

SECOND DIVISION

[G.R. No. 130243, October 30, 1998]

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D E C I S I O N

MENDOZA, J.:

This is a petition for review on *certiorari* of the decision, dated August 8, 1997, of the Court of Appeals, which affirmed the dismissal by the Regional Trial Court of Makati City of the complaint filed by the petitioners against private respondents Pepsi Cola Products Phils., Inc. (PCPPI) and Pepsico, Inc. (PI) on the ground of refusal to make discovery.

The facts of the instant case are as follows:

Petitioners are holders of softdrink bottle caps bearing the number 349, allegedly a winning digit in a contest sponsored by respondents PCPPI and PI to promote their beverage products. Respondent PCPPI is a domestic corporation engaged in the production, bottling, and distribution of carbonated drinks, while private respondent PI, a foreign corporation licensed to do business in the Philippines, is the major stockholder of respondent PCPPI.

Due to the refusal of respondents PCPPI and PI to deliver the prizes, petitioners on August 24, 1994 filed eight (8) separate complaints against the former for specific performance and damages in the Regional Trial Court of Makati City. Respondent PI filed answers to the complaints of petitioners, while respondent PCPPI filed motions to dismiss the same on the grounds of failure to state a cause of action and forum shopping. The cases were later consolidated and assigned to Branch 142 of the trial court. Petitioners likewise filed separate motions for authority to litigate in *forma pauperis*.

On November 22 and 23, 1994, respondent PI sent written interrogatories to petitioners consisting of 59 questions aimed at determining their eligibility to litigate as paupers. Petitioners received the written interrogatories between November 23 and December 12, 1998. The following are typical of the questions included in the interrogatories:

- 1) Are you employed?
- 2) If you are employed,
 - a) who is your employer?
 - b) what position do you hold in your present employment?
 - c) what is your annual gross compensation for 1993?
 - d) how long have you been employed with your present employer?
- 3) Are you engaged in any business?
- 4) If you are engaged in business,
 - a) what type of business are you engaged in?
 - b) how long have you been engaged in business?
 - c) what is your annual gross income derived from business for 1993?
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- 7) Do you own real property?
- 8) If you own real property,
 - a) how many and what types of real properties do you own?
 - b) where are these real properties located?
 - c) what is the present market value of each of these real properties?
 - d) what is the latest assessed value of each of these real properties?
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- 56) What type of dwelling do you live in?
- 57) If you live in a house, do you own the house?

58) If you are merely renting your dwelling, how much is your monthly rent?

59) If you are without viable means of income, how are you and your family being financially supported?^[1]

On November 25 1994, the Regional Trial Court of Makati issued an order suspending the proceedings until petitioners could complete the documents required for establishing their right to litigate as paupers.

It appears that petitioners did not answer the written interrogatories because, as it turned out, they thought that the order of the court suspended all matters connected with the case except those relating to the submission of the papers showing their qualifications to litigate as paupers. Respondent PI filed a motion to dismiss the case on the ground of refusal of petitioners to make discovery. Petitioners opposed the motion. In an order, dated March 9, 1995, the trial court granted the motion to dismiss stating:

There is nothing in the order which authorized plaintiffs to ignore the interrogatories served upon them. For that matter, the answers required would reflect as to whether they are entitled to litigate as paupers, the issue which the court directed the parties to clarify within thirty (30) days. The sanctions on the party who refuses to make discovery are clear in the rules as well as in the applicable case law. There is absolutely no reason why plaintiffs should be excused therefrom.^[2]

Petitioners filed a motion for reconsideration but the trial court denied their motion in an order, dated June 16, 1995. They then filed a special civil action for certiorari in this Court to set aside the aforesaid orders of the trial court. The case was referred to the Court of Appeals, which on August 8, 1997, affirmed the orders of the Regional Trial Court.^[3] The appellate court held:

Undoubtedly, the petitioners' failure to serve their answers within the reglementary period constitutes a valid ground for the dismissal of their actions or any part thereof.

While it is true that aside from the dismissal of the actions, there are other sanctions that may be imposed for failure of a party to serve answers to interrogatories, however, since respondents are precisely seeking the dismissal of the complaints because of the petitioners' non-compliance with all the requirements that would entitle them to litigate as paupers, such failure justifies the action taken by the court a quo, which had previously required the parties to "perfect their pleadings." Needless to state, by not answering the interrogatories, the petitioners rendered it difficult for respondent Pepsico to substantiate its opposition to their request to litigate as paupers, as directed by the court a quo.

At any rate, the dismissal ordered by the court a quo is without prejudice, thus implicitly reserving the petitioners' right to further pursue their cases.^[4]