

## SECOND DIVISION

[ G.R. NO. 151900, August 30, 2005 ]

**CHRISTINE CHUA, PETITIONER, VS. JORGE TORRES AND  
ANTONIO BELTRAN, RESPONDENTS.**

### D E C I S I O N

**TINGA, J.:**

The Court settles an issue, heretofore undecided, on whether the absence of the signature in the required verification and certification against forum-shopping of a party misjoined as a plaintiff is a valid ground for the dismissal of the complaint. We rule in the negative.

The relevant facts in this *Petition for Review* are culled from the records.

On 24 October 2001, a complaint for damages was lodged before the Regional Trial Court (RTC) of Caloocan City, Branch 126.<sup>[1]</sup> The complaint was filed by Christine Chua, herein petitioner, impleading her brother Jonathan Chua as a necessary co-plaintiff. Named as defendants in the suit were herein respondents Jorge Torres and Antonio Beltran. Torres was the owner of the 9th Avenue Caltex Service Center (Caltex Service Center), while Beltran was an employee of the said establishment as the head of its Sales and Collection Division.<sup>[2]</sup>

The complaint alleged that on 3 April 2000, Jonathan Chua issued in favor of the Caltex Service Center his personal Rizal Commercial Banking Corporation (RCBC) Check No. 0412802 in the amount of Nine Thousand Eight Hundred Forty Nine Pesos and Twenty Centavos (P9,849.20) in payment for purchases of diesel oil. However, the check was dishonored by the drawee bank when presented for payment on the ground that the account was closed. Beltran then sent petitioner a demand letter informing her of the dishonor of the check and demanding the payment thereof. Petitioner ignored the demand letter on the ground that she was not the one who issued the said check.

Without bothering to ascertain who had actually issued the check, Beltran instituted against petitioner a criminal action for violation of Batas Pambansa Bilang 22 (B.P. 22). Subsequently, a criminal information was filed against petitioner with the Metropolitan Trial Court (MTC) of Caloocan City, Branch 50.<sup>[3]</sup> The MTC then issued a warrant of arrest against petitioner. The police officers tasked with serving the warrant looked for her in her residence, in the auto repair shop of her brother, and even at the Manila Central University where she was enrolled as a medical student, all to the alleged embarrassment and "social humiliation" of petitioner.<sup>[4]</sup>

Beltran's purported negligence amounted to either malicious prosecution or serious defamation in prosecuting petitioner resulting from the issuance of a check she herself did not draw, and served cause for a claim of moral damages. On the other

hand, Torres, as employer of Beltran, was alleged to have failed to observe the diligence of a good father of the family to prevent the damage suffered by petitioner. Exemplary damages and attorney's fees were likewise sought, thus bringing the aggregate total of damages claimed to Two Million Pesos (P2,000,000.00), plus costs of suit.<sup>[5]</sup>

Significantly, while Jonathan Chua was named as a plaintiff to the suit, it was explicitly qualified in the second paragraph of the complaint that he was being "impleaded here-in as a necessary party-plaintiff".<sup>[6]</sup> There was no allegation in the complaint of any damage or injury sustained by Jonathan, and the prayer therein expressly named petitioner as the only party to whom respondents were sought to recompense.<sup>[7]</sup> Neither did Jonathan Chua sign any verification or certification against forum-shopping, although petitioner did sign an attestation, wherein she identified herself as "the principal plaintiff".<sup>[8]</sup>

Upon motion of respondents, the RTC ordered the dismissal of the complaint<sup>[9]</sup> on the ground that Jonathan Chua had not executed a certification against forum-shopping. The RTC stressed that Section 5, Rule 7 of the Rules of Civil Procedure, the rule requiring the

certification, makes no distinction whether the plaintiff required to execute the certification is a principal party, a nominal party or a necessary party. Instead, the provision requires that a plaintiff or principal party who files a complaint or initiatory pleading execute such certification. Jonathan Chua, being a plaintiff in this case, was obliged to execute or sign such certification.<sup>[10]</sup> Hence, his failure to do so in violation of the mandatory rule requiring the certification against forum-shopping constituted valid cause for the dismissal of the petition.<sup>[11]</sup>

After the RTC denied the motion for reconsideration<sup>[12]</sup> lodged by petitioner, the matter was elevated directly to this Court by way of petition for review under Rule 45, raising a purely legal question,<sup>[13]</sup> cast, if somewhat unwieldily, as "whether or not a co-plaintiff impleaded only as a necessary party, who however has no claim for relief or is not asserting any claim for relief in the complaint, should also make a certification against forum shopping."<sup>[14]</sup>

Preliminarily, it bears noting that Jonathan Chua did not sign as well any verification to the complaint, ostensibly in violation of Section 7, Rule 4 of the Rules of Civil Procedure. The RTC failed to mention such fact, as does petitioner in her present petition. In their arguments before this Court, respondents do refer in passing to the verification requirement<sup>[15]</sup>, but do not place any particular focus thereto. The verification requirement is separate from the certification requirement.<sup>[16]</sup> It is noted that as a matter of practice, the verification is usually accomplished at the same time as the certification against forum-shopping; hence the customary nomenclature, "Verification and Certification of Non Forum-Shopping" or its variants. For this reason, it is quite possible that the RTC meant to assail as well the failure of Jonathan Chua to verify the complaint.

The verification requirement is significant, as it is intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the

imagination or a matter of speculation, and that the pleading is filed in good faith.<sup>[17]</sup> The absence of a proper verification is cause to treat the pleading as unsigned and dismissible.<sup>[18]</sup> It would be as well that the Court discuss whether under the circumstances, Jonathan Chua is also required to execute a verification in respect to petitioner's complaint.

Having established the proper parameters of the petition, we proceed to the core issues. We find the petition has merit, although we appreciate the situation differently from petitioner. Our decision proceeds from the fundamental premise that Jonathan Chua was misjoined as a party plaintiff in this case.

It is elementary that it is only in the name of a real party in interest that a civil suit may be prosecuted.<sup>[19]</sup> Under Section 2, Rule 3 of the Rules of Civil Procedure, a real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. "Interest" within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.<sup>[20]</sup> One having no right or interest to protect cannot invoke the jurisdiction of the court as a party plaintiff in an action.<sup>[21]</sup> To qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to be enforced.<sup>[22]</sup>

The subject complaint does not allege any rights of Jonathan Chua violated by respondents, present any rights of his to be enforced, or seek in his behalf any rights to the avails of suit. In short, Jonathan claims nothing, and for nothing, in the subject complaint. If he alone filed the complaint, it would have been dismissed on the ground that the complaint states no cause of action, instituted as it was by a person who was not a real party in interest.

But was it proper for petitioner to have even impleaded Jonathan as a co-plaintiff in the first place? Petitioner alleged in her complaint that Jonathan was a necessary party, and remains consistent to that claim even before this Court. She however fails to demonstrate how Jonathan can be considered as a necessary party, other than by noting that he was "the one who really issued the check in controversy."<sup>[23]</sup> Such fact, if proven, may establish the malice of respondents in filing the criminal case against petitioner for violation of B.P. 22, but does not create the need to require Jonathan's participation as a necessary party.

Section 8, Rule 7 of the Rules of Civil Procedure defines a necessary party as "one who is not indispensable but who ought to be joined as a party if complete relief is to be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action."<sup>[24]</sup> Necessary parties are those whose presence is necessary to adjudicate the whole controversy, but whose interests are so far separable that a final decree can be made in their absence without affecting them.<sup>[25]</sup>

An example of a necessary party may be found in *Seno v. Mangubat*.<sup>[26]</sup> Petitioner therein sold her property through a deed of sale to three vendees. Two of the vendees then sold their shares to the third buyer, who then sold the property to another set of persons. Thereafter, petitioner, who claimed that the true intent of the

first sale was an equitable mortgage, filed a complaint seeking the reformation of the deed of sale and the annulment of the second sale. The question arose whether the two vendees who had since disposed of their shares should be considered as indispensable parties or necessary parties. In concluding that they were only necessary parties, the Court reasoned:

In the present case, there are no rights of defendants Andres Evangelista and Bienvenido Mangubat to be safeguarded if the sale should be held to be in fact an absolute sale nor if the sale is held to be an equitable mortgage. Defendant Marcos Mangubat became the absolute owner of the subject property by virtue of the sale to him of the shares of the aforementioned defendants in the property. **Said defendants no longer have any interest in the subject property. However, being parties to the instrument sought to be reformed, their presence is necessary in order to settle all the possible issues of the controversy.** Whether the disputed sale be declared an absolute sale or an equitable mortgage, the rights of all the defendants will have been amply protected. Defendants-spouses Luzame in any event may enforce their rights against defendant Marcos Mangubat.<sup>[27]</sup>

In *Seno*, the persons deemed by the Court as necessary parties may have had already disposed of their interests in the property. However, should the lower court therein grant the prayer for the reformation of the deed of sale, the ruling will undoubtedly have an effect on such parties, on matters such as the purchase price which they may have received, and on whatever transmission of rights that may have occurred between them and the vendor.

In contrast, Jonathan Chua does not stand to be affected should the RTC rule either favorably or unfavorably of the complaint. This is due to the nature of the cause of action of the complaint, which alleges an injury personal to petitioner, and the relief prayed for, which is to be adjudicated solely to petitioner. There is no allegation in the complaint alleging any violation or omission of any right of Jonathan, either arising from contract or from law.

It may be so that Jonathan may be called to testify by his sister, in order to prove the essential allegation that she did not issue the check in question, and perhaps such testimony would be vital to petitioner's cause of action. But this does not mean that Jonathan should be deemed a necessary party, as such circumstance would merely place him in the same class as those witnesses whose testimony would be necessary to prove the allegations of the complaint. But the fact remains that Jonathan would stand unaffected by the final ruling on the complaint. The judicial confirmation or rejection of the allegations therein, or grant or denial of the reliefs prayed for will not infringe on or augment any of his rights under the law. If there would be any effect to Jonathan of the RTC's ultimate decision on the complaint, it would be merely emotional, arising from whatever ties of kinship he may retain towards his sister, and no different from whatever effects that may be similarly sustained on petitioner's immediate family.

Since we are unconvinced by petitioner's basic premise that Jonathan was a necessary party, it is unnecessary to directly settle the issue as couched by petitioner of "whether or not a co-plaintiff impleaded only as a necessary party, who however has no claim for relief or is not asserting any claim for relief in the