

ANTONIO GARCIA, JR., PETITIONER, VS. HON. SANTIAGO RANADA, JR., AS JUDGE OF COURT OF FIRST INSTANCE OF RIZAL, BR. XIX, STATE INVESTMENT HOUSE, INC. AND COURT OF APPEALS, RESPOND...

G.R. No. 60935. September 27, 1988

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

The scope of the lower court's discretion in allowing or disallowing amendments to pleadings (in the case at bar, an amended answer) as provided under Section 3, Rule 10 of the Revised Rules of Court is the subject of the instant petition for review on certiorari. A corollary question is whether the exercise of such discretion may rightfully be the subject of a special civil action for certiorari where grave abuse of discretion may be attributed to the lower court.

In the special civil action for certiorari filed by petitioner Antonio Garcia, Jr. in CA G.R. No. SP 12463, respondent Court of Appeals ruled in the negative reasoning that any error committed by the lower court in the exercise of such discretion is mere error of judgment and not of jurisdiction which is thus correctible only on appeal and not on certiorari.

The significant facts of the case are:

In a complaint for collection of certain sums of money with attachment[1] filed on March 1, 1978 by herein private respondent State Investment House, Inc. (SIHI) against Western Minolco Corporation (WESCOR) and herein petitioner Antonio Garcia, Jr., it was alleged that petitioner as then president of WESCOR co-signed a loan document in the form of a Comprehensive Surety Agreement, wherein he undertook to pay, jointly and severally, any and all credit accommodations that may be extended by SIHI to WESCOR up to the principal amount of Four Million Pesos (P4,000,000.00), including interests and other charges.

As prayed for, an Order of Attachment was issued by the trial court. Petitioner's motion to quash the attachment having been denied by the lower court, petitioner filed his original answer[2] to the complaint on March 31, 1978.

On November 6, 1980, or approximately 2 years and 7 months after the filing of the original answer and during which time therein plaintiff had already rested its case, petitioner filed a motion to amend answer with attached amended answer pointing out in said motion the additional allegations sought to be incorporated in the amended answer in order to more completely present the actual merits of the controversy in that:

"a)

the original answer in alleging that the true loan applied for and extended was only for P4 million and the documentation for P8 million with P4 million 'place back' was only a device to charge usurious interest implied that the documentation failed to express the true intent and agreement of the parties; and it is the purpose of the amendment only to explicitly allege that said documentation failed to express the true intent and agreement of

the parties.

"b)

the original answer in alleging that the 1977 transaction was mere renewal of the 1976 transaction, and that the 1976 transaction only contemplated an agreement that would secure the fictitious, second loan of P4 million with placements and the personal guarantee of defendant Garcia as proven by the August 3, 1976 letter of approval of plaintiff of the loan of WESCOR implied that the Comprehensive Surety Agreement signed by defendant Garcia failed to express the true intent and agreement of the parties; and it is the purpose of the amendment only to explicitly allege that said document failed to express the true intent and agreement of the parties.

"c)

the original answer alleged plaintiff's charging and collecting of usurious interests and the negotiation for Development Bank of the Philippines' refinancing of WESCOR; and it is the purpose of the amendment to merely allege the legal consequences and effects of those alleged facts, namely that the obligation is not liquidated and therefore defendants are not in default (mora) or are entitled to restructuring of the obligation on the ground of just causes.

"d)

the original answer alleged that defendant Garcia signed the surety agreement purely for accommodation and the entire loan was for WESCOR; and it is the purpose of the amendment to merely allege the legal consequences and effects of those allegations that the comprehensive surety agreement required of him was void as contrary to public policy which favors the corporate idea of limited liability sought to be nullified by that requirement of corporate officers to co-sign or act as surety for corporate debts particularly of public corporations.

"e)

the original answer interposed a counterclaim for malicious attachment; and it is the purpose of the amendment to also include a counterclaim for mere wrongful or illegal attachment as contemplated by Rule 57 section 20 of the Rules of Court."^[3]

In an order dated January 15, 1981, the lower court granted the motion and admitted the answer there being no opposition thereto. However, on February 2, 1981, private respondent filed a motion for reconsideration of the order admitting the amended answer with the following presentations:

"a)

That the issues raised in defendant Garcia's 'Motion to Quash Attachment' which was incorporated by reference in the amended answer were already passed upon, resolved and set aside as unmeritorious by this Honorable Court in an order dated May 31, 1978 with the Honorable Judge Carolina L. Griño-Aquino, presiding;

"b)

That the amendment substantially alters defendant Garcia's defense by adding grounds not previously alleged in the original answer, which defenses under the Rules are now barred and deemed waived;

"c)

That the amendment would occasion unnecessary delays because plaintiff has already rested its case and this Honorable Court in admitting the amended answer would in effect compel the plaintiff if due process is to be observed, to re-open its case in order to adduce additional evidence;"[4]

Despite petitioner's opposition to private respondent's motion for reconsideration, the trial court issued the questioned order on April 1, 1981 granting the motion for reconsideration and setting aside the Order of January 15, 1981. Petitioner's amended answer was ordered stricken from the records of the case.

Alleging grave abuse of discretion amounting to lack or excess of jurisdiction in disallowing the amendment to the answer on the part of respondent judge, Santiago Ranada, Jr., petitioner filed a special civil action for certiorari before respondent Court of Appeals docketed as CA G.R. No. 12463. The appellate court[5] found the remedy of certiorari improper and as earlier mentioned, dismissed the said case stating that as courts are empowered to allow or disallow amendments to pleadings, any error resulting therefrom constitutes mere error of judgment which may be corrected only by appeal. Moreover, even assuming that respondent judge committed a grave abuse of discretion amounting to lack or excess of jurisdiction, the petition for certiorari was prematurely filed because the petitioner did not file a motion for reconsideration of the questioned order excluding the amended answer from the records to give respondent judge the opportunity to correct himself.[6] Hence, this petition for review on certiorari.

The issue in the instant petition is whether the trial court's disallowance of petitioner's amended answer is tantamount to grave abuse of discretion correctible by a writ of certiorari.

Section 3, Rule 10 of the Revised Rules of Court provides:

"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."

It is clear from the foregoing provision that after the case is set for hearing, substantial amendments may only be made with leave of court. Whether or not an amendment will be allowed is discretionary upon the court depending largely on the circumstances of each particular case and with due consideration of the substantial rights of both parties.

As a general policy, liberality in allowing amendments is greatest in the early stages of a lawsuit, decreases as it progresses, and changes at times to a strictness, amounting to a prohibition.[7] This is further restricted by the condition that the amendment should not prejudice the adverse party or place him at a disadvantage.[8]

Petitioner in the instant case claims that there was grave abuse of discretion on the part of the lower court in denying his amended answer. Thus, resort to the extraordinary remedy of certiorari is proper. A perusal of the amended answer and a consideration of the stage of the proceedings during which said assailed amended answer was filed yield a finding contrary to that asserted by petitioner.

The motion to amend answer with attached amended answer was belatedly filed at a stage when herein private

respondent, as plaintiff therein, had already rested its case. We agree with private respondent's contention that to admit said amended answer would require a re-opening of plaintiff's case to refute the new defenses raised by petitioner in said pleading and thus delay the proceedings, aside from substantially altering the defense. Among the additional defenses stated therein was the claim that there was failure of the document to express the true intent and agreement of the parties. This line of defense necessarily invokes the parole evidence rule which is the exception rather than the general rule in trial proceedings. Naturally, the proceedings will be delayed for plaintiff will now be required to prepare anew on a different line of defense because the defense of failure of a document to express the true intent of the parties will allow the presentation of extrinsic evidence by the party asserting such failure.

In this regard, We thus find no grave abuse of discretion on the part of the trial court in disallowing the assailed amended answer for at the time it was filed, plaintiff had already finished presenting its evidence in the case. For the lower court to do otherwise would go against the provisions of Section 3, Rule 10 requiring that allowance of amendments to pleadings must not be made with intent to delay the action or must not substantially alter the defense.

The possible delay and prejudice to be occasioned to private respondent as plaintiff by the admission of the amended answer negate grave abuse of discretion on the part of the lower court. Since the prerogative writ of certiorari does not lie except to correct, not every misstep, but a grave abuse of discretion, i.e., capricious, arbitrary or whimsical exercise of judgment equivalent to lack of jurisdiction, respondent Court of Appeals was correct in dismissing the special civil action for certiorari filed by the petitioner. For even if the view taken thereon by the respondent judge is considered hypothetically erroneous, said view would connote a mere mistake of judgment not constituting an abuse of discretion, much less, a grave one, to affect the jurisdiction of the lower court and to warrant our intervention by certiorari.[9]

On the issue of whether the lower court's wisdom in allowing or disallowing amendments may be the subject of a special civil action for certiorari, We held in *Philippine Surety and Insurance Co. v. Jacale, et al.*[10] that where the issue or question involved affects the wisdom or legal soundness of the decision, not the jurisdiction of the court to render said decision or its validity, the same is beyond the province of a special civil action for certiorari. For it is too well-settled that the office of the writ of certiorari has been reduced to the correction of defects of jurisdiction solely and cannot legally be used for any purpose. It is truly an extraordinary remedy and, in this jurisdiction, its use is restricted only to extraordinary cases -- cases in which the action of the inferior court is wholly void; where any further steps in the case would result in a waste of time and money and would produce no result whatever; where the parties, or their privies would be utterly deceived; where a final judgment or decree would be naught but a snare and delusion, deciding nothing, protecting nobody, a judicial pretension, a recorded falsehood, a standing menace.

WHEREFORE, the appealed judgment is hereby **AFFIRMED**. Costs against petitioner.

SO ORDERED.

Feliciano, Bidin, and Cortes, JJ., concur.
Gutierrez, Jr., J., on leave.

[1] Petition, Annex "A", Rollo, pp. 30-47

[2] Petition, Annex "B", Rollo, pp. 139-150

[3] Court of Appeals Decision, Rollo, pp. 176-177

[4] Petition, Annex "F", Rollo, p. 160

[5] Ponencia of then Court of Appeals Associate Justice Emilio A. Gancayco, concurred in by Associate Justices Serafin R. Cuevas and Onofre A. Villaluz

[6] *supra*, at p. 179

[7] *Torres v. Tomacruz*, 49 Phil. 413

[8] *Shaffer v. Palma*, 22 SCRA 934

[9] *People v. Tan*, 2 SCRA 60 (1961)

[10] 108 Phil. 177, 184

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