

FELIX MONTE, PLAINTIFF AND APPELLANT, VS. SANTIAGO G. ORTEGA AND AUGUSTO S. CACERES, DEFENDANTS AND APPELLEES.

G.R. No. 15417. August 29, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

This is a direct appeal from the Court of First Instance of Camarines Sur, presenting as the only issue the correctness of the order of the said Court, in denying admission of the Amended Complaint.

On April 16, 1955, Felix Monte filed a complaint for Replevin with Damages, against the defendants Santiago G. Ortega and Augusto S. Caceres, who were then Mayor and Chief of Police, respectively, of Iriga, Camarines Sur. The complaint alleged as cause of action that plaintiff was deprived of the complete use and enjoyment of two cargo trucks, duly registered in his name, by the defendants, who for no valid grounds impounded said trucks which were then being used by plaintiff in a contract with the National Power Corporation, for hauling sand, gravel and stones, and that due to the act of the defendants, plaintiff stood to lose P100.00 a day per truck. He likewise prayed for other damages, P1,000.00 for attorney's fees; P50,000.00 for moral damages and P1,000.00 for depreciation and damage to the trucks.

Answering the complaint, defendants alleged, after the usual admissions and denials, that the trucks in question were taken because plaintiff, in violation of Sec. 2753 (c) of the Administrative Code, had been taking stones, gravel and sand from the Waras River, for commercial purposes, without the necessary municipal license; that although plaintiff was advised not to take the materials, he continued doing so; that for said acts of plaintiff, the Provincial Fiscal of Camarines Sur had filed an information entitled "People of P.I. vs. Felix Monte and Silvino Gonowon" which was pending trial before the JP, when the present complaint was filed; that the seizure of the trucks was in consequence of the continued and open violation of the law, the same having been used as a means of committing the offense.

On December 12, 1955, plaintiff filed a motion for admission of an amended complaint which included Provincial Fiscal Manuel Estipona as a party defendant, alleging that the original defendants in trying to escape liability, had induced the said Fiscal to file an information against him, although they all knew that plaintiff committed no offense at all; that, as a matter of fact, the criminal case against plaintiff was dismissed; and that plaintiff was a victim of malicious prosecution for which the original defendants and said Fiscal were answerable.

Defendants opposed the admission of the Amended Complaint on two grounds, namely: (1) substantial changes were included by way of damages, greatly prejudicial to defendants; and (2) no cause of action against Fiscal Estipona.

It appears that the impounded trucks were already delivered to the plaintiff. Defendants contend that with respect to the replevin, the case has become moot, the only remaining cause is that of damages. They suggested that plaintiff should have asked the dismissal of the complaint, since the proposed amendment substantially and materially alter the original cause of action. They claim that where plaintiff has no valid and subsisting cause of

action at the time of the filing of the complaint, the defect cannot be cured or remedied by the acquisition or accrual of one while the action is pending, and a supplemental complaint or an amendment setting up such accrual of cause of action is not permissible. They further submit that plaintiff had no valid and subsisting cause of action against the additional defendant Provincial Fiscal Estipona, since the action, if there is ever one, only arose after the dismissal of the criminal case; and that the elements of malicious prosecution do not exist, as far as Fiscal Estipona is concerned.

The plaintiff-appellant contends, on the other hand, that, with leave of court, the parties may alter any pleading to the end that all matters in dispute may, as far as possible, be completely determined in a single proceeding and that the only ground when the leave should be refused is when it appears that the motion is made with intent to delay the action; that because the two causes of action in the amended complaint are intimately related and constitutes a series of transactions, the original defendants and additional defendant should be joined in a single suit; and that an amended complaint was precisely filed because of the accrual of another cause of action.

On December 29, 1955, the Court a quo issued an Order of the following tenor:

"It appearing that the amendments to the complaint introduce a new cause of action which has not been shown to be existing at the time of the filing of the original complaint, the motion to admit the amended complaint is denied."

The motion for reconsideration of the above order, was denied on January 14, 1956, for lack of merit. An appeal was reasonably perfected, but upon presentation of the Record on Appeal, the lower court refused to approve the same, contending that the order was interlocutory. A petition for Mandamus (to compel approval of the Record on Appeal) was filed with this Court (*Monte vs. Moya, et al.*, 101 Phil., 176), and in said case We ordered the lower court to approve the Record on Appeal of the case now under consideration.

As stated at the outset, the singular issue in this case is the propriety of the lower court's refusal to admit the Amended Complaint. This question has already been passed upon in the case of *Monte vs. Moya, et al.*, supra, when this Court declared:

"We believe the court was in error in refusing to admit the amended complaint considering; the spirit that underlies the rule that permits the amendment of a pleading. This rule precisely authorizes the amendment in order that 'all matters in the action in dispute between the parties may, as far as possible, be completely determined in a single proceeding (Sec. 2, Rule 17). This is the only purpose of the amendment sought to be made. The first cause of action alleges the illegal impounding of petitioner's trucks by the original defendants, while the second avers that that impounding is sought to be justified by the malicious prosecution of petitioner on the part of Fiscal Estipona who acted upon the inducement of respondent. There is therefore intimate relation between the allegations of the two cause of action which can only be threshed out in a single proceeding. This attempt is within the purview of the rule. As this attempt was frustrated, petitioner has reason to appeal from the ruling of the court. We are, therefore, persuaded that the court acted improperly in denying him his right to appeal."

Conformably with the foregoing, the order of December 29, 1955, denying admission of the amended complaint and that of January 14, 1956, denying the motion for reconsideration, are hereby reversed. The case is remanded to the court of origin, which is hereby ordered to admit the amended complaint and conduct further proceedings, in accordance with law. No costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, De Leon, and Natividad, JJ., concur.

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