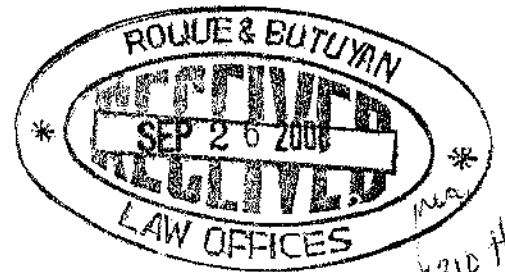


REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
MANILA



JOSE MIGUEL T. ARROYO,
Petitioner,

- versus -

CA-G.R. SP No. 99025

HON. ZENaida T. GALAPATE-
LAGUILLES, in her capacity as Presiding
Judge, RTC of Makati City, Branch 143,
NINEZ CACHO-OLIVARES, MARITES
VITUG, GLENDA M. GLORIA, ET AL.,
Respondents.

HLR	_____
JRB	____/____
RRB	_____
CCB	____/____
DBD	____/____
MJR	_____
FILING	_____
OTHERS	_____

NOTICE OF JUDGMENT

*September 22, 2008
(2:15 p.m.)

SIR/MADAM:

Please take notice that on *SEPTEMBER 22, 2008, a DECISION, copy of which is hereto attached, was rendered by the SEVENTH DIVISION of this Court in the above-entitled case, the original of which is on file with this Office.

You are hereby required to inform this Court, within five (5) days from receipt hereof, of the date when you received this notice.

Very truly yours,

MAB
MIRIAM ALFONSO BAUTISTA
Division Clerk of Court

Copy furnished:

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Hon. Presiding Judge – reg. w/ rc
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*Receipt by DCC's Office

REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
MANILA

SEVENTH DIVISION

JOSE MIGUEL T. ARROYO,

Petitioner,

CA-G.R. SP No. 99025

-versus-

Members:

Hon. ZENaida T. GALAPATE-LAGUILLES, in her capacity as Presiding Judge of the Regional Trial Court of Makati City, Branch 143, NINEZ CACHO-OLIVARES, MARITES VITUG, GLENDA M. GLORIA, RICKY CARANDANG, ROMULO MARIÑAS, GINA CAPILI-INCIONG, GERRY BALDO,, SHERWIN C. OLAES, LITO B. TUGADI, JING SANTOS, LITO BANAYO, THE DAILY TRIBUNE, INC., RUSTICO OTICO, MARIA CONCEPCION CRUZ, MIRIAM GRACE GO, ROMINA M. GONZALES, GEMMA BAGAYAU, JP LOPEZ, REGINA BENGCO, MINNIE ADVINCULA, ELLEN TORDESILLAS, WILLIAM ESPOSO, JOSE PAVIA, ROWENA PARAAN, SWEET MAY CAWICAAN, JOFELLE TESORIO, JOSE BIMBO SANTOS, RACHEL KHAN, CENTER FOR MEDIA FREEDOM AND RESPONSIBILITY, MA. CRISTINA RODRIGUEZ, YVONNE CHUA, ALCUIN PAPA, RAMON TULFO, ERWIN TULFO,

CRUZ, E.P. Chairman
LAMPAS PERALTA and
PIZARRO, N.B. JJ.

Promulgated:

SEP 22 2008

2:15 pm *hnb*

CERTIFIED TRUE COPY

hnb
MIRIAM A. BAUTISTA
Division Clerk of Court
Court of Appeals

DECISION

x-----x

THE PHILIPPINE CENTER FOR
INVESTIGATIVE JOURNALISM,
INC., FRANCISCO TATAD,
CONRADO DE QUIROS,
NIXON CUA, and VERGEL
SANTOS,

Respondents.

x-----x

DECISION

LAMPAS PERALTA, J.:

Assailed in the present petition for certiorari filed under Rule 65, 1997 Rules of Civil Procedure is the Order dated March 16, 2007¹ in Civil Case No. 06-1098 of public respondent Judge Zenaida Galapate-Laguilles, Presiding Judge of Branch 143, Regional Trial Court (RTC), Makati City, admitting the amended complaint for damages filed by private respondents Ninez Cacho-Olivares, et al.² against petitioner Jose Miguel T. Arroyo.

THE ANTECEDENTS

On December 28, 2006, private respondents, "on their own behalf and, acting as class suit representatives, on behalf of fellow members of the Philippine press," filed with the trial court a complaint for damages, docketed as Civil Case No. 06-1098, essentially alleging, among others, that (i) private respondents are

¹ pp. 436-439, Rollo

² The amended complaint also impleaded Redmoné Batario, Joy delos Reyes, Luis Teodoro and Lourdes Estella Simbulan as additional plaintiffs, but they were not impleaded as respondents in the present petition.

DECISION

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active and practicing members of the Philippine press who had made several publications on the public life of petitioner, and (ii) private respondents' constitutional right to free press was violated when petitioner initiated a flurry of libel cases against them, thereby causing them grave injury and tremendous amounts of damages.³ The prayer in the complaint reads:

WHEREFORE, premises considered, it is most respectfully prayed for that, after trial on the merits, this Honorable Court issue an Order finding Defendant (petitioner herein) liable to each of the plaintiffs (private respondents herein) for the following amounts:

1) Actual damages in the amount of at least Two Million Pesos (Php2,000,000.00);

2) Moral damages in the amount of at least Five Million Pesos (Php5,000,000.00);

3) Exemplary damages in the amount of at least Five Million Pesos (Php5,000,000.00);

4) Attorney's fees in the amount of at least Five Hundred Thousand Pesos (Php500,000.00); and

5) Legal interest and costs of suit.⁴

On January 8, 2007, petitioner filed an "Answer *ex abundanti ad cautelam*" alleging, among others, that (i) the complaint was not a class suit because private respondents sought to vindicate personal and individual interests; (ii) the trial court did not acquire jurisdiction over the case for non-payment of the correct docket fees; (iii) the trial court was not the proper forum to ventilate private respondents' constitutional claims as these constituted defenses in the libel cases already pending with the regular courts; (iv) since the

³ pp. 242-261, Rollo

⁴ p. 260, Ibid.

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libel cases filed by petitioner against private respondents had not been decided on the merits, the complaint was premature; and, (v) the complaint was a mere "social experiment," a political ploy used to harass and annoy the President and petitioner. Petitioner thus prayed for the dismissal of the complaint and payment of moral damages, exemplary damages, attorney's fees and litigation expenses.⁵

Also on the same date, petitioner filed a "Motion to Set Case for Preliminary Hearing on Affirmative Defenses," praying for a preliminary hearing on the affirmative defenses pleaded in the answer.⁶

On February 13, 2007, private respondents filed an opposition to petitioner's motion to set case for preliminary hearing on the affirmative defenses, with "Omnibus Motion 1) For Leave of Court to File Amended Complaint, and 2) To Admit Attached Amended Complaint."⁷

Among others, the amendments sought in the amended complaint were as follows: (i) additional plaintiffs namely, Redmond Batario, Joy delos Reyes, Luis Teodoro and Lourdes Estella Simbulan were included; (ii) Nixon Cua was dropped as plaintiff; (iii) the respective addresses of some plaintiffs were indicated;⁸ (iv) the word "each" in paragraphs 46, 47, 48 and 49 of the complaint was deleted to conform to the alleged intention of private respondents to claim damages for the press as a whole and as a unified institution;⁹ and, (v) the word "each" was likewise deleted from the prayer in the complaint and in lieu thereof, the word

⁵ pp. 281-346, Ibid.

⁶ pp. 348-349, Ibid.

⁷ pp. 350-363, Ibid.

⁸ The addresses of the other plaintiffs were already indicated in the original complaint.

⁹ pp. 365-383, Rollo

DECISION

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"aggregate" was added. The prayer in the amended complaint thus reads:

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed for that, after trial on the merits, this Honorable Court issue an Order finding Defendant liable to the Plaintiffs for the following aggregate amounts:

- 1) Actual damages in the amount of at least Two Million Pesos (Php2,000,000.00);
- 2) Moral damages in the amount of at least Five Million Pesos (Php5,000,000.00);
- 3) Exemplary damages in the amount of at least Five Million Pesos (Php5,000,000.00);
- 4) Attorney's fees in the amount of at least Five Hundred Thousand Pesos (Php500,000.000; and
- 5) Legal interest and costs of suit.

Most respectfully submitted.¹⁰

Petitioner filed his reply to private respondents' opposition to setting the case for preliminary hearing on the affirmative defenses. Private respondents filed their rejoinder.

In an Order dated March 16, 2007, the trial court granted petitioner's "Motion to Set Case for Preliminary Hearing on Affirmative Defenses" and private respondents' motion to file

¹⁰ p. 383, *Ibid*.

DECISION

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amended complaint. The trial court thus set the case for preliminary hearing on the affirmative defenses on April 12, 2007.¹¹

Without filing any motion for reconsideration of the Order dated March 16, 2007, petitioner filed the present petition for certiorari on the basis of the following ground:

RESPONDENT JUDGE ACTED WITHOUT JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ADMITTING THE AMENDED COMPLAINT AS THE NON-PAYMENT OF THE PROPER DOCKET FEES DOES NOT VEST A COURT WITH JURISDICTION OVER THE ENTIRE CASE, WHICH DEFECT THAT CANNOT BE CURED BY AMENDMENT.¹²

Petitioner thus prayed that the subject Order dated March 16, 2007 of the trial court be set aside only "to the extent that it admitted the Amended Complaint," and that the trial court be ordered "to proceed with the preliminary hearing on the affirmative defenses based on the *original* Complaint." Petitioner also prayed for the issuance of a temporary restraining order and/or writ of preliminary injunction, to restrain "respondents from proceeding with the preliminary hearing on the Affirmative Defenses based on the Amended Complaint."¹³

¹¹ pp. 438-439, Ibid.

¹² p. 65, Ibid.

¹³ pp. 71-72, Ibid.

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On June 15, 2007, the Court issued a Resolution ordering petitioner (i) to rectify the verification page of the petition as it lacked the assurance that the allegations therein were based on authentic records, and (ii) state the actual addresses of private respondents.¹⁴

In an "Urgent Supplemental Manifestation and Motion" dated June 19, 2007,¹⁵ petitioner substantially complied with said Resolution dated June 15, 2007.

On June 26, 2007, the Court issued a Resolution ordering private respondents to file comment and to show cause why petitioner's prayer for temporary restraining order and/or writ of preliminary injunction should not be granted.¹⁶

On July 24, 2007, private respondents filed a comment on the petition alleging, among others, that (i) the petition was not the plain and adequate remedy of petitioner as he did not even file a motion for reconsideration of the Order dated March 16, 2007; (ii) the complaint for damages was filed as a class suit and the prayer for damages was a lump sum claim for the affected class as a whole and not for each of private respondents; (iii) private respondents were not in bad faith when they paid the filing or docket fees as assessed by the Clerk of Court; and (iv) if at all, a deficiency in docket fees paid should not oust a court of its jurisdiction over a case.¹⁷

On September 24, 2007, the Court issued a Resolution¹⁸ granting petitioner's application for a writ of preliminary injunction and enjoining respondents from continuing with the preliminary

¹⁴ p. 443, Ibid.

¹⁵ p. 449-453, Ibid.

¹⁶ p. 457, Ibid.

¹⁷ pp. 463-476, Ibid.

¹⁸ pp. 483-486, Ibid.

DECISION

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hearing on the affirmative defenses based on the amended complaint. Thus:

WHEREFORE, petitioner's application for a writ of preliminary injunction is granted. Let a writ of preliminary injunction issue, upon petitioner's posting of a bond in the amount of One Million Pesos (P1,000,000.00), which must be made within seven (7) days from notice hereof, enjoining respondents, their agents any anybody acting in their behalf from continuing with the preliminary hearing on the affirmative defenses based on the amended complaint only.

As earlier mentioned, the parties are ordered to submit their simultaneous memoranda within fifteen (15) days from notice hereof.

SO ORDERED.¹⁹

Petitioner posted a cash bond of P1,000,000.00 on October 1, 2007²⁰ and accordingly, a writ of preliminary injunction was issued and served upon the parties.²¹

Private respondents filed a motion for reconsideration²² of the Resolution dated September 24, 2007, to which petitioner filed his opposition.²³ After the parties' submission of their respective memoranda, the Court issued a Resolution dated January 17, 2008²⁴ declaring the case, together with its pending incidents, submitted for decision.²⁵

¹⁹ p. 486, Ibid.

²⁰ p. 487, Ibid.

²¹ pp. 491-493, Ibid.

²² pp. 494-509, Ibid.

²³ pp. 590-596, Ibid.

²⁴ p. 597, Ibid.

²⁵ Per Resolution dated July 8, 2008 of the Supreme Court in A.M. No. 08-7-10-CA, the last day for the Court to resolve the present case and its pending incidents is on September 26, 2008.

THE ISSUE

Whether the trial court committed grave abuse of discretion in admitting the amended complaint despite the alleged failure of private respondents to pay the correct docket fees.

THE COURT'S RULING

To be sure, the Court's resolution of the present petition for certiorari is confined to the issue of grave abuse of discretion or lack of jurisdiction of the trial court in admitting the amended complaint, and does not go into the merits of the main case below. Well-entrenched is the doctrine that the sole office of a writ of certiorari is the correction of grave abuse of discretion or lack of jurisdiction, and it does not include a review of the merits of the main case, more so when no determination of the merits has yet been made by the trial court.²⁶

While the general rule is that before certiorari may be availed of, petitioner must have filed a motion for reconsideration of the act or order complained of, this requirement had been dispensed with in several instances such as when (i) the order is a patent nullity, as where the court a quo has no jurisdiction; (ii) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (iii) there is urgency; (iv) where a motion for reconsideration would be useless; (v) the issue raised is one purely of law or public interest is involved;²⁷ and (vi) a question of jurisdiction is squarely raised before and decided by the lower

²⁶ *Katon vs. Palanca, Jr., et al.*, 437 SCRA 565 (2004)

²⁷ *Acance vs. Court of Appeals*, 453 SCRA 548 (2005)

DECISION

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court.²⁸

In the instant case, petitioner stated that he did not file a motion for reconsideration because "a Motion for Reconsideration is useless as respondent Judge is not likely to reverse herself and will result only in delay."²⁹ Indeed, in his answer, petitioner raised the affirmative defense that the trial court did not acquire jurisdiction over the case because of incomplete payment of docket fees.³⁰ It may also be gleaned from the trial court's Order dated March 16, 2007 that petitioner objected to the amendment of the complaint and the trial court squarely ruled thereon by stating that "case law on the matter has clarified enough that the Court can subsequently direct the payment of the correct docket fees within a reasonable period, thus, abandoning the former view that failure to pay the correct fees ousts a court of its jurisdiction."³¹ Hence, the filing of a motion for reconsideration is not indispensable to the filing of the present petition, as the question of jurisdiction being raised in the petition is the same question raised and passed upon by the trial court, and it appeared to be useless to raise it first in a motion for reconsideration before the trial court.

It must also be stressed at the outset that the Court issued a Resolution dated September 24, 2007 granting petitioner's application for a writ of preliminary injunction on the basis of its finding that there was a need to prevent the possibility of irreparable injury to petitioner which had been shown, at least tentatively or provisionally, during the pendency of the present case raising a jurisdictional issue. For a preliminary hearing on the affirmative defenses based on the amended complaint or the continuance of said hearing would have unduly exposed petitioner to the rigors of the proceedings in the case below even before the jurisdictional issue raised in the present petition is resolved. Moreover, the writ of

²⁸ Llamzon vs. Logronio, et al., 525 SCRA 691 (2007)

²⁹ p. 65, Rollo

³⁰ pp. 340-341, Ibid.

³¹ p. 439, Ibid.

preliminary injunction was meant to prevent the final judgment in the present petition from becoming moot and academic.³²

Accordingly, to prevent the Court's judgment in the main case from becoming moot and academic, the writ of preliminary injunction remained effective during the pendency of this petition. And to avoid piecemeal resolutions, considering that private respondents' motion for reconsideration (re: Resolution dated September 24, 2007) and the main petition became ripe for the Court's resolution almost at the same time after the submission of petitioner's opposition to the motion for reconsideration and the parties' memoranda, the motion for reconsideration was considered submitted for resolution together with the main petition.

Petitioner argues that the trial court did not acquire jurisdiction over the amended complaint and gravely abused its discretion when it admitted the amended complaint despite private respondents' failure to pay the correct docket fees based on the original complaint. Allegedly, the amount of damages claimed by private respondents in the original complaint totalled P487,500,000.00 and hence, the amount of docket fees is estimated at more than P9,000,000.00, which is nowhere near the amount paid by private respondents.³³ Petitioner relies heavily on the ruling of Manchester Development Corporation vs. Court of Appeals,³⁴ wherein it was held that a case is deemed filed only upon payment of the docket fees and the amendment of the complaint will not cure the infirmity of the original complaint over which the trial court has not acquired jurisdiction for non-payment of the correct docket fees.

Private respondents, on the other hand, claim that the trial court acquired jurisdiction over the case below which is a class suit and hence, the claim for damages is a lump sum claim for the whole class. If at all, there was a mistake in the original complaint in asking for damages for each of private respondents, which mistake

³² p. 485, Ibid.

³³ pp. 65-66 Ibid.

³⁴ 149 SCRA 562 (1987)

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was sought to be corrected in the amended complaint and did not detract from the premise that the complaint was a class suit.³⁵

The Manchester ruling relied upon by petitioner does not apply in the present case. In Manchester, the amount of over P78 million was alleged in the body of the original complaint for damages and specific performance, but the specific amount of damages was omitted in the prayer. Thus, the docket clerk assessed the filing fee of P410.00 on the basis of the prayer of the complaint which was treated merely as one for specific performance and not capable of pecuniary estimation. The under-assessment of the filing fee was brought to the attention of the Supreme Court and an investigation was conducted. Meantime, plaintiff filed a motion for leave to file an amended complaint. Thereafter, the Supreme Court ordered the re-assessment of the docket fee and the trial court directed the plaintiff to rectify the amended complaint by indicating the amounts they were asking for. Hence, plaintiff specified the amount of damages in the body of the amended complaint in the reduced amount of P10,000,000.00, but still no amount of damages was specified in the prayer. Evidently, there was an effort "to evade the payment of the correct filing fees if not to mislead the docket clerk in the assessment of the filing fee." As the Supreme Court held:

xxx. As maybe gleaned from the allegations of the complaint as well as the designation thereof, it is both an action for damages and specific performance. The docket fee paid upon filing of complaint in the amount only of P140.00 by considering the action to be merely one for specific performance where the amount involved is not capable of pecuniary estimation is obviously erroneous. Although the total amount of damages sought is not stated in the prayer of the complaint yet it is spelled out in the body of the complaint totaling in the amount of P78,750,000.00 which should be the basis of assessment of the filing fee.

³⁵ pp. 470-471, Rollo

DECISION

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4. When this under-assessment of the filing fee in this case was brought to the attention of this Court together with similar other cases an investigation was immediately ordered by the Court. Meanwhile plaintiff through another counsel with leave of court filed an amended complaint on September 12, 1985 for the inclusion of Philips Wire and Cable Corporation as co-plaintiff and by eliminating any mention of the amount of damages in the body of the complaint. The prayer in the original complaint was maintained. After this Court issued an order on October 15, 1985 ordering the re-assessment of the docket fee in the present case and other cases that were investigated, on November 12, 1985 the trial court directed plaintiffs to rectify the amended complaint by stating the amounts which they are asking for. It was only then that plaintiffs specified the amount of damages in the body of the complaint in the reduced amount of P10,000,000.00. Still no amount of damages were specified in the prayer. Said amended complaint was admitted.

X X X

X X X

X X X

In the present case no such honest difference of opinion was possible as the allegations of the complaint, the designation and the prayer show clearly that it is an action for damages and specific performance. The docketing fee should be assessed by considering the amount of damages as alleged in the original complaint.

As reiterated in the Magaspi case the rule is well-settled "that a case is deemed filed only upon payment of the docket fee regardless of the actual date of filing in court." Thus, in the present case the trial court did not acquire jurisdiction over the case by the payment of only P410.00 as docket fee. Neither can the amendment of the complaint thereby vest jurisdiction upon the Court. For all legal purposes there is no such original complaint that was duly filed which could be amended. Consequently, the order admitting the amended complaint and all subsequent proceedings and actions taken by the trial court are null and void.

DECISION

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The Court of Appeals therefore, aptly ruled in the present case that the basis of assessment of the docket fee should be the amount of damages sought in the original complaint and not in the amended complaint.

The Court cannot close this case without making the observation that it frowns at the practice of counsel who filed the original complaint in this 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. This is 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. x x x.³⁶

In the present case, no such clear intent to evade payment of the correct docket fees can be attributed to private respondents. There was no omission of the amounts of damages in the prayer in the original complaint and private respondents paid the docket fees based on the assessment by the Clerk of Court. Since private respondents explicitly alleged in the complaint that they filed the case "on their own behalf and acting as class suit representatives of fellow members of the Philippine press,"³⁷ they subsequently filed the amended complaint "to make the words of the complaint conform squarely with the intention of the plaintiffs to claim damages for the Philippine press as a unified institution."³⁸

Then again, rules of procedure are liberally construed pursuant to Section 6, Rule 1, 1997 Rules of Civil Procedure which reads:

SEC. 6. *Construction.* - These Rules shall be liberally construed in order to promote their objective of securing a just,

³⁶ Manchester Development Corporation vs. Court of Appeals, *supra*.

³⁷ p. 245, Rollo

³⁸ p. 361, Ibid.

DECISION

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speedy and inexpensive disposition of every action and proceeding.

Apropos is Carolina Villena vs. Romeo Rupisan, et al., 520 SCRA 346 (2007), wherein the Supreme Court cited several exceptions to the rules of procedure as to payment of docket fees, as follows:

In all, what emerges from all of the above is that the rules of procedure in the matter of paying the docket fees must be followed. However, there are exceptions to the stringent requirement as to call for a relaxation of the application of the rules, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. xxx (Underlining supplied)

Moreover, at this point of the proceedings, the filing of the amended complaint cannot be said to have been attended with bad faith, for a determination of bad faith is factual in nature which cannot be presumed but must be proved by clear and convincing evidence.³⁹ As held:

³⁹ Arenas vs. Court of Appeals, 345 SCRA 617 (2000)

DECISION

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Contrastingly, in *Magat, Jr. v. Court of Appeals*, the Court explained that "[b]ad faith does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of wrong. It means a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud." In *Arenas v. Court of Appeals*, the Court held that the determination of whether one acted in bad faith is evidentiary in nature. Thus, "[s]uch acts (of bad faith) must be substantiated by evidence." Indeed, the unbroken jurisprudence is that "[b]ad faith under the law cannot be presumed; it must be established by clear and convincing evidence."⁴⁰

Precisely, the trial court is subjecting the matter to a preliminary hearing of the affirmative defenses, including the defense of lack of jurisdiction of the trial court for non-payment of the court docket fees, so that the parties will be afforded the opportunity to be heard on their respective positions. It is in the preliminary hearing on the affirmative defenses where petitioner may present evidence to prove his allegation that "the gross and repetitive inconsistencies in their (private respondents) claims belie their claim of good faith."⁴¹ The trial court may also order the re-assessment of the docket fees and if there is any deficiency, it shall order private respondents to pay the same within a reasonable period which should not go beyond the applicable reglementary or prescriptive period. It is only upon the non-payment of the correct amount of docket fees within the applicable prescriptive or reglementary period that the dismissal of the case will be warranted. As the trial court ruled:

In addition to the issue of jurisdiction arising from the dispute over the sufficiency or insufficiency of the docket fees paid, the Court believes that considerations of practicality dictate that subjecting the same to a preliminary hearing is the better

⁴⁰ Spouses Avelino and Exaltacion Salera vs. Spouses Celedonio and Policronia Rodaje, 530 SCRA 432 (2007)

⁴¹ pp. 574-576, Rollo

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course of action to take for the parties as all of them will be afforded likewise the opportunity to confer with the Office of the Clerk of Court which under A.M. No. 04-2-04 of the Supreme Court is tasked to collect, trained as it is to assess, the correct filing fees.

Additionally, the aforesaid reverse trial that comes as an offshoot of a preliminary hearing will likewise bring to the fore evidence of the plaintiffs' alleged statement that this case is just a "social experiment" as stated by the defendant in his Answer. Needless to state, an earlier resolution also of this point will help the Court determine the presence or absence of a justiciable issue.

As to the plaintiffs' Motion to Amend the Complaint, liberality in allowing amendments in the early stages of a lawsuit persuade this Court to grant the same. The claim that this Court has no jurisdiction due to the inability to pay the correct docket fees, and hence there is nothing to amend, is yet to be addressed during the preliminary hearing. Moreover, case law on the matter has clarified enough that the Court can subsequently direct the payment of the correct docket fees within a reasonable period, thus, abandoning the former view that failure to pay the correct fees ousts a court of its jurisdiction.⁴² (Underscoring supplied)

Significantly, in Socorro Abella Soriano, et al. vs. Court of Appeals, et al., 363 SCRA 729 (2001), the Supreme Court applied a more liberal interpretation of the rules and held that payment of insufficient filing fees did not automatically mean an intent to defraud the government. Thus:

Effect of Non-Payment of Filing Fees in Full

We agree with the Court of Appeals that when insufficient filing fees were initially paid by Deogracias and Rosalina, there was no intention to defraud the government, hence, the ruling in

⁴² pp. 438-439, Ibid.

DECISION

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Manchester Development Corporation v. Court of Appeals does not apply. Deogracias and Rosalina merely paid the amount of the docket fees computed by the Clerk of Court. They were in good faith and relied on the assessment of the Clerk of Court. This is a finding of fact which the Court of Appeals carefully made. In the absence of abuse of discretion, we shall not disturb the same.

In *Sun Insurance Office, Ltd. v. Asuncion*,⁴³ the issue was whether or not the court acquired jurisdiction over the case even if the docket fee paid was not sufficient. This Court ruled that since the petitioners did not intend to defraud the government by paying insufficient docket fees, a more liberal interpretation of the rules should apply. In *Sun Insurance Office, Ltds., v. Asuncion*, private respondent, like Deogracias and Rosalina in the case at bar, demonstrated willingness to abide by the rules by paying the additional docket fees as required. Thus, the Court concluded that the trial court was vested with jurisdiction and consequently stated the following rules:

"1. It is not simply the filing of the complaint of 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.

xxx

xxx

xxx

"3. Where the trial court acquired 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 the determination of the court, the additional filing fee 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 filing fee (*italics ours*)."

⁴³ 170 SCRA 274 (1989)

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In *Ng Soon v. Alday*, this Court stated that the initial payment of the filing fees corresponding to the estimated amount of the claim is allowed subject to the adjustment of what may be proved later. If what is proved (amount of claims for damages) is less than what is claimed, then a refund may be made; if more, additional fees will be exacted. The rule comes into play when the situation found in *Manchester Development Corporation v. Court of Appeals* (i.e., intention to defraud the government) is absent.

Also apropos is Proton Pilipinas Corporation vs. Banque National de Paris, 460 SCRA 260 (2005), wherein the Supreme Court found that the docket fees paid by private respondent therein were insufficient but this notwithstanding, the Supreme Court reiterated its earlier ruling in Heirs of Bertuldo Hinog vs. Hon. Achilles Melicor,⁴⁴ that non-payment of the proper docket fees at the time of filing does not automatically warrant the dismissal of the case, as long as the fee is paid within the applicable prescriptive or reglementary period. Thus:

In fine, the docket fees paid by respondent were insufficient.

With respect to petitioner's argument that the trial court did not acquire jurisdiction over the case in light of the insufficient docket fees, the same does not lie.

True, in *Manchester Development Corporation v. Court of Appeals*, this Court held that the court acquires jurisdiction over any case only upon the payment of the prescribed docket fees, hence, it concluded that the trial court did not acquire jurisdiction over the case.

It bears emphasis, however, that the ruling in *Manchester* was clarified in *Sun Insurance Office, Ltd. (SIOL) v. Asuncion* when this Court held that in the former there was clearly an effort to defraud the government in avoiding to pay the correct docket fees,

⁴⁴ 455 SCRA 460 (2005)

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whereas in the latter the plaintiff demonstrated his willingness to abide by paying the additional fees as required.

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.

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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. (Emphasis and underscoring supplied)

The ruling in *Sun Insurance Office* was echoed in the 2005 case of *Heirs of Bertuldo Hinog v. Hon. Achilles Melicor*.

Plainly, while the payment of the prescribed docket fee is a jurisdictional requirement, even its non-payment at the time of filing does not automatically cause the dismissal of the case, as long as the fee is paid within the applicable prescriptive or reglementary period, more so when the party involved demonstrates a willingness to abide by the rules prescribing such payment. **Thus, when insufficient filing fees were initially paid by the plaintiffs and there was no intention to defraud the government, the Manchester rule does not apply.** (Emphasis and underscoring supplied; citations omitted)

In the case at bar, respondent merely relied on the assessment made by the clerk of court which turned out to be incorrect. Under the circumstances, the clerk of court has the responsibility of reassessing what respondent must pay within the prescriptive period, failing which the complaint merits dismissal. (Underlining supplied)

Further, petitioner argues that the present complaint is not a class suit as it falls short of its requisites, namely: (i) that the subject matter of the controversy is one of common or general interest to many persons, and (ii) the parties are so numerous that it is impracticable to bring them all before the court. Allegedly, there are

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two (2) classes of plaintiffs below, those petitioner had sued for libel and those he had not. Petitioner posits that while the first group may have a colorable cause of action against petitioner, the same does not hold true with the second group.⁴⁵

Again, the matter of whether the case below is a class suit, is yet to be tackled in the preliminary hearing on the affirmative defenses. This is one of the defenses raised by petitioner in his answer⁴⁶ and it was petitioner who sought a preliminary hearing thereon. In fact, petitioner does not seek a total restraint of the proceedings before the trial court, as he even prays that "this Honorable Court order respondent Judge to proceed with the preliminary hearing on the affirmative Defenses based on the *original* Complaint."⁴⁷ Hence, petitioner's affirmative defense of absence of requisites of class suit will not be resolved in the present petition for certiorari, as the Court's authority to resolve cannot go beyond issues of lack of jurisdiction and grave abuse of discretion.

Then again, certiorari under Rule 65, 1997 Rules of Civil Procedure will lie only where grave abuse of discretion tantamount to lack of jurisdiction is clearly shown.⁴⁸ The existence of grave abuse of discretion must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.⁴⁹ The alleged grave abuse of discretion in the issuance of the Order dated March 16, 2007 is wanting in this case.

⁴⁵ pp. 577-579, Rollo

⁴⁶ pp. 337-338, Ibid.

⁴⁷ p. 581, Ibid.

⁴⁸ *Punongbayan vs. Punongbayan*, 446 SCRA 100 (2004)

⁴⁹ *Vda. de Daffon vs. Court of Appeals*, 387 SCRA 427, 435 (2000)

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WHEREFORE, the petition is denied for lack of merit. Accordingly, the writ of preliminary injunction is lifted and the case remanded to the trial court which is ordered to conduct further proceedings with dispatch.

SO ORDERED.

ORIGINAL SIGNED
FERNANDA LAMPAS PERALTA
Associate Justice

WE CONCUR:

ORIGINAL SIGNED
EDGARDO P. CRUZ
Associate Justice

ORIGINAL SIGNED
NORMANDIE B. PIZARRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ORIGINAL SIGNED
EDGARDO P. CRUZ
Associate Justice
Chairman, Seventh Division