

Republic of the Philippines
Sandiganbayan
Quezon City

FOURTH DIVISION

REPUBLIC OF THE
PHILIPPINES,

Plaintiff,

CIVIL CASE NO. 0178

For: Reconveyance,
Reversion, Accounting
and Restitution

-versus-

ANDRES L. AFRICA, ET AL.
Defendants.

Present:
MUSNGI, J., *Chairperson*
PAHIMNA, J. and
HIDALGO, J.*

Promulgated:

APR 05 2024

Joffe H. Zapata

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RESOLUTION

PAHIMNA, J.:

For this Court's resolution are the following:

1. **Manifestation with Motion**¹ dated February 1, 2024 and filed on even date by defendants Rosario N. Arellano, Victoria N. Legarda, Angela N. Lobregat, Benito V. Nieto, Carlos V. Nieto, Manuel V. Nieto III, Ma. Rita N. Delos Reyes, Carmen N. Tuason, Pablo L. Lobregat, Ramon Nieto, Jr., and the legal representative of the deceased Ramon V. Nieto and Benigno Manuel Valdes, the legal representative

* Sitting as Special Member per Administrative Order No. 502-2018 dated October 3, 2018.

¹ Records, Volume 6, pp.308-312

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of the deceased Rafael C. Valdes, hereinafter referred to as the “Nieto group” through counsel; and

2. **Manifestation (In lieu of Comment)**² dated February 21, 2024 filed on February 29, 2024 by the plaintiff, through the Office of the Solicitor General.

By virtue of the *Demurrer to Evidence* filed by defendant Nieto group, this Court promulgated its *Resolution* dated January 10, 2024, the dispositive portion thereof reads as follows:

WHEREFORE, the Demurrer to Evidence filed by defendant Nieto group is GRANTED. Accordingly, the case against defendants **Rosario N. Arellano, Victoria N. Legarda, Angela N. Lobregat, Benito V. Nieto, Carlos V. Nieto, Manuel V. Nieto III, Ma. Rita N. Delos Reyes, Carmen N. Tuason, Ramon Nieto, Jr.,** the legal representative of the deceased **Ramon V. Nieto,** and **Benigno Manuel Valdes,** the legal representative of the deceased **Rafael C. Valdes** is hereby **DISMISSED.**

While the dismissal was granted for the movant Nieto group only, a careful perusal of the resolution reveals that the name of one of its members, Pablo L. Lobregat (Lobregat), was not specifically included in the said dismissal. Upon scrutiny of the case records, it appears that when the counsel filed the demurrer, the name of Pablo L. Lobregat was inadvertently omitted from the list of the Nieto group members.³

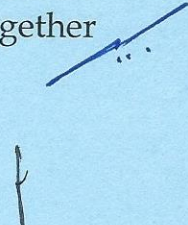
Counsel for defendant Nieto group acknowledged that the omission of defendant Pablo L. Lobregat’s name from the movants comprising the Nieto group in the demurrer, was solely attributable to inadvertence and oversight on his part. It is not intentional and that defendant Pablo L. Lobregat is actually a movant, being part of the Nieto group.⁴

The counsel backed it up by asserting that since the filing of the Answer with Compulsory Claims on behalf of the Nieto group in 1998, their representation includes Pablo L. Lobregat. To date, the Firm M.M. Lazaro and Associates continue to represent Pablo L. Lobregat together

² *Ibid.*, pp. 346-353

³ *Ibid.*, p. 309

⁴ *Ibid.*,



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with defendants, Rosario N. Arellano, Victoria N. Legarda, Angela N. Lobregat, Benito V. Nieto, Carlos V. Nieto, Manuel V. Nieto III, Ma. Rita N. De Los Reyes, Carmen N. Tuason, Ramon Nieto, Jr., the legal representative of the deceased Rafael C. Valdes. Accordingly, it is humbly submitted that defendant Pablo L. Lobregat is part of the movant Nieto group, which sought the dismissal of the instant case by way of demurrer to evidence.

Thus, counsel ultimately prayed that defendant Pablo L. Lobregat be included and considered part of the Nieto group whose case has been dismissed by way of *Demurrer to Evidence*.

The plaintiff, through the Office of the Solicitor General, manifested that it is submitting the resolution of the *Manifestation and Motion* dated January 30, 2024 to the sound discretion of this Court.

RULING OF THE COURT

Looking back, the Court noticed that starting from *Manifestation with Motion for Suspension* filed on March 1, 2022,⁵ *Urgent Motion to Dismiss* filed on October 19, 2022,⁶ *Omnibus Motion* filed on November 10, 2022,⁷ *Comment/Opposition* (to plaintiff Motion for Leave of Court to Present Other Witness and Documents) filed on April 25, 2023,⁸ *Comments/Objection* (to Plaintiff's Formal Offer of Evidence)⁹ filed on August 29, 2023 and *Demurrer to Evidence* filed on October 13, 2023,¹⁰ the name of defendant Lobregat was omitted as one of the defendant-members of Nieto group.

However, taking a deep dive into the records of the case reveals that when the complaint was filed on October 29, 1997, said defendant was already represented by M.M. Lazaro and Associates together with his co-defendants Nieto group who were also impleaded in this case.¹¹

⁵ Volume 4, pp 51-57

⁶ Volume 5, pp 123-135

⁷ *Ibid.*, pp.150-157

⁸ *Ibid.*, p. 376-381

⁹ Volume 6, pp.130-139

¹⁰ *Ibid.*, pp. 168-178

¹¹ Urgent Motion for Extension of Time to File Answer and/or Responsive Pleading dated November 27, 1997 filed on December 1, 1997, Volume 1, p.30

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Although his name did not appear in the title of the case, the body of the complaint exhibited his name as one of the defendants.¹² As per Sheriff's Return,¹³ summons were served collectively upon them on November 14, 1997. Together with his co-defendants, they filed a *Motion to Dismiss*,¹⁴ then filed an *Answer with Compulsory Counterclaim* when their *Motion to Dismiss* was denied.¹⁵

Defendant Lobregat was likewise impleaded as one of the defendants in the *Amended Complaint* (with Prayer for Preliminary Attachment),¹⁶ which was not given due course by this Court, prompting the plaintiff to elevate the matter to the Supreme Court by way of *Petition for Certiorari and Prohibition*.

Incidentally, defendant Lobregat and/or M.M. Lazaro and Associates, were instituted as the Attorney-in-fact for and in- behalf of his co-defendants in appealing the Sandiganbayan Decision in Civil Case No. 0009, a companion case, before the Supreme Court.¹⁷

The Supreme Court reversed and set aside the November 15, 2005 and March 6, 2006 *Resolutions* and ordered to admit the July 1, 2005 *Amended Complaint*,¹⁸ where defendant Lobregat was alleged to be a stockholder of ETPI with 165 shares held in trust for (ITF) Rafael Valdez.¹⁹ Thus, summons were served anew pursuant to the admission of the Amended Complaint, and defendant Lobregat personally acknowledged the summons as well as the summons for his wife, Angela N. Lobregat.²⁰

We see no justifiable reason why the law firm of M.M. Lazaro and Associates would suddenly jettison defendant Lobregat as one of the defendants they are representing. It only boils down to a logical deduction that the non-inclusion of defendant Lobregat in the Demurrer to Evidence was born out of confusion and inadvertence. Somewhere along the line, counsel for defendant Lobregat fell victim to the convenient but haphazard practice of copy and paste function.

¹² Complaint, pp.1-11

¹³ *Ibid.*, p.14

¹⁴ *Ibid.*, pp. 47-60

¹⁵ *Ibid.*, pp. 102 to 114

¹⁶ Volume 2, pp.380-399

¹⁷ Volume 4, p185

¹⁸ Decision G.R. No. 172315, Vol 3, pp. 26-34

¹⁹ Volume 2, p. 390

²⁰ Volume 3, pp. 80-83, Sheriff's Return dated November 27, 2017.

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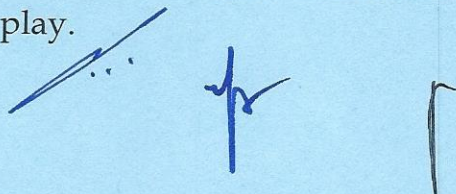
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Be that as it may, we perceive that despite the non-inclusion of defendant Lobregat in the *Demurrer to Evidence*, he has not lost his legal standing in Court for having been impleaded as one of the defendants, as well as his legal interest in the subject matter of the suit; more importantly, in the eventual outcome thereof. His nominal absence in such pleading should not effectively sweep aside the justifiable legal arguments raised and taken into consideration by the Court.

Let us not loose sight of the fact that this case was filed pursuant to the judgment of the Supreme Court,²¹ particularly to implead private defendants herein who were not joined as defendants in the earlier similar case, to afford them their day in the court and given a chance to be heard. "It is relevant in this context to advert to the old familiar doctrines that the omission to implead such parties "is a mere technical defect which can be cured at any stage of the proceedings even after judgment"; and that, particularly in the case of indispensable parties, since their presence and participation is essential to the very life of the action, for without them no judgment may be rendered, amendments of the complaint in order to implead them should be freely allowed."²² x x x

The Court has the power to avoid delay in the disposition of this case, and to order its amendment to implead an indispensable party. With these discussions as premises, the Court is of the view that the proper remedy in the present case is to implead the indispensable parties especially when their non-inclusion is merely a technical defect. To do so would serve proper administration of justice and prevent further delay and multiplicity of suits.²³

The inclusion of defendant Lobregat in the dispositive portion of the Resolution of the Demurrer to Evidence is necessary for the accurate and complete resolution of the case to accord all parties the benefit of due process and fair play.



²¹ Republic of the Philippines vs. Hon. Sandiganbayan, Victor Africa, et. al. G.R. No. 106244 Jan. 22, 1997.

²² Pacaña-Contreras vs. Rovila Water Supply et. al. G.R. No. 168979, December 2, 2013

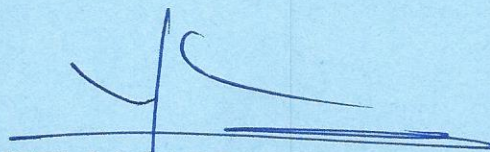
²³ Lagunilla and Monis vs. Velasco and Monis, G.R. NO. 169276, June 16, 2009

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WHEREFORE, the **Manifestation with Motion** filed by defendant Nieto group is **GRANTED**.

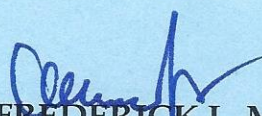
Accordingly, the case as against defendant **Pablo L. Lobregat** is hereby **DISMISSED**.

SO ORDERED.

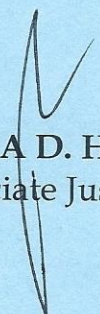


LORIFEL LACAP PAHIMNA
Associate Justice

We concur:



MICHAEL FREDERICK L. MUSNGI
Chairperson
Associate Justice



GEORGINA D. HIDALGO
Associate Justice