

## FIRST DIVISION

[ G.R. No. 126640, November 23, 2000 ]

**SPOUSES MARCELO B. ARENAS AND ANITA T. ARENAS,  
PETITIONERS, VS. THE HON. COURT OF APPEALS, SPOUSES  
CONRADO S. ROJAS AND ROSALINA BAUZON ROJAS,  
RESPONDENTS.**

### D E C I S I O N

**PARDO, J.:**

#### The Case

The case is a petition for review<sup>[1]</sup> assailing the decision of the Court of Appeals,<sup>[2]</sup> reversing and setting aside the decision of the Regional Trial Court, Pangasinan, Branch 39, Lingayen,<sup>[3]</sup> dismissing petitioners' complaint for "Damages, Certiorari with a Writ of Preliminary Injunction and/or Restraining Order."

#### The Facts

Respondent Rosalina B. Rojas was the co-owner of a two-story building located in Calasiao, Pangasinan.<sup>[4]</sup>

Sometime in 1970, respondent Rojas entered into a verbal contract of lease with petitioner Marcelo B. Arenas over one stall located at the ground floor of the building, on a month to month basis. Petitioner Arenas used the leased premises as an optical clinic.<sup>[5]</sup>

In 1990, respondent Rojas wanted to demolish and reconstruct the building and terminated her lease contract with petitioner Arenas.

On November 19, 1990, respondents sent petitioners a notice of termination and a demand to vacate the premises on or before January 2, 1991.

However, petitioners refused to vacate the premises.

#### Civil Case No. 658

On June 18, 1991, respondent Rojas filed with the Municipal Trial Court, Calasiao, Pangasinan, a complaint<sup>[6]</sup> for "Unlawful Detainer and Damages" against petitioner Arenas. Respondent prayed **first**, that the petitioner be ordered to vacate the premises in question; **second**, that respondent be allowed to cause the demolition, reconstruction and renovation of the premises; and **third**, that petitioner be ordered to indemnify respondent damages in the form of litigation expenses and attorney's fees.

On June 28, 1991, petitioner Arenas filed his answer<sup>[7]</sup> to the complaint and counterclaim for moral damages amounting to P50,000.00, exemplary damages totaling P30,000.00 and attorney's fees, stating that the case was maliciously filed.

After trial, on August 29, 1991, the Municipal Trial Court, Calasiao, Pangasinan decided against petitioners, to wit:

"Premises considered, the Court hereby renders judgment in favor of the plaintiff and against the defendant by ordering the defendant:

"(a) to vacate the premises leased and occupied by him subject of this case;

"(b) to pay the plaintiff litigation expenses in the amount of P2,000.00 and attorney's fees in the amount of P10,000.00; and

"(c) to pay the costs of suit.

"Counterclaim of defendant is dismissed for lack of evidence."<sup>[8]</sup>

In due time, petitioner Arenas appealed the above-quoted decision to the Regional Trial Court, Dagupan City, Branch 44.<sup>[9]</sup>

The Regional Trial Court denied the appeal and affirmed the decision of the Municipal Trial Court *in toto*.

#### Civil Case No. 16890

On September 2, 1991, before petitioners Arenas received a copy of the decision in Civil Case No. 658, they filed with the Regional Trial Court, Pangasinan, Lingayen an action for "Damages, Certiorari with a Writ of Preliminary Injunction and/or Restraining Order" against respondents Rojas. We quote pertinent parts of the complaint:<sup>[10]</sup>

"3. That notwithstanding the existence of a contract between plaintiff Marcelo R. Arenas and defendant Rosanna Bauzon-Rojas (*sic*), for the use of said one door commercial stall, defendant Rosanna Bauzon Rojas (*sic*) filed a complaint for ejectment against plaintiff Marcelo R. Arenas, a copy of which is hereto attached as Annex "A" hereof;

xxx

xxx

xxx

"5. That after the filing of said complaint, defendants-spouses conspiring together as husband and wife caused the removal of the sign board in front (*sic*) of the clinic of plaintiffs and dumped gravel and sand in front (*sic*) of their stall and fenced off the same preventing the patients and customers of plaintiffs from coming in;

"6. That in order to force the ejectment of plaintiffs from their stall defendants cut off their electric connection;

"15. That due to the unlawful and malicious concerted acts of defendant spouses, plaintiffs suffered moral damages amounting to P200,000.00;

"16. That likewise plaintiffs suffered a net income loss of P50,000.00 at the rate of P5,000.00 per month;

"17. That similarly plaintiffs were constrained to engage the services of undersigned counsel for a fee of P25,000.00."

On September 4, 1991, the Regional Trial Court issued a temporary restraining order<sup>[11]</sup> enjoining the Municipal Trial Court, Calasiao, Pangasinan from hearing Civil Case No. 658. The temporary restraining order also directed respondents to cease and desist from "committing acts of disturbances" against the stall of petitioners.

On September 13, 1991, invoking the rule against "multiplicity of suits," respondents moved the trial court to dismiss the case.<sup>[12]</sup>

On September 26, 1991, the trial court denied the motion to dismiss for lack of merit.<sup>[13]</sup>

On October 16, 1991, respondents filed with the trial court their answer to the complaint with counterclaim,<sup>[14]</sup> reiterating their motion to dismiss with an alternative motion to suspend the proceedings for the reason that the pending appeal<sup>[15]</sup> raises a prejudicial question.

On December 23, 1991, the trial court issued a resolution<sup>[16]</sup> stating that it had jurisdiction to hear, try and decide Civil Case No. 16890.

On August 10, 1992, the trial court decided the case in favor of petitioners. The trial court reasoned: **First**, there was a tacit renewal of the lease and that the defendants (respondents) maliciously filed the ejectment case (Civil Case No. 658). **Second**, respondents' acts of "dumping gravel" and of placing a "no trespassing sign" in front of the stall rented by plaintiffs (petitioners) were done merely to harass petitioners and cause damage to their business. The trial court thus ordered:

"(1) Defendants to pay the plaintiffs actual damages in the amount of P50,000.00 representing unrealized earnings;

"(2) Defendants to pay the plaintiffs, moral and exemplary damages in the amount of P15,000.00;

"(3) Defendants to pay the plaintiffs, attorney's fees of P6,500.00 plus expenses of litigation of P3,000.00 and to pay the costs.

"SO ORDERED."<sup>[17]</sup>

On August 20, 1992, respondents appealed to the Court of Appeals.<sup>[18]</sup>

On June 10, 1996, the Court of Appeals rendered its decision<sup>[19]</sup> reversing that of the trial court and dismissing petitioner's complaint. The Court of Appeals reasoned that since petitioners interposed a counterclaim for moral and exemplary damages in Civil Case No. 658, they were barred from instituting Civil Case No. 16890. The Court of Appeals dismissed Civil Case No. 16890, as follows:

"WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE and the complaint filed by plaintiffs-appellees against defendants-appellants is hereby DISMISSED. With costs against plaintiffs-appellees.

"SO ORDERED."<sup>[20]</sup>

On June 27, 1996, petitioners filed with the Court of Appeals a motion for reconsideration.<sup>[21]</sup>

On September 12, 1996, the Court of Appeals denied petitioners' motion for reconsideration for lack of merit.<sup>[22]</sup>

Hence, this appeal.<sup>[23]</sup>

#### The Issue

The sole issue raised is whether the causes of action complained of in the Regional Trial Court<sup>[24]</sup> were in the nature of compulsory counterclaims that must be pleaded in Civil Case No. 658 of the Municipal Trial Court.

Petitioners argue that the acts complained of in Civil Case No. 16890 arose *after the filing of* the complaint and the answer in Civil Case No. 658. Thus, damages arising from such acts could not be raised therein as compulsory counterclaims.<sup>[25]</sup>

#### The Court's Ruling

We find the appeal meritorious.

We agree with petitioners that the causes of action pleaded in Civil Case No. 16890 are different from those in Civil Case No. 658, and that such causes could not have been raised as compulsory counterclaims therein.

Nonetheless, we find that the trial court erred in Civil Case No. 16890 for touching on the propriety of the ejectment case which was settled in Civil Case No. 658 and affirmed on appeal in Civil Case No. D-9996.

We discuss these points *seriatim*.

#### Not Compulsory Counterclaims

Rule 11 of the 1997 Rules of Civil Procedure provides:

"Sec. 8. *Existing counterclaim or cross-claim* - A compulsory counterclaim or a cross-claim that a defending party has at the time he files his answer shall be contained therein."  
(underscoring ours)

A counterclaim is compulsory where: (1) it arises out of, or is necessary connected with, the transaction or occurrence that is the subject matter of the opposing party's claim;<sup>[26]</sup> (2) it does not require the presence of third parties of whom the court cannot acquire jurisdiction; and (3) the trial court has jurisdiction to entertain the claim.<sup>[27]</sup>

The following are the tests by which the compulsory nature of a counterclaim can be determined: (1) Are the issues of fact and law raised by the claim and counterclaim largely the same? (2) Would *res judicata* bar a subsequent suit on defendant's claim absent the compulsory counterclaim rule? (3) Will substantially the same evidence support or refute plaintiff's claim as well as defendant's counterclaim? (4) Is there any logical relation between the claim and counterclaim?<sup>[28]</sup>

We do not agree with the Court of Appeals that the claims in Civil Case No. 16890 may be pleaded as compulsory counterclaims in Civil Case No. 658.

**First.** In Civil Case No. 16890, the damages prayed for arose not from contract but from *quasi-delict*.<sup>[29]</sup> They constitute separate and distinct causes of action.

A cause of action has the following elements: (1) the legal right of plaintiff, (2) the correlative obligation of the defendant, and (3) the act or omission of the defendant in violation of said legal right.<sup>[30]</sup>

#### Cause of Action in Civil Case No. 658

Civil Case No. 658 involves a complaint for unlawful detainer and damages. In an unlawful detainer case, the issue is the right to physical possession of the premises or possession *de facto*.<sup>[31]</sup> The basis is a contract of lease.

Causes of Action in Civil Case No. 16890

The acts complained of in Civil Case No. 16890 were:

"1. Removal of the signboard in front of the stall of Marcelo Arenas, which is being used as an eye clinic and the refusal of Conrado Rojas or his failure to return it;

"2. Dumping of gravel and sand in front of the stall as well as the fencing of the front of the stall in question thus effectively preventing patients and customers from coming in;