

## FIRST PRODUCERS HOLDINGS CORPORATION, PETITIONER, VS. LUIS CO, RESPONDENT.

*G.R. No. 139655. July 27, 2000*

Ponente: PANGANIBAN, J.

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### PANGANIBAN, J.:

A criminal proceeding, as a rule, may be suspended upon a showing that a prejudicial question determinative of the guilt or innocence of the accused is the very issue to be decided in a civil case pending in another tribunal. However, such suspension cannot be allowed if it is apparent that the civil action was filed as an afterthought for the purpose of delaying the ongoing criminal action. This exception applies especially in cases in which the trial court trying the criminal action has authority to decide such issue, and the civil action was instituted merely to delay the criminal proceeding and thereby multiply suits and vex the court system with unnecessary cases. Procedural rules should be construed to promote substantial justice, not to frustrate or delay its delivery.

### Statement of the Case

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, seeking a reversal of the May 10, 1999 Decision[2] of the Court of Appeals[3] (CA) in CA-GR SP No. 49701. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, premises considered, the Orders dated February 27, 1998 and October 9, 1998 are hereby ANNULLED and SET ASIDE, and respondent judge is hereby DIRECTED TO SUSPEND the proceedings in Criminal Case No. 97-734 to await the outcome of Civil Case No. 97-2663."[4]

The February 27, 1998 Order[5] of the Regional Trial Court (RTC) which was set aside by the CA disposed as follows:

"The MOTION TO SUSPEND on grounds of prejudicial question and to reset arraignment is hereby DENIED for lack of merit."[6]

### The Facts

The undisputed facts are summarized by the Court of Appeals as follows:

"On March 13, 1997, x x x Armand M. Luna filed a criminal complaint for estafa and perjury against [herein respondent] Luis L. Co in the Office of the City Prosecutor of Manila, docketed as I.S. No. 97-10892. Pertinent portion of the complaint is hereby quoted as follows:

`2.....On November 25, 1997, in the regular meeting of the Board of Directors of the Producers Bank of the Philippines held at Manhattan Bldg. Nueva Street, Manila, a resolution was adopted authorizing the corporation to purchase three (3) proprietary shares of Manila Polo Club to be placed in the names of Messrs. Co Bun Chun, Henry Co and Luis Co to be held by them on behalf of the corporation which is evidenced by the attached ANNEX 'C':

`3. In accordance with said resolution, the corporation purchased said proprietary shares in the name of the

nominees, one of which was placed in the name of Mr. Luis L. Co as evidenced by Proprietary Membership Certificate No. 203 dated July 2, 1979, hereto attached as ANNEX D;

`4. On March 17, 1994, after the separation from the service of Mr. Luis L. Co, Ms. Amelita F. Bautista demanded from him the transfer of the subject certificate in the name of the corporation as evidenced by a letter dated March 16, 1994 attached hereto as ANNEX 'E';

`5. Despite his duty to assign the certificate back to the corporation and the subject demand, Mr. LUIS L. CO, on April 26, 1994, instead registered the loss of the said proprietary share with Manila Polo Club Inc. by executing a false Affidavit of Loss and subsequently, he was able to secure a replacement certificate No. 4454 in his name after allegedly complying with the legal requirements for the replacement of lost certificates. This is evidenced by the letter dated September 5, 1996 signed by Ramon B. Salazar, General Manager of Manila Polo Club, Inc., hereto attached as ANNEX 'F';

`6. In so doing, Mr. Luis L. Co misrepresented himself to be the legitimate owner of subject share and by executing a false affidavit, he made it appear that Certificate No. 203 was lost despite the fact that said certificate is existing and remains in possession of the corporation;

`7. That on February 06, 1997, another demand was made upon Mr. Luis L. Co to deliver to us the newly issued Manila Polo Club Certificate No. 4454 and to execute a Deed of Assignment in favor of a new nominee. Said demand is evidenced by the attached letter dated February 6, 1997 signed by Atty. Pedro M. Malabanan, ANNEX 'G' hereof;

`8. That the value of said certificate is FIVE MILLION SIX HUNDRED FIFTY THOUSAND PESOS (P5,650,000.00) as of April 1996 as evidenced by a certification dated Oct. 03, 1996 hereto attached as ANNEX 'H';

`9. Despite subject demand, Mr. Luis L. Co failed and [has] continuously fail[ed] to deliver the subject certificate to the corporation and to execute a Deed of Assignment in favor of the nominee of the corporation to the damage and prejudice of the latter;

'10. That said act of Mr. Luis Co constitutes misappropriation or conversion of something given to him in trust to the prejudice of the bank;'

"After the filing of [Co's] counter affidavit and after consideration of necessary pleadings appended thereto, [the] City Prosecutor recommended the filing of estafa and perjury against [him]. Thus, the Office of the City Prosecutor filed [an] information for estafa against [him] in the Regional Trial Court of Makati docketed as Criminal Case No. 97-734 and another information for perjury was filed in the Metropolitan Trial Court of Makati.

"Unsatisfied, [Co] appealed the resolution of the City Prosecutor to the Department of Justice but was dismissed by the latter in a[n] order dated October 2, 1997.

"On November 16, 1997, during the pendency of the criminal case, [Co] filed an action for damages against Armand Luna and First Producers Holdings (complainant in the criminal case filed) with the Regional Trial Court of Makati, and was docketed as Civil Case No. 97-2663. In the said complaint, [he] claimed ownership over questioned Manila Polo Club Proprietary Share No. 203.

"On December 10, 1997, [Co] filed a motion for suspension of the case and his arraignment thereon but was denied by [the trial court] in an order dated February 27, 1998." [7]

#### Ruling of the Court of Appeals

The Court of Appeals explained that "a prejudicial question is a question which arise[s] in a case, the resolution of

which is a logical antecedent of the issue involved in said case, and the cognizance of which pertains to another tribunal." [8] And based on the above definition, it ruled that the requisites for the existence of a prejudicial question were present in the case at bar. Should the ownership of the share in question be decided in favor of Luis Co, there would be no basis for the charge of estafa against him. The CA added that respondent's belated filing of the civil case did not detract from the correctness of his cause, since a motion for suspension of a criminal action based on the pendency of a prejudicial action may be filed at any time before the prosecution rests.

Hence, this Petition. [9]

#### Issues

Petitioner attributes to the CA the following errors:

"A.....The Court of Appeals committed grave and reversible error in finding that a prejudicial question exists with respondent's filing of Civil Case No. 97-2663.

B.....The Court of Appeals committed grave and reversible error in directing the suspension of Criminal Case No. 97-734 pending resolution of Civil Case No. 97-2663." [10]

In the main, the Court will resolve the propriety of the suspension of the criminal proceedings based on the alleged prejudicial question.

#### The Court's Ruling

The Petition is meritorious.

#### Main Issue:

##### Existence of a Prejudicial Question

Echoing the appellate court's position, respondent maintains that the issue of ownership of the Manila Polo Club share, which was raised in the civil action, constitutes a prejudicial question warranting the suspension of the criminal case for estafa. He argues that his guilt or innocence may be determined only after the issue of ownership has been resolved. He further contends that the prejudicial question was seasonably raised because the Rules provide that it may be made "at any time before the prosecution rests."

Prejudicial questions are regulated by Rule 111 of the Rules of Court, as follows:

"SEC. 5. Elements of prejudicial question. -- The two (2) essential elements of a prejudicial question are: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed."

"SEC. 6. Suspension by reason of prejudicial question. -- A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the fiscal or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests."

True, the Motion to Suspend the criminal case on the ground that a prejudicial question existed was raised "before the prosecution rest[ed]." [11] However, the peculiar circumstances of this case clearly show that it was merely a ploy to delay the resolution of the criminal case and vex the already overloaded court system with an unnecessary case.

#### Civil Case

##### Clearly Dilatory

The criminal action for estafa had been lodged with the Office of the City Prosecutor on March 13, 1997. Yet,

respondent filed the civil case only eight months later, on November 18, 1997. Indeed, as early as 1994, a written demand had already been served on him to return the said share.[12] He did not contest petitioner's claim; in fact, he filed the present civil action several months after the institution of the criminal charge. Verily, it is apparent that the civil action was instituted only as an afterthought to delay the proceedings in the criminal case.

The dilatory character of the strategy of respondent is apparent from the fact that he could have raised the issue of ownership in the criminal case. He himself admits that the issue of ownership may be raised in the estafa case.

Yet, he resorts to subterfuge, arguing:

"x x x. The resolution of the issue of ownership in Criminal Case No. 97-734 would only be for the purpose of determining the guilt or innocence of the respondent. The said issue may not be resolved with finality in the same criminal proceedings, since the court a quo would be bound by what appears on the face of the Manila Polo Club Proprietary Membership Certificate No. 203. Considering that the subject Membership Certificate clearly shows that the same is registered in the name of the respondent, the same is conclusive evidence of his ownership." [13]

This argument is bereft of merit. We find no sufficient reason why the trial court hearing the criminal case cannot resolve the question of ownership. Significantly, the civil action for recovery of civil liability is impliedly instituted with the filing of the criminal action.[14] Hence, respondent may invoke all defenses pertaining to his civil liability in the criminal action. In fact, there is no law or rule prohibiting him from airing exhaustively the question of ownership. After all, the trial court has jurisdiction to hear the said defense. The rules of evidence and procedure for the recovery of civil liabilities are the same in both criminal and civil cases.[15]

Equally unmeritorious is respondent's theory that the trial court trying the criminal case would be bound by the Membership Certificate, which was registered in his name and would thus be "conclusive evidence of his ownership." [16]

If the trial court would indeed consider the Certificate as conclusive proof of his ownership, then such ruling would in fact be favorable to him and give him no reason to file the civil suit. It would be up to petitioner, then, to disprove during the criminal proceedings his alleged ownership.

#### Ownership Is Not Necessarily An Element of Estafa

In any event, the issue of ownership is not a necessary element of estafa, as held by the Court in *Hernandez v. Court of Appeals*, which we quote:

"Ownership is not a necessary element of the crime of estafa x x x. In estafa, the person prejudiced or the immediate victim of the fraud need not be the owner of the goods. Thus, Article 315 of the Revised Penal Code provides that 'Any person who shall defraud another (it does not say 'owner') by any means mentioned is that the loss should have fallen on someone other than the perpetrators of the crime. x x x' [17]

Furthermore, to allow respondent's stance is to open the floodgates, as it were, to similar dilatory tactics. In this light, we reiterate hereunder our earlier pronouncement:

"Were we to sanction the theory advanced by the respondents x x x, there would hardly be a case for estafa that could be prosecuted speedily, it being the easiest thing for the accused to block the proceedings by the simple expedient of filing an independent civil action against the complainant, raising therein the issue that he had not received from the latter the amount alleged to have been misappropriated. A claim to this effect is properly a matter of defense to be interposed by the party charged in the criminal proceedings." [18]

The foregoing principle applies with equal force in this case. Indeed, the rules of procedure, including the rule on

prejudicial questions, were conceived to afford parties an expeditious and just disposition of cases. This Court will not countenance their misuse and abuse to frustrate or delay the delivery of justice.[19] In this light, the civil action may in fact give rise to the evils of forum shopping.

WHEREFORE, the Petition is hereby GRANTED and the assailed Decision of the Court of Appeals REVERSED and SET ASIDE. The Regional Trial Court is ordered to proceed with the trial of Criminal Case No. 97-734 with all deliberate dispatch. No costs.

**SO ORDERED.**

Melo, (Chairman), Vitug, and Gonzaga-Reyes, JJ., concur.  
Purisima, J., no part.

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[1] Rollo, pp. 11-26.

[2] Rollo, pp. 31-35.

[3] Seventeenth Division, composed of J. Eugenio S. Labitoria, Division chairman and ponente; and JJ Marina L. Buzon and Renato C. Dacudao, members, both concurring.

[4] Assailed Decision, p. 5; rollo, p. 35.

[5] Written by Judge Fernando V. Gorospe Jr. of the Regional Trial Court of Makati City, Branch 61.

[6] Rollo, p. 55.

[7] Assailed Decision, pp. 1-4; rollo, pp. 31-34.

[8] Assailed Decision, p. 4; rollo, p. 34, citing *People v. Aragon*, 94 Phil. 357.

[9] The case was deemed submitted for resolution on March 22, 2000, upon receipt by this Court of Respondent's Memorandum, signed by Attys. Marius P. Corpus and Ephraim B. Cortez. Petitioner's Memorandum, signed by Attys. Raul T. Vasquez and Brigida Conception H. Romualdez, was filed earlier.

[10] Memorandum for Petitioner, p. 7; rollo, p. 142.

[11] Section 6, Rule 111, Rules of Court.

[12] Petitioner's Memorandum, pp. 14-15; rollo, pp. 149-150.

[13] Respondent's Memorandum, p. 7; rollo, p. 160.

[14] Section 1, Rule 111, Rules of Court.

[15] See Tolentino, *Commentaries and Jurisprudence on the New Civil Code*, 1987 ed., Vol. I, p. 157.

[16] Respondent's Memorandum, p. 7; rollo, p. 160.

[17] 228 SCRA 430, 437, December 14, 1993, per Quason, J.

[18] *Jimenez v. Averia*, 22 SCRA 1380, 1382, March 29, 1968, per Dizon, J.

[19] Cf. *Cusi-Hernandez v. Diaz*, GR No. 140436, July 18, 2000.

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