

FIRST DIVISION

[G.R. No. 126749, August 21, 1997]

**ERIBERTO M. SUSON, PETITIONER, VS. HON. COURT OF APPEALS
AND DAVID S. ODILAO, JR., RESPONDENTS.**

DECISION

PADILLA, J.:

The issue in this case is whether or not a party litigant, whose complaint has been dismissed by a Regional Trial Court due to improper venue, can seek an authorization from the Supreme Court thru the Deputy Court Administrator to re-file his complaint in the court of proper venue without payment of the prescribed docket fee.

This is a petition for review on certiorari under Rule 45 of the Rules of Court to review the decision^[1] of the Court of Appeals in CA-G.R. SP No. 37311 which dismissed petitioner's petition for certiorari assailing the order of the Regional Trial Court (Branch 6) Cebu City which denied his motion to dismiss for lack of merit.

The facts are not in dispute.

On 15 November 1993, private respondent Odilao filed a P5.15 million civil suit for damages against petitioner Suson before the Regional Trial Court of San Juan (Branch 26), Southern Leyte. Private Respondent claimed that petitioner made false and groundless accusations of graft and corruption against him before the Office of the Ombudsman, and thereafter caused their publication in a Cebu-based local daily under the headline "ODILAO SUED FOR GRAFT." According to private respondent, Suson's machinations had cast dishonor, discredit and contempt upon his person which besmirched his reputation and caused him to suffer moral shock and social humiliation.

Private respondent paid the sum of P25,600.00 in docket fees to the Regional Trial Court (Branch 26) of Southern Leyte covered by Official Receipts Nos. 1937304 in the amount of P15,450.00 and 1030112 in the amount of P10,150.00, both dated 15 November 1993.^[2]

On 17 December 1993, petitioner Suson filed a motion to dismiss the complaint of private respondent Odilao on the ground of improper venue, alleging therein that Odilao resides in Talisay, Cebu and not in Himonganan, Southern Leyte. Finding merit in petitioner's arguments in his motion to dismiss, the lower court (RTC Southern Leyte) granted petitioner's aforesaid motion on 24 May 1994.^[3]

Thereafter, private respondent went to the Regional Trial Court of Cebu City to re-file the same complaint (except the statement of his actual residence) that was dismissed by the Regional Trial Court (Branch 26) of Southern Leyte. Private

respondent avers that upon showing the official receipts as proof of payment of the docket fees in the Regional Trial Court of Southern Leyte (Branch 26) to the Clerk of Court of the Regional Trial Court of Cebu City (Branch 6), the latter advised his counsel to file a formal request with this Court, thru the Court Administrator, for an "authority" to apply the payment for docket fees previously made to the Regional Trial Court (Branch 26), Southern Leyte to the docket fees to be paid to the Regional Trial Court Cebu City (Branch 6).

On 20 June 1994, private respondent, thru counsel, wrote a letter addressed to the SC Court Administrator, requesting for an authorization to consider the filing fees previously paid to the Regional Trial Court (Branch 26) of San Juan, Southern Leyte as payment for the filing fees to be paid in the Regional Trial Court of Cebu City (Branch 6) where the case was to be re-filed.^[4]

On 12 July 1994, Supreme Court Deputy Court Administrator Bernardo P. Abesamis sent the following reply to private respondent's counsel:

"12 July 1994

Atty. Fidel C. Gonzales

Gonzales Law Office

154 V. Urgello St.

Cebu City

Dear Atty. Gonzales:

In connection with your letter of 20 June 1994 relative to Civil Case No. R-417, please be informed that you can re(-)file the case at the RTC Cebu City and present the official receipt corresponding to the filing fees paid at RTC, Branch 26 San Juan, Southern Leyte.

Very truly yours,

BERNARDO P. ABESAMIS"^[5]

Deputy Court Administrator

Thereafter, private respondent presented the letter-reply of Deputy Court Administrator Abesamis to the clerk of court of the RTC (Branch 6) of Cebu City upon re-filing his complaint. On the basis of the aforesaid letter-reply, the clerk of court docketed private respondent's complaint as Civil Case CEB-16336 without requiring private respondent to pay anew the prescribed docket fees.

On 13 September 1994, petitioner filed a motion to dismiss Civil Case No. 16336 on grounds of lack of jurisdiction and lack of cause of action. Petitioner argued that private respondent "did not pay (even) a single centavo of the P25,000.00 filing fee; hence, the court (RTC of Cebu City, Branch 6) did not acquire jurisdiction over the case."

On 16 September 1994, the RTC of Cebu City (Branch 6), presided over by Judge Loreto D. de la Victoria, issued an order denying petitioner's motion to dismiss. The court held that:

"x x x When said plaintiff re(-)filed the same case with this Court, he asked permission from the Supreme Court, through the Court Administrator, for authority to apply the filing fees paid by him (plaintiff) in the Regional Trial Court of San Juan, Southern Leyte, for the filing fees in the instant case. Said request was granted by the Court Administrator. The validity of the authority given by the Deputy Administrator regarding the application of the filing fees in this case can not be questioned before this forum. Indeed the Court finds it to be in keeping with justice and equity and the spirit of liberality in construing the Rules. In fact there is no prohibition in that direction. It should be stated here that P25,000.00 filing fee paid by the plaintiff in the Regional Trial Court of San Juan, Southern Leyte, is no picayune amount for one to do away with, and sense of fairness demands that plaintiff be allowed to apply the same in the filing of this case."^[6] (emphasis supplied)

As mentioned earlier, petitioner elevated Judge de la Victoria's order for review on certiorari to the Court of Appeals which agreed with the trial court's dispositions. The Court of Appeals ratiocinated that:

"To require respondent Suson to pay anew the docket fee of P25, 600.00 in its totality that he has already paid when he filed the case that was earlier dismissed on the ground of improper venue, for him to re-file the same case in the proper court is to unduly exact from him a premium on his constitutional right to free access to the courts for redress of a wrong (Section 11, Article III, 1987 Constitutional; See Tan v. Court of Appeals, 131 SCRA 397, 404). The real issue here is not whether the Deputy Court Administrator is empowered to allow the filing of a case in a court without paying the required docket fee. It is whether respondent Odilao may re-file in another Court the case that was dismissed on the ground of improper venue without having to pay again the docket fee of P25,600 that he has paid in the earlier case. Said issue is resolved in the affirmative in favor of the respondent Odilao."^[7]

In his present petition, petitioner contends that "to relieve Odilao from paying the docket fee in the Cebu Court by just presenting the receipts issued by the Leyte Court would be tantamount to a withdrawal of the docket fee paid to the Leyte Court." In legal contemplation, the Leyte Court had acquired jurisdiction over Civil Case No. P-417 upon payment of the prescribed docket fee(s) and its order dismissing the case due to improper venue was a final disposition of the case pursuant to the exercise of said jurisdiction.

Petitioner further contends that the case later filed in the Regional Trial Court of Cebu City (Branch 6) by private respondent is a "distinct and separate case from that of the Leyte court as it has a new docket number (CEB-16336) although the allegations therein are entirely the same as Civil Case No. P-417 filed in the RTC of Southern Leyte (Branch 26)."

In his comment, private respondent Odilao contends that "it is incorrect for petitioner to insist that Odilao failed to pay the required filing fees." He (Odilao) was not granted an "exemption" from the payment of filing fees by Deputy Court Administrator Abesamis but merely an authority to apply the filing fees he paid in Civil Case No. P-417 filed in RTC Southern Leyte (Branch 26) as "payment for filing fees of the same case" re-filed in the RTC of Cebu City (Branch 6).

In *Pilipinas Shell Petroleum Corp. v. CA*,^[8] we had occasion to rule that:

"Filing fees are intended to take care of court expenses in the handling of cases in terms of cost of supplies, use of equipment, salaries and fringe benefits of personnel, etc. computed as to man hours used in handling each case. The payment of said fees therefore cannot be made dependent on the result of the action taken without entailing tremendous losses to the government and to the judiciary in particular."

In the case of *Lee v. Republic* (10 SCRA 65), *Nalimit v. Degamo* (12 SCRA 450) and *Mogaspi v. Ramolete* (115 SCRA 193), we ruled that a case is deemed filed only upon payment of the docket fee regardless of the actual date of filing of the case in court. In 1987, in *Manchester Development Corporation v. CA* (149 SCRA 564) we further refined the principle, as we ruled, that "a court acquires jurisdiction over any case only upon the payment of the prescribed docket fee", and in order to curb the unethical practice of misleading the docket clerk in the assessment of the correct filing fee, we laid down the rule that "henceforth all complaints, petitions, answers and other similar pleadings should specify the amount of the damages being prayed for not only in the body of the pleading but also in the prayer, and said damages shall be considered in the assessment of the filing fees in any case." Two (2) years later, *Sun Insurance Office Ltd. v. Hon. Maximiano Asuncion*^[9] affirmed the basic principle laid down in *Manchester* but "reduced its stringency somewhat by providing that only those claims as to which the amounts were not specified would be refused acceptance or expunged and that, in any case, the defect was not necessarily fatal or irremediable as the plaintiff could, on motion, be granted a reasonable time within which to amend his complaint and pay the requisite filing fees, unless in the meantime, the period of limitation of the right of action was completed."^[10] In that case, the Court en banc laid down the following rules:

"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 fees within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.

"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