



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

YOLANDA VILLANUEVA-ONG,
 Petitioner,

G.R. No. 212904

Present:

SERENO, C.J.,
Chairperson,
 LEONARDO- DE CASTRO,
 DEL CASTILLO,
 JARDELEZA, and
 TIJAM, JJ.

- versus -

JUAN PONCE ENRILE,
 Respondent.

Promulgated:

NOV 22 2017

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DECISION

TIJAM, J.:

Before Us is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Decision² dated March 4, 2014 and Resolution³ dated June 9, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 132034.

The Facts

On December 4, 2012, Juan Ponce Enrile (respondent) filed a civil Complaint⁴ for damages against Yolanda Villanueva-Ong (petitioner) for libel before the Regional Trial Court (RTC) of Pasay City, Branch 118, in Civil Case No. R-PSY-12-12031-CV. The pertinent portions of the complaint are as follows:

¹ *Rollo*, pp. 43-60.

² Penned by Associate Justice Celia C. Librea-Leagogo, concurred in by Associate Justices Franchito N. Diamante and Zenaida T. Galapate-Laguilles; *id.* at 64-75.

³ *Id.* at 78-79.

⁴ *Id.* at 82-89.

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2.1 On 16 October 2012, a libelous article entitled “Like father like son?” was published in page 16, Opinion Section of the Philippine Star. The article was authored by [petitioner]. x x x

2.2 The article characterizes [respondent] as a liar, fraud, and manipulator. It accuses [respondent] of attempting to “revise history” with a devious purpose of enticing the electorate to support his only son, Juan Castañer Ponce Enrile, Jr., (popularly known as Jack Enrile), an incumbent Congressman in the province of Cagayan and a candidate in the upcoming senatorial elections. [Petitioner], instead of giving fair comments on [respondent] as public official, deliberately focuses on attacking his character with false and defamatory accusations and intrigues affecting his family and personal life.

2.3 The pertinent portions of the libelous article that characterizes [respondent] as a liar, fraud, and manipulator are as follows:

“Just when we were about to forgive-and-forget [respondent's] checkered past, he himself reminded us of what a wily, shifty chameleon he truly and naturally is.

x x x

In *Juan Ponce Enrile: A Memoir*, and bio-documentary '*Johnny*' that aired in ABS-CBN-he recants his previous recantation of the assassination attempt on him, which Marcos used as one more reason to justify Martial Law. x x x Did he expect national amnesia to afflict Filipinos who know the truth?”

x x x

“In his attempt to leave an acceptable legacy for posterity and bequeath a Senate seat for junior, the nonagenarian is sanitizing his recollections instead of asking for absolution. Stem cell therapy can deter dementia but it cannot regenerate an innocent man.”

x x x

“We are being wooed to perpetuate the 40-years-running Enrile saga. Every night we should pray: *Dear God, Make all who want our vote, be the men we want them to be.*”

2.4 The libelous article's opening sentence alone – “Just when we were about to forgive-and-forget [respondent's] checkered past, he himself reminded us of what a wily, shifty chameleon he truly and naturally is” – already indicates [petitioner's] malicious objective: to discredit the integrity of [respondent] and degrade his accomplishments and success as an elected public official. Read with the succeeding paragraphs cited above, the libelous article clearly depicts [respondent] as a liar and a hoax who deceives the public to believe that he is an honorable and respectable public figure.

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2.5 Worse, the libelous article insinuates that [respondent] is a criminal who committed the crime of smuggling of cars. Thus:

“Another misdeed associated with father-and-son is the alleged rampant car smuggling in Port Irene. In 1995, the Cagayan Export Zone Authority (CEZA) was established through Republic Act 7922, authored by Cagayan native [respondent]. x x x Despite EO156 issued in 2008, which prohibited such importations, smuggling continued. Enrile countered that CEZA is not covered by the prohibition because the importers pay the correct duties and taxes. Ford reportedly pulled out its manufacturing business to protest the nefarious activities in CEZA.”

2.6 These statements clearly tend to cause dishonor, discredit, disrespect, and contempt of [respondent] by characterizing him as a liar, fraud, manipulator, criminal and smuggler of cars.

2.7 At the time of publication of the libelous article, [respondent] is a public officer holding office in Pasay City.”⁵ (Underlining omitted and italics in the original)

On January 17, 2013, petitioner filed an Answer with Compulsory Counterclaims,⁶ the pertinent portion of which, states:

COMPULSORY COUNTERCLAIMS

First Compulsory Counterclaim

- 2.4 [Petitioner] reiterates and incorporates by reference each and every allegation made in each and every preceding paragraph and subparagraph of this Answer.
25. In filing this lawsuit, [respondent] did not implead the editor, publisher, and newspaper that published [petitioner's] column (The Philippine Star), but only [petitioner].
26. [Respondent's] **unfounded** prosecution of [petitioner], coupled with the singling out of [petitioner], constitutes harassment, malice and evident bad faith. It is meant to intimidate and silence [petitioner], and to place a chilling effect on her rights (and the rights of other journalists) to express themselves and write freely about [respondent's] public conduct on matters of public concern.
27. In filing the Complaint, under the facts and circumstances set out above, [respondent] acted with malice, evident bad faith, and in a wanton, reckless, offensive and malevolent manner, and has caused [petitioner] damages consisting of x x x:

x x x x

⁵ Id. at 83-85.

⁶ Id. at 91-106.

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Second Compulsory Counterclaim

30. [Petitioner], as a Filipino citizen and journalist, has a constitutional right to speak out, write and express her opinion and make fair comments on matters of public interest, including those involving the public conduct of [respondent] as a public officer and public figure and his fitness for public office.
31. In singling out [petitioner] and suing her alone for libel, [respondent] acted with malice and evident bad faith. In so doing, [respondent] is using the strong arm of the law to intimidate, cow and silence [petitioner] and other journalists, and to neutralize and place a chilling effect on their ability to speak and write freely about [respondent's] public conduct on matters of public concern.
32. Under Article 32 of the Civil Code, a public officer who directly indirectly obstructs, defeats, violates or in any manner impedes or impairs a person's freedom of speech and freedom to write for the press is liable in actual, moral and exemplary damages, as well as attorney's fees and costs.⁷ (Emphasis ours)

The respondent filed a Motion to Dismiss⁸ (Re: Defendant's permissive counterclaims) which argued that petitioner's counterclaims are actually permissive, and hence should have complied with the requirements of an initiatory pleading, specifically the payment of docket fees and certification against forum shopping. Respondent prayed for dismissal of petitioner's counterclaims for her failure to comply with such requirements.

Meanwhile, petitioner opposed respondent's motion arguing that her counterclaims are both compulsory in nature, since both counterclaims arose from the filing of respondent's complaint.⁹

Ruling of the RTC

The RTC, in its Order¹⁰ dated April 26, 2013, gave petitioner 15 days from receipt of the said order, to pay the appropriate docket fees, otherwise, such counterclaims shall be dismissed. Despite petitioner's motion for reconsideration,¹¹ the RTC stood its ground, and affirmed its ruling in the Order¹² dated July 22, 2013.

Dissatisfied, petitioner filed a petition for *certiorari* with the CA.

⁷ Id. at 101-103.

⁸ Id. at 108-116.

⁹ Id. at 118-125.

¹⁰ Rendered by Presiding Judge Rowena Nieves A. Tan; id. at 143-145.

¹¹ Id. at 127-133.

¹² Id. at 146-147.

Ruling of the CA

On March 4, 2014, the CA issued the assailed Decision,¹³ the dispositive portion of which states:

WHEREFORE, premises considered, the Petition is **DENIED**.
No pronouncement as to costs.

SO ORDERED.¹⁴

Hence this petition where petitioner argues that the CA erred in ruling that her counterclaims are permissive in nature. She contends that the same are compulsory, having arisen from respondent's filing of complaint in the court *a quo*.

In his Comment,¹⁵ respondent maintains that petitioner's counterclaims are permissive in nature since they are based on different sources of obligations: petitioner's counterclaims are based on quasi-delict, while respondent's claim is based on delict.

Issue

Are petitioner's counterclaims compulsory or permissive in nature?

Ruling of the Court

The nature and kinds of counterclaims are well-explained in jurisprudence. In *Alba, Jr. v. Malapajo*,¹⁶ the Court explained:

[C]ounterclaim is any claim which a defending party may have against an opposing party. A compulsory counterclaim is one which, being cognizable by the regular courts of justice, arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim must be within the jurisdiction of the court both as to the amount and the nature thereof, except that in an original action before the Regional Trial Court, necessarily connected with the subject matter of the opposing party's claim or even where there is such a connection, the Court has no jurisdiction to entertain the claim or it requires for adjudication the presence of third persons over whom the court acquire jurisdiction. A compulsory counterclaim is barred if not set up in the same action.¹⁷

¹³ Id. at 64-75.

¹⁴ Id. at 73.

¹⁵ Id. at 178-189.

¹⁶ G.R. No. 198752, January 13, 2016, 780 SCRA 534.

¹⁷ Id. at 541-542.

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“A counterclaim is permissive if it does not arise out of or is not necessarily connected with the subject matter of the opposing party's claim. It is essentially an independent claim that may be filed separately in another case.”¹⁸

Determination of the nature of counterclaim is relevant for purposes of compliance to the requirements of initiatory pleadings. In order for the court to acquire jurisdiction, permissive counterclaims require payment of docket fees, while compulsory counterclaims do not.¹⁹

Jurisprudence has laid down tests in order to determine the nature of a counterclaim, to wit:

(a) Are the issues of fact and law raised by the claim and the counterclaim largely the same? (b) Would *res judicata* bar a subsequent suit on defendants' claims, absent the compulsory counterclaim rule? (c) Will substantially the same evidence support or refute plaintiffs' claim as well as the defendants' counterclaim? and (d) Is there any logical relation between the claim and the counterclaim[?] x x x [A positive answer to all four questions would indicate that the counterclaim is compulsory].²⁰

In this case, the complaint filed by respondent for damages arose from the alleged malicious publication written by petitioner, hence central to the resolution of the case is petitioner's malice, or specifically that the libelous statement must be shown to have been written or published with the knowledge that they are false or in reckless disregard of whether they are false or not.²¹

Meanwhile, petitioner's counterclaim presupposes bad faith or malice on the part of respondent in instituting the complaint for damages. In the allegations supporting her counterclaims, it was alleged that respondent's complaint was filed merely to harass or humiliate her.

Such allegations are founded on the theory of malicious prosecution.

Traditionally, the term malicious prosecution has been associated with unfounded criminal actions, jurisprudence has also recognized malicious prosecution to include baseless civil suits intended to vex and humiliate the defendant despite the absence of a cause of action or probable cause.²²

¹⁸ *Id.* at 542.

¹⁹ See *Elizabeth Sy-Vargas v. The Estate of Rolando Ogsos, Sr. and Rolando Ogsos, Jr.*, G.R. No. 221062, October 5, 2016.

²⁰ *Id.*, citing *Spouses Mendiola v. CA*, 691 Phil. 244 (2012).

²¹ *Villanueva v. Phil. Daily Inquirer, Inc. et al.*, 605 Phil. 926, 940 (2009).

²² *Magbanua v. Junsay*, 544 Phil. 349, 364 (2007); *Tiongco v. Atty. Deguma*, 375 Phil. 978, 991 (1999).

In this case, while it can be conceded that petitioner can validly interpose a claim based on malicious prosecution, the question still remains as to the nature of her counterclaim, and the consequent obligation to comply with the requirements of initiatory pleadings.

We find that petitioner's claims are compulsory, and hence should be resolved along with the civil complaint filed by respondent, without the necessity of complying with the requirements for initiatory pleadings.

Indeed, a perfunctory reading of respondent's allegations in support of her counterclaims refers to incidental facts or issues related to her counterclaim against petitioner. She alleges that respondent unduly singled her out, and is actually violating her legal and constitutional rights.

However, stripped of the aforesaid niceties, it is at once apparent that petitioner essentially argues that respondent's suit is unfounded and is merely instituted to harass and vex her.

A counterclaim purely for damages and attorneys fees by reason of the unfounded suit filed by the respondent, has long been settled as falling under the classification of compulsory counterclaim and it must be pleaded in the same action, otherwise, it is barred.²³ In *Lafarge Cement Phil. Inc. v. Continental Cement Corp.*,²⁴ citing *Tiu Po, et al. v. Hon. Bautista, et al.*,²⁵ this Court ruled that counterclaims seeking moral, actual and exemplary damages and attorneys fees against the respondent on account of their malicious and unfounded complaint was compulsory.²⁶

In this case, the counterclaims, set up by petitioner arises from the filing of respondent's complaint. "The counterclaim is so intertwined with the main case that it is incapable of proceeding independently."²⁷ We find that the evidence supporting respondent's cause that malice attended in the publication of the article would necessarily negate petitioner's counterclaim for damages premised on the malicious and baseless suit filed by respondent.

*Bungcayao, Sr. v. Fort Ilocandia Property Holdings and Development Corp.*²⁸ cited by respondent, is starkly different from the factual circumstances obtaining at the case at bar. In that case, petitioner Manuel C. Bungcayao, Sr. sought the annulment of a Deed of Assignment, Release, Waiver and Quitclaim, on the ground of the lack of authority of petitioner's son to represent him thereon. For their part, respondent prayed, as counterclaims to the complaint, that petitioner be required to: 1) return the amount of ₱400,000 from respondent, 2) to vacate the portion of the

²³ *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corp.*, 556 Phil. 822, 847-848 (2007).

²⁴ 486 Phil. 123 (2004).

²⁵ 191 Phil. 17 (1981).

²⁶ *Supra* note 24, at 136.

²⁷ *Cruz-Agana v. Judge Santiago-Lagman*, 495 Phil. 188, 194 (2005).

²⁸ 632 Phil. 391 (2010).

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respondent's property he (petitioner) was occupying, and 3) to pay damages because his (petitioner) continued refusal to vacate the property caused tremendous delay in the planned implementation of Fort Ilocandias expansion projects. In that case, We ruled that the recovery of possession of the property is a permissive counterclaim, while being an offshoot of the basic transaction between the parties, will not be barred if not set up in the answer to the complaint in the same case. This is because the title of respondent to the disputed property therein was actually recognized by the administrative authorities. Necessarily, respondent will not be precluded from asserting its right of ownership over the land occupied by petitioner in a separate proceeding. In other words, respondent's right therein can be enforced separately and is distinct from the legal consequences of the Deed of Assignment, Release, Waiver and Quitclaim executed between the parties therein.

The same, however, does not obtain in the instant case. Petitioner's counterclaims refer to the consequences brought about by respondent's act of filing the complaint for damages.

Petitioner's allegation citing Article 32 of the Civil Code do not dilute the compulsory nature of her counterclaims. In *Alday v. FGU Insurance Corporation*,²⁹ this Court found the following allegation in therein defendant's counterclaim to be permissive, despite mention of the civil code provision on abuse of rights, to wit:

(b) the minimum amount of ₱500,000.00 plus the maximum allowable interest representing defendant's accumulated premium reserve for 1985 and previous years, which FGU has unjustifiably failed to remit to defendant despite repeated demands in gross violation of their Special Agent's Contract and **in contravention of the principle of law that "every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."**³⁰ (Emphasis ours)

Considering the foregoing, petitioner's counterclaims should not be prejudiced for non-compliance with the procedural requirements governing initiatory pleadings.

Neither should her counterclaims be dismissed pursuant to this Court's ruling in *Korea Technologies Co. Ltd. v. Hon. Lerma, et al.*,³¹ which held that "effective August 16, 2004 under Section 7, Rule 141, as amended by A.M. No. 04-2-04-SC, docket fees are now required to be paid in compulsory counterclaim or cross-claims."³² Note must be taken of OCA Circular No. 96-2009 entitled "*Docket Fees For Compulsory Counterclaims*," dated August 13, 2009, where it was clarified that the rule on imposition of filing

²⁹ 402 Phil. 962 (2001).

³⁰ Id. at 973.

³¹ 566 Phil. 1 (2008).

³² Id. at 20.

fees on compulsory counterclaims has been suspended. Such suspension remains in force up to this day.

WHEREFORE, premises considered, We resolve to **GRANT** the petition. The Decision dated March 4, 2014 and Resolution dated June 9, 2014 of the Court of Appeals in CA-G.R. SP No. 132034 are hereby **REVERSED and SET ASIDE**.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice