

SECOND DIVISION

[G. R. NO. 102390, February 01, 2002]

**REY LAÑADA, PETITIONER, VS. COURT OF APPEALS AND SPS.
ROGELIO AND ELIZA HEMEDez, RESPONDENTS.**

[G. R. No. 102404. February 1, 2002]

**NESTLE PHILIPPINES, INC. AND FRANCIS SANTOS,
PETITIONERS, VS. COURT OF APPEALS AND SPS. ROGELIO AND
ELIZA HEMEDez, RESPONDENTS.**

D E C I S I O N

DE LEON, JR., J.:

May the counsel of a party to whom a written request for admission is addressed under Section 1, Rule 26 of the Rules of Court, answer such request for his client? This is the question posed for resolution in these two (2) consolidated petitions for review on certiorari^[1] of the Decision of the Court of Appeals dated July 24, 1991^[2] that resolved the issue in the negative.

The facts attending the tragic incident that triggered the filing in the Regional Trial Court (RTC) of Laguna of Civil Case No. B-2762, an action for damages, by the spouses Rogelio Hemedez and Eliza Garcia Hemedez, are as follows:

The Union of Filipino Employees (UFE) declared a strike on account of alleged unfair labor practices committed by Nestle Philippines, Inc. (Nestle) and put up a picket line in front of the company's factory in Niugan, Cabuyao, Laguna. On October 27, 1987, the National Labor Relations Commission (NLRC) issued a temporary restraining order (TRO) enjoining the UFE, its sympathizers and agents to desist from "blocking, barricading and obstructing the points of ingress and egress" from Nestle's Cabuyao plant. To enforce the TRO, Nestle sought the assistance of both the 224th Philippine Constabulary (PC) Company in Camp Eldridge, Los Baños, Laguna, under the command of PC/Capt. Rey Lañada, and the members of the Cabuyao police department under the command of P/Maj. Lorenzo T. Malaga, as well as the fire brigade of Cabuyao. In order that it could transfer its products from the Cabuyao factory to its warehouse in Taguig, Metro Manila during the strike, Nestle hired the trucks of the Alimagno brothers, Constancio, Jr., who was then the Officer-in-Charge of Cabuyao, and Jesus.

On October 29, 1987, Alexander Asinas of the UFE and Francis Santos of Nestle agreed to constitute a panel to discuss about the said trucks and the scabs allowed to sneak into the Cabuyao plant, as the matter did not appear to have been covered by the TRO. However, in apparent bad faith, Santos signaled both the PC contingent to disperse the strikers at the barricades in front of the plant gate, and the overloaded cargo trucks waiting inside the compound to proceed with getting out of

the plant. Thus, the PC contingent, both in uniform and in plain clothes, and armed with armalites, began hitting the strikers with truncheons as water cannons from fire trucks assisted them in the dispersal operation that resulted in the arrest of fourteen (14) strikers and injuries to many others. With gate cleared, the cargo trucks began leaving the compound with some turning to the right and others to the left into the national road. Although stones thrown by some strikers broke the windshields of some trucks, all five (5) trucks succeeded in leaving the compound.

That was the situation in the dispersal operation when Dr. Vied Vemir Garcia Hemedez arrived in the area on board his car, a Ford Escort 4-door sedan, model 1975, with plate No. DOG-689, on his way home from his masteral class at the University of the Philippines College of Public Health. He stopped his car not knowing that the sixth ten-wheeler truck owned by Jesus Alimagno and driven by Pacifico Galasao, was then leaving the Nestle compound in full speed. To avoid stones being thrown at his direction, Galasao was driving in a crouching position. However, considering the length of the truck that was also overloaded, Galasao lost control of it. After turning left to the national road, the truck zigzagged northward until it reached the soft shoulder on the right side of the national road where Galasao abruptly swerved the truck to the left to avoid the strikers. However, he was not able to swerve the truck back to the right to stay on course on the road. Because Galasao did not stop nor slow it down, the truck went diagonally across to the left side of the road, bumped the car of Dr. Hemedez, and dragged it until the car turned upside down. In Galasao's attempt to straighten his course, he also side-swept a house off the road, rammed down a beauty parlor, and run over and killed two (2) persons sitting on a bench near the parlor facing the Iglesia ni Cristo chapel. The truck stopped as it crashed into the chapel's reinforced concrete wall and post. Galasao rose from his seat, got off the truck, and, apparently anticipating an attack, proceeded to the chapel with a lead pipe in hand while his helpers armed themselves with stones.

Pinned down by his overturned car, Dr. Hemedez mustered strength to ask someone to inform his parents, through a doctor friend, about the incident as he pleaded with people around to extricate him from under the truck. Capt. Lañada and some PC soldiers immediately rushed to the truck to prevent people from looting it. At that moment, the brothers of Dr. Hemedez, namely, Roel, Emeterio and Rogelio, Jr., followed by their mother, Mrs. Eliza Hemedez, and her daughter, Andora, arrived. Roel and Emeterio tried to pull Dr. Hemedez out of his car to no avail. Roel cut the ropes holding the canvass covering the load of the truck in preparation for its being lifted, and asked the PC soldiers to unload or allow them to unload the truck's cargo. The soldiers referred Roel to Capt. Lañada who, however, refused to unload the cargo of the truck for fear that the cargo might be looted. Mrs. Hemedez made the same plea to Capt. Lañada and Jesus Alimagno who had arrived in the area, but she was met with the same adamant refusal to unload the cargo for fear that there might be looting, notwithstanding that Dr. Hemedez was the godson of Constancio Alimagno, Sr. It was two (2) hours later when the cargo was finally unloaded to other trucks that Dr. Hemedez was finally pulled out from under Galasao's truck, and brought to the Perpetual Help Hospital in Biñan, Laguna where he died shortly after arrival thereat. He died due to "Intra-thoracic hemorrhage, massive, due to severe impact (Vehicular Accident)." Mrs. Hemedez witnessed in pain the agony of her helpless son as a consequence of the refusal of Capt. Lañada and the PC soldiers to help them save his life. The Hemedez family tried to pay Funeraria Dionicio for the funeral services rendered for Dr. Hemedez but its owner, Dionicio Hemedez, refused

to accept payment on the ground that Miguela Alimagno, the mother of Jesus, undertook to pay for it.^[3]

On December 8, 1987, the spouses Rogelio and Eliza Hemedez, parents of Dr. Hemedez, filed Civil Case No. B-2762 in the RTC of Laguna against Nestle, Jesus Alimagno, Francis Santos, Pacifico Galasao, and PC/Capt. Rey Lañada, praying for the award of Thirty Thousand Pesos (P30,000.00) as indemnity for Dr. Hemedez' death, Eleven Million Four Hundred Thousand Pesos (P11,400,000.00) representing loss of earnings of the deceased, Eighty Thousand Pesos (P80,000.00) as actual compensation for the destruction of his car, moral and exemplary damages, and attorney's fees.

In their answer to the complaint, Nestle and Santos denied liability for the death of Dr. Hemedez. They interposed as special and affirmative defenses that Nestle and Belltown Transport Services, Inc., an independent contractor, had a "trucking and hauling agreement" whereby Belltown agreed to "make deliveries of the products of Nestle" and assumed "liability for any injuries or damages to properties" that would arise from the agreement. They alleged that the accident happened in the course of an illegal strike and hence, the proximate cause of Dr. Hemedez' death "was the violent assault by the strikers against the truck." They averred that the complaint should be dismissed for failure to implead UFE, its officers and striking members, as indispensable parties. They alleged further that the incident happened outside of Nestle's premises and that when they came to know about it, they ordered the lifting of the truck by Nestle's own forklift. The delayed unloading of the cargo from the truck thus rested upon Belltown's "sole judgment." They set up a cross-claim against Galasao in order that he could reimburse them should they be adjudged liable, and a counterclaim for attorney's fees for what they called an unfounded suit.

For his part, Capt. Lañada dismissed the claims for his liability. He asserted that the unruly mob's attack on the trucks that built up a "monstrous traffic jam" caused the incident. While he and his men exerted all efforts to save all casualties and not just Dr. Hemedez, the plaintiffs misconstrued his acts "as refusal in their obsessive and hysterical desire to extricate their stricken relative from the place of the accident without regard to the welfare and well-being of the larger throng of persons some of whom were also injured who were just as well entitled to or deserving protection from the contingent of PC soldiers." He interposed a counterclaim for moral damages and attorney's fees arising from the plaintiffs' having unjustly impleaded him in the "baseless suit" designed to be a speculative monetary claim against Nestle.

Thereafter, the Hemedez spouses served the defendants a request for admission of the truth of the facts set forth in their complaint and the genuineness of each of the documents appended thereto. Through their respective counsel, Nestle and Santos, Capt. Lañada, and Alimagno and Galasao filed their verified answer to the request for admission.

Contending that under Section 2 of Rule 26 of the Rules of Court the parties themselves and not their counsel should personally answer the request for admission and hence the answer filed by their counsel in their behalf was "by nature based on hearsay," they sought the striking out of said answers. On the other hand, the defendants asserted that they observed the rules in filing their answers, through their lawyers, to the request for admission.

Hence, the trial court^[4] issued an Order dated April 10, 1989 denying for lack of merit the Hemedez spouses' motion to strike out the defendants' answers and/or declare the matters sought to be admitted as impliedly admitted. It held that the grounds relied upon by plaintiffs' counsel in his motion were "more formal than substantial" for several reasons. *First*, by signing and verifying the answer to the request for admission, the counsel of a defendant or defendants "reposed upon himself the same undertaking the defendant would have undertaken had he been the one who verified" the answer. *Second*, since the purpose of verification is merely to serve as an assurance that the allegations in the pleading are true and correct and not the product of imagination, and that the pleading is filed in good faith, the absence of verification is formal and not jurisdictional. *Third*, the defendants were bound by the acts of the counsel of their choice. *Fourth*, the generalizations made in the answer were expected because the plaintiff's requests for admission were substantially identical with the allegations in their complaint. The lower court concluded:

A cursory reading of the adverted answers to the complaint would show that defendants have substantially complied with the requirements of the rules by so specifically denying the matters which they could not admit and indicating the reasons why they could not admit or deny the specific matters sought to be admitted, thus leaving such matter controverted. The veracity, therefore, of their denial or uncommitted stand, is a matter that could be determined only in a full blown trial on the merit where parties could amply support their respective claim.

The Hemedez spouses sought a reconsideration of that Order through an omnibus motion (a) asserting that the matters sought to be admitted were "decisive on the respective liabilities of all defendants"; (b) stressing the need to resolve the relevancy and materiality of the specific matters requested to be admitted and which were neither admitted nor denied by the defendants; and (c) seeking permission to amend the complaint to implead as indispensable parties-defendants Belltown Transport Services, Inc., Magnolia Freight Services, and Constancio Alimagno, Jr.

Nestle, Santos and Capt. Lañada opposed the omnibus motion on the grounds that: (a) it was filed out of time, (b) it raised no new matters not already taken up in the questioned Order, and (c) to allow amendment of the complaint would result in delay in the proceedings.

On July 24, 1989, the lower court denied the omnibus motion except the prayer to amend the complaint. It stressed that in that particular stage of the proceedings, the court could not "make a categorical ruling as to the veracity of the denials made by defendants of certain facts based on immateriality, irrelevancy or for lack of information until after it has considered in a full blown trial all the evidence presented and pertinent to the issue of the case."

Refusing to budge from their stand, the Hemedez spouses sought the review of both Orders of the lower court via a petition for certiorari that was filed on August 16, 1989 and docketed in this Court as G.R. No. 89399. The First Division of this Court referred the petition to the Court of Appeals where it was docketed as CA-G.R. No. 18894. On July 24, 1991, the Court of Appeals rendered the Decision annulling the