

SUN INSURANCE OFFICE, LTD., (SIOL), E.B. PHILIPPS AND D.J. WARBY, PETITIONERS, VS. HON. MAXIMIANO C. ASUNCION, PRESIDING JUDGE, BRANCH 104, REGIONAL TRIAL COURT, QUEZON CITY AND...

G.R. Nos. 79937-38. February 13, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Again the Court is asked to resolve the issue of whether or not a court acquires jurisdiction over a case when the correct and proper docket fee has not been paid.

On February 28, 1984, petitioner Sun Insurance Office, Ltd. (SIOL for brevity) filed a complaint with the Regional Trial Court of Makati, Metro Manila for the consignation of a premium refund on a fire insurance policy with a prayer for the judicial declaration of its nullity against private respondent Manuel Uy Po Tiong. Private respondent was declared in default for failure to file the required answer within the reglementary period.

On the other hand, on March 28, 1984, private respondent filed a complaint in the Regional Trial Court of Quezon City for the refund of premiums and the issuance of a writ of preliminary attachment which was docketed as Civil Case No. Q-41177, initially against petitioner SIOL, and thereafter including E.B. Philips and D.J. Warby as additional defendants. The complaint sought, among others, the payment of actual, compensatory, moral, exemplary and liquidated damages, attorney's fees, expenses of litigation and costs of the suit. Although the prayer in the complaint did not quantify the amount of damages sought said amount may be inferred from the body of the complaint to be about Fifty Million Pesos (P50,000,000.00).

Only the amount of P210.00 was paid by private respondent as docket fee which prompted petitioners' counsel to raise his objection. Said objection was disregarded by respondent Judge Jose P. Castro who was then presiding over said case.

Upon the order of this Court, the records of said case together with twenty-two other cases assigned to different branches of the Regional Trial Court of Quezon City which were under investigation for under-assessment of docket fees were transmitted to this Court. The Court thereafter returned the said records to the trial court with the directive that they be re-raffled to the other judges in Quezon City, to the exclusion of Judge Castro. Civil Case No. Q-41177 was re-raffled to Branch 104, a sala which was then vacant.

On October 15, 1985, the Court en banc issued a Resolution in Administrative Case No. 85-10-8752-RTC directing the judges in said cases to reassess the docket fees and that in case of deficiency, to order its payment. The Resolution also requires all clerks of court to issue certificates of re-assessment of docket fees. All litigants were likewise required to specify in their pleadings the amount sought to be recovered in their complaints.

On December 16, 1985, Judge Antonio P. Solano, to whose sala Civil Case No. Q-41177 was temporarily assigned, issued an order to the Clerk of Court instructing him to issue a certificate of assessment of the docket

fee paid by private respondent and, in case of deficiency, to include the same in said certificate.

On January 7, 1984, to forestall a default, a cautionary answer was filed by petitioners. On August 30, 1984, an amended complaint was filed by private respondent including the two additional defendants aforesated.

Judge Maximiano C. Asuncion, to whom Civil Case No. Q-41177 was thereafter assigned, after his assumption into office on January 16, 1986, issued a Supplemental Order requiring the parties in the case to comment on the Clerk of Court's letter-report signifying her difficulty in complying with the Resolution of this Court of October 15, 1985 since the pleadings filed by private respondent did not indicate the exact amount sought to be recovered. On January 23, 1986, private respondent filed a "Compliance" and a "Re-Amended Complaint" stating therein a claim of "not less than P10,000,000.00 as actual and compensatory damages" in the prayer. In the body of the said second amended complaint however, private respondent alleges actual and compensatory damages and attorney's fees in the total amount of about P44,601,623.70.

On January 24, 1986, Judge Asuncion issued another Order admitting the second amended complaint and stating therein that the same constituted proper compliance with the Resolution of this Court and that a copy thereof should be furnished the Clerk of Court for the reassessment of the docket fees. The reassessment by the Clerk of Court based on private respondent's claim of "not less than P10,000,000.00 as actual and compensatory damages" amounted to P39,786.00 as docket fee. This was subsequently paid by private respondent.

Petitioners then filed a petition for certiorari with the Court of Appeals questioning the said order of Judge Asuncion dated January 24, 1986.

On April 24, 1986, private respondent filed a supplemental complaint alleging an additional claim of P20,000,000.00 as damages so the total claim amounts to about P64,601,623.70. On October 16, 1986, or some seven months after filing the supplemental complaint, the private respondent paid the additional docket fee of P80,396.00.[1]

On August 13, 1987, the Court of Appeals rendered a decision ruling, among others, as follows:

"WHEREFORE, judgment is hereby rendered:

1. Denying due course to the petition in CA-G.R. SP No. 09715 insofar as it seeks annulment of the order

(a) denying petitioners' motion to dismiss the complaint, as amended, and

(b) granting the writ of preliminary attachment, but giving due course to the portion thereof questioning the reassessment of the docketing fee, and requiring the Honorable respondent Court to reassess the docketing fee to be paid by private respondent on the basis of the amount of P25,401,707.00."[2]

Hence, the instant petition.

During the pendency of this petition and in conformity with the said judgment of respondent court, private respondent paid the additional docket fee of P62,432.90 on April 28, 1988.[3]

The main thrust of the petition is that the Court of Appeals erred in not finding that the lower court did not acquire jurisdiction over Civil Case No. Q-41177 on the ground of non-payment of the correct and proper docket fee. Petitioners allege that while it may be true that private respondent had paid the amount of P182,824.90 as docket fee as herein-above related, and considering that the total amount sought to be recovered in the amended and supplemental complaint is P64,601,623.70, the docket fee that should be paid by private respondent is P257,810.49, more or less. Not having paid the same, petitioners contend that the complaint should be dismissed and all incidents arising therefrom should be annulled. In support of their theory, petitioners cite the latest ruling

of the Court in *Manchester Development Corporation vs. CA*,^[4] as follows:

"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 amounts sought in the amended pleading. The ruling in the *Magaspi Case* in so far as it is inconsistent with this pronouncement is overturned and reversed."

On the other hand, private respondent claims that the ruling in *Manchester* cannot apply retroactively to Civil Case No. Q-41177 for at the time said civil case was filed in court there was no such *Manchester* ruling as yet. Further, private respondent avers that what is applicable is the ruling of this Court in *Magaspi v. Ramolete*,^[5] wherein this Court held that the trial court acquired jurisdiction over the case even if the docket fee paid was insufficient.

The contention that *Manchester* cannot apply retroactively to this case is untenable. Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retrospective in that sense and to that extent.^[6]

In *Lazaro vs. Endencia and Andres*,^[7] this Court held that the payment of the full amount of the docket fee is an indispensable step for the perfection of an appeal. In a forcible entry and detainer case before the justice of the peace court of Manaoag, Pangasinan, after notice of a judgment dismissing the case, the plaintiff filed a notice of appeal with said court but he deposited only P8.00 for the docket fee, instead of P16.00 as required, within the reglementary period of appeal of five (5) days after receiving notice of judgment. Plaintiff deposited the additional P8.00 to complete the amount of the docket fee only fourteen (14) days later. On the basis of these facts, this Court held that the Court of First Instance did not acquire jurisdiction to hear and determine the appeal as the appeal was not thereby perfected.

In *Lee vs. Republic*,^[8] the petitioner filed a verified declaration of intention to become a Filipino citizen by sending it through registered mail to the Office of the Solicitor General in 1953 but the required filing fee was paid only in 1956, barely 5-1/2 months prior to the filing of the petition for citizenship. This Court ruled that the declaration was not filed in accordance with the legal requirement that such declaration should be filed at least one year before the filing of the petition for citizenship. Citing *Lazaro*, this Court concluded that the filing of petitioner's declaration of intention on October 23, 1953 produced no legal effect until the required filing fee was paid on May 23, 1956.

In *Malimit vs. Degamo*,^[9] the same principles enunciated in *Lazaro* and *Lee* were applied. It was an original petition for quo warranto contesting the right to office of proclaimed candidates which was mailed, addressed to the clerk of the Court of First Instance, within the one-week period after the proclamation as provided therefor by law.^[10] However, the required docket fees were paid only after the expiration of said period. Consequently, this Court held that the date of such payment must be deemed to be the real date of filing of aforesaid petition and not the date when it was mailed.

Again, in *Garcia vs. Vasquez*,^[11] this Court reiterated the rule that the docket fee must be paid before a court will act on a petition or complaint. However, We also held that said rule is not applicable when petitioner seeks the probate of several wills of the same decedent as he is not required to file a separate action for each will but instead he may have the other wills probated in the same special proceeding then pending before the same court.

Then in *Magaspi*,^[12] this Court reiterated the ruling in *Malimit* and *Lee* that a case is deemed filed only upon payment of the docket fee regardless of the actual date of its filing in court. Said case involved a complaint for recovery of ownership and possession of a parcel of land with damages filed in the Court of First Instance of Cebu. Upon the payment of P60.00 for the docket fee and P10.00 for the sheriff's fee, the complaint was docketed

as Civil Case No. R-11882. The prayer of the complaint sought that the Transfer Certificate of Title issued in the name of the defendant be declared as null and void. It was also prayed that plaintiff be declared as owner thereof to whom the proper title should be issued, and that defendant be made to pay monthly rentals of P3,500.00 from June 2, 1948 up to the time the property is delivered to plaintiff, P500,000.00 as moral damages, attorney's fees in the amount of P250,000.00, the costs of the action and exemplary damages in the amount of P500,000.00.

The defendant then filed a motion to compel the plaintiff to pay the correct amount of the docket fee to which an opposition was filed by the plaintiff alleging that the action was for the recovery of a parcel of land so the docket fee must be based on its assessed value and that the amount of P60.00 was the correct docketing fee. The trial court ordered the plaintiff to pay P3,104.00 as filing fee.

The plaintiff then filed a motion to admit the amended complaint to include the Republic as the defendant. In the prayer of the amended complaint the exemplary damages earlier sought was eliminated. The amended prayer merely sought moral damages as the court may determine, attorney's fees of P100,000.00 and the costs of the action. The defendant filed an opposition to the amended complaint. The opposition notwithstanding, the amended complaint was admitted by the trial court. The trial court reiterated its order for the payment of the additional docket fee which plaintiff assailed and then challenged before this Court. Plaintiff alleged that he paid the total docket fee in the amount of P60.00 and that if he has to pay the additional fee it must be based on the amended complaint.

The question posed, therefore, was whether or not the plaintiff may be considered to have filed the case even if the docketing fee paid was not sufficient. In *Magaspi*, We reiterated the rule that the case was deemed filed only upon the payment of the correct amount for the docket fee regardless of the actual date of the filing of the complaint; that there was an honest difference of opinion as to the correct amount to be paid as docket fee in that as the action appears to be one for the recovery of property the docket fee of P60.00 was correct; and that as the action is also one for damages, We upheld the assessment of the additional docket fee based on the damages alleged in the amended complaint as against the assessment of the trial court which was based on the damages alleged in the original complaint.

However, as *aforecited*, this Court overturned *Magaspi* in *Manchester*. *Manchester* involves an action for torts and damages and specific performance with a prayer for the issuance of a temporary restraining order, etc. The prayer in said case is for the issuance of a writ of preliminary prohibitory injunction during the pendency of the action against the defendants' announced forfeiture of the sum of P3 Million paid by the plaintiffs for the property in question, the attachment of such property of defendants that may be sufficient to satisfy any judgment that may be rendered, and, after hearing, the issuance of an order requiring defendants to execute a contract of purchase and sale of the subject property and annul defendants' illegal forfeiture of the money of plaintiff. It was also prayed that the defendants be made to pay the plaintiff, jointly and severally, actual, compensatory and exemplary damages as well as 25% of said amounts as may be proved during the trial for attorney's fees. The plaintiff also asked the trial court to declare the tender of payment of the purchase price of plaintiff valid and sufficient for purposes of payment, and to make the injunction permanent. The amount of damages sought is not specified in the prayer although the body of the complaint alleges the total amount of over P78 Million allegedly suffered by plaintiff.

Upon the filing of the complaint, the plaintiff paid the amount of only P410.00 for the docket fee based on the nature of the action for specific performance where the amount involved is not capable of pecuniary estimation. However, it was obvious from the allegations of the complaint as well as its designation that the action was one for damages and specific performance. Thus, this Court held that plaintiff must be assessed the correct docket fee computed against the amount of damages of about P78 Million, although the same was not spelled out in the

prayer of the complaint.

Meanwhile, plaintiff through another counsel, with leave of court, filed an amended complaint on September 12, 1985 by the inclusion of another co-plaintiff and eliminating any mention of the amount of damages in the body of the complaint. The prayer in the original complaint was maintained.

On October 15, 1985, this Court ordered the re-assessment of the docket fee in the said case and other cases that were investigated. On November 12, 1985, the trial court directed the plaintiff to rectify the amended complaint by stating the amounts which they were asking for. This plaintiff did as instructed. In the body of the complaint the amount of damages alleged was reduced to P10,000,000.00 but still no amount of damages was specified in the prayer. Said amended complaint was admitted.

Applying the principle in *Magaspi* that "the case is deemed filed only upon payment of the docket fee regardless of the actual date of filing in court," this Court held that the trial court did not acquire jurisdiction over the case by payment of only P410.00 for the docket fee. Neither can the amendment of the complaint thereby vest jurisdiction upon the Court. For all legal purposes there was no such original complaint duly filed which could be amended. Consequently, the order admitting the amended complaint and all subsequent proceedings and actions taken by the trial court were declared null and void.[13]

The present case, as above discussed, is among the several cases of under-assessment of docket fee which were investigated by this Court together with *Manchester*. The facts and circumstances of this case are similar to *Manchester*. In the body of the original complaint, the total amount of damages sought amounted to about P50 Million. In the prayer, the amount of damages asked for was not stated. The action was for the refund of premium and the issuance of the writ of preliminary attachment with damages. The amount of only P210.00 was paid for the docket fee. On January 23, 1986, private respondent filed an amended complaint wherein in the prayer it is asked that he be awarded no less than P10,000,000.00 as actual and exemplary damages but in the body of the complaint the amount of his pecuniary claim is approximately P44,601,623.70. Said amended complaint was admitted and the private respondent was reassessed the additional docket fee of P39,786.00 based on his prayer of not less than P10,000,000.00 in damages, which he paid.

On April 24, 1986, private respondent filed a supplemental complaint alleging an additional claim of P20,000,000.00 in damages so that his total claim is approximately P64,601,620.70. On October 16, 1986, private respondent paid an additional docket fee of P80,396.00. After the promulgation of the decision of the respondent court on August 31, 1987 wherein private respondent was ordered to be reassessed for additional docket fee, and during the pendency of this petition, and after the promulgation of *Manchester*, on April 28, 1988, private respondent paid an additional docket fee of P62,132.92. Although private respondent appears to have paid a total amount of P182,824.90 for the docket fee considering the total amount of his claim in the amended and supplemental complaint amounting to about P64,601,620.70, petitioner insists that private respondent must pay a docket fee of P257,810.49.

The principle in *Manchester* could very well be applied in the present case. The pattern and the intent to defraud the government of the docket fee due it is obvious not only in the filing of the original complaint but also in the filing of the second amended complaint.

However, in *Manchester*, petitioner did not pay any additional docket fee until the case was decided by this Court on May 7, 1987. Thus, in *Manchester*, due to the fraud committed on the government, this Court held that the court a quo did not acquire jurisdiction over the case and that the amended complaint could not have been admitted inasmuch as the original complaint was null and void.

In the present case, a more liberal interpretation of the rules is called for considering that, unlike Manchester, private respondent demonstrated his willingness to abide by the rules by paying the additional docket fees as required. The promulgation of the decision in Manchester must have had that sobering influence on private respondent who thus paid the additional docket fee as ordered by the respondent court. It triggered his change of stance by manifesting his willingness to pay such additional docket fee as may be ordered.

Nevertheless, petitioners contend that the docket fee that was paid is still insufficient considering the total amount of the claim. This is a matter which the clerk of court of the lower court and/or his duly authorized docket clerk or clerk in-charge should determine and, thereafter, if any amount is found due, he must require the private respondent to pay the same.

Thus, the Court rules as follows:

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.

WHEREFORE, the petition is DISMISSED for lack of merit. 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 claim sought in the original complaint and the supplemental complaint as may be gleaned from the allegations and the prayer thereof and to require private respondent to pay the deficiency, if any, without pronouncement as to costs.

SO ORDERED.

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

[1] Annexes 1, 1-A, 1-B of Comment of private respondent.

[2] Page 34, Decision of the Court of Appeals; p. 57, Rollo.

[3] Annex 2 to Memorandum of private respondent.

[4] 149 SCRA 562 (1987).

[5] 115 SCRA 193, 204 (1982).

[6] *People vs. Sumilang*, 77 Phil. 764 (1946); *Alday vs. Camilon*, 120 SCRA 521 (1983) and *Palomo Building Tenants Association, Inc. vs. Intermediate Appellate Court*, 133 SCRA 168 (1984).

[7] 57 Phil. 552 (1932).

[8] 10 SCRA 65 (1964).

[9] 12 SCRA 450 (1964).

[10] Section 173, Revised Election Code.

[11] 28 SCRA 3301 (1969).

[12] *Supra*.

[13] *Supra*, pp. 567-568.

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