

INTERNATIONAL INDUSTRIAL MANAGEMENT AND DEVELOPMENT CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS, HON. SALVADOR TENSUAN AND FILIPINAS CARBON AND MINING CORPORATION, RESPON...

G.R. No. 97303. January 27, 1992

Ponente: REGALADO, J.

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REGALADO, J.:

In this special civil action for certiorari, petitioner merely seeks an order, which respondent Court of Appeals allegedly refused to issue, requiring the clerk of court of the court a quo to reassess and collect in full the prescribed docket fee in Civil Case No. 11209.

On July 10, 1985, private respondent Filipinas Carbon and Mining Corporation filed against herein petitioner and Central Mining Consultants (CMC) an action for rescission or annulment of contract with damages[1] before the Regional Trial Court of Manila, Branch 146, docketed as Civil Case No. 11029, praying that:

x x x

2. After due trial; this Court render judgment:

- On the First and Second Alternative Causes of Action, rescinding and/or declaring rescinded, cancelled or terminated plaintiff's Agreement or in the alternative annulling and/or declaring annulled the aforesaid Agreement, Annex "A", and in either case, ordering defendants to deliver and surrender the Mining Area together with all the infrastructure, facilities and equipment found thereon, to plaintiff and restore plaintiff in possession, operation and administration of these properties without any obligation on the part of plaintiff to defendants;
- On the Third Cause of Action, ordering defendants, jointly and severally, to pay plaintiff actual damages in the amount of at least P3,000,000.00;
- On the Fourth Cause of Action, ordering defendants, jointly and severally, to pay plaintiff moral damages in the amount of at least P100,000.00;
- On the Fifth Cause of Action, ordering defendants, jointly and severally exemplary damages in the amount of at least P200,000.00;
- On the Sixth Cause of Action, ordering defendants, jointly and severally, to pay plaintiff attorney's fees in the amount of at least P100,000.00 and other expenses of litigation in the amount of at least P50,000.00;
- Ordering defendants, jointly and severally, to pay the cost of suit.

Before petitioner International Industrial Management and Development Corporation (INIMACO) could file a responsive pleading, private respondent filed an amended complaint dated October 8, 1988.[2] Thereafter, a second amended complaint dated January 30, 1989 was filed,[3] praying that:

x x x

2. After due trial, this Honorable Court rendered (sic) judgment:

- Making the injunction permanent;
- On the first and second alternative causes of action, rescinding and/or declaring rescinded, cancelled or terminated plaintiff's agreement or in the alternative ordering the defendants to comply with their obligations under the aforesaid agreement, Annex "A" and in either case, ordering the defendants to deliver and surrender the Mining Area together with all the infrastructure, facilities, and equipments found thereon to plaintiff and restore plaintiff in its possession, operation and administration of these properties without any obligation on the part of plaintiff to defendants;
- On the third cause of action, to order the defendants CMC/INIMACO, jointly and severally, to pay plaintiff actual damages in the amount of at least P3,000,000.00;
- On the fourth cause of action, ordering defendants, jointly and severally, to pay plaintiff moral damages in the amount of at least P100,000.00;
- On the fifth cause of action, ordering defendants, jointly and severally, to pay plaintiff exemplary damages in the amount of at least P200,000.00;
- On the sixth cause of action, ordering defendants, jointly and severally, to pay plaintiff attorney's fees in the amount of at least P100,000.00 and other expenses of litigation in the amount of at least P50,000.00;
- Ordering defendants, jointly and severally, to pay the cost of suit.

Thereafter, petitioner filed a motion to dismiss on the ground that the trial court did not acquire jurisdiction over the case since the complaint does not specifically state the amount of damages sought therein by private respondent, thereby rendering the docket fees corresponding thereto undeterminable and, as a matter of course, unpaid. This was, however, denied by the court below.

Petitioner went to the Court of Appeals on a petition for certiorari seeking to annul the order of the trial court denying its motion to dismiss. Respondent court denied the petition for certiorari after finding that the trial court acquired jurisdiction over the case since the claims for damages of private respondent as qualified by the phrase "at least," which is equivalent to "not less than," are definite enough,[4] in line with a similar holding in *Ng Soon vs. Hon. Aloysius Alday, et al.*[5] In said case, it was clarified that if what is proved is less than what is claimed, then a refund will be made; if more, additional fees will be exacted.

In the present petition before us, petitioner does not seek a review of respondent court's aforesaid decision but prays for the issuance of an order requiring the clerk of court of the court below to reassess and collect in full the prescribed docket fee in the original case, as was done in *Sun Insurance Office, Ltd., et al. vs. Hon. Maximo C. Asuncion, et al.*[6] It will be recalled that in said case, we ruled that where the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment thereof within a reasonable time but not beyond the applicable prescriptive or reglementary period.

Petitioner avers that the aggregate of private respondent's claims amounts to P29,600,000.00, hence the docket fee due is P118,000.00, allegedly pursuant to Section 5, subsections 7 and 8, Rule 141 of the Rules of Court, as amended on September 18, 1984. Since only P2,626.00 was paid by herein private respondent, the former contends that the latter still has to pay the balance of P115,374.00.

The computation submitted by petitioner, however, is partly based upon and includes what private respondent,

under the second alternative cause of action in its second amended complaint,[7] claims should be paid or performed by petitioner or CMC in the event that rescission or cancellation is no longer possible by virtue of the expiration of the agreement entered into by the parties on September 30, 1988 which is the subject of the present controversy. In other words, these are contingent or alternative reliefs, the demandability of which arises only if the condition for the principal relief sought shall have occurred and has been so determined by the trial court.

On the other hand, private respondent contends that considering that its main action is for specific performance and/or rescission which is not capable of pecuniary estimation and, therefore, the money claim is purely incidental to or a consequence of the particular relief sought, the docket fee it has paid is reasonably sufficient.

The fact that the main action or principal relief sought in the complaint is for specific performance and/or rescission is only determinative of jurisdiction in the sense that, regardless of the amount of incidental or additional claims for damages, the case is within the exclusive original jurisdiction of the Regional Trial Court. This does not mean, however, that the separate claims for damages therein are exempt from the payment of docket fees. The prayer in private respondent's second amended complaint[8] reveals that, in addition to the principal relief of specific performance and/or rescission, it categorically and unconditionally seeks the payment of actual, moral and exemplary damages, with attorney's fees and expenses of litigation.

Under paragraph 2 (c) to (d) of the petitory portion of said second amended complaint, the amount of damages being claimed as additional relief by private respondent is P3,450,000.00, as set out in the third to the sixth causes of action. Pursuant to the provisions of Rule 141 then in force, the docket fee for such additional claims by themselves would be P13,400.00, and it is admitted that only P2,626.00 has been paid by private respondent. We, therefore, find it appropriate to adopt the relevant paragraph in the dispositive portion of this Court's decision in *Sun Insurance*, as prayed for by petitioner, so that this matter may be disposed of with dispatch.[9]

WHEREFORE, the petition is GRANTED. The clerk of court of the court a quo is hereby instructed to reassess and determine the additional filing fee that should be paid by private respondent, considering the total amount of the claims sought in the second amended complaint as may be gleaned from the allegations and prayer thereof, and to require private respondent to pay the deficiency, if any. Without pronouncement as to costs.

SO ORDERED.

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

[1] Rollo, CA-G.R. SP No. 18832, 59-81.

[2] *Ibid.*, id., 82-104.

[3] *Ibid.*, id., 23-42.

[4] Decision in CA-G.R. SP No. 18832, dated January 19, 1990, penned by Justice Abelardo M. Dayrit with Justices Nathaniel P. de Pano, Jr. and Celso L. Magsino, concurring; Annex A, Petition; Rollo, 18.

[5] 178 SCRA 221 (1989).

[6] 170 SCRA 274 (1989).

[7] Rollo, CA-G.R. SP No. 18832, 35-36.

[8] *Ibid.*, id., 41-42.

[9] Note should also be taken of the following amendment to Rule 141 by the resolution of the Court En Banc dated September 14, 1990 and effective on November 2, 1990:

"Sec. 2. Fees as lien. - Where the court in its final judgment awards a claim not alleged, or a relief different or more than that claimed in the pleading, the party concerned shall pay the additional fees which shall constitute a lien on the judgment in satisfaction of said lien. The clerk of court shall assess and collect the corresponding fees. (n)"

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