

JUASING HARDWARE, PETITIONER, VS. THE HONORABLE RAFAEL T. MENDOZA, JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU, AND PILAR DOLLA, RESPONDENTS.

G.R. No. 55687. July 30, 1982

Ponente: GUERRERO, J.

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GUERRERO, J.:

In this special civil action for certiorari, petitioner Juasing Hardware seeks to annul the Orders of respondent Judge dated September 5, 1980 and October 21, 1980 issued in Civil Case No. R-18386.

Records show the pertinent factual and procedural antecedents of the instant Petition to be as follows:

On August 17, 1979, Juasing Hardware, alleging to be a single proprietorship duly organized and existing under and by virtue of the laws of the Philippines and represented by its manager Ong Bon Yong, filed a complaint for the collection of a sum of money against Pilar Dolla.[1] The complaint charged that defendant Dolla failed and refused to pay, despite repeated demands, the purchase price of items, materials and merchandise which she bought from the plaintiff.[2] In her Answer, defendant stated, among others, that she "has no knowledge about plaintiff's legal personality and capacity to sue as alleged in xxx the complaint." [3] The case proceeded to pre-trial and trial. After plaintiff had completed the presentation of its evidence and rested its case, defendant filed a Motion for Dismissal of Action (Demurrer to Evidence)[4] praying that the action be dismissed for plaintiff's lack of legal capacity to sue. Defendant in said Motion contended that plaintiff Juasing Hardware is a single proprietorship, not a corporation or a partnership duly registered in accordance with law, and therefore is not a juridical person with legal capacity to bring an action in court. Plaintiff filed an Opposition and moved for the admission of an Amended Complaint.[5]

Resolving the foregoing controversy, respondent Judge issued the Order dated September 5, 1980 dismissing the case and denying admission of the Amended Complaint. Pertinent portions of said Order follow:

"The Answer of the defendant to the complaint alleged the lack of legal capacity to sue of the plaintiff as contained in its affirmative defense. In spite of the allegation that plaintiff has no legal capacity to sue, the plaintiff insisted in proceeding to trial instead of amending the Complaint. During the trial, it was found out that the affirmative defense of defendant of plaintiff's lack of legal capacity to sue is very evident for plaintiff Juasing Hardware is a single proprietorship which is neither a partnership nor a corporation. The amendment therefore is now too late it being substantial.

"In view of all the foregoing, this case is hereby DISMISSED with costs de oficio." [6]

Plaintiff's Motion for Reconsideration of the above Order was denied in another Order issued by respondent Judge on October 21, 1980.[7]

The sole issue in this case is whether or not the lower court committed a grave abuse of discretion when it dismissed the case below and refused to admit the Amended Complaint filed by therein plaintiff, now herein

petitioner, Juasing Hardware.

Rule 3 of the Revised Rules of Court provides as follows:

"Sec. 1. Who may be parties. - Only natural or juridical persons or entities authorized by law may be parties in a civil action."

Petitioner is definitely not a natural person; nor is it a juridical person as defined in the New Civil Code of the Philippines thus:

"Art. 44. The following are juridical persons:

- (1) The State and its political subdivisions;
- (2) Other corporations, institutions and entities for public interest or purpose, created by law; their personality begins as soon as they have been constituted according to law;
- (3) Corporations, partnerships and associations for private interest or purpose to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner or member."

Finally, there is no law authorizing sole proprietorships like petitioner to bring suit in court. The law merely recognizes the existence of a sole proprietorship as a form of business organization conducted for profit by a single individual, and requires the proprietor or owner thereof to secure licenses and permits, register the business name, and pay taxes to the national government. It does not vest juridical or legal personality upon the sole proprietorship nor empower it to file or defend an action in court.

Thus, the complaint in the court below should have been filed in the name of the owner of Juasing Hardware. The allegations in the body of the complaint would show that the suit is brought by such person AS proprietor or owner of the business conducted under the name and style "Juasing Hardware". The descriptive words "doing business as 'Juasing Hardware'" may be added in the title of the case, as is customarily done.

Be that as it may, petitioner's contention that respondent Judge erred in not allowing the amendment of the complaint to correct the designation of the party plaintiff in the lower court, is impressed with merit. Such an amendment is authorized by Rule 10 of the Revised Rules of Court which provides thus:

"Sec. 4. Formal Amendments. - A defect in the designation of the parties may be summarily corrected at any stage of the action provided no prejudice is caused thereby to the adverse party." (Underscoring supplied.)

Contrary to the ruling of respondent Judge, the defect of the complaint in the instant case is merely formal, not substantial. Substitution of the party plaintiff would not constitute a change in the identity of the parties. No unfairness or surprise to private respondent Dolla, defendant in the court a quo, would result by allowing the amendment, the purpose of which is merely to conform to procedural rules or to correct a technical error.

In point is the case of *Alonzo vs. Villamor, et al.*[8] which applied Sec. 110 of the Code of Civil Procedure authorizing the court "in furtherance of justice xxx (to) allow a party to amend any pleading or proceeding and at any stage of the action, in either the Court of First Instance or the Supreme Court, by adding or striking out the name of any party, either plaintiff or defendant, or by correcting a mistake in the name of a party xxx." In the *Alonzo* case, Fr. Eladio Alonzo, a priest of the Roman Catholic Church, brought an action to recover from therein defendants the value of certain properties taken from the Church. The defendants contended that Fr. Alonzo was not the real party in interest. This Court, speaking through Justice Moreland, ordered the substitution of the Roman Catholic Apostolic Church in the place and stead of Eladio Alonzo as party plaintiff, and aptly held in this wise:

"xxx Defect in form cannot possibly prejudice so long as the substantial is clearly evident. xxx

"No one has been misled by the error in the name of the party plaintiff. If we should by reason of this error send this case back for amendment and new trial, there would be on the retrial the same complaint, the same answer, the same defense, the same interests, the same witnesses, and the same evidence. The name of the plaintiff would constitute the only difference between the old trial and the new. In our judgment there is not enough in a name to justify such action.

"There is nothing sacred about processes or pleadings, their forms or contents. Their sole purpose is to facilitate the application of justice to the rival claims of contending parties. They were created, not to hinder and delay, but to facilitate and promote, the administration of justice. They do not constitute the thing itself, which courts are always striving to secure to litigants. They are designed as the means best adapted to obtain that thing. In other words, they are a means to an end. When they lose the character of the one and become the other, the administration of justice is at fault and courts are correspondingly remiss in the performance of their obvious duty.

"The error in this case is purely technical. To take advantage of it for other purposes than to cure it, does not appeal to a fair sense of justice. Its presentation as fatal to the plaintiff's case smacks of skill rather than right. A litigation is not a game of technicalities in which one, more deeply schooled and skilled in the subtle art of movement and position, entraps and destroys the other. It is, rather, a contest in which each contending party fully and fairly lays before the court the facts in issue and then, brushing aside as wholly trivial and indecisive all imperfections of form and technicalities of procedure, asks that justice be done upon the merits. Lawsuits, unlike duels, are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts. There should be no vested rights in technicalities. No litigant should be permitted to challenge a record of a court xxx for defect of form when his substantial rights have not been prejudiced thereby."[9]

We reiterate what this Court had stated in the more recent case of *Shaffer vs. Palma*[10] that "(t)he courts should be liberal in allowing amendments to pleadings to avoid multiplicity of suits and in order that the real controversies between the parties are presented and the case decided on the merits without unnecessary delay."[11] This rule applies with more reason and with greater force when, as in the case at bar, the amendment sought to be made refers to a mere matter of form and no substantial rights are prejudiced.[12]

WHEREFORE, the Petition is hereby granted. The Orders dated September 5, 1980 and October 21, 1980 are hereby annulled, and the lower court is hereby ordered to admit the Amended Complaint in conformity with the pronouncements in this Decision. No costs.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Abad Santos, and De Castro, JJ., concur. Aquino, J., see concurrence. Escolin, J., in the result.

[1] Annex "A", Petition.

[2] Ibid.

[3] Annex "B", Petition.

[4] Annex "D", Petition.

[5] Annex "E", Petition.

[6] Annex "F", Petition.

[7] Annex "I", Petition.

[8] 16 Phil. 315.

[9] Ibid., pp. 321-322; cited in Pan American World Airways, Inc. vs. Espiritu and C.A., L-35401, January 20, 1976, 69 SCRA 36, 46.

[10] L-24115, March 1, 1968, 22 SCRA 934.

[11] Also quoted in Versoza, et al. vs. Versoza, L-25609, November 27, 1968, 26 SCRA 78, 87.

[12] See also Malayan Insurance Co., Inc. vs. Delgado Shipping Agencies, Inc., et al., L-22811, May 19, 1966, 17 SCRA 176, 180-181; The Clorox Company vs. The Director of Patents and Go Siu Gian, L-19531, August 10, 1967, 21 SCRA 965, 970, citing Gaspar vs. Dorado, et al., G.R. L-17884, November 29, 1965.

CONCURRING OPINION

AQUINO, J.:

I concur. It should appear in the amended complaint (a copy which was not attached to the petition) that the plaintiff is Ong Hua or Huat, doing business under the tradename, Juasing Hardware, and in the body of the complaint the personal circumstances of Ong Hua should be stated.

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