

HONESTO GENERAL, PETITIONER, VS. HON. GRADUACION REYES CLARA-VALL, JUDGE, REGIONAL TRIAL COURT AT PASIG, BR. 71, BENNETH THELMO AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 96724. March 22, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

Benneth Thelmo filed with the Office of the Public Prosecutor of Rizal a sworn complaint accusing Honesto General and another person of libel, and alleged that by reason of the offense he (Thelmo) had suffered actual, moral and exemplary damages in the total sum of P100 million. The information for libel subsequently filed with the RTC at Pasig, after preliminary investigation, did not however contain any allegation respecting the damages due the offended party. At the trial, the defense raised the issue of non-payment of the docket fees corresponding to the claim of damages contained in Thelmo's sworn complaint before the fiscal, as a bar to Thelmo's pursuing his civil action therefor. The Trial Court overruled the objection, by Order dated March 28, 1990. It also denied the defendants' motion for reconsideration and motion for suspension of proceedings, by another Order dated May 17, 1990.

General and his co-accused are now before this Court applying for a writ of certiorari to annul the aforesaid Orders of the Trial Court on the theory that they had been rendered with grave abuse of discretion. The issue he poses is whether or not, in view of this Court's decisions in three (3) cases --

- 1) *Manchester v. C.A.*, 149 SCRA 562 (1987),[1]
- 2) *Sun Insurance Office, Ltd. v. Asuncion*, 170 SCRA 274 (1989),[2] and
- 3) *Tacay v. RTC*, 180 SCRA 433 (1989),[3]

the rule should now be that the filing fees for the civil action for the recovery of civil liability arising from the offense should first be paid in order that said civil action may be deemed to have been impliedly instituted with the criminal and prosecuted in due course.

Manchester laid down the doctrine that the specific amounts of claims of damages must be alleged both in the body and the prayer of the complaint, and the filing fees corresponding thereto paid at the time of the filing of the complaint; that if these requisites were not fulfilled, jurisdiction could not be acquired by the trial court; and that amendment of the complaint could not "thereby vest jurisdiction upon the Court." Sun Insurance and Tacay affirmed the validity of the basic principle but reduced its stringency somewhat by providing that only those claims as to which the amounts were not specified would be refused acceptance or expunged and that, in any case, the defect was not necessarily fatal or irremediable as the plaintiff could on motion be granted a reasonable time within which to amend his complaint and pay the requisite filing fees, unless in the meantime the period of limitation of the right of action was completed.

Now, at the time of the promulgation of the Manchester decision in 1987, Section 1, Rule 111 of the Rules of Court, as amended in 1985,[4] read as follows:[5]

"SECTION 1. Institution of criminal and civil actions. -- When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged is impliedly instituted with the criminal action, unless the offended party expressly waives the civil action or reserves his right to institute it separately. However, after the criminal action has been commenced, the civil action cannot be instituted until final judgment has been rendered in the criminal action.

When 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 of the 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. (1a)"

The rules set forth in the first paragraph are substantial reproductions of the corresponding sections of Rule 111 of the Rules of 1964. The second paragraph is new. It was incorporated in the 1985 Rules on Criminal Procedure in light of this Court's Resolution of September 13, 1984 in Adm. Matter No. 83-6-389-0,[6] requiring increased court filing fees effective October 1, 1984, which resolution pertinently provides that:

" * * * When 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 the Rules of Court and approved by the Court shall first be paid to the Clerk of the court where the criminal action is filed. * * * "

The purpose of the Resolution, according to the late Chief Justice Claudio Teehankee,[7] was to discourage the "gimmick of libel complainants of using the fiscal's office to include in the criminal information their claim for astronomical damages in multiple millions of pesos without paying any filing fees." This was the same consideration that underlay the Manchester ruling: the fraudulent practice, manifested by counsel in said case" ** of omitting any specification of the amount of damages in the prayer although the amount of over P78 million is alleged in the body of the complaint, ** (an omission which was) clearly intended for no other purpose than to evade the payment of the correct filing fees if not to mislead the docket clerk in the assessment of the filing fee." [8]

This Court however adopted further amendments to the 1985 Rules on Criminal Procedure, with effect as of October 1, 1988.[9] Among the provisions revised was Section 1, Rule 111. As thus amended, it now reads as follows:[10]

"SECTION 1. Institution of criminal and civil actions. -- When a criminal action is instituted, the civil action for the recovery of civil liability is impliedly instituted with the criminal action, unless the offended party waives the civil action, reserves his right to institute it separately, or institutes the civil action prior to the criminal action.

Such civil action includes recovery of indemnity under the Revised Penal Code, and damages under Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines arising from the same act or omission of the accused.

A waiver of any of the civil actions extinguishes the others. The institution of, or the reservation of the right to file, any of said civil actions separately waives the others.

The reservation of the right to institute the separate civil actions shall be made before the prosecution starts to present its evidence and under circumstances affording the offended party a reasonable opportunity to make

such reservation.

In no case may the offended party recover damages twice for the same act or omission of the accused.

When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate or exemplary damages, the filing fees for such civil action as provided in these Rules shall constitute a first lien on the judgment except in an award for actual damages.

In cases wherein the amount of damages, other than actual, is alleged in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court for trial. (1a)"

The amendments were deliberated on and adopted by this Court after the Manchester doctrine had been enunciated. Yet observe that the last two (2) paragraphs prescribe a rule different from that in Manchester, and in the 1985 Rules on Criminal Procedure. Under the 1985 Rules, the filing fees for the civil action impliedly instituted with the criminal had to be paid first to the Clerk of the court where the criminal action was commenced, without regard to whether the claim for such damages was set out in the information or not. Under the 1988 Rules, however, it is only when "the amount of damages, other than actual, is alleged in the complaint or information (that) the corresponding filing fees shall be paid by the offended party upon the filing thereof in court for trial." In any other case -- i.e., when the amount of damages other than actual is NOT alleged in the complaint or information -- the filing fees for the civil action "to enforce civil liability against the accused by way of moral, nominal, temperate or exemplary damages * * shall (merely) constitute a first lien on the judgment except in an award for actual damages."

This Court's plain intent -- to make the Manchester doctrine, requiring payment of filing fees at the time of the commencement of an action applicable to impliedly instituted civil actions under Section 1, Rule 111 only when "the amount of damages, other than actual, is alleged in the complaint or information -- has thus been made manifest by the language of the amendatory provisions.

In any event, the Court now makes that intent plainer, and in the interests of clarity and certainty, categorically declares for the guidance of all concerned that when a civil action is deemed impliedly instituted with the criminal in accordance with Section 1, Rule 111 of the Rules of Court -- because the offended party has NOT waived the civil action, or reserved the right to institute it separately, or instituted the civil action prior to the criminal action -- the rule is as follows:

- 1) when "the amount of damages, other than actual, is alleged in the complaint or information" filed in court, then "the corresponding filing fees shall be paid by the offended party upon the filing thereof in court for trial;"
- 2) in any other case, however -- i.e., when the amount of damages is not so alleged in the complaint or information filed in court, the corresponding filing fees need not be paid and shall simply "constitute a first lien on the judgment, except in an award for actual damages."

WHEREFORE, there being no error in the challenged Orders of the respondent Court dated March 28, 1990 and May 17, 1990, these appearing on the contrary to be in accord with the law and the facts, the Court Resolved to DISMISS the petition, with costs against the petitioner.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[1] First Division, per Gancayco, J.

[2] En Banc, per Gancayco, J.

[3] En Banc, per Narvasa, J.

[4] Resolution of the Court en banc dated November 22, 1985 approving the 1985 Rules of Criminal Procedure and fixing the effectivity thereof on January 1, 1986

[5] Emphasis supplied

[6] Amending earlier Resolution dated July 19, 1984 in said Adm. Matter No. 83-6-389-0

[7] Separate concurring opinion appended to the decision of the Court en banc in *Babst v. National Intelligence Board*, 133 SCRA 316 (1984)

[8] 149 SCRA 568

[9] Resolutions dated June 17, and July 7, 1988, in Bar Matter No. 375 RE Amendments to the 1985 Rules on Criminal Procedure

[10] Emphasis supplied

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