

DR. RAYMUNDO R. LIBRODO, PETITIONER, VS. HON. JOSE L. COSCOLLUELA, JR., JUDGE, BRANCH VII, COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL, DEMOCRATA GUANTERO AND ZOSIMO GUANTERO, ...

G.R. No. 56995. August 30, 1982

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Assailed herein are the Orders of respondent Judge of the Court of First Instance of Negros Occidental, Branch VII, suspending criminal proceedings on the ground of prejudicial question and denying reconsideration of his said resolution.

The deceased, Felipe Rivera, died leaving certain properties in San Carlos, Negros Occidental. Among his heirs were Rufino Rivera Damandaman, Democrata Guantero and Zosimo Guantero. His estate was settled in Special Proceedings No. 265 of the Court of First Instance of said province and, on November 24, 1976, it was terminated on the basis of a Project of Partition which the Court had duly approved.

Of the decedent's estate, Lots 559-B, 1906-B, 1910-B, and 1901-B of the San Carlos cadastre, Negros Occidental, all sugar lands, were, as far as can be gleaned from the records, apparently indicated in the plan submitted to the Court by Geodetic Engineer Ulgasan as the share of Rufino Rivera Damandaman.

On January 18, 1977, a Contract of Lease with Real Estate Mortgage was entered into between Rufino Rivera Damandaman, as lessor-mortgagor, and petitioner Raymundo R. Librodo, as lessee-mortgagee, over the aforesaid parcels of sugar lands, for ten agricultural crop years.

On August 31, 1977, private respondent Democrata Guantero filed a Motion to Reopen the intestate proceedings on the ground that the subdivision plan submitted to the Court was made in her absence and that inasmuch as the boundaries therein had not been platted, the judgment of the Intestate Court had not become final.

A question of fact has arisen. Petitioner contends that by virtue of his lease contract, he cultivated and planted sugar cane on Lot 559-B with the intention of harvesting and having it milled in December, 1977. Private respondents Democrata Guantero and Zosimo Guantero (the Guanteros, for short), on the other hand, claim that they were the ones who undertook the planting during that period.

According to petitioner-lessee, on December 5, 1977, the Guanteros feloniously harvested the sugar cane from the lots involved. Apparently, nothing was done about it, but on August 10, 1978, at petitioner's instance, Criminal Case No. 1103 for Theft (hereinafter referred to simply as the Criminal Action) was filed in the Court of First Instance of Negros Occidental against the Guanteros. The Information alleged that at or about 6:30 A.M. of December 5, 1977, the Guanteros had feloniously cut, harvested, gathered and carried away all sugar cane planted on Lot No. 559-B-I under lease and cultivation by petitioner thereby causing damage to the latter in the total sum of P15,120.00.[1]

Almost a year later, or on August 6, 1979 during the pendency of said Criminal Action, petitioner-lessee instituted Civil Case No. 14701 for damages (Damages Suit) against private respondents before Branch IX of the same Court. Petitioner averred that during the period from December 5, 1977 to December 11, 1977, respondents cut, stole and carried away the sugar cane planted by him as lessee on Lots 559-B, 1906-B-I and 1910-B-1 and at the same time occupied the lots and prevented him from cultivating or taking possession, thereby depriving him of income for two years of no less than P78,280.00, in addition to causing him moral and exemplary damages.[2]

In their Answer, respondents asserted that said lots are held in co-ownership among the heirs of the late Felipe Rivera and are the subject of Special Proceedings No. 265 still pending. Private respondent Democrata Guantero denied under oath the genuineness and due execution of the Lease Contract contending that Rufino Damandaman could not execute said contracts without her conformity as co-owner.

On December 13, 1979, the Guanteros filed a Motion to Suspend proceedings in the Criminal Action on the ground of pendency not only of 1) the Damages Suit but additionally of 2) Special Proceeding No. 265 involving the estate of Felipe Rivera (the Intestate Proceeding); and 3) Civil Case No. 1243 filed on January 13, 1977 for Ejectment (the Ejectment Case) instituted by Rufino Damandaman (petitioner's lessor) against private respondent Democrata Guantero on January 13, 1977.

Private respondents took the position that the Intestate Proceeding, the Ejectment Case and the Damages Suit focused on the issues of possession and ownership of the lots involved as well as of the improvements thereon, hence, determinative of their guilt in the Criminal Action, and constitutive of a prejudicial question.

Petitioner opposed the suspension of proceedings in the Criminal Action contending that the question of ownership was not involved in the Damages Suit nor in the Criminal Action, and that the issue of possession is not a prejudicial question to the Criminal Action. Petitioner further averred that he was not a party in the Intestate Proceeding nor in the Ejectment Case so that the outcome of those cases would not affect his rights as a planter in good faith.

On February 28, 1980, respondent Court issued the challenged Order finding that a prejudicial question existed and suspending the criminal proceedings, premised on the following considerations:

"First, should defendants Democrata Guantero and Zosimo Guantero be successfully able to establish their claim of ownership of the standing crops referred to in the information for theft against them, then it would necessarily follow that they cannot possibly be charged with cutting and carrying away what rightfully belongs to them.

Second, the prosecution's claim that the private offended party was a lessee of Lot No. 559-B-1, and therefore, a planter in good faith, must necessarily depend upon whatever right, or extent of that right, that lessor Rufino Damandaman had on Lot 559, which fact is being contested by Democrata Guantero in Civil Case No. 1243, as of the date of the execution of the contract of lease between Damandaman and the lessee because certainly the lessee could acquire only such right that the lessor had on the leased property. Pending the final adjudication of Special Proceeding No. 265 and Civil Case No. 1243, Rufino Damandaman would only have a theoretical and unsegregated right over the estate of the late Felipe Rivera. It is for this reason that the Court is of the opinion that although Dr. Librodo is not a party in Civil Case No. 1243, his right as lessee over the lots involved in said case will be affected by the outcome or result of said case.

Third, with respect to the prosecution's claim that the two civil actions and the instant criminal action are based on the same ground and not on separate and distinct facts, it should be noted that the fact at issue in the criminal action is whether or not the accused Democrata Guantero and Zosimo Guantero did 'feloniously cut, harvest, gather, then carry away all the sugar canes that were then planted on Lot No. 559-B-1 x x' while in both Civil

Cases 1243 and 14701 the fact at issue is whether or not defendant Democrata Guantero (Civil Case 1243) and defendants Democrata Guantero and Zosimo Guantero (Civil Case No.14701) is/are the owner(s) of the standing canes on Lot 559 (Civil Case 1243) and the standing canes on Lots 559-B-1, 1901-B-1, 1906-B-1, and 1910-B-1 (Civil Case No. 14701). Clearly, the fact at issue in the criminal case is distinct and separate from the facts at issue in the civil cases, but the facts at issue in the civil cases are so intimately connected with the fact at issue in the criminal case that they determine the guilt or innocence of the accused, as already discussed earlier." [3]

With the conformity of the prosecuting Fiscal, petitioner moved for reconsideration, which was denied on August 28, 1980. [4]

Petitioner then filed a Motion to Set Aside the Orders of February 28, 1980 and August 22, 1980 (should be August 28) alleging that if there should be a proceeding that ought to be suspended, it should be the Damages Suit because a criminal action takes precedence over a civil case, citing section 3(b) of Rule 111, Rules of Court. [5]

On January 23, 1981, respondent Court denied said Motion to Set Aside Orders and held:

"x x x considering that the issue of whether a prejudicial question exists in this case or not had already been thoroughly discussed by this Court in its orders sought to be reconsidered, and that Rule 111, section 3 of the New Rules of Court allows an exception, which is the existence of a prejudicial question; and that furthermore, section 5 of said Rule specifically provides for the suspension of the criminal action based upon the pendency of a prejudicial question in a civil case, this Court is constrained to deny as it hereby denies the motion for reconsideration."

Petitioner thus resorted to the instant Certiorari Petition, to which we gave due course.

On September 16, 1981, we required the Solicitor General to file a Comment on behalf of the People of the Philippines in whose name the Petition should have been filed involving as it does an incident in a criminal case, thereby considering the People as impleaded. The Solicitor General submits that no prejudicial question is involved.

The sole question for resolution is whether or not the issues in the three civil cases, namely, the Intestate Proceedings, the Ejectment Case and the Damages Suit, raise a prejudicial question that warrants the suspension of the Criminal Action.

"A prejudicial question is one based on a fact distinct and separate from the crime but so intimately connected with it that it determines the guilt or innocence of the accused, and for it to suspend the criminal action, it must appear not only that said case involves facts intimately related to those upon which the criminal prosecution would be based but also that in the resolution of the issue or issues raised in the civil case, the guilt or innocence of the accused would necessarily be determined." [6] "It comes into play generally in a situation where a civil action and a criminal action are both pending and there exists in the former an issue which must be preemptively resolved before the criminal action may proceed, because howsoever the issue raised in the civil action is resolved would be determinative juris et de jure of the guilt or innocence of the accused in the criminal case. [7]

Based on the foregoing criteria, we hold that none of the issues raised in the three civil cases invoked by private respondents would constitute a prejudicial question to the Criminal Action.

The Intestate Proceeding is a suit between co-heirs and involves facts totally unrelated to the Criminal Action. The proceedings have, in fact, been terminated except that private respondent Democrata has petitioned for reopening. Even if the Intestate Court should annul the project of partition and uphold private respondents' ownership of the lots here-in, that would not be determinative of the criminal responsibility of private respondents for theft of the standing sugar crop, which petitioner claims he has planted in good faith by virtue of a

valid contract of lease with mortgage.

Neither does the Ejectment Case constitute a prejudicial question to the Criminal Action. It involves the issue of possession between co-heirs, namely, Rufino Damandaman, petitioner's lessor, and the Guanteros. Petitioner is not a party to that case. A decision therein in favor of the Guanteros would not affect the rights of petitioner, which spring from his lease contract. In the eventuality that private respondents should prevail, they are not without legal remedy against their co-heir Rufino Damandaman.

In so far as the Damages Suit is concerned, while it included other lots leased by petitioner and prayed additionally for unrealized income, and moral and exemplary damages, the suit is actually the civil aspect arising from the criminal offense treated of in the Criminal Action. Based as the two cases are on the same facts, and the entitlement to damages being predicated on the unlawful taking treated of in the Criminal Action, no necessity arises for that civil case to be determined ahead of the Criminal Action.[8]

Stated differently, the issues raised in the civil cases do not involve the pivotal question of who planted the sugar cane and, therefore, are not determinative *juris et de jure* of guilt or innocence in the Criminal Action. If as the Guanteros contend, they were the ones who did the planting, that is a matter of defense that may be interposed by them in the Criminal Action.[9] It is not an issue that must be preemptively resolved in the civil cases before proceedings in the Criminal Action may be undertaken.

WHEREFORE, in the absence of any prejudicial question, respondent Judge's Orders dated February 28, 1980, August 28, 1980 and January 23, 1981 suspending the proceedings in Criminal Case No. 1103 are hereby SET ASIDE and he is hereby directed to proceed without undue delay with the trial of said criminal action.

No costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Plana, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

[1] p. 16, Rollo.

[2] pp. 18-20, *ibid*.

[3] pp. 30-31, *ibid*.

[4] p. 39, *ibid*.

[5] pp. 40-45, *ibid*.

[6] *Benitez vs. Concepcion, Jr.*, 2 SCRA 178 (1961); *Ras vs. Rasul*, 100 SCRA 125 (1980).

[7] *Falgui vs. Provincial Fiscal of Batangas*, 62 SCRA 462 (1975)

[8] *Benitez vs. Concepcion*, *supra*.

[9] *Jimenez vs. Hon. Averia*, 22 SCRA 1380 (1968).

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