

**GEORGIA G. TUMANG, PETITIONER, VS. HON. ODILON I. BAUTISTA,
PRESIDING JUDGE OF BRANCH XXXVII, REGIONAL TRIAL COURT OF
LAGUNA, CALAMBA, LAGUNA, AND EMILIO JAVIER, RESPONDENTS.**

G.R. No. 69098. May 31, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition to review and annul certain orders of the respondent judge in Civil Case No. 172-83 of the Regional Trial Court of Laguna.

In the aforementioned case, Emilio Javier, the private respondent herein, filed a Sakdal against Enrique Tumang and his daughter Georgia Tumang para Danyos Purhisyo. The sakdal was written in Tagalog and was unaccompanied by an English translation.

In a motion for a bill of particulars, the Tumangs prayed:

"[T]hat plaintiff be ordered to file with this Honorable Court copy of the complaint as translated in English, the language recognized by the courts and thereafter furnish copy thereof, together with the copy of the criminal complaint and the Decision of acquittal in the 'Unjust Vexation' case mentioned in plaintiff's complaint, to complete the same; and that such other and further order be issued as may be deemed just and equitable in the premises." (Rollo, p. 28.)

In an order dated October 21, 1982 (which was re-issued on October 3, 1983), the trial court ruled:

"The complaint written in Pilipino, which is an official language, is proper and is hereby admitted. After, the words and sentences used are clear and can be easily understood.

"It is not absolutely necessary that copies of the complaint and decision in the criminal case be attached to complaint as annexes. The plaintiff, however, should have at least stated the docket number as well as the name of the Court and branch number thereof in order to properly inform the defendant of the basis of his civil action.

"WHEREFORE, the Motion for Bill of Particulars is hereby granted, to the effect only that the plaintiff must state the docket number of the criminal case and the name, location and branch number of the Court in which it was filed." (Rollo, p. 36.)

On October 24, 1983, the plaintiff filed a compliance where he gave the title and number of the case for unjust vexation against Emilio Javier, et al. in the City Court of Baguio, Branch I.

The defendants failed to answer the sakdal and were declared in default. They sought reconsideration not only of the order of default but also of the order dated October 21, 1982, *supra*.

The trial court refused to reconsider its order of October 21, 1982, but set aside its order of default. It said:

"As to the motion to set aside order of default, the Court after going over the pleading filed by defendants, as

well as the records of this case, finds the said motion to be well founded and hereby sets aside the Order dated December 9, 1983, declaring the defendants in default.

"Anent the Motion for Reconsideration of the Order of the Court dated October 21, 1982, the Court finds the same without merit and hereby denies the same. It should be noted that 'Pilipino' is an official language of the land, and there is no law prohibiting a party to a case from filing a pleading in 'Pilipino.' In fact, in the motion for reconsideration, it can be seen that defendants, through counsel, fully understood the complaint, consequently, the Court finds no justifiable reason to order the plaintiff to file a translation in English of the complaint." (Rollo, pp. 46- 47.)

Subsequently, the defendants filed a motion to dismiss the complaint. They alleged that the complaint did not state a cause of action and that the venue was improperly laid. Acting on the motion, the trial court ruled:

"After going over the motion to dismiss, the Court finds that the first ground alleged therein is a matter of evidence and therefore cannot be sustained by this Court. As to the second ground to the effect that the venue in this case was improperly laid, the Court finds the same without merit considering that as even admitted by the defendant the venue should be the residence or domicile of the plaintiff at the time the process is served and in this case the plaintiff in his complaint alleged that he is a resident of Dayap, Calauan, Laguna, consequently, within the territorial jurisdiction of this Court." (Rollo, p. 61.)

Before this Court, Georgia Tumang claims that the trial court committed errors which shall be discussed seriatim as follows:

1. That the sakdal should have been in English and not Tagalog. This claim is not without merit. The undersigned in his lecture entitled "Writing Decisions" has said in part:

"What language should the judge use? The Constitution says that 'Until otherwise provided by law, English and Pilipino shall be the official languages.' (Art. XV, Sec. 3, par. 3.) If we are to be guided by this provision then either English or Pilipino can be used. But in fact English is almost exclusively used and with good reason. For Pilipino is still a gestating language. The Constitution says so. It directs that 'The Batasang Pambansa shall take step towards the development and formal adoption of a common national language to be known as Pilipino.' (Id., par. 2). The Batasang Pambansa, to my knowledge, still has to take steps towards the development and formal adoption of Pilipino as a common national language. So I submit that we should confine ourselves to the English language."

However, the petitioner cannot now raise before this Court the question of language. For in the motion to dismiss the complaint, the defendants tacitly submitted to the trial court's ruling that the sakdal did not have to be translated to English; they analyzed the sakdal in arguing that it stated no cause of action. Such analysis demonstrated that they understood its contents although it was not in English.

2. That the complaint should have been amended and submission of the required information by means of the compliance was insufficient. This claim deserves scant consideration for two reasons: (a) the order granting partly the motion for a bill of particulars did not require amendment of the complaint; and (b) this question again is being raised for the first time only in this Court.

The other points raised in the petition relate to the sufficiency of the complaint and on this score the trial court did not commit any error.

WHEREFORE, the petition is hereby denied for lack of merit with costs against the petitioner.

SO ORDERED.

Makasiar, (Chairman), Escolin, and Cuevas, JJ., concur.

Aquino, J., concur. The petition is frivolous and dilatory.

Concepcion, Jr., J., on leave.

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