

**FULGENCIO SIDECO, PETITIONER, VS. JOSE MA. PABEDES ET AL.,
RESPONDENTS***G.R. No. 48569. October 23, 1942*

Ponente: OZAETA, J.

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The petitioner was sued separately by sixteen tenants of his to recover a share which each of them claims in the sugar benefit payments. The plaintiff in each of fourteen cases claims P82.18, and in the remaining two cases P164.36. A joint trial was had in the justice of the peace court of Santa Ana, where the defendant prevailed, as well as in the Court of First Instance of Pampanga, where the plaintiffs prevailed. Petitioner moved to consolidate the sixteen cases for the purposes of appeal and tendered one record on appeal and one appeal bond, to minimize the expenses. The respondent judge denied the motion to consolidate on the ground that it was filed too late and disapproved the consolidated record on appeal. Hence the present petition for certiorari and mandamus to annul the order denying the motion to consolidate and to compel the respondent judge to approve the consolidated record on appeal and the appeal bond.

Section 1 of Rule 32 of the Rules of Court provides as follows:

"SECTION 1. Consolidation.—When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

It is not disputed that the sixteen cases involve a common question of law; so much so that they were tried jointly and only one decision was rendered therein. The sixteen plaintiffs, who litigated as paupers, were represented by one counsel, the public defender of Pampanga. To all intents and purposes, the sixteen cases may be considered as having been consolidated from the time they were tried and decided jointly for the convenience of the court and the parties. There was no necessity for either party to ask for a formal consolidation of said cases until the time to appeal from the decision of the Court of First Instance came. On the other hand, section 1 of Rule 32 above quoted fixes no deadline beyond which the consolidation may not be effected. We find no valid reason for the refusal of the trial court to permit the consolidation. On the contrary, there is an imperative necessity therefor, otherwise the petitioner as appellant would have to spend more than the amount involved to prosecute his appeal. Section 2 of Rule 1 provides that "these rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding."

The respondent judge invokes section 3 of Rule 41, which requires that an appeal bond be filed in every appeal, holding that under said provision he had no discretion to admit only one appeal bond for the appeal in the sixteen cases. But one of the reasons why the consolidation is sought is to obviate the necessity of filing more than one appeal bond. Once the consolidation is allowed, it would be a compliance of section 3 of Rule 41 to file only one appeal bond.

We find, therefore, that under section 1 of Rule 32, in relation to section 2 of Rule 1, the petitioner is entitled as a matter of right and justice to have the sixteen cases in question consolidated for the purpose of appeal.

Wherefore, the orders of the respondent judge dated June 14 and July 14, 1941, respectively, denying the motion for consolidation and the motion for reconsideration, are set aside, and the Court of First Instance of Pampanga is hereby directed to approve and certify the consolidated record on appeal and to approve the appeal bond, tendered by the petitioner in civil cases Nos. 6896-6911 of said court, without any finding as to costs. So ordered.

Yulo, C. J., Moran, Paras, and Bocobo, JJ., concur.

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