer and not remain outstanding for independent resolution except by the court where the main case pends. Prescinding from the foregoing, the proviso in the second paragraph of Section 5, Rule 8 of the 1997 Rules of Civil Procedure, i.e., that the violation of the anti-forum shopping rule "shall not be curable by mere amendment xxx but shall be cause for the dismissal of the case without prejudice," being predicated on the applicability of the need for a certification against forum-shopping, obviously does not include a claim which cannot be independently set up.

The Court reiterated this ruling in *Ponciano v. Judge Parentela, Jr.*^[5]

Administrative Circular No. 04-94 does not apply to compulsory counterclaims. The circular applies to initiatory and similar pleadings. A compulsory counterclaim set up in the answer is not an "initiatory" or similar pleading. The initiatory pleading is the plaintiff's complaint. A respondent has no choice but to raise a compulsory counterclaim the moment the plaintiff files the complaint. Otherwise, respondent waives the compulsory counterclaim.^[6] In short, the compulsory counterclaim is a reaction or response, mandatory upon pain of waiver, to an initiatory pleading which is the complaint.

Petitioner argues, however, that the Court's rulings in *Santo Tomas* and *Ponciano* are "contrary to the mandate of

Administrative Circular No. 04-94" and other procedural laws.[7]

Petitioner is mistaken.

The Constitution expressly bestows on this Court the power to promulgate rules concerning the pleading, practice and procedure in all courts.[8] Procedural matters are within the sole jurisdiction of this Court to prescribe. Administrative Circular No. 04-94 is an issuance of this Court. It covers a matter of procedure. Administrative Circular No. 04-94 is not an enactment of the Legislature. This Court has the exclusive jurisdiction to interpret, amend or revise the rules it promulgates, as long as the rules do not diminish, increase, or modify substantive rights. This is precisely the purpose of Santo Tomas as far as Administrative Circular No. 04-94 is concerned.

Petitioner's counsel fails or simply refuses to accept the distinction between a permissive counterclaim and a compulsory counterclaim. This distinction was the basis for the ruling in Santo Tomas and Ponciano. The sole issue for resolution in the present case is whether respondent's counterclaim is compulsory or permissive. If it is a permissive counterclaim, the lack of a certificate of non-forum shopping is fatal. If it is a compulsory counterclaim, the lack of a certificate of non-forum shopping is immaterial.

A compulsory counterclaim is any claim for money or other relief, which a defending party may have against an opposing party, which at the time of suit arises out of, or is necessarily connected with, the same transaction or occurrence that is the subject matter of plaintiff's complaint.[9] It is compulsory in the sense that it is within the jurisdiction of the court, does not require for its adjudication the presence of third parties over whom the court cannot acquire jurisdiction, and will be barred in the future if not set up in the answer to the complaint in the same case. Any other counterclaim is permissive.

Respondent's counterclaim as set up in its answer states:

- That because of the unwarranted, baseless, and unjustified acts of the plaintiff, herein defendant has suffered and continue to suffer actual damages in the sum of at least P400,000,000.00 which the law, equity, and justice require that to be paid by the plaintiff and further to reimburse the attorney's fees of P2,000,000.00;[10]

It is clear that the counterclaim set up by respondent arises from the filing of plaintiff's complaint. The counterclaim is so intertwined with the main case that it is incapable of proceeding independently. The counterclaim will require a re-litigation of the same evidence if the counterclaim is allowed to proceed in a separate action. Even petitioner recognizes that respondent's counterclaim is compulsory.[11] A compulsory counterclaim does not require a certificate of non-forum shopping because a compulsory counterclaim is not an initiatory pleading.

WHEREFORE, the instant petition is DENIED for lack of merit. We AFFIRM the Order of the Regional Trial Court, Branch 77, Malolos Bulacan, dated 4 June 1999 recalling the Order dated 25 May 1999 which dismissed the compulsory counterclaim of respondent B. Serrano Enterprises, Inc.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 65 of the Rules of Court.

[2] Paragraphs 1 and 2 of Supreme Court Administrative Circular No. 04-94 provide:

- The plaintiff, petitioner, applicant or principal party seeking relief in the complaint, petition, application or other initiatory pleading shall certify under oath in such original pleading, or in a sworn certification annexed thereto

and simultaneously filed therewith, to the truth of the following facts and undertakings: (a) he has not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (b) to the best of his knowledge, no such action or proceedings is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (c) if there is any such action or proceeding which is either pending or may have been terminated, he must state the status thereof; and (d) if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency, he undertakes to report that fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed.

The complaint and other initiatory pleadings referred to and subject of this Circular are the original civil complaint, counterclaim, cross-claim, third (fourth, etc.) party complaint, or complaint-in-intervention, petition, or application wherein a party asserts his claim for relief.

- Any violation of this Circular shall be a cause for the dismissal of the complaint, petition, application or other initiatory pleading, upon motion and after hearing. However, any clearly willful and deliberate forum shopping by any party and his counsel through the filing of multiple complaints or other initiatory pleadings to obtain favorable action shall be a ground for summary dismissal thereof and shall constitute direct contempt of court. Furthermore, the submission of a false certification or non-compliance with the undertakings therein, as provided in Paragraph 1 hereof, shall constitute indirect contempt of court, without prejudice to disciplinary proceedings against the counsel and the filing of a criminal action against the guilty party.

[3] 355 Phil. 804 (1998).

[4] Supra note 3.

[5] 387 Phil. 621 (2000).

[6] Section 2, Rule 9 of the 1997 Rules of Civil Procedure.

[7] Rollo, p. 10.

[8] Section 5(5), Article VIII, 1987 Constitution.

[9] Section 7, Rule 6 of the 1997 Rules of Civil Procedure.

[10] RTC Records, Volume II, p. 550.

[11] Rollo, p. 5.

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