

CARNELIAN HOLIDAY TOURS AND TRAVEL, CHERRY NUNEZ-ERISPE AND/OR ALVIN PONS NUNEZ, PETITIONERS, VS. DR. JEFFREY LEONARDO AND JOCELYN LEONARDO, RESPONDENTS.

Ponente: CARANDANG, J.

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CARANDANG, J.:

Before Us is a petition for review on certiorari under Rule 42 of the Rules of Court seeking to nullify and set aside the Decision[1] of the Regional Trial Court (RTC), Mandaluyong City, Branch 211, dated September 8, 2004, which affirmed the Decision[2] of the Metropolitan Trial Court (MeTC), Mandaluyong City, Branch 59 dated February 9, 2004, the dispositive portion of the latter Decision reads:

“WHEREFORE, judgment is hereby rendered ordering Carnelia Holiday Tours & Travel, Cherry Nunez Erispe & Alvin Pons Nunes to pay plaintiffs:

- the sum of TWO THOUSAND SEVEN HUNDRED SIXTY-SIX DOLLARS (\$2,766.00) plus legal interest per month computed from the filing of complaint or on 30 December 2003, representing the principal obligation until the same is fully paid;
- the amount of PESOS: FIVE THOUSAND (P5,000.00) as attorney’s fees; and
- the cost of suit.

SO ORDERED.”

The antecedent facts:

On March 13, 2003, respondents Dr. Jeffrey Leonardo and Jocelyn Leonardo purchased six (6) Singapore Airline tickets from petitioner Carnelian Holiday Tours & Travel with routing Manila-Los Angeles and paid the amount of \$5,480.00 plus P8,910.00 travel tax, covered by Official Receipt No. 0306. Because of the outbreak of SARS in Singapore, respondents decided to cancel their flight via Singapore Airlines. On March 29, 2003, respondent Jocelyn Leonardo verbally notified petitioners through Cherry Nunes Erispe regarding said cancellation. Respondents returned the six (6) Singapore Airline tickets, including the official receipt. Petitioners promised that the refund should be made on April 9, 2003. Because of petitioners’ assurance of refund, respondents acquired six (6) PAL tickets to Los Angeles, USA and paid the amount of \$5,323.00 plus P9,720.00 Philippine Travel Tax, as evidenced by Official Receipt No. 0309.[3] Upon respondents’ arrival from the USA on April 28, 2003, no refund and no statement as to the amount to be deducted were made, despite repeated assurance from petitioners that a refund will be given immediately. Later on, petitioners deposited the amount of \$1,800.00 as partial refund in the Banco de Oro Dollar Savings Account No. 0250297359 of respondent Jocelyn Leonardo.[4] Respondents sent a demand letter dated May 28, 2003 requesting petitioners to refund the value of six (6) Singapore Airline tickets and to furnish them a copy of the statement of accounts stating the amount to be refunded.[5]

On July 4, 2003, petitioners deposited the amounts of \$314.00 and \$100.00 or a total of \$414.00 as partial refund for the tickets.[6] On July 7, 2003, petitioners deposited in respondents-spouses Account No. 520003198 the

amount of P8, 910.00. Respondents received, through fax, from petitioners, a Statement of Account[7], showing the following:

\$294.00 (\$49.00 x 6) as US Tax
\$120.00 (\$20.00) as War Tax
\$300.00 (\$50.00) as Total mark-Up; and
\$300.00 (\$50.00) as No Show Charge.

A total of \$1,014.00 was deducted from the \$5,480.00 value of the tickets; hence, respondents are only entitled to a refund of \$4,266.00.

Respondents questioned the said deductions, particularly the alleged Mark-Up and No Show Charge considering that they have already been charged with the mark-up on the six (6) PAL tickets they bought on March 31, 2003, and the Singapore Airlines has waived the imposition of No Show Charge because of the outbreak of SARS. Without the inclusion of the unwarranted tax/charge and less the partial refund of \$2,214, respondents are still entitled to the refund of \$3,266.00. Petitioners have only paid the amount of \$500.00 as evidenced by Cash Voucher dated October 22, 2003.[8] Thus, respondents demanded from petitioners to pay the amount of \$2,766.00 within five days from receipt of the demand letter.[9] Petitioners, in reply, alleged that they have deposited \$814.00 and P8,960.00 on August 4 and 9, 2003, respectively.[10] Respondents claim that no such amounts were deposited on those dates. Because of petitioners' refusal to pay, respondents instituted the instant complaint[11] for sum of money.

For failure of petitioners to file any Answer within the reglementary period despite proper service of summons, the MeTC rendered judgment in the Decision of February 9, 2004, granting respondents complaint for a sum of money.

Aggrieved, petitioners filed an appeal before the RTC. Petitioners argued that the lower court erred in motu proprio rendering judgment against them for their failure to file their Answer within the reglementary period and in finding that the petitioners were able to establish, by preponderance of evidence, their entitlement to the reliefs prayed for. Petitioners maintain that the lower court should have given due course to their Answer with Counterclaim, though filed late, in the interest of substantial justice.

On September 8, 2004, the RTC issued a Decision affirming the ruling of the court a quo.

Hence, this petition for review raising the following issues:

-I-

WHETHER OR NOT LIBERAL INTERPRETATION OF THE RULES SHOULD HAVE BEEN APPLIED WITH THE VIEW OF OBTAINING AND EFFECTING SUBSTANTIAL JUSTICE.

-II-

WHETHER OT NOT THE PETITIONERS SHOULD PAY THE RESPONDENTS THE SUM OF US\$2,766.00 AND THE OTHER RELIEFS GRANTED BY JUDGE PAYOYO-VILLORDON TO RESPONDENTS.

The petition is bereft of merit.

Anent the first issue, petitioners insist that the lower court should have applied a liberal interpretation of the rules in order to attain substantial justice. A rigid application of procedural rules would result in a miscarriage of justice considering that respondents are prevaricating as shown in the statement of facts contained in petitioners' Answer. Petitioners' claim that the lower court was overly technical when it did not give due course to

petitioners' answer and was in a haste in rendering judgment against them. A liberal construction of the rules should be allowed in the present case since it would not prejudice the rights of petitioners.

The instant case is covered by the Rule on Summary Procedure. The total amount of respondents claim, as stated in the complaint, does not exceed P200, 000.00, exclusive of interests and costs, thus it is governed by the rules on summary procedure.

Under Section 5 thereof, it provides that within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff. And should the defendant fail to file an answer within the reglementary period given, the consequence is stated in Section 6 of the rules, to wit:

Sec. 6. Effect of failure to answer. – Should the defendant fail to answer the complaint within the period above provided, the court, *motu proprio*, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, that the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the applicability of Section 4, Rule 18 of the Rules of Court, if there are two or more defendants.

In this case, petitioners were served with summons and a copy of the complaint on January 23, 2004. Thus, they have ten (10) days or until February 2, 2004 within which to file their answer. However, they failed to file any answer within the period given. What they did, on the last day to file answer, was to file a motion for extension of fifteen (15) days to file responsive pleading. Reasoning that their evidence is basically documentary in nature and that they have to secure these documents from different offices, petitioners asked for another extension of six (6) days to file their answer.

Prescinding from the foregoing, We rule and so hold that the lower court did not err in rendering judgment after petitioners fail to file their answer within ten (10) days from service of summons. As provided under the rule on summary procedure, the lower court shall *motu proprio* render judgment if the defendant fails to file an answer within the reglementary period. Hence, even without a motion filed, the lower court has to render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein. The ten (10) day period given to petitioners had lapsed without any answer filed. Clearly, it was proper for the lower court judge to resolve the case on the basis of the complaint and the documentary annexes attached thereto and grant the respondents such relief as their pleading warrant.

Besides, the motion for extension of time to file responsive pleading filed by petitioners is a prohibited pleading under the rule on summary procedure.[12] Accordingly, the lower court had no legal obligation to resolve said motion for extension. Petitioners mistakenly relied on the supposition that the court would grant their motion, losing sight of the fact that said motion is a prohibited pleading. When petitioners filed their Answer on March 2, 2004,[13] it was already twenty-nine (29) days late. Thus, the lower court cannot be expected to admit petitioners' Answer.

It should be noted that the Rule on Summary Procedure, in particular, was promulgated for the purpose of achieving "an expeditious and inexpensive determination of cases." For this reason, the Rule frowns upon delays and prohibits altogether the filing of motions for extension of time. Consistent with this reasoning is the above-quoted provision (Section 6) which allows the trial court to render judgment, even *motu proprio*, upon the failure of defendant to file an answer within the reglementary period. Indeed, to admit a late answer, as petitioners insist, is to put premium on dilatory maneuvers – the very mischief that the Rule on Summary Procedure seeks to redress - and to defeat its objective of expediting the adjudication of suits.[14] In this light, petitioners' avowal of the liberal interpretation doctrine is misplaced.

Likewise, We have perused the records of the case and We are in accord with the lower court's finding, as affirmed by the RTC, that on the basis of the complaint, respondents were able to show that petitioners are liable to them in the amount of \$2,766, said relief being limited to what is prayed for in the complaint.

In exchange for the six (6) Singapore Airline tickets which they purchased, respondents paid therefor the amount of \$5,480. They sought refund of said amount when they decided to cancel their flight, returning the six (6) Singapore Airline tickets, including the receipt, to petitioners. Despite assurance of refund, however, petitioners have only made partial refund to respondents. The documents submitted by respondents show that petitioners only returned the amount of \$2,714.

It was shown that on May 22, 2003, petitioners deposited the amount of \$1,800.00 in the Banco De Oro Dollar Saving Account of respondent Jocelyn Leonardo.[15] On July 4, 2003, petitioners deposited anew in the said Dollar Saving Account the amounts of \$314.00 and \$100.00 or a total of \$414.00.[16] Thus, the total partial refund made by petitioners is only \$2,714 out of the total \$5,480, leaving a balance of \$2,766. It was, therefore, appropriate for the lower court and the RTC to grant said relief as warranted by the facts alleged in respondents' complaint.

Moreover, petitioners' assertion as to the deductions that still need to be subtracted from the principal amount was not duly proven. The basis for said deductions was not fully established. Further, petitioners cannot cling to their assertion that they are not the ones directly processing the refund for they merely acted as sub-agent for the IATA (International Airport Transport Agency) and it is World Master Tours and Travel which was the IATA agent then. It should be noted that the transaction was entered into between petitioners and respondents only. World Master was not a party thereto. Whatever may be the liability of World Master to petitioners is just by and between them. It would be improper for respondents to run after World Master just to expedite the refund of the tickets, for, in the first place, World Master is not a privy to the transaction. The most logical thing to do is for petitioners to give the refund to the respondents as adjudged by the lower court, and then for petitioners to claim from World Master whatever amount may be validly due from them.

The award of attorney's fees is affirmed. Considering that respondents were forced to litigate and, thus, incur expenses to protect their rights and interest, the award of attorney's fees is legally and morally justifiable.

WHEREFORE, premises considered, the instant petition for review is DISMISSED. The Decision of the Regional Trial Court (RTC), Mandaluyong City, Branch 211, dated September 8, 2004, which affirmed the Decision of the Metropolitan Trial Court (MeTC), Mandaluyong City, Branch 59 dated February 9, 2004 is hereby AFFIRMED.

SO ORDERED.

Dacudao, (Chairman) and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 73-76.

[2] Rollo, pp. 93-95.

[3] Rollo, p. 51.

[4] Dollar Savings Account, Rollo, p. 52.

[5] Demand Letter, Rollo, p. 53.

[6] Dollar Savings Account, Rollo, p. 52.

[7] Rollo, p. 55-58.

[8] Rollo, p. 59.

[9] Demand letter dated November 8, 2003, Rollo, p. 60.

[10] Letter from Alvin Pons R. Nuñez of Carnelian Holiday Tours and Travel, Rollo, pp. 61-63.

[11] Rollo, pp. 46-50.

[12] Section 19(e).

[13] See the stamped "Received" on the upper part portion of the Answer, Rollo, p. 64.

[14] *Gachon vs. Devera, Jr.* 274 SCRA 540, June 20, 1997.

[15] Annex "B-1-A" of the Complaint, Rollo, p. 52.

[16] Annexes "B-1-A" and "B-1-C" of the Complaint, Rollo, p. 52.

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