REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ANDRES L. AFRICA, VICTOR AFRICA, LOURDES A. AFRICA, NATHALIE A AFRICA-VERCELES, JOSE ENRIQUE A. AFRICA, PAUL DELFIN A. AFRICA, ROSAR...

G.R. NO. 172315. August 28, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Challenged in the present petition for certiorari and prohibition are the Sandiganbayan's Resolution of November 15, 2005[1] denying the Motion for Leave to File Amended Complaint filed by the Republic of the Philippines (the Republic) and Resolution of March 6, 2006[2] denying the Republic's Motion for Reconsideration.

The Complaint in Civil Case No. 0178, "Republic of the Philippines v. Andres L. Africa, et al.," was filed before the Sandiganbayan on October 29, 1997[3] by the Republic through the Presidential Commission on Good Government against private respondents, for the recovery of 3,305 shares of stock in the Eastern Telecommunications Philippines, Inc.[4] The shares, alleged to be held in trust for former President Ferdinand E. Marcos and Mrs. Imelda R. Marcos, are registered in the names of private respondents as follows:[5]

Number of Shares

1. Rosario N. Arellano

165

2. Victoria N. Legarda

165

3. Angela N. Lobregat

165

4. Pablo Lobregat (in trust for Rafael Valdez)

165

5. Benito V. Nieto

165

6. Carlos V. Nieto

165

7. Manuel V. Nieto III

165

8. Ramon V. Nieto

165

9. Ma. Rita N. Delos Reyes

165

10. Carmen N. Tuazon

165

11. Rafael C. Valdez

165

12. Andres L. Africa (in trust for Rosario Songco)

1

13. Lourdes A. Africa (in trust for Nathalie A. Africa)

165

14. Lourdes A. Africa (in trust for Jose Enrique A. Africa)

165

15. Lourdes A. Africa (in trust for Paul Delfin A. Africa)

165

16. Victor Africa

165

17. Juan De Ocampo (in trust for Rosario A. Songco)

1

18. Raquel S. Dinglasan

332

19. Evelyn A. Romero

332

20. Rosario Songco

330

The Republic alleged in the Complaint that private respondents' addresses were unknown but that private respondents Rosario N. Arellano, Victoria N. Legarda, Angela N. Lobregat, Pablo Lobregat, Benito V. Nieto, Carlos V. Nieto, Manuel V. Nieto III, Ramon V. Nieto, Ma. Rita N. Delos Reyes, Carmen N. Tuazon, and Rafael C. Valdez may be served summons "through their relatives Manuel H. Nieto, Jr. and/or Victoria N. Legarda at 22 Acacia Road, Quezon City"; while private respondents Andres L. Africa, Lourdes A. Africa, Victor Africa,

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Nathalie A. Africa, Jose Enrique A. Africa, Paul Delfin A. Africa, Juan De Ocampo,[6] Raquel S. Dinglasan, Evelyn A. Romero, and Rosario Songco may be served summons "through Atty. Victor Africa and/or Atty. Juan de Ocampo at 12/F Telecoms Plaza, Sen. Gil J. Puyat Avenue, Makati City."[7]

Eventually, all of private respondents answered the Complaint, except for Andres L. Africa, Racquel S. Dinglasan, Evelyn A. Romero, and Rosario Songco, there being no valid service of summons upon them.[8] In the meantime, private respondents Andres L. Africa and Rosario A. Songco passed away.

On January 27, 2005, the Republic filed a Motion for Leave to File Amended Complaint[9] to "implead the heirs of Andres L. Africa and Rosario A. Songco, and to properly summon Racquel S. Dinglasan and Evelyn A. Romero." To the motion, it attached the Amended Complaint bearing the following, among other things, information:

> Defendant Andres L. Africa is now deceased. His heirs, all non-residents, are Perla Africa, Rolando Africa and Ronaldo "Ronnie" Africa. Their last known address is at No. 95-A Melchor Street, Loyola Heights, Quezon City.
>
> Defendant Rosario A. Songco is now deceased. Her heirs and their addresses are the following: 1) Enrico A. Songco
> No. 77 Kaimito Street, Phase 2,
> Town and Country Executive Village,
> Antipolo City
>
> 2) Rosanna S. Salak
> No. 8 Eagle Street, Capitol Hills,
> Quezon City, or
>
> Mekong Department
> Asian Development Bank,
> No. 6 ADB Avenue,
> Mandaluyong City; and
>
> 3) Epitacio A. Songco, Jr.
> 10th Floor, Telecoms Plaza Bldg.
> Makati City

Defendant Racquel S. Dinglasan is a non-resident and holds an American passport. Her last known address is at #8 Eagle Street, Capitol Hills, Quezon City.

Defendant Evelyn A. Romero is a non-resident and holds a Canadian passport. Her last known address is at #106 10th Avenue, Quezon City.[10]

By Resolution of February 2, 2005,[11] the Sandiganbayan denied the Republic's Motion for Leave to File Amended Complaint for failure to properly set it for hearing.[12] The Republic's motion for reconsideration of the said resolution was denied by Resolution of May 3, 2005.[13]

The Republic thus filed on July 4, 2005[14] another Motion for Leave to File Amended Complaint, to which it attached an Amended Complaint[15] dated July 1, 2005, this time setting the motion for hearing on July 8, 2005 at 8:30 in the morning and alleging therein, inter alia, that:

> - [The Republic] is aware of the leniency bestowed by [the Sandiganbayan] in granting [it] four (4) extensions of time in order to be able to properly file the Motion for Leave to file the Amended Complaint.

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> - With sincere apologies we again beseech [the Sandiganbayan] to grant [it] leave to file the Amended Complaint. [The Republic] insists on the inclusion of the additional defendants for they are considered as necessary parties without whom no complete relief can be afforded to the [Republic].
>
> x x x x
>
> - Section 11, Rule 3 of the Rules of Court further states that: x x x [p]arties 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. x x x[16] (Underscoring supplied)

By Resolution of November 15, 2005,[17] the Sandiganbayan denied the Republic's Motion for Leave to File Amended Complaint as follows:

> This present Motion was denied when it was first filed on 27 January 2005 because it was not set for hearing; the motion for reconsideration of the resolution denying it was also denied.
>
> Although parties may be dropped or added by order of the court, this can only be made in accordance with the Rules of Court. This brings us to the question of whether there is compliance with the procedures on how this is done. And while technicalities are brushed aside, this policy is not equivalent to allowing neglect or abuse of the rules by party litigants. Specifically on the single point of impleading the proper defendants for its case, plaintiff has managed to drag the case far too long as will be shown below.
>
> x x x x
>
> Plaintiff's first task of identifying the proper defending parties for its cause of action dates as far back as July of 1987 when it filed Civil Case No. 0009, but it failed to include the present defendants; up to 28 October 1997 when it filed the present complaint docketed as Civil Case No. 0178 again without properly including the proper parties; up to 28 October 2004 when it was given an extension of time to file its Motion for Leave to Amend Complaint to implead the proper parties; up to 10 November 2004 when another extension of time was given for the same purpose; up to 16 December 2004 for yet another extension of time, and up to 5 January 2005 for the last extension of time accorded by this Court. When it finally filed the Motion for Leave on 27 January 2005, it was still not in conformity with the requirements of the Rules of Court.
>
> Legal proceedings are directional in time advancing from the commencement of the action toward its conclusion and by no means going backwards. For those instances where modifications or corrections are allowed and liberality on technical rules is sanctioned, the Rules of Court still define the parameters under which these should be undertaken. Adherence to these guidelines is imperative, otherwise the proceedings could very well be taken for granted or be at the mercy of the party litigants.
>
> The grant of leave to file amended pleadings is a matter peculiarly within the sound discretion of the court. With the lame effort of the plaintiff in carrying out its task, the liberality with which this Court accommodated the same request a number of times, and this Court's earlier resolution already denying the same motion, plaintiff cannot now be heard on the same plea all over again. (Emphasis and underscoring supplied)

The Republic's December 6, 2005 Motion for Reconsideration Ad Cautela[18] having been denied by Resolution of March 6, 2006,[19] it filed the present petition for certiorari and prohibition.

It bears pointing out, at the outset, that the parties, as well as the Sandiganbayan, are mistaken in their assumption that this case falls under Section 3 of Rule 10 of the Rules of Court (amendments by leave of court). For it falls under Section 2 of said Rule (amendments as a matter of right).

Under Section 2 of Rule 10, a party may amend his pleading once as a matter of right at any time before a responsive pleading is served, and thereafter, only upon leave of court. It is true that when the Republic filed its Motion for Leave to File Amended Complaint most of the private respondents had already filed their respective

answers. This does not bar the Republic from amending its original Complaint once, however, as a matter of right, against Andres L. Africa, Racquel S. Dinglasan, Evelyn A. Romero, and Rosario Songco, the non-answering private respondents. As this Court ruled in Siasoco, et al. v. Court of Appeals, et al.:[20]

> It is clear that plaintiff x x x can amend its complaint once, as a matter of right, before a responsive pleading is filed. Contrary to the petitioners' contention, the fact that Carissa had already filed its Answer did not bar private respondent from amending its original Complaint once, as a matter of right, against herein petitioners. Indeed, where some but not all the defendants have answered, plaintiffs may amend their Complaint once, as a matter of right, in respect to claims asserted solely against the non-answering defendants, but not as to claims asserted against the other defendants. (Emphasis and underscoring supplied)

As the proposed amendments pertain only to the non-answering private respondents, they may still be made as a matter of right. Being a matter of right, its exercise does not depend upon the discretion or liberality of the Sandiganbayan.

In fine, the Sandiganbayan gravely abused its discretion when it denied the Republic's Motion for Leave to File Amended Complaint.

WHEREFORE, the November 15, 2005 and March 6, 2006 Resolutions of the Sandiganbayan in Civil Case No. 0178 are REVERSED and SET ASIDE. The Sandiganbayan is ORDERED to admit the July 1, 2005 Amended Complaint of petitioner, the Republic of the Philippines.

SO ORDERED.

Carpio, Tinga, and Velasco, Jr., JJ., concur.
Quisumbing, (Chairperson), J., no part

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[1] Records, Vol. 2, pp. 495-501. Penned by Justice Jose R. Hernandez with the concurrence of Justices Gregory S. Ong and Rodolfo A. Ponferrada.

[2] Id. at 547-551. Also penned by Justice Jose R. Hernandez with the concurrence of Justices Gregory S. Ong and Rodolfo A. Ponferrada.

[3] Records, Vol. 1, pp. 1-11.

[4] The case was filed after this Court in Republic v. Sandiganbayan (334 Phil. 472, 477 [1997]) ruled that the Republic's attempt to recover these shares of stock in Civil Case No. 0009, without impleading private respondents as defendants therein, was "highly irregular and seriously flawed" and directed the Republic, "[if it] is really interested in claiming the shares of stock x x x," to "implead [private respondents] in a complaint for the recovery of [these] shares."

[5] Rollo, p. 16.

[6] The complaint against Juan de Ocampo was dismissed by May 29, 1998 Order of the Sandiganbayan (records, Vol. 1, pp. 154-155).

[7] Records, Vol. 1, p. 2.

[8] Rollo, pp. 20-21.

[9] Records, Vol. 2, pp. 282-286.

[10] Id. at 289 to 290.

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[11] Id. at 308.

[12] The Notice of Hearing reads: "Please take notice that the foregoing MOTION FOR LEAVE TO FILE AMENDED COMPLAINT is submitted for the consideration of the Honorable Court immediately upon receipt thereof in view of its nature." (Id. at 286)

[13] Id. at. 345-351.

[14] Id. at 372-379.

[15] Id. at 380-398.

[16] Id. at 374 to 375.

[17] Supra, note 1.

[18] Records, Vol. 2, pp. 509-516.

[19] Supra note 2.

[20] 362 Phil 525, 533 (1999).

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