

JOE HODGES, PETITIONER, VS. COURT OF APPEALS, HEIRS OF LEON P. GELLADA, PLAINTIFF-APPELLEE, IN CIVIL CASE NO. 6512, ROMEO MEDIODIA, PLAINTIFF-APPELLANT, IN CIVIL CASE NO. 6513, ...

G.R. NO. 87617. April 06, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

What is the legal effect of the non-payment of the docket fees even before the promulgation of Manchester Development Corporation vs. Court of Appeals?[1] This is the decisive issue in this petition.

On April 7, 1964 Leon P. Gellada, a practicing lawyer, filed an action for damages against Joe Hodges in the Court of First Instance of Iloilo City, wherein plaintiff claimed damages against defendant for some alleged defamatory statement of defendant against plaintiff and his associates thus entitling him to moral damages of P400,000.00, damage to his law practice of P30,000.00, attorney's fees of P30,000.00, and exemplary damages as well as temperate damages. A special appearance questioning the jurisdiction of the court on the subject matter and the mode of extrajudicial service of summons dated June 24, 1964 was filed by defendant. The defendant pointed out that the court cannot acquire jurisdiction over the case unless the corresponding docket fee is paid. The defendant maintained that considering the amount of damages claimed by the plaintiff, the docket fee to be paid should be no less than P770.00 which is way beyond the P32.00 docket fee paid by plaintiff.

An answer, amended answer and a reply thereto were filed. The amended answer was admitted.

On March 31, 1964, Romeo H. Mediodia, also a practicing lawyer, filed in the same court a similar action for damages against Joe Hodges for alleged defamatory statements of defendant against plaintiff, wherein plaintiff claimed for moral damages of not less than P300,000.00, damage to his law practice of not less than P20,000.00, attorney's fee of P40,000.00 and exemplary damages as well as temperate damages. A special appearance questioning the jurisdiction over the subject matter and the mode of extrajudicial service of summons dated June 25, 1964 was also filed by defendant pointing that the court cannot acquire jurisdiction over the case when plaintiff claimed damages of P360,000.00 and he paid a docket fee of only P32.00 when it should not be less than P570.00. After an answer, amended answer, and a reply thereto were filed, the amended answer was admitted by the trial court.

On April 8, 1964, another complaint for damages was filed by Fernando P. Mirasol, another practicing lawyer, against Joe Hodges, for alleged defamatory statements of defendant against plaintiff, wherein plaintiff claimed moral damages of not less than P350,000.00, damage to his law practice of not less than P25,000.00, attorney's fees of P35,000.00, and exemplary damages as well as temperate damages. A similar special appearance for the defendant questioning the jurisdiction on the subject matter of the court and the mode of extrajudicial service of summons dated June 25, 1964 and pointing out that the court cannot acquire jurisdiction over the case as the plaintiff claimed damages of P410,000.00 but he paid a docket fee of only P32.00 when it should not be less than P670.00. After an answer, an amended answer and a reply thereto was filed, the amended answer were admitted

by the trial court.

On August 31, 1972, these three cases were ordered consolidated by the trial court. On the same date another order was issued directing the plaintiffs to pay the docket fee commensurate to their respective demands. This was reiterated in another order dated March 11, 1982.

On March 16, 1982 plaintiff Gellada paid the amount of P168.00 bringing his total payment of docket fees to P200.00. On September 5, 1972 plaintiff Mediodia paid P168.00 so he had paid a total of P200.00 for docket fees. Plaintiff Mirasol failed to comply with the said orders.

Plaintiff Gellada died on February 4, 1974 so an order was issued for the substitution of his heirs. Plaintiff Mirasol also died on March 29, 1979, so another order was issued by the trial court for the substitution of his heirs.

After trial on the merits, a judgment was rendered by the trial court on February 18, 1988, the dispositive part of which reads as follows:

"WHEREFORE, judgment is hereby rendered ordering the defendant Joe Hodges -

In Civil Case No. 6512, to pay the heirs of plaintiff Leon Gellada, the sums of P50,000.00 and P10,000.00 as moral and exemplary damages, respectively; P20,000.00 for and as attorney's fees and P10,000.00 as expenses of litigation, plus costs;

In Civil Case No. 6513, to pay the plaintiff Romeo Mediodia the sums of P50,000.00 and P10,000.00 as moral and exemplary damages, respectively; P20,000.00 for and as attorney's fees and P10,000.00 as expenses of litigation, plus costs; and

In Civil Case No. 6516, to pay the heirs of plaintiff Fernando Mirasol, with the exception of Ferdinand Mirasol, the sums of P50,000.00 and P10,000.00 as moral and exemplary damages, respectively; P20,000.00 for and as attorney's fees and P10,000.00 as expenses of litigation, plus costs."[2]

Not satisfied therewith, petitioner appealed to the Court of Appeals, wherein in due course a decision was rendered on October 28, 1988 affirming the decision appealed from, with costs against petitioner.[3]

A motion for reconsideration of the said decision having been denied in a resolution of March 8, 1989, the instant petition was then filed in this Court, wherein nine (9) errors are alleged to have been committed by the appellate court. The Court finds it necessary to dispose of the first assigned error on the question of non-payment of docket fees.

As early as *Lazaro vs. Endencia*,^[4] this Court held that an appeal is not deemed perfected if the appellate court docket fee is not fully paid. In *Lee vs. Republic*,^[5] this Court ruled that a declaration of intention to be a Filipino citizen produced no legal effect until the required filing fee is paid. In *Malimit vs. Degamo*,^[6] We held that the date of payment of the docket fee must be considered the real date of filing of a petition for quo warranto and not the date it was mailed. In *Magaspi vs. Ramolete*,^[7] the well-settled rule was reiterated that a case is deemed filed only upon payment of the docket fee regardless of the actual date of its filing in court.^[8]

At the time, therefore, that the three (3) cases subject of the herein petition were filed, the rule was already clear that the court does not acquire jurisdiction over a case until after the prescribed docket is paid.

In *Manchester*, this rule was emphasized when this Court stated "The court acquires jurisdiction over any case only upon the payment of the prescribed docket fee. An amendment of the complaint or similar pleading will not thereby vest jurisdiction in the court, much less the payment of the docket fee based on the amount sought in the amended pleading."^[9]

The rule in Manchester was relaxed in *Sun Insurance vs. Hon. Maximiano Asuncion*,^[10] whereby this Court declared that the trial court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period. Nevertheless, in *Sun Insurance*, this Court reiterated the rule that it is the payment of the prescribed docket fee that vests the trial court with jurisdiction over the subject matter or nature of the case.^[11]

In the present petition, it appears that in the case of *Gellada vs. Hodges* the total amount of the claim for damages is about P460,000.00, the estimated docket fee due is P770.00 but what was paid only was P32.00. Despite the order of the trial court on August 31, 1972 and another order ten years later, that is on March 11, 1982, requiring plaintiff to pay the correct docket fee, Gellada paid the amount of P168.00 only. Thus his total payment amounts to just P200.00, which is still much less than the amount of P770.00 due.

Similarly, in *Mediodia vs. Hodges* where the claim is approximately P360,000.00 and the appropriate filing fee would be about P570.00, the plaintiff paid only P32.00 upon filing the complaint. After the two aforesaid orders of the trial court were issued, Mediodea paid on September 5, 1982 the amount of P168.00 bringing his payment to a total of P200.00 which is also much less than the amount of P570.00 due for docket fee.

In the case of *Mirasol vs. Hodges*, the total claim is for P410,000.00 and the amount of filing fee due is P670.00. Mirasol paid only P32.00 upon filing the complaint. He did not pay any additional sum even after the two orders of the court had been issued.

No doubt, the trial court did not acquire jurisdiction over the subject matter in said three (3) cases due to the failure to pay in full the prescribed docket fee. Thus, the entire proceedings undertaken in said cases are null and void. The plaintiffs in said cases are practicing lawyers who are expected to know this mandatory requirement in the filing of any complaint or similar pleading. Their non-payment of the prescribed docket fee was deliberate and inexcusable.

WHEREFORE, the petition is GRANTED. The appealed decision of the Court of Appeals dated October 28, 1988 and its resolution dated February 8, 1989 are hereby reversed and set aside and another judgment is hereby rendered dismissing the complaints in said three (3) cases. No pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] 149 SCRA 562 (1987).

[2] Pages 85-86, Rollo.

[3] Justice Cecilio L. Pe was the ponente, concurred in by Justices Lorna S. Lombos-De la Fuente and Antonio M. Martinez.

[4] 57 Phil. 552 (1932).

[5] 10 SCRA 65 (1964).

[6] 12 SCRA 450 (1964).

[7] 115 SCRA 193, 204 (1982).

[8] Citing Malimit and Lee, Ibid.

[9] Ibid.

[10] G.R. No. 79937-38, Feb. 13, 1989.

[11] Ibid.

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