

EDVIL JOHN V. ALFARO, PLAINTIFF-APPELLANT, VS. RAFAEL M. SANTOS A.K.A. “RAFAEL M. SANTOS II OR CHIPPER” IN HIS PERSONAL CAPACITY AND PRIMSAN IBACA AGRO DEVELOPMENT CORPORATION R...

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

Before us is an Appeal[1] from the May 16, 2013 Decision[2] of the Regional Trial Court, 6[th] Judicial Region, Branch 19, Roxas City in Civil Case No. V-30-11 for Nullification/Cancellation of Notice of Notarial Rescission of Contract of Lease, Interpretation of Contract, Specific Performance, Consignation and/or Damages, the dispositive portion thereof reads:

“WHEREFORE, finding no convincing evidence, the complaint is herein DISMISSED. No costs.

SO ORDERED.”

The facts of the case as culled from the records are as follows:

This case stemmed from a complaint[3] lodged by plaintiff-appellant Edvil John V. Alfaro against defendants-appellees Rafael M. Santos and Primsan Ibaca Agro Development Corporation before RTC Branch 19, Roxas City for Nullification/Cancellation of Notice of Notarial Rescission of Contract of Lease, Interpretation of Contract, Specific Performance, Consignation and/or Damages.

Alfaro alleged in the complaint that he and the defendants entered into a contract of lease[4] over a 254-hectare parcel of land located in President Roxas and Pilar, Capiz. Per the lease contract, Alfaro is obliged to pay rental at the rate of P200,000.00 per month. He was also required to pay advance rental equivalent to three months or P600,000.00 which he did upon signing the lease agreement. Alfaro then took actual possession of approximately 70 hectares of the 254-hectare property as the rest were not turned over by the defendants yet. Alfaro demanded for its turn over but defendants failed to do so.

It was also alleged in the complaint that sometime thereafter, Santos sent his employee, Jose Abella Vito to borrow money from the plaintiff but the latter refused and this caused a strain in their relationship. Plaintiff was surprised when, sometime in January, 2009, Primsan, through Santos, has executed a Notice of Notarial Rescission of the Contract of Lease[5] allegedly because of plaintiff's failure to pay the advance rental.

On September 9, 2009, plaintiff received defendants' Demand to Vacate[6] which the former opposed through a letter[7] dated September 25, 2009. In the said letter, plaintiff likewise opposed the Notarial Rescission of the Contract of Lease as he has allegedly paid P600,000.00 as advance rental upon the signing of the lease contract.

Plaintiff likewise alleged that it was in fact defendants who reneged on their obligation because they failed to put plaintiff in possession of the entire leased premises despite demand. The extra-judicial notarial rescission was merely a ploy devised by the defendants to evade this obligation, hence making the same null and void. With

plaintiff's opposition to the notarial rescission of the contract of lease, only a judicial action will now rescind the same.

Finally, plaintiff alleged in the complaint that he consigned the rental for the fourth year of the lease agreement in the amount of P200,000.00 in court last July 1, 2011 because defendant Santos could not be found.[8] Plaintiff then prayed that the extra-judicial Notarial Rescission of the Contract of Lease dated July 1, 2007 be declared void; that the Contract of Lease dated July 1, 2007 be declared subsisting; that the defendants be ordered to deliver actual possession of the rest of the leased premises to plaintiff; that the plaintiff be maintained in the material possession of the leased premises; that defendants be compelled to accept the rental payment for the fourth year in the amount of P200,000.00; declaring the consignment thereof as properly made and that defendants be ordered to pay damages.

In their Answer with Counterclaim,[9] defendants-appellees denied the material allegations in the complaint and averred that plaintiff never paid the advance rental of P600,000.00. Plaintiff was given possession of the entire leased premises despite non-payment thereof during the signing of the contract of lease because Santos trusted him being his godson and friend. If plaintiff was not able to occupy the entire leased premises, it was because of plaintiff's limited resources. Plaintiff even subleased a substantial portion of the property without the consent of the defendants in violation of the lease contract. Contrary to the claim of the plaintiff, defendants' employee, Joey Abella Vito was not sent to him to borrow money but to collect the advance rent and that plaintiff has constructive knowledge of the Notice of Notarial Rescission of the Contract of Lease as early as December 4, 2008. Defendants then prayed for the dismissal of the complaint as well as for damages.

Pre-trial was then conducted on January 31, 2013. Only the plaintiff appeared, defendants failed to appear despite being duly notified. Hence, plaintiff presented his evidence ex parte consisting of the Judicial Affidavits of plaintiff Edvil John Alfaro[10] and that of his witness Everardo Cercado[11] which they identified and presented in court. Plaintiff then orally offered his other documentary exhibits.

The evidence for the plaintiff, as summarized by the RTC in its assailed decision, is as follows:

“The Judicial Affidavit filed and identified by plaintiff Edvil John Alfaro alleged that he paid the amount of Six Hundred Thousand (P600,000.00) Pesos in cash in the house of defendant at Barangay Proper, Barangay Ibaca, President Roxas, Capiz. He wrapped the Six Hundred Thousand (P600,000.00) Pesos in cash in a newspaper, bringing along with him Everardo Cercado alias “Boy” and Cesar Dela Cruz, Jr. alias “Junior” to accompany him to the house of the defendant. He personally handed to defendant Rafael Santos the Six Hundred Thousand (P600,000.00) Pesos cash and counted the money. Defendant Santos then handed to the plaintiff the copy of the Contract of Lease.

In the Judicial Affidavit of Everardo Cercado, he alleged that he accompanied plaintiff Edvil John Alfaro to the house of defendant Rafael Santos at Barangay Proper, Barangay Ibaca, President Roxas, Capiz at about 8:00 o'clock in the morning of July 01, 2007. upon arrival in the house of defendant Santos at around 10:00 o'clock in the morning. Edvil John Alfaro told him to stay behind outside the house of defendant Santos. He saw Edvil John Alfaro went up and entered the house of Rafael Santos. He saw plaintiff and defendant sitting at the sala facing each other. He saw Rafael Santos counted (sic) the money from the unwrapped newspaper. After counting the money, Rafael Santos took a ball pen and signed a piece of coupon bond which he later knew to be the Contract of Lease between plaintiff and defendant.”

Based on the foregoing, the RTC, on May 16, 2013, rendered the assailed Decision dismissing the complaint. Displeased with the ruling of the court a quo, plaintiff, now appellant, interposed the instant appeal and in his Appellant's Brief,[12] the following assignment of errors were made, to wit:

THE TRIAL COURT ERRED IN:

A)

DISMISSING PLAINTIFF-APPELLANT'S COMPLAINT FOR LACK OF CONVINCING EVIDENCE;

B)

DENYING PLAINTIFF-APPELLANT'S MOTION FOR RECONSIDERATION FOR LACK OF MERIT;

C)

NOT RENDERING JUDGMENT ON THE BASIS OF THE EX PARTE EVIDENCE PRESENTED BY THE PLAINTIFF- APPELLANT PURSUANT TO SEC. 5, RULE 18, 1997 RULES OF CIVIL PROCEDURE, AS AMENDED, AND AIDED BY DISPUTABLE PRESUMPTIONS UNDER SEC. 3, RULE 131 OF THE RULES OF EVIDENCE.

Appellant contends that the RTC erred in not appreciating the evidences he presented to prove payment of the advance rental. These pieces of evidence consisted of the contract of lease, particularly the statement thereof which states "that upon signing of this contract, the lessee shall pay three (3) years advance rental to the lessor in the amount of P600,000.00" as well as the testimony of Cercado that he saw appellant handover P600,000.00 cash to appellee Santos.

We are not convinced.

We note that aside from the evidences mentioned above, no other competent evidence was presented by appellant that is adequate enough to justify the conclusion that he has indeed paid P600,000.00 to the appellees by way of advance rental.

A cursory reading of the contract of lease would reveal that appellees never acknowledged receipt of the said amount in the document. It was merely stated in the subject document that upon signing of the contract, the lessee shall pay three (3) years advance rental to the lessor. It never said that the lessee was required to pay the said amount during the signing thereof or on the said occasion. Neither was it indicated thereat that Santos has acknowledged receipt of the money when he affixed his signature thereon. It is puzzling why appellant, a businessman embarking on developing a 254-hectare property, failed to ask for an official receipt or even a simple acknowledgment receipt upon paying a considerable amount of money. It is ordinary human nature to ask for receipts for significant amounts given and to keep the same.[13]

At best, appellant's assertion, that the statement in the contract of lease to the effect that the lessee shall pay three (3) years advance rental to the lessor, is enough proof that such payment was indeed made, are founded on mere inferences and presumption.

His failure to present a receipt is fatal to his case because even if a receipt is not conclusive evidence of payment, there are no other evidence on record that is sufficient and strong enough to prove payment. The Supreme Court in the case of PHILIPPINE NATIONAL BANK vs. COURT OF APPEALS and CARMELO H. FLORES,[14] has ruled that:

"A 'receipt' is defined as:

A written and signed acknowledgment that money has been paid or goods have been delivered. A receipt is merely presumptive evidence and is not conclusive.

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In *Monfort v. Aguinaldo*,[15] the receipts of payment, although not exclusive, were deemed to be the best evidence. Thus:

That the best evidence for proving payment is by the evidence of receipts showing the same is also admitted. What respondents claim is that there is no rule which provides that payment can only be proved by receipts. While receipts are deemed to be the best evidence, they are not exclusive. Other evidence may be presented in lieu thereof if they are not available, as in case of loss, destruction or disappearance. The fact of payment may be established not only by documentary evidence, but also by parol evidence (48 C.J. 727; Greenleaf, Law of Evidence, Vol. II, p. 486; Jones on Evidence [1913] Vol. II, p. 193), specially in civil cases where preponderance of evidence is the rule. Here respondents presented documentary as well as oral evidence which the Court of Appeals found to be sufficient, and this finding is final.”

Hence, we agree with the RTC that appellant's complaint should be dismissed for lack of convincing evidence.

It is also well settled that in civil cases, the burden of proof is on the plaintiff to establish his case by a preponderance of evidence. If the plaintiff claims a right granted or created by law, the same must be proven by competent evidence. The plaintiff must rely on the strength of his own evidence and not on the weakness of that of his opponent.[16]

We also note that in judgments by default as in this case, plaintiffs thereat are still required to establish their claims. Instructive is the ruling of the Supreme Court in the case of ERLINDA GAJUDO, FERNANDO GAJUDO, JR., ESTELITA GAJUDO, BALTAZAR GAJUDO and DANILO ARAHAN CHUA vs. TRADERS ROYAL BANK,[17] to wit:

“As in other civil cases, basic is the rule that the party making allegations has the burden of proving them by a preponderance of evidence. Moreover, parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent. This principle holds true, especially when the latter has had no opportunity to present evidence because of a default order. Needless to say, the extent of the relief that may be granted can only be as much as has been alleged and proved with preponderant evidence required under Section 1 of Rule 133.

Regarding judgments by default, it was explained in Pascua v. Florendo[18] that complainants are not automatically entitled to the relief prayed for, once the defendants are declared in default. Favorable relief can be granted only after the court has ascertained that the relief is warranted by the evidence offered and the facts proven by the presenting party. In Pascua, this Court ruled that 'x x x it would be meaningless to require presentation of evidence if every time the other party is declared in default, a decision would automatically be rendered in favor of the non-defaulting party and exactly according to the tenor of his prayer. This is not contemplated by the Rules nor is it sanctioned by the due process clause.'

The import of a judgment by default was further clarified in Lim Tanhu v. Ramolete.[19] The following disquisition is most instructive:

'Unequivocal, in the literal sense, as these provisions [referring to the subject of default then under Rule 18 of the old Rules of Civil Procedure] are, they do not readily convey the full import of what they contemplate. To begin with, contrary to the immediate notion that can be drawn from their language, these provisions are not to be understood as meaning that default or the failure of the defendant to answer should 'be interpreted as an admission by the said defendant that the plaintiff's cause of action find support in the law or that plaintiff is entitled to the relief prayed for.' x x x.

x x x x x x x x

Being declared in default does not constitute a waiver of rights except that of being heard and of presenting evidence in the trial court. x x x.

In other words, a defaulted defendant is not actually thrown out of court. While in a sense it may be said that by defaulting he leaves himself at the mercy of the court, the rules see to it that any judgment against him must

be in accordance with law. The evidence to support the plaintiff's cause is, of course, presented in his absence, but the court is not supposed to admit that which is basically incompetent. Although the defendant would not be in a position to object, elementary justice requires that only legal evidence should be considered against him. If the evidence presented should not be sufficient to justify a judgment for the plaintiff, the complaint must be dismissed. And if an unfavorable judgment should be justifiable, it cannot exceed in amount or be different in kind from what is prayed for in the complaint.'

In sum, while petitioners were allowed to present evidence ex parte under Section 3 of Rule 9, they were not excused from establishing their claims for damages by the required quantum of proof under Section 1 of Rule 133. Stated differently, any advantage they may have gained from the ex parte presentation of evidence does not lower the degree of proof required."

WHEREFORE, on the view above taken, the May 16, 2013 Decision of the Regional Trial Court, 6th Judicial Region, Branch 19, Roxas City in Civil Case No. V-30-11 is hereby AFFIRMED in toto.

SO ORDERED.

Maxino, P.A.A., and Francisco, R.C., JJ., concur.

[1] Notice of Appeal, Records at pp. 156-157.

[2] Records at pp. 120-127.

[3] Records at pp. 1-9.

[4] Records at pp. 12-13.

[5] Records at pp. 14-15.

[6] Records at p. 16.

[7] Records at p. 17.

[8] Records at p. 20.

[9] Records at pp. 39-44.

[10] Records at pp. 78-94.

[11] Records at pp. 99-104.

[12] Rollo at pp. 18-25.

[13] ZENAIDA B. TIGNO, IMELDA B. TIGNO and ARMI B. TIGNO vs. SPOUSES ESTAFINO AQUINO and FLORENTINA AQUINO and the HONORABLE COURT OF APPEALS, G.R. No. 129416. November 25, 2004.

[14] G.R. No. 116181. April 17, 1996 .

[15] G.R. No. L-4104, 2 May 1952.

[16] MARIO L. COPUYOC vs. ERLINDA DE SOLA, G.R. No. 151322, October 11, 2006.

[17] G.R. No. 151098, March 21, 2006.

[18] 220 Phil. 588, April 30, 1985 cited in Luxuria Homes, Inc. v. CA, 361 Phil. 989, January 28, 1999.

[19] 66 SCRA 425, August 29, 1975. See also *Heirs of Anastacio Fabela v. CA*, *supra* at note 20.

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