

## FIRST DIVISION

**[ G.R. No. 160067, November 17, 2010 ]**

**NELSON IMPERIAL, ET AL., PETITIONERS, VS. MARICEL M. JOSON, ET AL. RESPONDENTS.**

**[G.R. NO. 170410 ]**

**SANTOS FRANCISCO PETITIONERS, VS. SPS. GERARD AND MARICEL JOSON RESPONDENTS.**

**[G.R. NO. 171622]**

**NELSON IMPERIAL, ET AL., PETITIONERS, VS. HILARION FELIX, ET AL., RESPONDENTS.**

### D E C I S I O N

**PEREZ, J.:**

Filed pursuant to Rule 45 of the *1997 Rules of Civil Procedure*, the consolidated petitions for review on *certiorari* at bench primarily assail the decisions rendered in the following cases, *viz.*: (a) Decision dated 4 September 2003 of the then Tenth Division of the Court of Appeals (CA) in CA-G.R. SP. No. 74030;<sup>[1]</sup> (b) Decision dated 26 October 2005 of said Court's then Special Eighth Division in CA-G.R. No. 81262;<sup>[2]</sup> and, (c) Decision dated 17 February 2006 of the same Court's then Special Sixth Division in CA-G.R. No. 87906.<sup>[3]</sup>

#### ***The Facts***

At or about 2:00 o'clock in the morning of 11 May 2001, along the portion of the National Highway in Barangay Concepcion, Sariaya, Quezon, an Isuzu ten-wheeler truck collided with a Fuso six-wheeler truck. Owned by petitioner Nelson Imperial, the Isuzu ten-wheeler truck was then being driven by petitioner Santos Francisco, while the Fuso six-wheeler truck was driven by respondent Santiago Giganto, Jr. who was, at the time, accompanied by a helper or *pahinante*, respondent Samuel Cubeta. After colliding with the Fuso six-wheeler truck, the Isuzu ten-wheeler truck further rammed into a Kia Besta Van which was, in turn, being driven by respondent Arnel Lazo. The KIA Besta Van was owned by Noel Tagle who was then on board said vehicle, together with the following passengers, namely, Gloria, Jonathan, Jaypee, Jervin, Jerald and Lydia, all surnamed Felix; Marvin, Martin and Jan-Jon, all surnamed Sadiwa; Antonio Landoy; and, respondents Evelyn Felix, and Jasmin Galvez.<sup>[4]</sup>

There were multiple damages on the vehicles. Much more tragic than that, the accident resulted in the death of Noel Tagle, the owner of the KIA Besta Van, and seven of its passengers, namely, Gloria, Jonathan, Jaypee, Jervin, Jerald and Lydia,

all surnamed Felix; and, Antonio Landoy. Although they survived the mishap, on the other hand, respondents Arnel Lazo, Evelyn Felix and Jasmin Galvez all suffered serious physical injuries and were immediately brought to the nearest hospital for treatment.

As a consequence of the collisions, a criminal complaint for Reckless Imprudence Resulting to Multiple Homicide, Multiple Serious Physical Injuries and Damage to Property was filed against petitioners Santos Francisco and Noel Imperial on 16 May 2001. The case was docketed as Criminal Case No. 01-99 before the Municipal Trial Court (MTC) of Sariaya, Quezon.<sup>[5]</sup>

On 3 July 2001, a complaint for damages was also filed by petitioners Francisco and Imperial against respondents Giganto and Cubeta, the driver and *pahinante* of the Fuso six-wheeler truck, respondent Leticia Pedraja, its alleged registered owner, and respondent Maricel Joson, its alleged present owner. Anchored on the supposed fact that the accident was caused by the recklessness and gross negligence of respondent Giganto, the complaint was docketed as Civil Case No. 2001-0296 before Branch 22 of the Regional Trial Court (RTC) of Naga City. In turn alleging that the mishap was attributable to the negligence of the driver of the Isuzu ten-wheeler truck, respondent Giganto joined respondent Maricel Joson and her husband, respondent Gerard Ferdinand Joson, in filing against petitioners Francisco and Imperial the complaint for damages docketed as Civil Case No. 8314 before Branch 82 of the Metropolitan Trial Court (MeTC) of Valenzuela City.<sup>[6]</sup>

On 6 August 2001, respondents Giganto and Spouses Joson moved for the dismissal of Civil Case No. 2001-0296 before the Naga RTC, on the ground of *litis pendentia*. Invoking the "interest of justice rule", said respondents argued that Civil Case No. 8314 before the Valenzuela MeTC should be maintained despite petitioners' earlier filing of their complaint for damages before the Naga RTC. Likewise invoking *litis pendentia* and relying on the earlier filing of their complaint, on the other hand, petitioners filed a motion dated 28 September 2001, seeking the dismissal of the complaint for damages respondents Giganto and Spouses Joson filed against them before the Valenzuela MeTC. In a supplement to their motion to dismiss dated 4 February, 2002, however, respondents Giganto and the Spouses Joson argued that it was the case before the Naga RTC which should be dismissed since petitioners not only failed to implead their respective spouses and that of respondent Pedraja but had already received payment from their insurer, the Standard Insurance Company, Inc., for the damages sustained by the Isuzu ten-wheeler truck.<sup>[7]</sup>

With the Valenzuela MeTC's 28 February 2002 dismissal of the complaint filed against them by respondents Giganto and Spouses Joson, petitioners amended their complaint before the Naga RTC for the purpose of impleading the following additional defendants: (a) the respective spouses of respondents Giganto, Cubeta, Maricel Joson and Leticia Pedraja; (b) the driver of the KIA Besta Van, respondent Lazo; and (c) the surviving spouse of the registered owner thereof, respondent Agnes Tagle. In said amended complaint, petitioners averred, among other matters, that the vehicular accident was caused by negligence of respondents Giganto and Lazo, the drivers of the Fuso six-wheeler truck and the KIA Besta Van, respectively. In a motion dated 16 March 2002, however, respondents Giganto and Spouses Joson sought the reconsideration of the dismissal of their complaint by the Valenzuela MeTC on the ground that petitioners' claim of priority was effectively discounted by

the fact that their amended complaint in Civil Case No. 2001-0296 did not retroact to the date of filing of their original complaint before the Naga RTC.<sup>[8]</sup>

In the meantime, respondents Lazo, Tagle, Felix and Galvez joined respondents Gregorio Felix and Antonio Landoy, the heirs/relatives of the deceased passengers of the KIA Besta Van, in filing a complaint for damages against petitioners on 13 September 2001. Docketed as Civil Case No. 01-0325 before Branch 74 of the RTC of Parañaque City, said complaint asseverated that petitioner Francisco's negligence was the direct and proximate cause of the mishap. In a motion filed on 19 November 2001 before the Parañaque RTC, however, petitioners sought the dismissal of said complaint in view of the complaints for damages then still pending before the Naga RTC and the Valenzuela MeTC. In turn utilizing the pendency of Civil Case No. 01-0325 before the Parañaque RTC alongside their complaint before the Valenzuela MeTC, respondents Giganto and Spouses Joson filed a motion dated 18 March 2002 praying for the dismissal of petitioners' amended complaint before the Naga RTC on the ground of *litis pendentia*.<sup>[9]</sup>

On 2 August 2002, the Naga City RTC issued an order dismissing petitioners' amended complaint on the ground that the same was barred by the complaint for damages filed against them before the Parañaque RTC. Differentiating said pleading from a supplemental pleading which only serves to bolster or add something to a primary pleading, the Naga RTC ruled that petitioners' amended complaint supplanted and did not retroact to the time of their original complaint.<sup>[10]</sup> Subsequent to the Naga RTC's 16 September 2002 denial of petitioners' motion for reconsideration of the foregoing order,<sup>[11]</sup> the Valenzuela MeTC went on to issue an order dated 30 September 2002 reconsidering its earlier dismissal of Civil Case No. 8314 and requiring petitioners to file their answer to the complaint filed by respondents Giganto and the Spouses Joson. <sup>[12]</sup> In view of the Parañaque RTC's further issuance of the 7 October 2002 order denying their motion to dismiss Civil Case No. 01-0325,<sup>[13]</sup> petitioners assailed all of the foregoing orders in the petition for certiorari and prohibition docketed before the CA as CA-G.R. SP No. 74030.<sup>[14]</sup>

On 4 September 2003, the CA's then Tenth Division issued a decision in CA-G.R. SP No. 74030 to the following effect: (a) nullifying the Valenzuela MeTC's 30 September 2002 order which reinstated Civil Case No. 8314; (b) affirming the 2 August 2002 and 16 September 2002 orders issued by the Naga RTC which dismissed petitioners' amended complaint in Civil Case No. 2001-0296 on the ground of *litis pendentia*; and, (c) affirming the Parañaque RTC's 7 October 2002 order denying petitioners' motion to dismiss Civil Case No. 01-0325. Finding that the damages in the aggregate sum of P576,876.03 asserted by respondents Giganto and Spouses Joson in Civil Case No. 8314 were beyond the jurisdictional amount then cognizable by the Valenzuela MeTC, the CA Tenth Division ruled that no grave abuse of discretion can be imputed against the Naga RTC and the Parañaque RTC whose combined orders gave premium to Civil Case No. 01-0325 over Civil Case No. 2001-0296. In the absence of proof that the greater number of cases pending thereat would actually result in the violation of petitioners' right to a speedy trial, the jurisdiction of the Parañaque RTC was upheld with the added ground that it was the venue most accessible to majority of the parties.<sup>[15]</sup>

Aggrieved, petitioners assailed the foregoing order in the 9 November 2003 petition

for review on *certiorari* docketed before this Court as G.R. No. 160067.<sup>[16]</sup> In the meantime, the Sariaya MTC proceeded to conduct the mandatory pre-trial conference in Criminal Case No. 01-99 after petitioner Francisco entered a plea of not guilty at the arraignment scheduled in the case.<sup>[17]</sup> Thru his counsel, Atty. Aristotle Dominguez, petitioner Francisco proposed the following facts for stipulation with the prosecution, to wit:

"(a) that the assistant public prosecutor had told the undersigned counsel inside the courtroom during a court break[sic] (upon undersigned's inquiry) that he had already interviewed Arnel Lazo (the driver of the Besta Van carrying the people who were injured and several others who eventually died);

(b) That Arnel Lazo declared during said interview to Prosecutor Zabella that, as opposed to the affidavits of the driver and 'pahinante' of the FUSO 6-wheeler truck, Arnel Lazo clearly saw the driver of the FUSO 6-wheeler truck attempt an overtake, which attempt was rendered unsuccessful because it was hit by the on-coming 10-wheeler truck driven by the accused herein; and

(c) that for some reason, (the) prosecutor did not and still does not believe the version of events as declared to him by Arnel Lazo in that interview."<sup>[18]</sup>

In view of Prosecutor Rodolfo Zabella, Jr.'s refusal to stipulate on the foregoing matters, the Sariaya MTC went on to issue a pre-trial order dated 14 August 2001 stating, in part, that *"1. Atty. Dominguez made a proposal for stipulation and admission to the effect that sometime after the arraignment of the accused, he (Atty. Dominguez) was able to talk and interview Arnel Lazo, the driver of the Besta Van who admitted to him that it was his 6-wheeler truck which attempted to overtake another vehicle thereby causing the vehicular (accident) subject of the instant case. The Public Prosecutor did not agree."*<sup>[19]</sup> As a consequence, petitioner Francisco filed on 30 August 2001 a motion styled as one "to compel and disqualify Prosecutor Zabella and to correct the pre-trial order" on the ground that the latter cannot refuse to stipulate on matters of which he has personal knowledge and that the Judge's recollection of the proposed stipulation was different from that actually proposed.<sup>[20]</sup> With the Sariaya MTC's denial of said motion in an order dated 18 October 2001,<sup>[21]</sup> petitioner Francisco filed a motion for reconsideration on 19 November 2001.<sup>[22]</sup>

On 9 January 2002, the Sariaya MTC issued an order which, while denying petitioner Francisco's motion for reconsideration, directed that the pre-trial conference be set anew in view of the reassignment of the case to Prosecutor Francis Sia and the appearance of a new private prosecutor in the case.<sup>[23]</sup> Dissatisfied, petitioner Francisco filed on 1 April 2002 the petition for certiorari, prohibition and mandamus docketed as Civil Case No. 2002-37 before Branch 58 of the Lucena City RTC. Likewise contending that the nine postponements of the pre-trial conference in Criminal Case No. 01-99 were capricious, vexatious and oppressive, petitioner Francisco further moved for the dismissal of the case on 14 March 2004, on the

ground that his constitutional right to a speedy trial had been violated. Upon the Sariaya MTC's 17 April 2002 denial of said motion as well as the motion for reconsideration he subsequently interposed, petitioner Francisco filed yet another petition for certiorari and prohibition which was docketed as Civil Case No. 2002-90 before Branch 58 of the Lucena RTC and, later, consolidated with Civil Case No. 2002-37.<sup>[24]</sup>

On 23 June 2003, the Lucena RTC rendered a consolidated decision in Civil Case Nos. 2002-37 and 2002-90, dismissing petitioner Francisco's petitions for *certiorari*, prohibition and mandamus for lack of merit.<sup>[25]</sup> Elevated by petitioner Francisco to the CA via the petition for certiorari thereat docketed as CA-G.R. SP No. 81262, said decision was upheld in the 26 October 2005 decision rendered in the case by said court's then Special Eighth Division.<sup>[26]</sup> Brushing aside the grave abuse of discretion petitioner Francisco imputed against the Lucena RTC, the CA ruled that: (a) the pre-trial order cannot be corrected in the absence of evidence of the error supposedly reflected therein; (b) the Public Prosecutor cannot be compelled to enter into any stipulation that would substantially affect the theory of the prosecution; and, (c) the postponements of the hearings *a quo* were brought about by the assignment of at least three Public Prosecutors to the case and cannot, therefore, be considered capricious and violative of petitioner Francisco's right to a speedy trial.<sup>[27]</sup> Undaunted, the latter filed the petition for review on certiorari docketed before this Court as G.R. No. 170410.<sup>[28]</sup>

In Civil Case No. 01-0325, on the other hand, petitioners Francisco and Imperial filed with the Parañaque RTC their 14 December 2002 answer, with motion to admit the third-party complaint therein incorporated against respondents Pedraja, Joson, Giganto, Cubeta and their respective spouses.<sup>[29]</sup> Upon receipt of the Parañaque RTC's 2 June 2003 order requiring them to pay the necessary filing and other docket fees relative to their third-party complaint,<sup>[30]</sup> petitioners filed a motion for reconsideration dated 17 June 2003, pleading as ground for non-payment of said fees the pendency of their petition for certiorari assailing, among other matters, the Naga RTC's dismissal of Civil Case No. 2001-0296.<sup>[31]</sup> Having issued the 14 November 2003 order holding petitioners' payment of the same fees in abeyance pending the final outcome of said petition for *certiorari*,<sup>[32]</sup> the Parañaque RTC, upon the motion dated 20 May 2004 filed respondents Felix, Galvez, Tagle, Lazo and Landoy,<sup>[33]</sup> issued the 8 June 2004 notice setting the case for pre-trial conference on 16 August 2004 and requiring the parties to file their pre-trial briefs.<sup>[34]</sup>

However, for failure of petitioners and their counsel to attend the pre-trial conference and to file their pre-trial brief, the Parañaque RTC issued the order dated 16 August 2004 authorizing respondents Hilarion and Gregorio Felix as well as respondents Tagle and Landoy to present their evidence *ex parte*. In said order, respondent Evelyn Felix was likewise declared non-suited alongside respondents Galvez and Lazo whose complaints were, as a consequence, dismissed without prejudice in view of their failure to attend the same pre-trial conference.<sup>[35]</sup> Aggrieved by the Parañaque RTC's 6 October 2004 denial of their motion for reconsideration of said order,<sup>[36]</sup> petitioners filed the petition for certiorari and prohibition which, under docket of CA-G.R. SP No. 87906, was subsequently denied for lack of merit in the 17 February 2006 Decision eventually rendered by CA's then