

JESUS M. PAMAN, PETITIONER, VS. RODRIGO DIAZ AND HON. PACITA CAÑIZARES-NYE, RESPONDENTS.

G.R. No. 59582. August 26, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Petition for certiorari with prohibition to review the order dated September 7, 1981 of the Court of First Instance of Davao, Branch III, denying petitioner's motion to admit amended answer with counterclaim, together with the order dated November 12, 1981, also denying petitioner's motion for reconsideration thereof, both issued in Civil Case No. 13294, entitled: Rodrigo D. Diaz vs. Jesus M. Paman.

Briefly stated, the facts which led to the filing of this petition are as follows:

On July 24, 1980, private respondent Rodrigo Diaz filed a complaint in the Court of First Instance of Davao against herein petitioner for damages. It was docketed as Civil Case No. 13294 and assigned to Branch III, presided by respondent Judge Pacita Cañizares-Nye.

On September 19, 1980, petitioner, thru counsel, filed an answer with counterclaim.

On May 25, 1981, respondent Judge held the pre-trial of the case. As the parties could not arrive at an amicable settlement, the court issued an order, as follows:

"Upon agreement of the parties, the pre-trial stage in the above-entitled case is deemed terminated. The trial on the merits is set on September 15, 1981, at 8:30 o'clock in the morning, without prejudice to the parties submitting any amicable settlement that may be entered into.

"Atty. Lucilo B. Sarona, Jr. and Atty. Benjamin V. Dignadice, Jr. are notified in open Court.

"SO ORDERED."

On August 31, 1981, petitioner, thru counsel, filed a motion to admit attached amended answer. Private respondent opposed the motion.

On September 7, 1981, respondent Judge denied the motion in an order which reads:

"Considering the opposition filed by the plaintiff on September 3, 1981; and that a Pre-trial conference was held on May 25, 1981 and terminated on said date, defendant's motion to Admit Amended Answer is hereby denied.

"SO ORDERED."

On September 30, 1981, petitioner, thru counsel, filed a motion for reconsideration, alleging that private respondent, plaintiff in said Civil Case No. 13294, had been fully paid by Standard Insurance the amount he is trying to recover from petitioner.

On November 12, 1981, respondent Judge denied the motion for reconsideration in an order, as follows:

"Acting upon the Motion for Reconsideration (of the Order dated September 7, 1981) filed by defendant on September 30, 1981; the allegations therein; and the Opposition thereto the Court is constrained to deny the instant motion for lack of merit considering that the pre-trial stage had been terminated and the case set for trial on the merits as early as May 25, 1981 while the 'Motion to Admit Attached Amended Answer' was filed only on August 31, 1981. Moreover, the matters sought to be incorporated in the Amended Answer may be properly alleged in an appropriate pleading.

"SO ORDERED."

We find the petition at bar to be meritorious.

In Civil Case No. 13294, private respondent seeks to recover from herein petitioner the amount of damages he had spent for his car after it was bumped by the vehicle belonging to the petitioner. In his answer to the complaint, petitioner claims, among others, that "the repair costs for damages were fictitiously bloated." In the motion to admit attached amended answer, petitioner alleges:

"1. That after the filing of the answer to the Complaint, defendant discovered that plaintiff had claimed the repair expenses of his vehicle from his own damage insurer, Standard Insurance, in the total amount of FOUR THOUSAND PESOS and ONE CENTAVO (P4,000.01);

"2. That as appearing in the Release of Claim executed by plaintiff in favor of Standard Insurance, plaintiff is subrogated by Standard Insurance to all his right of recovery of claims and right of action whatsoever may be directed and is therefore, by express stipulation, barred from filing this instant suit;

"3. That plaintiff has filed Complaint against defendant in bad faith considering that he has no more interest in the subject matter of the suit as he was already paid of his repair expenses;

"4. That defendant failed to include the foregoing defenses in the answer for the reason that he came to know about it only after filing his answer;

"5. That, to the end that the real matter in dispute and all matters in the action in dispute between the parties may, as far as possible, be completely determined in this proceeding, it is necessary and expedient that defendant be allowed to amend his Answer, including therein the aforementioned defenses."

and, in the amended answer with counterclaim, petitioner alleges that "plaintiff, prior to the filing of this complaint, was paid of his alleged repair expenses by his insurer of own damage, Standard Insurance, in the sum of P4,000.01, as evidenced by hereto attached Release of CLAIM executed by plaintiff in favor of Standard Insurance, marked as Annex 'A' and made an integral part hereof;"

Upon comparison of the original and amended answers, We are of the opinion that the amendment sought to be included did not in any manner change the theory of the defense. Hence, the trial court should have granted the motion to admit the amended answer with counterclaim.

Section 3 of Rule 10 of the Rules of Court clearly provides that:

"SEC. 3. Amendments by leave of court. - After the case is set for hearing, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay the action or that the cause of action or defense is substantially altered. Orders of the court upon the matters provided in this section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard."

When the purpose of an amendment is to submit the real matter in dispute without any intent to delay the action,

the court in its discretion, may order or allow the amend-ment upon such terms as may be just. Anything, therefore, that may preclude a party from fully representing the facts of his case should be brushed aside, if this can be done without unfairness to the other party and by the means provided for by the Rules of Court. Courts should be liberal in allowing amendment to pleadings to avoid multiplicity of suits and in order that the real contro-versies between the parties are presented. Their rights should be determined and the case decided on the merits without unnecessary delay.

WHEREFORE, the orders appealed from dated September 7, 1981 and November 12, 1981, are hereby set aside and the case remanded to the lower court for further proceed-ings. The respondent court shall admit the amended answer with counterclaim and proceed to the hearing and final determination of its Civil Case No. 13294.

SO ORDERED.

Teehankee, (Chairman), Makasiar, and Gutierrez, Jr., JJ.,concur.
Melencio-Herrera, Plana, and Vasquez, JJ.,in the result.

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