

JOSE PENEYRA AND MILAGROS CALDERON, PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COURT AND HONORABLE GODOFREDO RILLORAZA, RESPONDENTS.

G.R. No. 68935. January 22, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

We modify the decision[1] rendered on September 28, 1984 by the then Intermediate Appellate Court (IAC), now Court of Appeals, in AC-G.R. S.P. No. 03509 entitled, "Jose Peneyra, et al. vs. Hon. Godofredo G. Rilloraza, et al."

The antecedent facts are undisputed:

On May 7, 1976, the Board of Trustees of the Corregidor College Inc. awarded the management and operation of its canteen at a monthly rental of P80.00 to petitioners herein who are stockholders of the said College. Subsequently, upon instruction of Eulogio Dizon, Chairman of the Board of Trustees of Corregidor College, Inc., the rental payments of petitioners were refused, and on August 6, 1980, partial demolition of the canteen was effected. Consequently, on September 9, 1980, petitioners filed in the then Court of First Instance of Nueva Ecija an action against Eulogio R. Dizon for damages with preliminary mandatory injunction.[2]

After Dizon filed his answer and counterclaim, pre-trial took place. On February 20, 1981, petitioners presented their evidence and rested their case. The judge to whom the case was assigned having inhibited himself, the case was re-assigned to herein respondent judge, the Hon. Godofredo Rilloraza.[3]

On September 2, 1983, petitioners filed a motion for leave to amend the complaint so as to include Corregidor College, Inc. as additional defendant. Dizon opposed the motion since petitioners had already presented their evidence.[4]

In its Order of September 15, 1983, the trial court denied petitioners' motion, ruling that the proposed amendment would substantially alter petitioners' cause of action; that defendant Dizon would be required to answer new issues wholly different from those which were stated in the original complaint; and that petitioners having rested their case, the amendment was too late.[5]

Thereafter, petitioners asked for an extension of time to file a motion for reconsideration of the aforesaid order but the same was denied by the trial court in its order dated October 18, 1983.[6] Petitioners filed a motion for reconsideration which the trial court granted in its order dated November 9, 1983. It gave petitioners an extension of ten (10) days from notice within which to file the amended complaint.[7] However, realizing that its order dated November 9, 1983 was erroneous, the trial court reversed itself by setting aside said order. Instead, on December 6, 1983, the trial court required petitioners to file within ten (10) days from notice a motion for reconsideration of the order of October 18, 1983.[8]

On December 23, 1983, petitioners filed their motion for reconsideration of the order denying the admission of

their amended complaint. Two days later or on December 25, 1983, Eulogio Dizon died. Thereafter, his counsel moved to dismiss the complaint by reason thereof.[9]

In its order dated March 27, 1984, the trial court dismissed petitioners' complaint on the ground that the action for damages did not survive the death of Eulogio Dizon.[10] Petitioners moved to reconsider but were unsuccessful.

Arguing that the trial court gravely abused its discretion in denying admission of their amended complaint and in subsequently dismissing their case, petitioners filed a special civil action of certiorari and mandamus against respondent judge before the IAC.

On September 28, 1984, the Appellate Court dismissed the petition holding that the Securities and Exchange Commission (SEC) has jurisdiction over the case, the same being an intra-corporate dispute, that the amendment to include Corregidor College, Inc. cannot be allowed and that the action for damages against Eulogio Dizon was extinguished by his death.[11]

Hence, this recourse.

The three issues before us are: does jurisdiction over Civil Case No. 774-G pertain to the Securities and Exchange Commission? did the court a quo correctly deny petitioners' motion for leave to amend complaint to include Corregidor College, Inc. as additional defendant? and did the action for damages against Eulogio Dizon survive his death?

One of the reasons given by the appellate court in affirming the dismissal of Civil Case No. 774-G is that the same is within the jurisdiction of the SEC. This is erroneous.

While it is true that petitioners herein are stockholders of Corregidor College, Inc., the complaint in Civil Case No. 774-G did not stem directly from such relationship, but rather from the award to petitioners of the management and operation of its canteen at a monthly rental of P80.00. The management of a canteen, even if awarded to a stockholder, is outside or merely incidental to the central operations of an educational institution. Petitioners thus convincingly argue that "the controversy is not one where petitioners are bringing the action as stockholders but rather as operators of the canteen under an agreement with said Board. In short, the cause of action here is for damages arising from a violation of a contract of management operation of the College canteen by defendant Dizon." [12] Certainly, the present controversy cannot qualify as an intra--corporate controversy, its root being a contractual breach separate and distinct from the corporate relationship between petitioners and Corregidor College, Inc., which, it must be noted, was not even named as a defendant in the original complaint. It was therefore patent error for the Court of Appeals to immediately rule that the present case belongs to the SEC just because petitioners alleged that they are stockholders of Corregidor College, Inc.

Under Section 3 of Presidential Decree 902-A, the jurisdiction of the SEC is limited to matters intrinsically connected with the regulation of corporation, partnerships and associations and those dealing with the internal affairs of such entities. P. D. 902-A does not confer in the SEC absolute jurisdiction and control over all matters affecting corporations. To uphold the appellate court's ruling would remove without legal imprimatur from the regular courts all controversies over matters involving or affecting corporations regardless of the nature of the transactions which give rise to such disputes.[13]

On the second issue posed by herein petitioners, We rule that the amendment to include Corregidor College Inc. as additional defendant cannot be permitted inasmuch as the motion to amend was made only after petitioners had already rested their case on February 20, 1981. We note the fact that it was only after a lapse of two (2) years and seven (7) months or on September 2, 1983 that petitioners filed their motion to amend their complaint. To permit such amendment would obviously delay the proceedings of the trial court. Needless to say, at that point in the

proceedings, substantial issues have already been joined.

The rule is that amendments should be liberally allowed^[14] but this liberality at the outset of the action decreases as the case moves to its termination.^[15] Besides, an application for leave to amend is ordinarily addressed to the sound discretion of the trial court and as a rule this discretion will not be disturbed on appeal except in case of an evident abuse thereof.^[16]

Moreover, the inclusion of Corregidor College as additional party is a substantial amendment which can be permitted only by leave of court. Section 3 of Rule 10 of the Rules of Court states that, "(A)fter 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." The proposed inclusion of Corregidor College would necessarily alter petitioners' cause of action in that while petitioners alleged in their complaint:

"9. That, the demolition being undertaken by the defendant is without any authority from the Board of Trustees nor from the proper government office concerned, in violation of the law, the only purpose of which is to harass the plaintiffs;

"10. That, due to the unlawful acts of the defendants, not only in violation of the Board Resolution and of the law governing that matter, the herein plaintiffs were so humiliated before the eyes of the people and their rights and interest were prejudiced causing them irreparable damage for which they have to be compensated for loss of income and moral damages in an amount of not less that P50,000.00;"^[17]

thus ascribing to defendant Dizon personal responsibility for the alleged damages suffered by them, the inclusion of Corregidor College would have the effect of transforming said personal responsibility into a corporate and collective liability. Correspondingly, the amendment would substantially affect the defense of defendant Dizon in his capacity as college president.

As argued convincingly by petitioners, an action for the recovery of damages for injury to personal property is not extinguished by the death of the defendant. This is because such action may still be brought against the executor or administrator of the estate of the defendant. Since the demolition of petitioners' canteen is a ground for the recovery of damages arising from injury to personal property, then, as provided in Section 1 of Rule 87 of the Rules of Court, the deceased defendant should now be substituted by the executor, administrator, or legal representative of his estate as party-defendant.

WHEREFORE, the dismissal of Civil Case No. 774-G of the then Court of First Instance of Nueva Ecija, Branch XXXI, Guimba, is hereby set aside. The successor Regional Trial Court is ordered to reinstate Civil Case No. 774-G, to cause the deceased defendant Eulogio Dizon to be substituted by the executor, administrator or legal representative of his estate as party-defendant and thereafter to proceed with the trial of the case with dispatch. The denial of petitioners' motion to amend the complaint is affirmed. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Penned by Justice Simeon Gopengco, and concurred in by Justices Lino Patajo, Jose Racela, Jr. and Fidel Purisima.

[2] Civil Case No. 774-G.

[3] Annex "M", Rollo, p. 50.

[4] Ibid.

[5] Annex "D", Rollo, p. 39.

[6] Annex "E", Rollo, p. 40.

[7] Annex "F", Rollo, p. 41.

[8] Annex "G", Rollo, p. 42.

[9] Annex "M", Rollo, p. 50.

[10] Annex "J", Rollo, p. 45.

[11] Rollo, pp. 49-52.

[12] Rollo, p.19.

[13] DMRC Enterprises vs. Este Del Sol Mountain Reserve, Inc. 132 SCRA 293.

[14] Sese vs. GSIS, L-13581, August 31, 1960.

[15] Salvador vs. Frio, L-25352, May 29, 1970.

[16] Francisco, Revised Rules of Court, p. 453, Vol. I citing 41 Am Jur, pp. 491-492.

[17] Rollo, p. 26, underscoring ours.

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