



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPOUSES SOCRATES SY
AND CELY SY,

Petitioners,

G.R. No. 192108

Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
ABAD,* and
PEREZ, JJ.

-versus-

ANDOK'S LITSON CORPORATION,
Respondent.

Promulgated:

NOV 21 2012

X ----- X

DECISION

PEREZ, J.:

Assailed in this Petition for Review on *Certiorari* is the Decision¹ of the Court of Appeals dated 20 January 2010 in CA-G.R. CV No. 91942, as well as the Resolution² dated 29 April 2010, denying the motion for reconsideration.

* Per raffle dated 19 November 2012.

¹ Penned by Associate Justice Andres B. Reyes, Jr. with Associate Justices Estela M. Perlas-Bernabe (now Supreme Court Associate Justice) and Priscilla J. Baltazar-Padilla, concurring. *Rollo*, pp. 33-45.

² *Id.* at 46-47.

This is a case for rescission of contract filed by the lessee, now respondent, against the lessors, now the petitioners.

Petitioner Cely Sy (Sy) is the registered owner of a 316 square-meter lot located at 1940 Felix Huertas Street, Sta. Cruz, Manila. Respondent Andok's Litson Corporation (Andok's) is engaged in the business of selling grilled chicken and pork with outlets all over the Philippines. On 5 July 2005, Sy and Andok's entered into a 5-year lease contract covering the parcel of land owned by Sy. Monthly rental was fixed at ₱60,000.00, exclusive of taxes, for the first 2 years and ₱66,000.00 for the third, fourth and fifth year with 10% escalation every year beginning on the fourth year.³ Per contract, the lessee shall, upon signing the contract, pay four (4) months of advance deposit amounting to ₱240,000.00 and a security deposit equivalent to four (4) months of rental in the amount of ₱240,000.00. Accordingly, Andok's issued a check to Sy for ₱480,000.00.

Andok's alleged that while in the process of applying for electrical connection on the improvements to be constructed on Sy's land, it was discovered that Sy has an unpaid Manila Electric Company (MERALCO) bill amounting to ₱400,000.00. Andok's presented a system-generated statement from MERALCO.⁴ Andok's further complained that construction for the improvement it intended for the leased premises could not proceed because another tenant, Mediapool, Inc. incurred delay in the construction of a billboard structure also within the leased premises. In its letter dated 25 August 2005, Andok's first informed Sy about the delay in the construction of the billboard structure on a portion of its leased property. Three more letters of the same tenor were sent to Sy but the demands fell on deaf ears. Consequently, Andok's suffered damages in the total amount of ₱627,000.00

³ Id. at 34.

⁴ Records, p. 71.

which comprises the advance rental and deposit, cost of money, mobilization cost for the construction of improvement over leased premises, and unrealized income. The complaint for rescission was filed on 13 February 2008, three years after continued inaction on the request to have the billboard construction expedited.

In her Answer, Sy stated that she has faithfully complied with all the terms and conditions of the lease contract and denied incurring an outstanding electricity bill.⁵

On 14 April 2008, Andok's filed a motion to set the case for pre-trial.

The Regional Trial Court of Manila (RTC) sent a Notice of Pre-trial Conference to the parties on 28 April 2008 informing them that a pre-trial conference is set on 26 May 2008.

On 23 May 2008, an Urgent Motion to Reset Pre-Trial Conference was filed by Sy's counsel on the allegation that on the pre-trial date, he has to attend a hearing on another branch of the RTC in Manila.

During the pre-trial conference, Sy and her counsel failed to appear. Sy's urgent motion was denied, and the RTC allowed Andok's to present its evidence *ex-parte*.

No motion for reconsideration was filed on the trial court's order allowing *ex-parte* presentation of evidence. Thus, on the 2 June 2008 hearing, Andok's presented *ex-parte* the testimony of its General Manager, Teodoro Calaunan, detailing the breach of contract committed by Sy.

⁵ Id. at 30-31.

On 24 July 2008, the trial court rendered a decision favoring Andok's, to wit:

WHEREFORE, consistent with Section 5, Rule 18 of the 1997 Rules of Civil Procedure, judgment is hereby rendered in favor of the plaintiff, ordering the defendants to pay to the plaintiff (1) ₱480,000.00 with legal rate of interest from March 11, 2006, (2) ₱1,350.00 for the comprehensive insurance on the leased portion of the realty, and (3) ₱4,873.00 as contractors tax.

For lack of merit, defendants' counterclaim is hereby dismissed.⁶

On appeal, Sy decried deprivation of her right to present evidence resulting in a default judgment against her. Sy denied that there was a breach on the lease contract.

On 20 January 2010, the Court of Appeals dismissed the appeal and affirmed the ruling of the RTC.

The appellate court held that the trial court correctly allowed the presentation of evidence *ex-parte* as there was no valid reason for the urgent motion for postponement of the pre-trial filed by Sy. The appellate court found that Sy repeatedly failed to comply with her obligation under the lease contract despite repeated demands. The appellate court awarded damages for breach of contract.

After the denial of Sy's motion for reconsideration, she filed the instant petition raising the following grounds:

-A-

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS IN AFFIRMING THE TRIAL COURT'S JUDGMENT FAILED TO NOTICE THAT THE DEFAULT JUDGMENT STRAYED FROM JUDICIAL PRECEDENT AND POLICY, AND AMOUNTED TO AN

⁶ Rollo, p. 58.

INFRINGEMENT OF THE RIGHT TO DUE PROCESS OF THE SPOUSES SY.

-B-

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS IN AFFIRMING THE TRIAL COURT'S DEFAULT JUDGMENT FAILED TO APPRECIATE THAT THE RESPONDENT ITSELF CONTRACTUALLY ASSUMED THE RISK OF DELAY, AND THUS ANY DELAY COULD NOT BE A GROUND FOR THE RESOLUTION OR ANNULMENT OF THE CONTRACT OF LEASE.

-C-

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS ALLOWED A DEPARTURE FROM JUDICIAL PRECEDENT WHEN IT SUSTAINED THE TRIAL COURT'S IMPOSITION OF LEGAL INTEREST ON THE MONETARY AWARD IN RESPONDENT'S FAVOR.⁷

The affirmance by the Court of Appeals of the judgment of the trial court is correct.

Section 4, Rule 18 of the Rules of Court requires the parties and their counsel to appear at pre-trial, thus:

Section 4. Appearance of parties. – It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.

Section 5 of the same rule states the consequences of failure to appear during pre-trial, thus:

Section 5. Effect of failure to appear. — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex-parte* and the court to render judgment on the basis thereof.

⁷

Id. at 17-18.

What constitutes a valid ground to excuse litigants and their counsels from appearing at the pre-trial under Section 4, Rule 18 of the Rules of Court is subject to the sound discretion of a judge.⁸ Such discretion was shown by the trial court, which was correct in putting into effect the consequence of petitioners' non-appearance at the pre-trial. While Sy filed an Urgent Motion to Reset Pre-trial, she cannot assume that her motion would be automatically granted. As found by the Court of Appeals, the denial of petitioners' motion for postponement is dictated by the motion itself:

A perusal of the Urgent Motion to Reset Pre-Trial Conference discloses that other than the allegation that counsel will attend a hearing in another branch of the same court in Manila, yet, it failed to substantiate its claim. It did not state the case number nor attach the Calendar of Hearing or such other pertinent proof to appraise the court that indeed counsel was predisposed.⁹

We cannot allow petitioners to argue that their right to due process has been infringed.

In *The Philippine American Life & General Insurance Company v. Enario*,¹⁰ we reiterated that the essence of due process is to be found in the reasonable opportunity to be heard and to submit any evidence one may have in support of one's defense. Where the opportunity to be heard, either through verbal arguments or pleadings, is accorded, and the party can present its side or defend its interest in due course, there is no denial of procedural due process.

⁸ *Spouses Khonghun v. United Coconut Planters Bank*, 529 Phil. 311, 316 (2006) citing *Fountainhead International Philippines, Inc. v. Court of Appeals*, 271 Phil. 831, 836-837 (1991).

⁹ CA rollo, p. 62.

¹⁰ G.R. No. 182075, 15 September 2010, 630 SCRA 607, 620 citing *Air Philippines Corporation v. International Business Aviation Services Philippines, Inc.*, 481 Phil. 366, 386 (2004); *Villa Rhecar Bus v. De la Cruz*, 241 Phil. 14, 18 (1988); *Mutuc v. Court of Appeals*, 268 Phil. 37, 43 (1990) citing *Yap Say v. Intermediate Appellate Court*, 242 Phil. 802, 804-805 (1988); *Richards v. Atty. Asoy*, 236 Phil. 48, 53 (1987); *Tajonera v. Lamaroza*, 196 Phil. 553, 563-564 (1981).

We next deal with the central issue of rescission.

Article 1191 of the Civil Code provides that the power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

A lease contract is a reciprocal contract. By signing the lease agreement, the lessor grants possession over his/her property to the lessee for a period of time in exchange for rental payment.

Indeed, rescission is statutorily recognized in a contract of lease. Article 1659 of the Civil Code provides:

Art. 1659. If the lessor or the lessee should not comply with the obligations set forth in articles 1654 and 1657, the aggrieved party may ask for the rescission of the contract and indemnification for damages, or only the latter, allowing the contract to remain in force.

Article 1659 outlines the remedies for non-compliance with the reciprocal obligations in a lease contract, which obligations are cited in Articles 1654 and 1657:

Article 1654. The lessor is obliged:

- (1) To deliver the thing which is the object of the contract in such a conditions as to render it fit for the use intended;
- (2) To make on the same during the lease all the necessary repairs in order to keep it suitable for the use to which it has been devoted, unless there is a stipulation to the contrary;
- (3) To maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract.

Article 1657. The lessee is obliged:

- (1) To pay the price of the lease according to the terms stipulated;

(2) To use the thing leased as a diligent father of a family, devoting it to the use stipulated; and in the absence of stipulation, to that which may be inferred from the nature of the thing leased, according to the custom of the place;

(3) To pay the expenses for the deed of lease. (Boldfacing supplied).

The aggrieved party is given the option to the aggrieved party to ask for: (1) the rescission of the contract; (2) rescission and indemnification for damages; or (3) only indemnification for damages, allowing the contract to remain in force.¹¹

While Andok's had complied with all its obligations as a lessee, the lessor failed to render the premises fit for the use intended and to maintain the lessee in the peaceful and adequate enjoyment of the lease.

The case of *CMS Investments and Management Corporation v. Intermediate Appellate Court*¹² quoted *Manresa's* comment on the lessor's obligation to maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract, in this wise:

The lessor must see that the enjoyment is not interrupted or disturbed, either by others' acts x x x or by his own. By his own acts, because, being the person principally obligated by the contract, he would openly violate it if, in going back on his agreement, he should attempt to render ineffective in practice the right in the thing he had granted to the lessee; and by others' acts, because he must guarantee the right he created, for he is obliged to give warranty in the manner we have set forth in our commentary on article 1553, and, in this sense, it is incumbent upon him to protect the lessee in the latter's peaceful enjoyment.¹³

Andok's paid a total of ₱480,000.00 as advance deposit for four (4) months and security deposit equivalent to four (4) months. However, the

¹¹ *Lopez v. Umale-Cosme*, G.R. No. 171891, 24 February 2009, 580 SCRA 190, 195; *Wee v. De Castro*, G.R. No. 176405, 20 August 2008, 562 SCRA 695, 710; *Chua v. Victorio*, G.R. No. 157568, 18 May 2004, 428 SCRA 447, 453.

¹² 223 Phil. 294 (1985).

¹³ *Id.* at 303 citing *Goldstein v. Rocas*, 34 Phil. 562, 564 (1916).

construction of its outlet store was hindered by two incidents — the unpaid MERALCO bills and the unfinished construction of a billboard structure directly above the leased property.

Sy argues that per contract, Andok's had assumed the risk of delay by allowing MediaPool, Inc. to construct a billboard structure on a portion of the leased premises. We reproduce the pertinent provision for brevity:

10. That the LESSEE shall allow persons who will construct, inspect, maintain and repair all billboard structures to be set up and constructed on the portion of the parcel of land excluded from this contract, only upon approval of written request to LESSEE AND LESSOR from the billboard LESSEE to avoid disruption of business operations of Andok's Litson Corporation and its affiliates.¹⁴

True, Andok's agreed to allow MediaPool, Inc. to construct a billboard structure but it was conditioned on Andok's and the lessor's approval to avoid disruption of its business operation. Sy is thus cognizant of the fact that the said billboard structure construction might disrupt, as it already did, the intended construction of respondent's outlet. It is thereby understood that the construction of a billboard should be done within a period of time that is reasonable and sufficient so as not to disrupt the business operations of respondent. In this case, Andok's had agreed to several extensions for MediaPool, Inc. to finish its billboard construction. It had sent a total of four (4) letters in a span of 8 months, all of which were merely ignored. Indeed, the indifference demonstrated by Sy leaves no doubt that she has reneged on her obligation.

Sy's disregard of Andok's repeated demands for the billboard lessee to finish the construction is a violation of her obligation to maintain the lessee in peaceful and adequate enjoyment of the lease. The delay in the

¹⁴ *Rollo*, p. 54.

construction had obviously caused disruption in respondent's business as it could not immediately commence its business operations despite prompt payment of rent.

The attendant circumstances show substantial breach. The delay in the construction prevented Andok's from using the leased premises for its business outlet. On top of the failure of Sy to address the delay in the billboard construction, she also failed to resolve or explain the unpaid electricity bills. Sy resorted to a blanket denial without however producing any proof that the said bill had been settled. These incidents refer to the fundamentals of the contract for the lease of Sy's premises. She failed to comply with the obligations that have arisen upon Andok's payment of the amount equivalent to eight months of the monthly rentals.

Anent the imposition of legal interest, the Court of Appeals is correct in stating that the award of damages was warranted under the facts of the case and the imposition of legal interest was necessary consequence thereof. We find applicable the pertinent guidelines provided in *Eastern Shipping Lines, Inc. v. Court of Appeals*,¹⁵ thus:

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

¹⁵

G.R. No. 97412, 12 July 1994, 234 SCRA 78.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.¹⁶

Accordingly, legal interest at the rate of 6% per annum on the amounts awarded starts to run from 24 July 2008, when the trial court rendered judgment. From the time this judgment becomes final and executory, the interest rate shall be 12% per annum on the judgment amount and the interest earned up to that date, until the judgment is wholly satisfied.

WHEREFORE, the petition is **DENIED**. The 20 January 2010 Decision of the Court of Appeals in CA-G.R. CV No. 91942, affirming the 24 July 2008 Decision of the RTC, Branch 17, Manila, is hereby **AFFIRMED**.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

¹⁶ Id. at 96-97.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



ARTURO D. BRION

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



ROBERTO A. ABAD

Associate Justice

ATTESTATION

I attest 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.



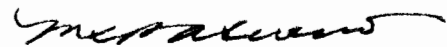
ANTONIO T. CARPIO

Associate Justice

Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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