

NG SOON, PETITIONER, VS. HON. ALOYSIUS ALDAY, REGIONAL TRIAL COURT, QUEZON CITY, BILLIE GAN AND CHINA BANKING CORPORATION, RESPONDENTS.

G.R. No. 85879. September 29, 1989

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Applying literally the ruling on docket fees enunciated in *Manchester Development Corporation vs. Court of Appeals* (L-75919, May 7, 1987, 149 SCRA 562), respondent Judge, on 11 August 1988, ordered (1) that petitioner's Complaint below (in Civil Case No. Q-52489), for reconstitution of a savings account, and payment of damages and attorney's fees, be expunged; and (2) that the case be dismissed. He also denied, on 21 October 1988, the reconsideration sought by petitioner of that Order.

The aforementioned savings account was allegedly maintained with the China Banking Corporation (CBC) by Gan Bun Yaw, both of whom are respondents herein. Petitioner, Ng Soon, claims to be the latter's widow.

The pertinent portions of the Complaint and Prayer read as follows:

"2. During his lifetime, Mr. Gan Bun Yaw opened Savings Account No. 17591-2 with CBC wherein he deposited P900,000.00 more or less.

"3. Before his death on January 3, 1987 he lapsed into a coma until he finally took his last breath. But his passbook still showed a deposit of P900,000.00 more or less.

x x x x x x x x

"5. For almost three (3) long years, she looked for the deposit passbook with the help of her children to no avail.

x x x x x x x x

"7. She discovered further that aforesaid savings account was closed by defendant CBC on December 8, 1988.
x x x.

"8. She discovered finally that defendant Billie T. Gan connived and colluded with the officers and officials of CBC to withdraw all of the aforesaid savings account of Mr. Gan Bun Yaw by forging his signature. This has to be done because Mr. Gan Bun Yaw slipped into a comatose condition in the hospital and could not sign any withdrawal slip.

x x x x x x x x

"11. Due to the wanton and unfounded refusal and failure of defendants to heed her just and valid demands, she suffered actual damages in the form of missing money in aforesaid savings account and expenses of litigation.

"12. Due also to the unfounded and malicious refusal of defendants to heed her just and valid demands, she suffered moral damages, the amount whereof she leaves to the discretion of the Court.

"13. Due likewise to the unfounded and wanton refusal and failure of defendants to heed her just and valid demands, she suffered exemplary damages, the amount whereof she leaves to the discretion of the Court.

"14. Due finally to the unfounded and wanton refusal and failure of defendants to heed her just and valid demands, she was constrained to hire the services of counsel, binding herself to pay the amount equivalent to twenty percent payable to her, thereby suffering to the tune thereof.

P R A Y E R

"WHEREFORE, plaintiff respectfully prays that this Honorable Court render judgment:

"1. Ordering defendants China Banking Corporation to reconstitute Savings Account No. 47591-2 in the name of Mr. Gan Bun Yaw in the amount of P900,000.00 with interest from December 8, 1977 or ordering them both to pay her the principal and interest from December 9, 1977, jointly and severally.

"2. Ordering both defendants to pay moral and exemplary damages of not less than P50,000.00.

"3. Ordering both defendants to pay her attorney's fees equivalent to twenty percent of all amounts reconstituted or payable to her, but not less than P50,000.00.

"She prays for such other and further relief to which she may be entitled in law and equity under the premises."
[Emphasis supplied] (pp. 11-13, Rollo)

For the filing of the above Complaint, petitioner paid the sum of P3,600.00 as docket fees.

Respondent Billie Gan and the Bank, respectively, moved for the dismissal of the Complaint. Subsequently, respondent Gan, joined by the Bank, moved to expunge the said Complaint from the record for alleged non-payment of the required docket fees.

On 11 August 1988, respondent Judge issued the questioned Order granting the "Motion to Expunge Complaint." He explained:

"It can thus be seen that while it can be considered at best as impliedly specifying the amount (namely, P900,000.00, more or less) of what is referred to in its par. 11 as 'missing money' (which apparently is the main part of the alleged actual damages), the body of the complaint does not specify the following, to wit: the amount of the rest of the alleged actual damages; the amount of the alleged moral damages; the amount of the alleged exemplary damages; and, the amount of the alleged attorney's fees. As regards the alleged attorney's fees, in particular, the clause 'the amount equivalent to twenty percent payable to her' is vague and indefinite. It leaves to guesswork the determination of the exact amount relative to which the 'twenty percent' shall be reckoned. Is it the amount of P900,000.00, more or less? Or is it the total amount of all the actual damages? Or is it the grand total amount of all the damages -- actual, moral, and exemplary -- 'payable to her'?

"As regards the prayer of the complaint, while it may be regarded as specific enough as to the principal sum of P900,000.00 as actual damages, it cannot be so regarded with respect to the amount of moral and exemplary damages (no. 2 of the prayer) and attorney's fees (no. 3 of the prayer); for, evidently, the phrase 'not less than P50,000.00' in each of nos. 2 and 3 of the prayer merely fixes the minimum amount, but it does not mean that plaintiff is not praying for an unspecified sum much higher than said minimum. And, again, the clause 'equivalent to twenty percent of all amounts reconstituted or payable to her' in no. 3 of the prayer is as vague and indefinite as the similar clause found in the complaint's body referred to earlier. What exactly is the amount relative to which the 'twenty percent' shall be determined? Is it the amount of P900,000.00, more or less? Or is it the total amount of all the actual damages? Or is it the grand total amount of all the damages --

actual, moral, and exemplary -- 'payable to her'? Certainly, the great difference between any of these amounts, on the one hand, and the amount of P50,000.00 in the phrase 'not less than P50,000.00' in no. 3 of the prayer, on the other hand, is quite too obvious to need underscoring.

"Needless to state, implicit in the obligation to specify is the duty to be clear and definite. A purported specification which is vague and indefinite obviously is no specification, at all; indeed, it will serve no purpose other than to evade the payment of the correct filing fees by misleading the docket clerk in the assessment of the filing fees.

x x x x x

"WHEREFORE, the Court hereby grants defendants' aforesaid 'MOTION TO EXPUNGE COMPLAINT' and hereby denies plaintiff's aforesaid 'URGENT OMNIBUS MOTION (ETC.)' and 'OPPOSITION (ETC.)' inclusive of all the prayers contained therein and, accordingly, plaintiff's complaint herein is hereby deemed EXPUNGED from the record. Further, being rendered moot and academic as a result hereof, defendant Billie T. Gan's 'MOTION TO DISMISS' dated April 25, 1988 and defendant China Banking Corporation's 'MOTION TO DISMISS' dated May 25, 1988 are hereby dismissed." (pp. 16-18, Rollo)

Petitioner's Motion for the reconsideration of the said Order having been denied, she asks for its review, more properly for a Writ of Certiorari.

The Petition is anchored on two grounds, namely:

1. The doctrine laid down in the Manchester case was incorrectly applied by respondent Judge; and
2. Respondent Judge acted with grave abuse of discretion when he ordered the Complaint expunged from the record although petitioner had paid the necessary filing fees.

During the pendency of this case, respondent Gan filed a Manifestation alleging, among others, that petitioner is an impostor and not the real Ng Soon, wife of Gan Bun Yaw, since the real Mrs. Gan Bun Yaw (Ng Soon) died on 29 July 1933, as shown by a Certificate issued on 27 April 1989 by, and bearing the seal of, the An Hai Municipal Government.

This allegation was, however, denied by petitioner in her "Sur-rejoinder to Manifestation" filed on 12 August 1989, to which respondent Gan has countered with a Reply on 9 September 1989.

We resolved to give due course to the Petition and dispensed with the submittal of Memoranda, the issues having been thoroughly threshed out by the parties.

Upon the facts, the pleadings, and the law, we grant the Petition.

It is true that Manchester laid down the rule that all Complaints should specify the amount of damages prayed for not only in the body of the complaint but also in the prayer; that said damages shall be considered in the assessment of the filing fees in any case; and that any pleading that fails to comply with such requirement shall not be accepted nor admitted, or shall, otherwise, be expunged from the record.

While it may be that the body of petitioner's Complaint below was silent as to the exact amount of moral and exemplary damages, and attorney's fees, the prayer did specify the amount of not less than P50,000.00 as moral and exemplary damages, and not less than P50,000.00 as attorney's fees. These amounts were definite enough and enabled the Clerk of Court of the lower Court to compute the docket fees payable.

Similarly, the principal amount sought to be recovered as "missing money" was fixed at P900,000.00. The failure to state the rate of interest demanded was not fatal not only because it is the Courts which ultimately fix the same, but also because Rule 141, Section 5(a) of the Rules of Court, itemizing the filing fees, speaks of "the sum

claimed, exclusive of interest." This clearly implies that the specification of the interest rate is not that indispensable.

Factually, therefore, not everything was left to "guesswork" as respondent Judge has opined. The sums claimed were ascertainable, sufficient enough to allow a computation pursuant to Rule 141, section 5(a).

Furthermore, contrary to the position taken by respondent Judge, the amounts claimed need not be initially stated with mathematical precision. The same Rule 141, section 5(a) (3rd paragraph), allows an appraisal "more or less." Thus:

"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."

In other words, a final determination is still to be made by the Court, and the fees ultimately found to be payable will either be additionally paid by the party concerned or refunded to him, as the case may be. The above provision clearly allows 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.

"x x x there is merit in petitioner's 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" (Pilipinas Shell Petroleum Corpn., et als., vs. Court of Appeals, et als., G.R. No. 76119, April 10, 1989).

Significantly, too, the pattern in Manchester to defraud the Government of the docket fee due, the intent not to pay the same having been obvious not only in the filing of the original complaint but also in the filing of the second amended complaint, is patently absent in this case. Petitioner demonstrated her willingness to abide by the Rules by paying the assessed docket fee of P3,600.00. She had also asked the lower Court to inform her of the deficiency, if any, but said Court did not heed her plea.

Additionally, in the case of Sun Insurance Office Ltd., et al., vs. Hon. Maximiano Asuncion et al. (G.R. Nos. 79937-38, February 13, 1989), this Court had already relaxed the Manchester rule when it held, inter alia,:

"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" (Underscoring ours).

In respect of the questioned identity of petitioner, this is properly a matter falling within the competence of the Court a quo, this Court not being a trier of facts.

WHEREFORE, the assailed Orders of respondent Judge, dated 11 August 1988 and 21 October 1988, are SET ASIDE, and he is hereby directed to reinstate Civil Case No. Q-52489 for determination and proper disposition of the respective claims and rights of the parties, including the controversy as to the real identity of petitioner. No costs.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

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