

CHRISTINE CHUA, PETITIONER, VS. JORGE TORRES AND ANTONIO BELTRAN, RESPONDENTS.

G.R. No. 151900. August 30, 2005

Ponente: TINGA, J.

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TINGA, J.:

The Court settles an issue, heretofore undecided, on whether the absence of the signature in the required verification and certification against forum-shopping of a party misjoined as a plaintiff is a valid ground for the dismissal of the complaint. We rule in the negative.

The relevant facts in this Petition for Review are culled from the records.

On 24 October 2001, a complaint for damages was lodged before the Regional Trial Court (RTC) of Caloocan City, Branch 126.[1] The complaint was filed by Christine Chua, herein petitioner, impleading her brother Jonathan Chua as a necessary co-plaintiff. Named as defendants in the suit were herein respondents Jorge Torres and Antonio Beltran. Torres was the owner of the 9th Avenue Caltex Service Center (Caltex Service Center), while Beltran was an employee of the said establishment as the head of its Sales and Collection Division.[2]

The complaint alleged that on 3 April 2000, Jonathan Chua issued in favor of the Caltex Service Center his personal Rizal Commercial Banking Corporation (RCBC) Check No. 0412802 in the amount of Nine Thousand Eight Hundred Forty Nine Pesos and Twenty Centavos (P9,849.20) in payment for purchases of diesel oil. However, the check was dishonored by the drawee bank when presented for payment on the ground that the account was closed. Beltran then sent petitioner a demand letter informing her of the dishonor of the check and demanding the payment thereof. Petitioner ignored the demand letter on the ground that she was not the one who issued the said check.

Without bothering to ascertain who had actually issued the check, Beltran instituted against petitioner a criminal action for violation of Batas Pambansa Bilang 22 (B.P. 22). Subsequently, a criminal information was filed against petitioner with the Metropolitan Trial Court (MTC) of Caloocan City, Branch 50.[3] The MTC then issued a warrant of arrest against petitioner. The police officers tasked with serving the warrant looked for her in her residence, in the auto repair shop of her brother, and even at the Manila Central University where she was enrolled as a medical student, all to the alleged embarrassment and "social humiliation" of petitioner.[4]

Beltran's purported negligence amounted to either malicious prosecution or serious defamation in prosecuting petitioner resulting from the issuance of a check she herself did not draw, and served cause for a claim of moral damages. On the other hand, Torres, as employer of Beltran, was alleged to have failed to observe the diligence of a good father of the family to prevent the damage suffered by petitioner. Exemplary damages and attorney's fees were likewise sought, thus bringing the aggregate total of damages claimed to Two Million Pesos (P2,000,000.00), plus costs of suit.[5]

Significantly, while Jonathan Chua was named as a plaintiff to the suit, it was explicitly qualified in the second

paragraph of the complaint that he was being "impleaded here-in as a necessary party-plaintiff".[6] There was no allegation in the complaint of any damage or injury sustained by Jonathan, and the prayer therein expressly named petitioner as the only party to whom respondents were sought to recompense.[7] Neither did Jonathan Chua sign any verification or certification against forum-shopping, although petitioner did sign an attestation, wherein she identified herself as "the principal plaintiff".[8]

Upon motion of respondents, the RTC ordered the dismissal of the complaint[9] on the ground that Jonathan Chua had not executed a certification against forum-shopping. The RTC stressed that Section 5, Rule 7 of the Rules of Civil Procedure, the rule requiring the

certification, makes no distinction whether the plaintiff required to execute the certification is a principal party, a nominal party or a necessary party. Instead, the provision requires that a plaintiff or principal party who files a complaint or initiatory pleading execute such certification. Jonathan Chua, being a plaintiff in this case, was obliged to execute or sign such certification.[10] Hence, his failure to do so in violation of the mandatory rule requiring the certification against forum-shopping constituted valid cause for the dismissal of the petition.[11]

After the RTC denied the motion for reconsideration[12] lodged by petitioner, the matter was elevated directly to this Court by way of petition for review under Rule 45, raising a purely legal question,[13] cast, if somewhat unwieldily, as "whether or not a co-plaintiff impleaded only as a necessary party, who however has no claim for relief or is not asserting any claim for relief in the complaint, should also make a certification against forum shopping." [14]

Preliminarily, it bears noting that Jonathan Chua did not sign as well any verification to the complaint, ostensibly in violation of Section 7, Rule 4 of the Rules of Civil Procedure. The RTC failed to mention such fact, as does petitioner in her present petition. In their arguments before this Court, respondents do refer in passing to the verification requirement[15], but do not place any particular focus thereto. The verification requirement is separate from the certification requirement.[16] It is noted that as a matter of practice, the verification is usually accomplished at the same time as the certification against forum-shopping; hence the customary nomenclature, "Verification and Certification of Non Forum-Shopping" or its variants. For this reason, it is quite possible that the RTC meant to assail as well the failure of Jonathan Chua to verify the complaint.

The verification requirement is significant, as it is intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.[17] The absence of a proper verification is cause to treat the pleading as unsigned and dismissible.[18] It would be as well that the Court discuss whether under the circumstances, Jonathan Chua is also required to execute a verification in respect to petitioner's complaint.

Having established the proper parameters of the petition, we proceed to the core issues. We find the petition has merit, although we appreciate the situation differently from petitioner. Our decision proceeds from the fundamental premise that Jonathan Chua was misjoined as a party plaintiff in this case.

It is elementary that it is only in the name of a real party in interest that a civil suit may be prosecuted.[19] Under Section 2, Rule 3 of the Rules of Civil Procedure, a real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. "Interest" within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.[20] One having no right or interest to protect cannot invoke the jurisdiction of the court as a party plaintiff in an action.[21] To qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to enforced.[22]

The subject complaint does not allege any rights of Jonathan Chua violated by respondents, present any rights of his to be enforced, or seek in his behalf any rights to the avails of suit. In short, Jonathan claims nothing, and for nothing, in the subject complaint. If he alone filed the complaint, it would have been dismissed on the ground that the complaint states no cause of action, instituted as it was by a person who was not a real party in interest.

But was it proper for petitioner to have even impleaded Jonathan as a co-plaintiff in the first place? Petitioner alleged in her complaint that Jonathan was a necessary party, and remains consistent to that claim even before this Court. She however fails to demonstrate how Jonathan can be considered as a necessary party, other than by noting that he was "the one who really issued the check in controversy." [23] Such fact, if proven, may establish the malice of respondents in filing the criminal case against petitioner for violation of B.P. 22, but does not create the need to require Jonathan's participation as a necessary party.

Section 8, Rule 7 of the Rules of Civil Procedure defines a necessary party as "one who is not indispensable but who ought to be joined as a party if complete relief is to be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action." [24] Necessary parties are those whose presence is necessary to adjudicate the whole controversy, but whose interests are so far separable that a final decree can be made in their absence without affecting them. [25]

An example of a necessary party may be found in *Seno v. Mangubat*. [26] Petitioner therein sold her property through a deed of sale to three vendees. Two of the vendees then sold their shares to the third buyer, who then sold the property to another set of persons. Thereafter, petitioner, who claimed that the true intent of the first sale was an equitable mortgage, filed a complaint seeking the reformation of the deed of sale and the annulment of the second sale. The question arose whether the two vendees who had since disposed of their shares should be considered as indispensable parties or necessary parties. In concluding that they were only necessary parties, the Court reasoned:

In the present case, there are no rights of defendants Andres Evangelista and Bienvenido Mangubat to be safeguarded if the sale should be held to be in fact an absolute sale nor if the sale is held to be an equitable mortgage. Defendant Marcos Mangubat became the absolute owner of the subject property by virtue of the sale to him of the shares of the aforementioned defendants in the property. Said defendants no longer have any interest in the subject property. However, being parties to the instrument sought to be reformed, their presence is necessary in order to settle all the possible issues of the controversy. Whether the disputed sale be declared an absolute sale or an equitable mortgage, the rights of all the defendants will have been amply protected. Defendants-spouses Luzame in any event may enforce their rights against defendant Marcos Mangubat. [27]

In *Seno*, the persons deemed by the Court as necessary parties may have had already disposed of their interests in the property. However, should the lower court therein grant the prayer for the reformation of the deed of sale, the ruling will undoubtedly have an effect on such parties, on matters such as the purchase price which they may have received, and on whatever transmission of rights that may have occurred between them and the vendor.

In contrast, Jonathan Chua does not stand to be affected should the RTC rule either favorably or unfavorably of the complaint. This is due to the nature of the cause of action of the complaint, which alleges an injury personal to petitioner, and the relief prayed for, which is to be adjudicated solely to petitioner. There is no allegation in the complaint alleging any violation or omission of any right of Jonathan, either arising from contract or from law.

It may be so that Jonathan may be called to testify by his sister, in order to prove the essential allegation that she did not issue the check in question, and perhaps such testimony would be vital to petitioner's cause of action. But this does not mean that Jonathan should be deemed a necessary party, as such circumstance would merely place him in the same class as those witnesses whose testimony would be necessary to prove the allegations of the complaint. But the fact remains that Jonathan would stand unaffected by the final ruling on the complaint. The

judicial confirmation or rejection of the allegations therein, or grant or denial of the reliefs prayed for will not infringe on or augment any of his rights under the law. If there would be any effect to Jonathan of the RTC's ultimate decision on the complaint, it would be merely emotional, arising from whatever ties of kinship he may retain towards his sister, and no different from whatever effects that may be similarly sustained on petitioner's immediate family.

Since we are unconvinced by petitioner's basic premise that Jonathan was a necessary party, it is unnecessary to directly settle the issue as couched by petitioner of "whether or not a co-plaintiff impleaded only as a necessary party, who however has no claim for relief or is not asserting any claim for relief in the complaint, should also make a certification against forum shopping." [28] We can note, as the RTC did, that Section 5, Rule 7 of the 1997 Rules of Civil Procedure makes no distinctions that would expressly exempt a necessary party from executing the certification against forum shopping. Nonetheless, there are dimensions to the matter, heretofore unraised, that may unsettle a strict application of the rule, such as if the necessary party is impleaded as a plaintiff or counterclaimant without his knowledge or against his will. [29] But these circumstances relevant to a necessary party are not present in this case, and thus require no further comment upon for now.

Instead, what the Court may rule upon is whether the absence of the signature of the person misjoined as a party-plaintiff in either the verification page or certification against forum-shopping is ground for the dismissal of the action. We rule that it is not so, and that the RTC erred in dismissing the instant complaint. There is no judicial precedent affirming or rejecting such a view, but we are comfortable with making such a pronouncement. A misjoined party plaintiff has no business participating in the case as a plaintiff in the first place, and it would make little sense to require the misjoined party in complying with all the requirements expected of plaintiffs.

At the same time, Section 11, Rule 3 of the 1997 Rules of Civil Procedure states:

Neither misjoinder nor non-joinder of parties is ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a misjoined party may be severed and proceeded with separately. [30]

Clearly, misjoinder of parties is not fatal to the complaint. The rule prohibits dismissal of a suit on the ground of non-joinder or misjoinder of parties. [31] Moreover, the dropping of misjoined parties from the complaint may be done *motu proprio* by the court, at any stage, without need for a motion to such effect from the adverse party. [32] Section 11, Rule 3 indicates that the misjoinder of parties, while erroneous, may be corrected with ease through amendment, without further hindrance to the prosecution of the suit.

It should then follow that any act or omission committed by a misjoined party plaintiff should not be cause for impediment to the prosecution of the case, much less for the dismissal of the suit. After all, such party should not have been included in the first place, and no efficacy should be accorded to whatever act or omission of

the party. [33] Since the misjoined party plaintiff receives no recognition from the court as either an indispensable or necessary party-plaintiff, it then follows that whatever action or inaction the misjoined party may take on the verification or certification against forum-shopping is inconsequential. Hence, it should not have mattered to the RTC that Jonathan Chua had failed to sign the certification against forum-shopping, since he was misjoined as a plaintiff in the first place. The fact that Jonathan was misjoined is clear on the face of the complaint itself, and the error of the RTC in dismissing the complaint is not obviated by the fact that the adverse party failed to raise this point. After all, the RTC could have *motu proprio* dropped Jonathan as a plaintiff, for the reasons above-stated which should have been evident to it upon examination of the complaint.

There may be a school of thought that would nonetheless find some satisfaction in petitioner's woes before the RTC, as it was her error in the first place of wrongfully impleading her brother as a party plaintiff which

ultimately served as cause for the dismissal of the complaint. The blame may in the final analysis lie with petitioner, yet we should not construe the rules of procedure to quench an unnecessary thirst to punish at the expense of the intellectual integrity of the rules. For our Rules of Court do not regard the misjoinder of parties as an error of fatal consequence, and the logical extension of this principle is to consider those procedural acts or omissions of misjoined parties as of similar import.

WHEREFORE, the Petition is GRANTED. The Orders dated 3 December 2001 and 15 January 2002 of the Regional Trial Court of Caloocan City, Branch 126, in Civil Case No. C-19863 are SET ASIDE, and the Complaint in the aforementioned case is REINSTATED. The lower court is enjoined to hear and decide the case with deliberate dispatch. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Docketed as Civil Case No. C-19863.

[2] Rollo, pp. 11-12.

[3] Docketed as Criminal Case No. 205058. Neither the parties nor the case record offer any account of any succeeding developments in this criminal case, although those developments would bear no relevance to the resolution of this petition.

[4] Id. at 12-13.

[5] Id. at 14.

[6] Id. at 11.

[7] The prayer states: "WHEREFORE, it is respectfully prayed that, after due notice and hearing, judgment be rendered by this Honorable Court ordering the defendants, jointly and severally, to pay plaintiff Christine Chua the following amounts: xxx" Id. at 14.

[8] Id. at 15.

[9] In an Order dated 3 December 2001 penned by Judge Luisito G. Sardillo.

[10] Rollo, p. 28.

[11] Ibid.

[12] In an Order dated 15 January 2002 by Judge Sardillo. Id. at 32-34.

[13] An appeal to a final order of the RTC wherein only questions of law are raised or involved shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45. See Section 2(c), Rule 41, Rules of Civil Procedure, in relation to Section 1, Rule 41.

[14] Id. at 3. Emphasis omitted.

[15] Id. at 38, 56.

[16] See *Torres, et al v. Specialized Packing Dev't. Corp.*, G.R. No. 149634, 6 July 2004, 433 SCRA 455, 463.

[17] *BPI v. Court, of Appeals*, 450 Phil. 532, 540; citing *Shipside Incorporated v. Court of Appeals*, 352 SCRA

334, 346 (2001).

[18] See Section 4, Rule 7, Rules of Civil Procedure.

[19] See Section 2, Rule 3, Rules of Civil Procedure.

[20] Tan v. Court of Appeals, G.R. No. 127210, 7 August 2003, 408 SCRA 470, 475-76; citing University of the Philippines Board of Regents v. Hon. Ligot-Telan, 227 SCRA 342, 355 (1993); Ralla v. Ralla, 199 SCRA 495, 499 (1991); Rebollido v. Court of Appeals, 170 SCRA 800, 806 (1989).

[21] See Ralla v. Ralla, G.R. No. 78646, 23 July 1991, 199 SCRA 495, 499; citing Guinobatan Historical and Cultural Association v. CFI of Albay, Branches III and IV, 182 SCRA 256; Sustiguer v. Tamayo, 176 SCRA 579; House International Building Tenants Association, Inc. v. Intermediate Appellate Court, 151 SCRA 703. See also Dean Joya v. PCGG, G.R. No. 96541, 24 August 1993; Shipline Inc. v. Court of Appeals, G.R. No. 143377, February 20, 2001.

[22] Shipline, Inc. v. Court of Appeals, *supra* note 17 at 349, citing Pioneer Insurance v. CA, 175 SCRA 668 (1989).

[23] Rollo, p. 4.

[24] Section 8, Rule 7, 1997 Rules of Civil Procedure.

[25] Seno v. Mangubat, G.R. No. L-44339, 2 December 1987, 156 SCRA 113, 119; citing Wyoga Gas & Oil Corp. v. Schrack, 1 Fed. Rules Service, 292, 27 Fed. Supp. 35.

[26] *Id.*

[27] *Id.* at 119. "In an action to reform a deed, all parties claiming an interest in the land or any part thereof purportedly conveyed by the instrument sought to be reformed, and whose interests will be affected by the reformation of the instrument are necessary parties to the action." Toyota Motor Phil. v. Court of Appeals, G.R. No. 102881, 7 December 1992 citing Kemp v. Funderburk, 224 NC 353, 30 SE 2d 155.

[28] *Supra* note 14.

[29] Under Section 10, Rule 3 of the 1997 Rules of Civil Procedure, if the consent of a party who should be joined as plaintiff cannot be obtained, he may instead be joined as a defendant and the reasons therefore to be stated in the complaint.

[30] See also Cabutihan v. Landcenter Construction & Development Corp., 432 Phil. 927, 941 (2002).

[31] See Republic v. Sandiganbayan, G.R. No. 152154, 15 July 2003, 406 SCRA 190, 273.

[32] "It is thus clear that in a case of misjoinder of parties - which in this case is the co-filing of the petition for suspension of payments by both the Yutingcos and the EYCO group - the remedy has never been to dismiss the petition in its entirety but to dismiss it only as against the party upon whom the tribunal or body cannot acquire jurisdiction. The result, therefore, is that the petition with respect to EYCO shall subsist and may be validly acted upon by the SEC. The Yutingcos, on the other hand, shall be dropped from the petition and be required to pursue their remedies in the regular courts of competent jurisdiction." Union Bank of the Philippines v. Court of Appeals, 352 Phil. 808, 828 (1998).

[33] This is assuming of course that those plaintiffs who stand as real parties in interest do not concurrently or similarly perform those same acts or omissions as the misjoined parties that would serve to prejudice the cause of action. Thus, assuming that the plaintiff standing as a real party in interest and the misjoined plaintiff both fail to

verify the complaint, the suit may be dismissed but on account of the failure of the plaintiff/real party in interest. In the same situation, the similar failure of the misjoined plaintiff to verify the complaint will not be sufficient to justify the non-dismissal of the complaint, citing this decision as basis.

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