

**PILIPINAS SHELL PETROLEUM CORPORATION, CALTEX  
(PHILIPPINES) INC., AND MOBILE OIL PHILIPPINES, INC.,  
PETITIONERS, VS. THE COURT OF APPEALS, HON. ESTHER NOBLES  
BANS, PRESIDING JUD...**

*G.R. No. 76119. April 10, 1989*

Ponente: PARAS, J.

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**PARAS, J.:**

This is a petition for certiorari under Suction 1, Rule 65 of the Rules of Court, with preliminary injunction, seeking the annulment or setting aside of the decision[\*] of respondent Court of Appeals promulgated on September 4, 1986 dismissing petitioners' petition for certiorari; and its resolution of September 26, 1985 denying petitioners' motion for reconsideration of the aforementioned decision.

The facts of the case are as follows:

Private respondent Adrian dela Paz is a holder of Letters Patent No. 14132 issued by the Patent Office on February 27, 1981 for his alleged invention, Coco-diesel fuel for diesel engines and its manufacture. On March 7, 1983 private respondent filed a complaint with the Regional Trial Court of Olongapo City, Branch LXII, for infringement of patent with prayer for payment of reasonable compensation and for damages against herein petitioners Pilipinas Shell Petroleum Corporation, Caltex (Phil.), Mobil Oil Philippines, Inc., and Petrophil Corporation (Rollo, p. 31). There was no mention in the complaint of the amount of damages being claimed but private respondent alleged, among others, that the conservative estimate of the combined gross sales of defendants (petitioners herein and Petrophil Corporation) of plaintiff's (private respondent's herein) invention is P934, 213,780.00 annually computed at the rate of 20 million barrels (volume) being yearly sold by the marketing arms of defendants at the price of P2.938 per liter (Rollo, p. 35). In the hearing of November 13, 1984 private respondent estimated the yearly royalty due him from defendants (petitioners herein and Petrophil Corporation) to be P236,572,350.00 (Rollo, p. 39).

During the hearing of February 19, 1985, petitioners discovered that private respondent paid only as filing fee the amount of P252.00 based on his claim for attorney's fees in the amount of P200,000.00. Petitioners orally moved for the dismissal of the complaint for failure of private respondent to pay the correct filing fee (Rollo, p. 14). The parties filed their respective memoranda (Rollo, p. 50) with the Solicitor General filing a separate memorandum (Rollo, p. 45) for defendant Petrophil Corporation.

On July 11, 1985, the Regional Trial Court[\*\*] issued an order denying the motion to dismiss but ordering private respondent to pay the additional docket fee in the amount of P945,636.90 computed at P4.00 per P1,000.00 in excess of the first P150,000. 00 based on the amount of P236,572,300.00 which private respondent explicitly averred in his testimony of November 13, 1984 as the amount he seeks to recover (Rollo,P. 54).

On July 31, 1985, private respondent filed a motion for reconsideration of the order of the trial court requiring

him to pay an additional docket fee (Rollo, p. 54) which was opposed by petitioners (Rollo, p. 66) and Petrophil Corporation (Rollo, p. 59). Acting on the motion, on October 30, 1985 the trial court issued an order allowing private respondent to pay the required additional docket fee after the prosecution of the case, to be deducted from whatever judgment in damages shall be awarded by the Court (Rollo, p. 70). The motions for reconsideration filed by petitioners (Rollo, p. 77) and Petrophil Corporation (Rollo, p. 86) were denied by the trial court in its order of November 18, 1985 (Rollo, p. 92).

On November 14, 1986, petitioners elevated the case to respondent Court of Appeals through a special civil action for certiorari, under the provisions of Rule 65 of the Rules of Court, to annul and set aside the orders dated October 30, 1985 and November 18, 1985 of the Regional Trial Court of Olongapo City, Branch LXXII, with prayer for a restraining order/ preliminary injunction (Rollo, p. 93). Respondent Court dismissed the petition for lack of merit in its decision promulgated on September 4, 1986 (Rollo, p. 168). The motion for reconsideration of the decision, filed by petitioners (Rollo, p. 171) was denied by respondent court in its resolution dated September 26, 1986 (Rollo, p. 320).

Instant petition was filed with the Court on November 6, 1986 (Rollo, p. 11). The Second Division of this Court resolved to issue the temporary restraining order prayed for in a resolution dated November 17, 1986 (Rollo, p. 180), which was issued on November 18, 1986, restraining the Judge of the Regional Trial Court of Olongapo City, Branch LXXII, her agents, representatives, and/or any person or persons, acting upon her orders or in her stead, from further proceeding with its Civil Case No. 45-0-83 entitled "Adrian dela Paz v. Pilipinas Shell Petroleum Corporation, et al. " (Rollo, p. 181).

On December 2, 1986, private respondent filed a letter with the Court addressed to Deputy Court Administrator Ranjo, praying for the lifting of the temporary restraining order issued by the Court on November 18, 1986 (Rollo, p. 198).

Private respondent filed his comment on the petition on December 15, 1986 (Rollo, p. 187); petitioners filed their reply to comment on January 2, 1987 (Rollo, p. 194). In accordance with the Resolution of the Court, dated January 7, 1987 (Rollo, p. 197) private respondent filed his rejoinder on February 12, 1987 (Rollo, p. 236).

Petitioners filed on March 2, 1987 their comment on private respondent's letter of December 2, 1986 (Rollo, p. 258) in accordance with the Resolution of the Court of March 4, 1987 (Rollo, p. 234).

On March 30, 1987, the Court resolved: (a) to give due course to the petition; and (b) to dispense with the memoranda of the parties. In the same resolution the Court considered the case submitted for deliberation (Rollo, p. 261).

Meantime, on February 9, 1987 Judge Esther Nobles Bans inhibited herself voluntarily from further hearing the case due to an alleged verified letter-complaint of private respondent to the Chief Justice for her disqualification/inhibition (Rollo, p. 366) find the case was re-raffled to Branch LXXIII of the Regional Trial Court of Olongapo City, presided over by Judge Alicia L. Santos (Rollo, p. 365).

The given issues of the petition are as follows:

- Whether or not the trial court can defer the payment of the filing fee till after judgment although the plaintiff (herein private respondent) who is not a pauper-litigant could state the amount of damages claimed when he filed his complaint; and
- Whether or not Section 5, paragraph A, Rule 141 of the Rules of Court is applicable to the case at bar.

The main issue in this case is whether or not a party can file a complaint without specifying the amount of

damages he is claiming and as a result defer the payment of the proper fees until after trial on the merits, in accordance with the appraisal of the Court.

Under paragraph B No. 11 of the Interim Rules of Court, "x x x If any demand is for damages in a civil action, the amount thereof must be specifically alleged."

In the case at bar, private respondent deliberately omitted stating any amount of damages (except attorney's fees), although the same could have been estimated at the filing of the complaint since he already knew the figures of the alleged sales of the petitioner oil companies including the Petrophil, lending credence to petitioners' claim that such omission is deliberate for the purpose of avoiding the payment of the correct fees (Rollo, p. 19).

As correctly ruled by the Court of Appeals, the Rule applicable to this case is Section 5(a) of Rule 141 of the Rules of Court. Concededly, that particular Section 5(a) envisions two kinds of claims, such as: (1) those which are immediately ascertainable which fall under the first paragraph thereof and (2) those which could not be immediately ascertained as to the exact amount and which fall under the third paragraph of the same section.

The first paragraph of said section specifies the amount to be paid corresponding to the sum claimed, exclusive of interest, of the value of the property in litigation, or the value of the estate. Under this paragraph, obviously fall claims capable of exact pecuniary estimation. On the other hand, the third paragraph covers claims where the exact amount had to be finally determined by the by the Court. The third paragraph of the same section provides:

"In case the value of the property or estate or the sum claimed is less or .more in accordance with the appraisal of the court, the difference of fee shall be refunded or paid as the case may be." (Underscoring supplied)

It will be observed that the above provision clearly contemplates an initial payment of the filing fees corresponding to the estimated amount of the claim subject to adjustment as to what later may be proved. Conversely, nowhere can a justification be found to convert such payment to something akin to a contingent fee which would depend on the result of the case. Under the circumstances, the Court would stand to lose the filing fees should the party be later adjudged to be not entitled to any claim at all.

Filing fees are intended to take care of court expenses in the handling of cases in terms of cost of supplies, use of equipments, salaries and fringe benefits of personnel, etc., computed as to man hours used in handling of each case. The payment of said fees therefore, cannot be made dependent on the result of the action taken, without entailing tremendous losses to the government and to the judiciary in particular.

In the case at bar, only the amount of P252.00 based on the claim of attorney's fees was paid but such is but a part of his enormous claim for royalties/ reasonable compensation, which was not estimated and the corresponding filing fees were left unpaid.

At issue in the trial court, was respondent judge's Order dated July 11, 1985 ordering private respondent to pay the additional docket fee in the amount of P945,636.90, but upon motion, the Court reconsidered its Order and allowed the plaintiff (private respondent herein) to pay the same after the prosecution of the instant case to be deducted from whatever judgment in damages shall be awarded by the court.

Relative thereto, there is merit in the petitioners' claim that the third paragraph of Rule 141, Section 5 (a) Clearly contemplates a situation where an amount is alleged or claimed in the complaint but is less or more than what is later proved. If what is proved is less than what was claimed, then a refund will be made; if more, additional fees will be exacted. Otherwise stated, what is subject to adjustment is the difference in the fee and not the whole amount.

Such interpretation would give meaning to the provisions of subject Rule and would implement instead of defeat

its objectives.

Corollary thereto, the third paragraph of Section 16, Rule 141 which states that:

"The legal fees shall be a lien on the monetary or property judgment rendered in favor of the pauper-litigant."

cannot be applied to the case at bar because said provision specifically refers to pauper-litigants, and nowhere in the records was it shown that private respondent is litigating as a pauper and therefore exempted from the payment of court fees.

Neither is the provision under Section 1 of Rule 111 applicable. The second paragraph of Section 1 of Rule 111 which provides for the institution of criminal and civil actions, reads:

"Where the offended party seeks to enforce civil liability against the accused by way of actual, moral, nominal, temperate or exemplary damages, the filing fees for such civil action as provided in these Rules shall first be paid to the Clerk of Court where the criminal case is filed. In all other cases, the filing fees corresponding to the civil liability awarded by the Court shall constitute a first lien on the judgment award and no payment by execution or otherwise may be made to the offended party without his first paying the amount of such filing fees to the Clerk of Court."

The instant case is not a criminal action with the civil action for the recovery of civil liability impliedly instituted with it. On the contrary it is a purely civil action for the recovery of a sum of money in the form of reasonable compensation or royalty payments and/or damages.

Finally, in a similar case, although the trial court held to have acquired jurisdiction over the case despite the payment of insufficient fees, the Court ruled that the proceedings in the Civil Case may be resumed, after all of the lawful fees shall have been paid. (*Magaspi v. Ramolete*, 115 SCRA 205 [1982]).

The *Magaspi* ruling was overturned in *Manchester Development Corporation v. Court of Appeals*, 149 SCRA 562 (1987) which held that non-payment of the correct docket fee was jurisdictional.

Subsequently however, the Manchester doctrine was relaxed in *San Insurance Office Ltd. v. Hon. Maximiano Asuncion* (G.R. Nos. 79937-38), promulgated February 13, 1989, where the Court en banc, thru Mr. Justice Emilio Gancayco, laid down the following rules:

"1. It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee that vests a trial court with jurisdiction over the subject-matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.

"2. The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.

"3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee."

Private respondent's right of free access to the courts is not denied by the correct application of the provisions of Rule 141, Section 5(a) in the instant case, because he has a remedy under the same Rule, where he can apply for

the privilege to litigate his case as pauper if he is so entitled.

PREMISES CONSIDERED, (1) the decision of the Court of Appeals is REVERSED and SET ASIDE; (2) the order of respondent Judge dated July 11, 1985 is REINSTATED; (3) the case is REMANDED to the trial court; (4) the proceedings in Civil Case No. 45-0-88 are ordered RESUMED upon payment of all lawful fees (as assessed by the Clerk of Court of said Court) by private respondent or upon exemption from payment thereof upon proper application to litigate as pauper; and, (5) the temporary restraining order issued by the Court on November 18, 1986 will be deemed LIFTED should Order No. 4 be complied with.

**SO ORDERED**

Melencio-Herrera (Chairman), Padilla, and Sarmiento, JJ., concur.

Regalado, J., No part: did not participate in the deliberations.

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[\*] Penned by Justice Carolina C. Griño-Aquino, and concurred in by Justices Leonor Ines-Luciano and Emeterio C. Cui.

[\*\*] Presided over by Judge Esther Nobles Bans.

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