

THE PROVINCE OF SOUTHERN LEYTE, PLAINTIFF-APPELLEE, VS. PACIFIC UNION INSURANCE CO., INC., DEFENDANT-APPELLANT.

Ponente: HERNANDO, J.

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HERNANDO, J.:

Before Us is an appeal[1] filed by defendant-appellant Pacific Union Insurance Co., Inc (PUICI) from the Orders dated July 11, 2011[2] and June 26, 2012[3] rendered by the Regional Trial Court (RTC), Branch 24 of Maasin City, Southern Leyte in Civil Case No. R-3620, an action for Collection of Sum of Money with Writ of Preliminary Attachment. The assailed July 11, 2011 Order granted plaintiff-appellee's motion for judgment on the pleadings and thereby ordered defendant-appellant to pay the former the amount of Php29,685,483.26 plus 6% (interest) per annum from the date of the filing of the complaint until fully paid. The other assailed June 26, 2012 Order, on the other hand, denied defendant-appellant's motion for reconsideration relative to the earlier July 11, 2011 Order.

The Antecedents:

The present appeal stemmed from a Complaint[4] filed by plaintiff, Province of Southern Leyte, represented by its Provincial Governor, Damian G. Mercado, on April 1, 2011 for Collection of Sum of Money with Writ of Preliminary Attachment before the Regional Trial Court (RTC) of Maasin City, Southern Leyte against defendant Pacific Union Insurance Company, Inc. (PUICI). Defendant PUICI is a corporation duly organized and existing under the laws of the Philippines and is engaged in the insurance, surety and bonding business.

In its Complaint, plaintiff alleged that on November 24, 2006, it entered into a Contract with Arnold T. Espinosa, who is doing business under the name and style of ARN Builders, involving the construction of Subang Daku Flood Control Project in Sogod, Southern Leyte. Under the said Contract, Arnold T. Espinosa/ARN Builders (contractor), in consideration of plaintiff's payment in the amount of Php98,951,610.88, undertook to execute and complete the project within a period of two hundred ten (210) calendar days, or up to July 4, 2007 and to maintain the same in conformity with the terms and conditions of said Contract. It was further agreed that should the contractor fail to so complete the project satisfactorily within the specified contract time, he shall be liable to pay plaintiff liquidated damages. Thus, to guarantee faithful performance of said Contract, plaintiff required the contractor to post a performance bond which shall be forfeited in plaintiff's favor in the event of default on the part of the Contractor in any of its obligations under the said Contract.

Consequently, on November 28, 2006, defendant as surety issued its Performance Bond No. 12075 in the amount of Php29,685,483.26 on behalf of its principal, Arnold T. Espinoza/ARN Builders and in favor of plaintiff as obligee. Under and by virtue of said performance bond, defendant and Arnold T. Espinoza/ARN Builders jointly and severally bound themselves to pay plaintiff the amount of Php29,685,483.26 to answer for the damages which plaintiff may sustain should the principal fail to faithfully comply with the project in accordance with the terms and conditions of the said Contract. Thereafter, plaintiff released to the contractor the amount of Php42,341,394.30 as partial payment for the project.

However, at the expiration of the 210-day construction period, the contractor only accomplished 45.86% of the Subang Daku Flood Control Project, in clear breach of its obligations and undertaking under the Contract, to the great damage and prejudice of plaintiff. Hence, plaintiff rescinded the Contract and immediately called upon defendant's Performance Bond to answer for the damages it suffered.

According to plaintiff, defendant tried to evade its clear obligations to plaintiff by contending that its liability under the Performance Bond, which is Php29,685,483, is way below the actual work accomplished by the contractor in the total amount of Php45,379,208.75 for which plaintiff even owes the contractor the balance of Php3,037,814.45 because plaintiff only disbursed to the contractor the amount of Php42,341,394.30. Plaintiff, however, clarified with defendant that under the Implementing Rules and Regulations of R.A. No. 9184[5], in case the delay in the completion of the work exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the contractor, the procuring entity concerned may rescind the contract, forfeit the contractor's performance security and take over the project or award the same to a qualified contractor through a negotiated contract. Accordingly, since Arnold T. Expinoza/ARN Builders failed to finish the project at the specified completion date of July 4, 2007, it had breached its obligations under the Contract warranting its rescission and the forfeiture of the Performance Bond.

Plaintiff, thus, sent several notices of demand to defendant seeking for the payment of the amount of Php29,685,483.26 of the Performance Bond but defendant failed and refused and continuously fails and refuses to pay the same. Plaintiff asserted that after receiving the huge amount of premium from the contractor, defendant suddenly reneged its undertaking and refused to honor its obligations under the Performance Bond. Thus, defendant was in complete bad faith and guilty of fraud.

Subsequently, defendant PUICI filed its Answer[6] on June 27, 2011 denying all the material allegations in plaintiff's Complaint for lack of sufficient knowledge as to the truth thereof. In its Special and Affirmative Defenses, defendant raised the following:

8. It repleads, reiterates and incorporates by way of reference all the foregoing allegations to form part hereof and insofar as they may be relevant thereto;
9. The instant case should be dismissed because the complaint asserting the claim states no cause of action against herein answering defendant;
10. Under the foregoing circumstances plaintiff lacks any legal capacity to pursue any claim involving the subject Performance Bond and consequently has no cause of action against herein defendant.
11. Defendant PACIFIC UNION INSURANCE COMPANY hereby repleads, reiterates and incorporates, by way of reference, the foregoing allegations as part hereof and insofar as they may be relevant herein;

x x x x x x x x

On July 7, 2011, plaintiff filed a Motion for Judgment on the Pleadings[7]. It submitted said motion for the consideration and approval of the trial court on July 15, 2011 at 8:30 in the morning.

Thereafter, the trial court found merit in plaintiff's Motion for Judgment on the Pleadings and thus, granted the same in an Order dated July 11, 2011, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is rendered granting the motion for judgment on the pleadings, ordering the defendants to pay plaintiff the amount of P29,685,483.26 plus 6% (percent) per annum from the date of the filing of the complaint until fully paid.

Corollarily, another Order dated July 11, 2011 was also issued by the trial court cancelling the July 21, 2011

scheduled hearing in view of the Order granting plaintiff's Motion for Judgment on the Pleadings.

Hence, this appeal by defendant-appellant anchored on the following assignment of errors:

Assignment of Errors[8]:

I. THE TRIAL COURT COMMITTED SERIOUS MISCARRIAGE OF JUSTICE AND PALPABLE VIOLATION OF DUE PROCESS WHEN IT GRANTED PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS AND RENDERED JUDGMENT IN ITS FAVOR WITHOUT NOTICE AND HEARING THEREBY PRECLUDING THE DEFENDANT FROM FILING ANY OPPOSITION OR OBJECTION TO THE MOTION;

II. THE TRIAL COURT ERRED IN GRANTING PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS(sic) DESPITE SEVERAL ISSUES TENDERED BY THE DEFENDANT'S ANSWER;

III. THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION FOR RECONSIDERATION AND BRUSHING ASIDE DEFENDANT'S PRAYER FOR THE JOINDER OF ARN BUILDERS AS AN INDISPENSABLE PARTY IN THE CASE.

Court's Ruling:

The appeal is bereft of merit.

We shall delve into the issues raised by appellant successively.

Appellant first assails the court a quo's Order granting appellee's Motion for Judgment on the Pleadings without the required notice and hearing as it supposedly violated its fundamental rights to due process and fair play.

Appellee counters that the trial court did not err in resolving the questioned motion ex-parte citing *Dino v. Valencia*[9]. At any rate, appellee further argues that granting arguendo that it erred, the supposed error of the court a quo in resolving the motion ex-parte had been cured and rendered moot by appellant's filing of the Amended Motion for Reconsideration where appellant had registered its opposition to the questioned motion.

On this matter, the points of the appellee are well-taken.

Elementary is the rule that every motion must contain the mandatory requirements of notice and hearing and that there must be proof of service thereof.[10] The Court has consistently held that a motion that fails to comply with the above requirements is considered a worthless piece of paper which should not be acted upon.[11] The rule, however, is not absolute.[12] There are motions that can be acted upon by the court ex parte if these would not cause prejudice to the other party.[13] They are not strictly covered by the rigid requirement of the rules on notice and hearing of motions.[14]

A Motion for Judgment on Pleadings may be made ex-parte.[15] As correctly cited by appellee, the Supreme Court, in *Dino v. Valencia*[16], declared that:

Section 1, Rule 19 of the Rules of Court which states that where an answer "admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading", does not state whether the motion for judgment on the pleading may be considered ex-parte or only after notice of hearing served on the adverse party. A motion for a judgment on the pleadings, where the answer admits all the material averments of the complaint, as in the present case, is one that may be considered ex-parte because, upon the particular facts thus presented and laid before the court, the plaintiff is entitled to the judgment.

In the older case of *Cruz v. Ernesto Oppen Inc., et. al.*[17], this issue had likewise been discussed. There, the High Court explained the matter in this wise:

x x x This motion may not have been skillfully labeled. In effect, however, it is a motion for judgment on the pleadings. x x x.

Applicable then is Section 1, Rule 19 of the Revised Rules of Court (formerly Section 10, Rule 35 of the old Rules), which states that where an answer "admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading." On this point, then Justice Arsenio P. Dizon of the Court of Appeals, now of this Court, analyzing the provisions of Section 10, Rule 35 of the old Rules of Court, observed that "the rule does not state whether the motion for judgment on the pleadings may be considered ex-parte or only upon notice served on the adverse party," and concluded that a motion for judgment on the pleadings in which all the material averments of the complaint are admitted, "is one that may be considered ex-parte because, upon the particular fact thus presented and laid before the court, the plaintiff is entitled to the precise order applied for." Such is the situation here. No need there was to set for oral argument respondents' motion of June 8. (Emphasis supplied)

On the basis of these cases, We hold and so rule that a motion for judgment on the pleadings may be considered ex-parte, hence, can be acted upon by the court a quo even without the required notice and hearing.

In that same case of Cruz, the Supreme Court went further and stated that:

6. Concededly, the order of July 3, 1964 dismissing the petition was issued without hearing the parties on oral arguments. But the proceedings did not end there. For, petitioner moved to reconsider that order. In that motion for reconsideration, she has had the opportunity to present, and in fact did present, her written arguments once again on the legal issues. She set her aforesaid motion to reconsider for hearing on August 15, 1964. She has had opportunity to be heard. She cannot complain. Unfortunately for her, it was denied on that same day.

In this factual environment, it cannot be said that petitioner was denied her day in court. Lack of original notice to set the motion to resolve for hearing was cured by the fact that she was heard on her motion for reconsideration.

She was not, therefore, prejudiced by the fact that respondents' motion to decide the case was not set for hearing.

7. At all events, if the Court of First Instance erred in resolving respondent corporation's motion for resolution of its answer without setting it for hearing under the circumstances here stated, it was a harmless error; it does not affect the substantial rights of petitioner; petitioner will not fare any better if the case were to be returned to the inferior court for a new trial; the appealed orders need not be disturbed. For, the law does not require useless ceremony.

The same is true in the present case. If indeed the court a quo erred in resolving appellee's motion for judgment on the pleadings without the requisite notice and hearing, the same was effectively cured when appellant submitted its motion for reconsideration relative to the lower court's Order granting the motion for judgment on the pleadings and thereby presenting its arguments and opposition thereto. Needless to state, the purpose of the law in requiring the filing of motions at least three days before the hearing thereof is to avoid surprises upon the opposite party and to give the latter time to study and meet the arguments of the movant.[18] This purpose, however, has been substantially complied with considering that appellant was given an opportunity to advance its arguments against the questioned motion via its motion for reconsideration which was further given due consideration by the court a quo before it issued the other assailed June 26, 2012 Order resolving appellant's MR. In this light, appellee could not have been deprived of its right to due process.

Appellant insists that its Answer tendered genuine issues which calls for the presentation of evidence. It maintains that the matters which it had denied are matters that are not within its knowledge, information or competence particularly those relating to the alleged breach of contract on the part of ARN Builders. Necessarily, when it

denied the same, it is deemed controverted as to require the presentation of evidence. Appellee stresses that the recovery of Bond is not automatic and that appellee's cause of action rests on the alleged violation or breach of contractual obligations by ARN Builders, hence, unless these allegations are proved and established, its liability does not rise. Appellee, thus, asserts that with the filing of defendant's Answer with Counterclaims, the following factual issues were raised:

- i. Has ARN Builders performed its obligations and undertakings under the contract it entered into with the plaintiff?
- ii. Assuming ARN Builders failed to faithfully comply with the terms of the contract entered into with the plaintiff, was such failure due to causes beyond its control, hence, excusable?
- iii. If ARN Builders is liable, what is the nature and extent of the damages that should be awarded to the plaintiff?

Furthermore, appellee avers that it raised special and affirmative defenses in its Answer, hence, judgment on the pleadings is not proper.

We remain unconvinced by these arguments.

A careful examination of appellant's Answer shows that no such factual issues as above-enumerated, were raised by it in its Answer. On the contrary, it is noteworthy that except for the corporate circumstances of appellee which appellant admitted, all the other material averments in the Complaint were denied for lack of sufficient knowledge as to the truth thereof. Sec. 10, Rule 8 of the Rules of Court expressly provides:

Sec. 10. Specific denial. - A defendant must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters upon which he relies to support his denial. Where a defendant desires to deny only a part of an averment, he shall specify so much of it as is true and material and shall deny the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of the material averment made in the complaint, he shall so state, and this shall have the effect of a denial.

Specific denial has three modes.[19] Thus:

- 1) The defendant must specify each material allegation of fact the truth of which he does not admit and whenever practicable set forth the substance of the matters on which he will rely to support his denial;
- 2) When the defendant wants to deny only a part or a qualification of an averment in the complaint, he must specify so much of the averment as is true and material and deny the remainder; and
- 3) When the defendant is without knowledge and information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state and this shall have the effect of a denial.[20]

But the rule that applies when the defendant wants to contest the documents attached to the claimant's complaint which are essential to his cause of action is found in Section 8, Rule 8 of the Rules of Court, which provides:

SECTION 8. How to contest such documents. —When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding Section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them, and sets forth what he claims to be the facts; but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused.[21]

In the present case, appellee, in its Complaint, alleged in essence that appellant, as a surety, executed a Performance Bond to secure full and faithful performance by its principal, ARN Builders, to the terms and

conditions of the contract executed between the latter and appellee with respect to the Construction of Subang Daku Flood Control Project in Sugod, Southern Leyte and that appellant solidarily bound itself with the principal to answer for any damages that appellant may suffer in the event of non-compliance with the said contract. In support of such allegations, appellee attached thereto copies of said Performance Bond[22] as well as the Contract Agreement[23] appellee entered with ARN Builders.

However, all these assertions were denied by appellant for lack of sufficient knowledge as to the truth thereof. In Our view, this mode of denial is by itself obviously ineffectual since appellant must surely know if indeed these agreements actually exist. The Performance Bond was duly appended to the Complaint, hence, it is quite perplexing for appellant to simply deny the same for lack of sufficient knowledge as to the truth thereof when it could have easily examined it and determine if the same was genuine or not based on its own records where it had easy access. The same is true with respect to the supposed Contract Agreement executed between appellee and ARN Builders. It is hard to believe that appellant had no knowledge of the existence of such contract considering that the execution of the Performance Bond was made dependent on it. A person's denial for lack of knowledge of things that by their nature he ought to know is not an acceptable denial.[24]

It has been established that when matters regarding which defendants claim to have no knowledge or information sufficient to form a belief are plainly and necessarily within its knowledge, its alleged ignorance or lack of information will not be considered a specific denial.[25] An unexplained denial of information within the control of the pleader, or is readily accessible to him, is evasive and is insufficient to constitute an effective denial.[26] The form of denial adopted by respondents must be availed of with sincerity and in good faith, and certainly not for the purpose of confusing the adverse party as to what allegations of the petition are really being challenged; nor should it be made for the purpose of delay.[27] Simply put, a profession of ignorance about a fact which is patently and necessarily within the pleader's knowledge or means of knowing is as ineffective as no denial at all.[28]

Accordingly, appellant's ineffective denial in its Answer failed to properly tender an issue and thus, the averments contained in the Complaint were deemed judicially admitted by appellant.

While We likewise note that there was a quick assertion by appellant that the reasons for such denials were stated in the Special and Affirmative Defenses, perusal of said defenses, however, reveals that it did not also present any substantial matters and issues. At the most, they were only conclusions of law unsupported by any factual premise. To recall, appellant's defenses merely alleged the following:

12. It repleads, reiterates and incorporates by way of reference all the foregoing allegations to form part hereof and insofar as they may be relevant thereto;
13. The instant case should be dismissed because the complaint asserting the claim states no cause of action against herein answering defendant;
14. Under the foregoing circumstances plaintiff lacks any legal capacity to pursue any claim involving the subject Performance Bond and consequently has no cause of action against herein defendant.
15. Defendant PACIFIC UNION INSURANCE COMPANY hereby repleads, reiterates and incorporates, by way of reference, the foregoing allegations as part hereof and insofar as they may be relevant herein;

x x x x x x x x

Evidently from the foregoing, the factual basis for appellant in asserting that appellee had no cause of action or that the latter lacks any legal capacity to pursue its claim and as a consequence, had no cause of action against it, were not properly laid out nor explained. In this light, the observation of the court a quo on the matter is quite apt,

thus:

An examination of the defendant's answer quoted-above, clearly shows that the allegations while captioned as affirmative defenses, do not really provide any material substance that may be considered as affirmative defenses.

In paragraph (d), Sec. 5, Rule 6 of the Rules on Civil Procedure under paragraph (b) in quotation mark: "An affirmative defense is an allegation of a new matter which while hypothetically admitting material allegations in the pleadings of the claimant would nevertheless, prevent or bar recovery by him. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, (e)stoppel, former recovery, discharge in bankruptcy and any other matter by way of confession and avoidance.

As a consequence, judgment on the pleadings is therefore warranted.

Finally, equally unpersuasive is the contention of appellant that ARN Builder should have been impleaded as an indispensable party to the present case considering that its purported liability as surety arises only from and is conditioned upon the default of said principal.

Here, appellant, along with its principal, ARN Builders, bound itself to appellee when it executed in its favor the Performance Bond. The contents of the said contract clearly establish that the parties entered into a surety agreement as defined under Article 2047 of the New Civil Code. Thus:

Art. 2047. By guaranty a person, called the guarantor, binds himself to the creditor to fulfill the obligation of the principal debtor in case the latter should fail to do so.

If a person binds himself solidarily with the principal debtor, the provisions of Section 4, Chapter 3, Title I of this Book shall be observed. In such case the contract is called a suretyship. [Emphasis supplied]

As provided in Article 2047, the surety undertakes to be bound solidarily with the principal obligor.[29] That undertaking makes a surety agreement an ancillary contract as it presupposes the existence of a principal contract.[30] Although the contract of a surety is in essence secondary only to a valid principal obligation, the surety becomes liable for the debt or duty of another although it possesses no direct or personal interest over the obligations nor does it receive any benefit therefrom.[31] Let it be stressed that notwithstanding the fact that the surety contract is secondary to the principal obligation, the surety assumes liability as a regular party to the undertaking.[32] Stronghold Insurance Company, Inc. v. Republic-Asahi Glass Corporation[33], reiterating the ruling in Garcia v. Court of Appeals[34], expounds on the nature of the surety's liability:

x x x. The surety's obligation is not an original and direct one for the performance of his own act, but merely accessory or collateral to the obligation contracted by the principal. Nevertheless, although the contract of a surety is in essence secondary only to a valid principal obligation, his liability to the creditor or promisee of the principal is said to be direct, primary and absolute; in other words, he is directly and equally bound with the principal.

The nature of the solidary obligation under the surety does not make one an indispensable party.[35] In Living @ Sense, Inc. v. Malayan Insurance Company, Inc.[36], which had essentially the same factual circumstances as in the present case, it was held thus:

Records show that when DMI secured the surety and performance bonds from respondent in compliance with petitioner's requirement, respondent bound itself "jointly and severally" with DMI for the damages and actual loss that petitioner may suffer should DMI fail to perform its obligations under the Agreement, as follows:

That we, DOU MAC INC. as Principal, and MALAYAN INSURANCE CO., INC., x xx are held firmly bound unto LIVING @ SENSE INC. in the sum of FIVE MILLION ONE HUNDRED SEVENTY ONE

THOUSAND FOUR HUNDRED EIGHTY EIGHT AND 00/100 PESOS ONLY (PHP ***5,171,488.00), PHILIPPINE Currency, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents xxx (Emphasis Supplied)

The term “jointly and severally” expresses a solidary obligation granting petitioner, as creditor, the right to proceed against its debtors, i.e., respondent or DMI.

The nature of the solidary obligation under the surety does not make one an indispensable party. An indispensable party is a party-in-interest without whom no final determination can be had of an action, and who shall be joined mandatorily either as plaintiffs or defendants. The presence of indispensable parties is necessary to vest the court with jurisdiction, thus, without their presence to a suit or proceeding, the judgment of a court cannot attain real finality. The absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.

In this case, DMI is not an indispensable party because petitioner can claim indemnity directly from respondent, having made itself jointly and severally liable with DMI for the obligation under the bonds. (Emphasis Ours)

Similarly in this case, the Performance Bond clearly stated the following:

That we, ARN BUILDERS BY: ARNOLD T. ESPINOSA of Cebu City as PRINCIPAL, and PACIFIC UNION INSURANCE COMPANY, a corporation x x x, as SURETY, are held and firmly bound unto, PROVINCIAL ENGINEER'S OFFICE, Maasin City, Southern Leyte in the sum of TWENTY NINE MILLION SIX HUNDRED EIGHTY FIVE THOUSAND FOUR HUNDRED EIGHTY THREE PESOS AND 26/100 (P29,685,483.26), Philippine Currency, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

x x x x x x x x

Accordingly, appellant, having made itself jointly and severally liable with ARN Builders, cannot therefore be considered as an indispensable party. Appellee can claim indemnity directly from appellant. It has been held that a creditor's right to proceed against the surety exists independently of his right to proceed against the principal.[37]

Under Article 1216 of the Civil Code, the creditor may proceed against any one of the solidary debtors or some or all of them simultaneously.[38] The rule, therefore, is that if the obligation is joint and several, the creditor has the right to proceed even against the surety alone.[39] Since, generally, it is not necessary for a creditor to proceed against a principal in order to hold the surety liable, where, by the terms of the contract, the obligation of the surety is the same as that of the principal, then as soon as the principal is in default, the surety is likewise in default, and may be sued immediately and before any proceedings are had against the principal.[40] Thus, appellant's assertion that a claim on the Bond may properly be commenced only once there is default on the part of the principal obligor, deserves scant consideration.

In like manner, it must likewise be stressed that a surety is not even entitled, as a matter of right, to be given notice of principal's default. Inasmuch as the creditor owes no duty of active diligence to take care of the interest of the surety, his mere failure to voluntarily give information to the surety of the default of the principal cannot have the effect of discharging the surety. The surety is bound to take notice of the principal's default and to perform the obligation.

WHEREFORE, in view of all the foregoing, the instant appeal is DENIED for lack of merit and the Orders dated July 11, 2011 and June 26, 2012 of the Regional Trial Court, Branch 24 of Maasin City, Southern Leyte in Civil

Case No. R-3620 are hereby AFFIRMED. Costs on defendant-appellant.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

- [1] Per Notice of Appeal; Record, p. 331.
- [2] Penned by Executive Judge Bethany G. Kapili; Record, pp. 143-146.
- [3] Ibid, pp. 301-304.
- [4] Record, pp. 1-12.
- [5] Otherwise known as “Government Procurement Reform Act”.
- [6] Record, pp. 76-82.
- [7] Record, pp. 122-129.
- [8] Rollo, Appellant's Brief, p. 47.
- [9] G.R. No. L-43886, July 19, 1989.
- [10] Anama v. Court of Appeals, et. al., G.R. No. 187021, January 25, 2012.
- [11] Ibid.
- [12] Ibid.
- [13] Ibid.
- [14] Ibid.
- [15] Herrera, Oscar M., Remedial Law, Volume II, 2007 Edition, pp. 115-116.
- [16] Supra at note 11.
- [17] G.R. No. L-23861, February 17, 1968.
- [18] Spouses Santiago, et. al. v. Bank of the Philippine Islands, et. al., G.R. No. 163749, September 26, 2008.
- [19] Equitable Cardnetwork, Inc. v. Capistrano, G.R. No. 180157, February 08, 2012.
- [20] Ibid.
- [21] Ibid.
- [22] Annex “B” to Complaint; Record, pp. 16-17.
- [23] Annex “A” to Complaint; Record, pp. 13-15.
- [24] Equitable Cardnetwork, Inc. v. Capistrano, G.R. No. 180157, February 08, 2012.
- [25] Republic v. Sandiganbayan, et. al., G.R. No. 152154. July 15, 2003.
- [26] Ibid.
- [27] Ibid.

[28] Ibid.

[29] Asset Builders Corporation v. Stronghold Insurance Company, Incorporated, G.R. No. 187116, October 18, 2010.

[30] Ibid.

[31] Ibid.

[32] Ibid.

[33] G.R. No. 147561, June 22, 2006 cited in Asset Builders Corporation v. Stronghold Insurance Company, Incorporated, supra at note 29.

[34] G.R. No. 80201, November 20, 1990.

[35] Living @ Sense, Inc. v. Malayan Insurance Company, Inc., G.R. No. 193753, September 26, 2012.

[36] G.R. No. 193753, September 26, 2012.

[37] Estrella Palmares v. Court of Appeals, et. al., G.R. No. 126490, March 31, 1998.

[38] Ibid.

[39] Ibid.

[40] Ibid.

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