



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 27, 2022** which reads as follows:*

**“G.R. No. 234423 (*Cream Ship Management, Inc. and Antonio C. Pua and/or Smit Singapore Pte. Ltd., v. Eve B. Claret, Leo Kennery B. Claret, Eugene Leo B. Claret, Psyche B. Claret, Maria Celeste B. Claret, and minor children, Mel Lucas B. Claret and Steve Stuart B. Claret, represented by Eve B. Claret*). —** The propriety of denying a motion for leave of court to file a third-party complaint, is the core issue to resolve in the Petition for Review on *Certiorari*<sup>1</sup> before this Court, assailing the Court of Appeals-Cagayan de Oro City’s (CA’s) Decision<sup>2</sup> dated April 24, 2017 and Resolution<sup>3</sup> dated September 22, 2017 in CA G.R. SP No. 06876-MIN.

The facts follow.

Leo Claret (Leo) contracted two marriages. *First*, with Elvira Claret (Elvira) in 1978, and *second*, with Eve B. Claret (Eve), in 1986. On July 2, 2010, Cream Ship Management, Inc. (Cream Ship), on behalf of its foreign principal, Smit Singapore Pte. Ltd., hired Leo as chief mate on board the vessel *Smit Lumut* for a period of four months. On September 25, 2010, Leo died of cardiopulmonary arrest while on board the vessel. Thereafter, Elvira filed a claim for death compensation and benefits against Cream Ship before the Sub-Regional Arbitration Branch VI (SRAB VI), Iloilo City. Eve likewise filed a claim for death benefits against Cream Ship before the Regional Arbitration Branch, Cagayan de Oro City (RAB Cagayan).<sup>4</sup> The two cases proceeded independently.<sup>5</sup>

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<sup>1</sup> *Rollo*, pp. 3–17.

<sup>2</sup> *Id.* at 24–29. Penned by Associate Justice Oscar V. Badelles with the concurrence of Associate Justices Romulo V. Botja and Perpetua T. Atal-Paño.

<sup>3</sup> *Id.* at 30–31.

<sup>4</sup> *Id.* at 25–26.

<sup>5</sup> *Id.* at 7.

Later, SRAB VI ordered Cream Ship to pay Elvira US\$50,000.00 death benefits and US\$1,000.00 burial expenses. The SRAB VI's decision became final. Accordingly, Elvira moved for execution of judgment. On May 8, 2012, SRAB VI granted the motion. Cream Ship then paid Elvira the death compensation and benefits.<sup>6</sup> After the judgment was satisfied, Elvira and her daughter Joannie Pauline E. Claret (Joannie), executed a "Release of All Rights" in favor of Cream Ship, to wit:<sup>7</sup>

We hereby warrant and affirm all persons, including (but not limited to) any minor children and dependents, entitled to assert a claim by reason of the injury/illness/death suffered by Leo B. Claret have been properly provided for under the terms of this release. **I further warrant that should a third person assert and pursue any share or interest based on this settlement, I hereby hold free and harmless the above released parties including the subject vessel or any other vessel of said Owners, operators or charterers from any or all liability arising/that may arise by reason of such claim**, with respect to the death compensation and benefits of Fifty Thousand US Dollars (US\$50,000.00).<sup>8</sup> (Emphasis supplied)

On the other hand, RAB Cagayan noted that the designated beneficiaries in Leo's employment contract were his four children with Eve, namely, Psyche, Maria Celeste, Mel Lucas, and Steve Stuart, all surnamed Claret. Moreover, RAB Cagayan acknowledged that Eve paid Leo's interment and burial expenses. Thus, RAB Cagayan ordered Cream Ship to pay Eve US\$1,000.00 burial expenses, US\$7,000.00 for each of her four children, and US\$2,900.00 as attorney's fees. Meanwhile, Eve filed against Cream Ship a complaint to enforce Leo's employment contract, payment of shares of the heirs, damages, and attorney's fees before the Regional Trial Court of Calamba, Misamis Occidental, Branch 36 (RTC). At the proceedings, Cream Ship moved for leave of court to file a third-party complaint against Elvira and Joannie. On November 4, 2014, the RTC denied the motion. Unsuccessful at a reconsideration, Cream Ship filed a Petition for *Certiorari* before the CA docketed as CA G.R. SP No. 06876-MIN. On April 24, 2017, the CA dismissed the petition and ruled that Elvira and Joannie are not indispensable parties,<sup>9</sup> viz.:

The sole issue to be resolved in the instant petition is whether or not the RTC *a quo* committed grave abuse of discretion when it ruled that Elvira Claret and Joannie Pauline Claret are not indispensable parties.

Assuming that [*certiorari*] is the proper remedy, the RTC *a quo* did not commit grave abuse of discretion in denying the motion of Cream Ship Management to file a third-party complaint. A third-party complaint is a claim that a defending party (as in this case, the petitioners) may, with leave of court, file against a person not a party to the action, for contribution, indemnity, subrogation or any other relief, in respect of his opponent's claim. From the said provision, it clearly appears that it is not a court's duty

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<sup>6</sup> Id. at 27.

<sup>7</sup> Id. at 7-8.

<sup>8</sup> Id. at 8.

<sup>9</sup> Id. 24-29.

especially enjoined by law to admit a third-party complaint. Were it a ministerial duty, it would not be necessary for the defending party to obtain leave of court to file such complaint; because if the court has the duty to admit, the former has the correlative right to file, a third-party complaint without necessity of such leave.

**As gleaned from the facts presented, the instant petition arose from a complaint filed by Eve Claret to compel petitioners to enforce the terms of the employment contract of Leo Claret. As such, the petitioners cannot file a third-party complaint in a different capacity in which they were sued. Stated differently, the would be third-party defendants, Elvira and Joannie Claret, can not be made liable to the petitioners Cream Ship Management, [et al.] for all or part of Eve Claret's claim against the petitioners.**

x x x x

WHEREFORE, the instant Petition for [*Certiorari*] is hereby DENIED and DISMISSED.

SO ORDERED.<sup>10</sup> (Emphasis supplied and citations omitted)

Cream Ship sought reconsideration but was denied.<sup>11</sup>

Hence, this Petition.

Cream Ship contends that Elvira and Joannie are indispensable parties who must be impleaded as third-party defendants to achieve a complete determination of the case and to avoid multiplicity of suits. Moreover, Elvira and Joannie's "Release of All Rights" warranted that it will not be liable for any claim with respect to the payment of Leo's death compensation and benefits.

The Petition is meritorious.

The Rules of Court authorizes a defendant to bring into a lawsuit any person "*not a party to the action x x x, for contribution, indemnity, subrogation or any other relief, in respect of his or her opponent's claim.*"<sup>12</sup>

The purpose of the rule is:

[T]o permit a defendant to assert an independent claim against a third-party which he, otherwise, would assert in another action, thus preventing multiplicity of suits. All the rights of the parties concerned would then be adjudicated in one proceeding. This is a rule of procedure and does not create a substantial right. Neither does it abridge, enlarge, or nullify the

<sup>10</sup> Id. at 27–29.

<sup>11</sup> Id. at 30–31.

<sup>12</sup> Rules of Court, Rule 6, Section 11.

SEC. 11. *Third, (fourth, etc.)-party complaint.* — A third (fourth, etc.)-party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third (fourth, etc.)-party defendant, for contribution, indemnity, subrogation or any other relief, in respect of his or her opponent's claim.

substantial rights of any litigant. This right to file a third-party complaint against a third-party rests in the discretion of the trial court. The third-party complaint is actually independent of, separate and distinct from the plaintiff's complaint, such that were it not for the rule, it would have to be filed separately from the original complaint.<sup>13</sup>

x x x x

The third-party complaint does not have to show with certainty that there will be recovery against the third-party defendant, and it is sufficient that pleadings show possibility of recovery. In determining the sufficiency of the third-party complaint, the allegations in the original complaint and the third-party complaint must be examined. A third-party complaint must allege facts which *prima facie* show that the defendant is entitled to contribution, indemnity, subrogation or other relief from the third-party defendant.<sup>14</sup> (Citations omitted)

A prerequisite to the exercise of the right to file a third-party complaint is that there is some substantive basis that “[t]here must [also] be a causal connection between the claim of the plaintiff in his complaint and a claim for contribution, indemnity or other relief of the defendant against the third-party defendant.”<sup>15</sup>

In *Capayas v. Court of First Instance Albay*,<sup>16</sup> the Court determined the following tests, to wit:

(1) “whether it arises out of the same transaction on which the plaintiff's claim is based, or the third-party's claim, although arising out of another or different contract or transaction, is connected with the plaintiff's claim[;]”<sup>17</sup>

(2) whether the “third-party defendant x x x would be liable to the plaintiff or to the defendant for all or part of the plaintiff's claim against the original defendant, although the third-party defendant's liability arises out of another transaction[;]”<sup>18</sup> and

(3) “whether the third-party defendant may assert any defenses which the third-party plaintiff has or may have to the plaintiff's claim.”<sup>19</sup>

In *Philtranco Service Enterprises, Inc. v. Paras*,<sup>20</sup> The Court said:

Accordingly, the requisites for a third-party [complaint] are[:] [1] that the party to be impleaded must not yet be a party to the action; [2] the claim against the third-party defendant must belong to the original defendant; [3] the claim of the original defendant against the third-party

<sup>13</sup> *Asian Construction and Development Corporation v. Court of Appeals*, 498 Phil. 36, 43–44 (2005).

<sup>14</sup> *Id.* at 45.

<sup>15</sup> *Id.* at 44.

<sup>16</sup> 77 Phil. 181 (1946).

<sup>17</sup> *Id.* at 183.

<sup>18</sup> *Id.* at 184.

<sup>19</sup> *Id.*

<sup>20</sup> 686 Phil. 736 (2012).

defendant must be based upon the plaintiff's claim against the original defendant; and [4] the defendant is attempting to transfer to the third-party defendant the liability asserted against him by the original plaintiff."<sup>21</sup>  
(Citation omitted)

All these requisites are present in this case. *First*, Eve filed against Cream Ship a complaint to enforce Leo's employment contract, payment of shares of the heirs, damages, and attorney's fees. Obviously, Elvira and Joannie are not parties to this action. *Second*, Elvira and Joannie received from Cream Ship the payment for Leo's death compensation and benefits. Elvira and Joannie claimed to be the legal spouse and the legitimate child, respectively, of Leo. Notably, Eve is likewise, claiming a part of Leo's death benefits from Cream Ship. The designated beneficiaries in Leo's employment contract were his four children with Eve. *Third*, Cream Ship's claim against Elvira and Joannie is based on the complaint which Eve filed against it to enforce Leo's employment contract which includes his death compensation and benefits. Differently stated, Eve, Elvira, and Joannie are at issue as to their respective rights over Leo's death compensation and benefits. *Fourth*, Cream Ship is attempting to transfer to Elvira and Joannie the liability to pay Eve the benefits arising from Leo's death. To be sure, Cream Ship invoked the "Release of All Rights" where Elvira and Joannie warrant that it will not be liable for any claim with respect to the payment of Leo's death compensation and benefits.

Verily, it is necessary for Cream Ship to implead Elvira and Joannie as third-party defendants for the complete resolution of the case because they already received Leo's death benefits. Also, Elvira and Joannie must be included in the case to determine Leo's rightful beneficiaries, and to hold them liable for reimbursement in the event that Eve and her children are adjudged as the legitimate heirs. Indeed, it will be judicious and convenient that the question on who between the parties are entitled to Leo's death compensation be threshed out in one and the same proceedings. This course of action will avoid multiplicity of suits consistent with the primary purpose of the rule allowing a third-party complaint.<sup>22</sup> While the proposed third-party complaint may delay the disposition of the case to a certain degree, it cannot, however, be outrightly asserted that it would not serve any purpose.

**ACCORDINGLY**, the Petition is **GRANTED**. The Court of Appeals – Cagayan de Oro's Decision dated April 24, 2017 and Resolution dated September 22, 2017 in CA G.R. SP No. 06876-MIN are **REVERSED**. The case is **REMANDED** to the Regional Trial Court to give due course and to resolve the third-party complaint that Cream Ship Management, Inc. filed against Elvira Claret and Joanne Pauline E. Claret with dispatch.

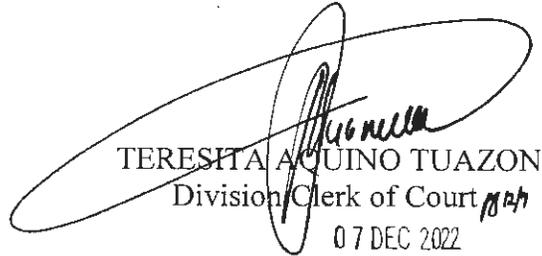
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<sup>21</sup> Id. at 749.

<sup>22</sup> *Shafer v. Hon. Judge RTC of Olongapo City*, Branch 75, 249 Phil. 386, 392 (1988).

**SO ORDERED.”**

By authority of the Court:



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Division Clerk of Court  
07 DEC 2022

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 36  
Calamba, Misamis Occidental  
(Civil Case No. 2012-210)

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