

PHILIPPINE DAILY INQUIRER, ISAGANI YAMBOT, LETTY JIMENEZ-MAGSANOC, PERGENITO B. BANDAYREL, JR., GOBLETH C. MOULIC, ESTANISLAO CALDEZ, AND ZENAIDA CALDEZ, PETITIONERS, VS. HON. E...

G.R. No. 160604. March 28, 2008

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before us is a petition for review on certiorari seeking the review, setting aside, and annulment of the Resolution[1] of the Court of Appeals (CA) in CA-G.R. SP No. 79702 dated October 22, 2003 dismissing the petition for certiorari and prohibition filed by petitioners.

The antecedents are as follows:

The Philippine Daily Inquirer (PDI), in its August 1, 2000 issue, published an article with the heading “After Bong, who’s next?”[2] The article narrates the death of Expedito “Bong” Caldez, a photo correspondent of the PDI in Cagayan. In said article, the family of the deceased correspondent laments the death of their loved one due to the alleged erroneous diagnosis of Dr. Luz Babaran.[3]

Later, in its September 29, 2000 issue, the PDI published another article with the heading “DOH orders probe of fotog’s death.”[4] In said article, it was reported that the regional Department of Health (DOH) in Tuguegarao City has started investigating the death of Expedito Caldez following an order from the DOH’s Bureau of Licensing and Regulation.

On July 25, 2001, based on the two PDI column articles, Dr. Babaran filed a complaint for Damages,[5] Civil Case No. 5850, against herein petitioners. In said complaint Dr. Babaran alleged, among other things, that: after learning about the article published in the August 1, 2000 issue of the PDI, she wrote a letter to the editor of the PDI but she never received any response from the latter; to aggravate the matter, another article appeared in the September 29, 2000 issue of the PDI and she was again singled out as having erroneously diagnosed the illness of Expedito Caldez; the Report[6] of the DOH Fact-Finding Committee concluding that her diagnosis cannot be considered erroneous, was suppressed and was never published by the PDI; the articles portrayed her as incompetent and one whose alleged erroneous diagnosis caused the death of Expedito Caldez; and, in causing the articles to be published, petitioners acted in bad faith.

On September 13, 2001, petitioners filed their Answer[7] with counterclaims. In said answer, petitioners raised, among others, the following defenses: that the complaint states no cause of action against them; that the complaint fails and omits to state the factual premises to support a conclusion that there was malice on the part of the PDI in publishing the questioned news report; that private respondent failed to allege “actual malice” on the part of the petitioners; that a case for actionable libel with claims for damages has not been adequately stated in the complaint; and, that the complaint fails to establish the basis of petitioners’ liability.[8]

Pre-trial was held and terminated, and petitioners thereafter filed a Motion for a Preliminary Hearing on Affirmative Defense Raised in the Answer (which is also a ground for a motion to dismiss).[9] In said motion, it was alleged that at the pre-trial on February 19, 2003, the court noted that one of the defenses raised by petitioners was that private respondent has not delineated the participation of each of petitioners in the publication of the alleged libelous articles.[10] Thereupon, private respondent's counsel asked for a few days to determine whether the complaint should be amended to cure its defects. However, private respondent had not moved to amend the complaint, hence, petitioners filed the motion.[11]

In support thereof, petitioners contend that: in libel charges, the participation of each defendant must be specifically alleged in the complaint, which private respondent failed to do; and the allegations of the complaint are mere conclusions of law and opinions of the private respondent.[12] Petitioners ultimately prayed that a preliminary hearing be conducted on their affirmative defense that the complaint failed to state a cause of action; and that, thereafter, the complaint be dismissed.[13]

Subsequently, private respondent filed a Comment/Opposition to the Motion to Dismiss Based on Affirmative Defense.[14] In said comment/opposition, private respondent averred that at the February 19, 2003 pre-trial, the issue of whether or not the complaint states a cause of action was not raised. As such, it is no longer an issue to be litigated in the case. Private respondent prayed that the court deny petitioners' motion to dismiss.

On May 30, 2003, the Regional Trial Court (RTC) issued an Order[15] denying petitioners' motion in this wise:

With this finding and conclusion, the Court finds no further necessity in dwelling at length on the other issues raised by the defendants. Consequently, the motion for a Preliminary Hearing on Affirmative Defense Raised in the Answer (which is also a ground for a motion to dismiss) is hereby DENIED. The initial presentation of plaintiff's evidence is set on July 3, 2003, at 8:30 o'clock in the morning.

SO ORDERED.[16]

The RTC opined that private respondent's allegations in her complaint, as well as her documentary evidence, show that there is sufficient cause of action. It added that the documentary evidence discloses facts which are sufficient to enable the court to go beyond the disclosures in the complaint. Considering that the facts alleged in the complaint which make out the principal cause of action and relief are sufficient, the case should not be dismissed.[17]

Petitioners filed a Motion for Reconsideration[18] but it was denied in the Order[19] dated July 29, 2003.

Aggrieved, petitioners filed a Petition for Certiorari and Prohibition (with Prayer for the Issuance of Temporary Restraining Order and/or Preliminary Injunction)[20] with the CA, relying on the ground that:

THE RESPONDENT TRIAL JUDGE GRAVELY ABUSED HIS DISCRETION AND EXCEEDED HIS JURISDICTION IN NOT DISMISSING THE COMPLAINT DESPITE ITS FAILURE TO VALIDLY AND SUFFICIENTLY STATE A CAUSE OF ACTION FOR LIBEL AGAINST THE PETITIONERS BECAUSE:

A)

THE PARTICIPATION OF EACH DEFENDANT (PETITIONER) IN THE WRITING, EDITING, PRINTING, AND PUBLICATION OF THE NEWS ARTICLES IN QUESTION IS NOT SPECIFICALLY SET OUT IN THE COMPLAINT;

B)

THE MATERIAL ALLEGATIONS OF THE COMPLAINT ARE PURELY LEGAL CONCLUSIONS AND OPINIONS OF PRIVATE RESPONDENT, AND NOT STATEMENTS OF ULTIMATE FACTS.[21]

Petitioners prayed among others: that the Orders of the RTC dated May 30, 2003 and July 29, 2003 be annulled and set aside for having been rendered with grave abuse of discretion and/or excess of jurisdiction; and that Civil Case No. 5850 be dismissed for failure to state a cause of action.[22]

On October 22, 2003, the CA issued a Resolution[23] dismissing the petition for being insufficient in form and substance and for presenting no justiciable issue needing serious consideration by the court. Also, the CA noted that the Order dated May 30, 2003 shows that the RTC had already ruled against petitioners' affirmative defense that the complaint states no cause of action.

Hence, this petition, raising the following issues:

WHETHER OR NOT A COMPLAINT WHICH FAILS TO VALIDLY AND SUFFICIENTLY STATE A CAUSE OF ACTION FOR LIBEL BECAUSE:

A)

THE PARTICIPATION OF EACH DEFENDANT (PETITIONER) IN THE WRITING, EDITING, PRINTING, AND PUBLICATION OF THE NEWS ARTICLES IN QUESTION IS NOT SPECIFICALLY SET OUT IN THE COMPLAINT;

B)

THE MATERIAL ALLEGATIONS OF THE COMPLAINT ARE PURELY LEGAL CONCLUSIONS AND OPINIONS OF PRIVATE RESPONDENT, AND NOT STATEMENTS OF ULTIMATE FACTS; AND

C)

THE COMPLAINT IS VIOLATIVE OF PETITIONERS' CONSTITUTIONAL RIGHTS TO FREE PRESS AND TO FREE SPEECH.

SHOULD BE DISMISSED UPON MOTION BY THE DEFENDANTS (PETITIONERS HEREIN). [24]

Petitioners argue that private respondent's complaint failed to comply with the requirement in libel cases that the participation of each defendant must be specifically alleged in the complaint. Petitioners maintain that their divergent personal circumstances and different legal existence, not to mention the absence of any professional relationship of two of petitioners with the rest of them, should have prompted private respondent to specify the participation of each petitioner in the news gathering, reporting, editing, publication, and circulation of the subject articles. As such it cannot be determined with certainty from the allegations in the complaint whose acts and omissions are actually complained of.[25]

Also, petitioners added that the material allegations of the complaint are not statements of ultimate facts but were mere conclusions of law and were merely private respondent's opinions.[26]

Finally, petitioners contend that the complaint violates their constitutionally protected freedom of speech and of the press.[27]

As defined in Section 2, Rule 2 of the Rules of Court, a cause of action is the act or omission by which a party violates the right of another. In relation to a complaint, it is a formal statement of the operative facts that give rise to a remedial right. The question of whether the complaint states a cause of action is determined by its averments regarding the acts committed by the defendant. Thus, it must contain a concise statement of the ultimate or essential facts constituting the plaintiff's cause of action. As such, the failure to make a sufficient allegation of a cause of action in the complaint warrants its dismissal.[28] Its essential elements are as follows:

- A right in favor of the plaintiff by whatever means and under whatever law it arises or is created;
- An obligation on the part of the named defendant to respect or not to violate such right; and
- Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.

Of the three, the most important is the last element since it is only upon the occurrence of the last element that a cause of action arises, giving the plaintiff the right to maintain an action in court for recovery of damages or other appropriate relief.[29] In determining whether an initiatory pleading states a cause of action, "the test is as follows: admitting the truth of the facts alleged, can the court render a valid judgment in accordance with the prayer?" To be taken into account are only the material allegations in the complaint; extraneous facts and circumstances or other matters aliunde are not considered. The court may however consider, in addition to the complaint, the appended annexes or documents, other pleadings of the plaintiff, or admissions in the records.[30]

When a defendant seeks the dismissal of the complaint through a motion to dismiss, the sufficiency of the motion should be tested on the strength of the allegations of facts contained in the complaint and on no other basis.[31] The issue of whether or not the complaint failed to state a cause of action, warranting its dismissal, must be passed upon on the basis of the allegations stated therein assuming them to be true and the court cannot inquire into the truth of the allegations and declare them to be false; otherwise, it would be a procedural error and a denial of due process to the plaintiff.[32]

This Court finds that petitioners raised the threshold question of whether the complaint sufficiently alleges a cause of action.

Hence, the trial court should have granted petitioners' motion for a preliminary hearing on the affirmative defenses raised in the answer based on failure to state a cause of action. This procedure is designed to prevent a tedious, if not traumatic, trial in case the complaint falls short of sufficiently alleging a cause of action.

WHEREFORE, the petition is GRANTED. The Resolution of the Court of Appeals dated October 22, 2003 is REVERSED, and the case is REMANDED to the Regional Trial Court of Tuguegarao City, Cagayan, Branch 5, for the trial court to hear and resolve petitioners' Affirmative Defenses Raised in the Answer.

No costs.

SO ORDERED.

Puno, C.J. (Chairperson), Carpio, Corona and Leonardo-de Castro, JJ., concur.

[1] Penned by Justice Conrado M. Vasquez, Jr. and concurred by Associate Justices Bienvenido L. Reyes and

Arsenio J. Magpale, rollo, pp. 68-69.

[2] Records, p. 10.

[3] Id.

[4] Id. at 13.

[5] Id. at 1-9.

[6] Id. at 14-21.

[7] Id. at 40-49.

[8] Id.

[9] Rollo, pp. 83-97.

[10] Id. at 84.

[11] Id.

[12] Id. at 85-95.

[13] Id. at 95.

[14] Id. at 98-105.

[15] Id. at 106-112.

[16] Id. at 112.

[17] Id. at 107.

[18] Id. at 113-118.

[19] Id. at 119.

[20] Records, pp. 307-328.

[21] Id. at 311.

[22] Id. at 326-327.

[23] Rollo, pp. 68-69.

[24] Id. at 18.

[25] Id. at 20-23.

[26] Id. at 23-35.

[27] Id. at 35-56.

[28] Zepada v. China Banking Corporation, G.R. No. 172175. October 9, 2006, 504 SCRA 126, 131.

[29] Swagman Hotels and Travel, Inc. v. Court of Appeals, G.R. No. 161135, April 8, 2005, 455 SCRA 175, 183.

[30] Goodyear Philippines, Inc. v. Sy, G.R. No. 154554, November 9, 2005, 474 SCRA 427, 434.

[31] Heirs of Mariano Lagutan v. Icao, G.R. No. 58057, June 30, 1993, 224 SCRA 9, 15, citing De Jesus, et al. v.

Belarmino, et al., 95 Phil. 366 (1954).

[32] Ibid. citing *Ventura v. Bernabe*, G.R. No. L-26760, April 30, 1971, 38 SCRA 587, 598; *Galeon v. Galeon*, G.R. No. L-30380, February 28, 1973, 49 SCRA 516.

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