

TEODORO R. MIGUEL, PETITIONER, VS. BPI CARD CORPORATION (FORMERLY CITYTRUST BANKING CORP.), RESPONDENT.

Ponente: CARANDANG, J.

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CARANDANG, J.:

Assailed in this petition for review is the Decision[1] dated June 26, 2012 of the Regional Trial Court (RTC) of Makati City, Branch 62, which dismissed petitioner's appeal, the dispositive portion of which reads:

“IN VIEW WHEREOF, the appeal interposed is DISMISSED and the assailed decision dated January 27, 2012 of the Metropolitan Trial Court of Makati City Branch 66 is AFFIRMED with MODIFICATIONS and the defendant appellant is ordered to pay the following:

a) on Citytrust Mastercard Classic with card number 5434-1905-0833-3006, the principal amount of forty two thousand seven hundred ninety three & 19/100 (P42,793.19) Philippine currency with interests thereon at the rate of 12% per annum from February 10, 1999 until finality of this decision and another 12% per annum from finality until its satisfaction in full.

SO ORDERED.”

Likewise assailed is the Order[2] dated May 29, 2013 which dismissed petitioner's Motion for Reconsideration.

The facts are as follows:

The present case stemmed from an action for collection of sum of money filed by respondent against petitioner, arising from the latter's use of the credit card issued to him by respondent. In the complaint[3] filed on February 10, 1999 and raffled before the Metropolitan Trial Court (MeTC) of Makati City, Branch 77, respondent alleged that petitioner obtained various credit accommodations from accredited establishment utilizing the credit card and as of November 16, 1998, petitioner had already incurred credit charges in the aggregate amount of P131,751.08 inclusive of stipulated interests. Despite repeated demands, petitioner failed and refused to settle his obligation. Hence, this complaint.

Despite receipt of summons, petitioner failed to file his Answer within the reglementary period. Respondent filed a Motion to Declare Defendant In Default[4] on June 1, 1999. Before said motion could be resolved, respondent filed a Motion to Archive[5] the case pending the possibility of amicably settling the case between the parties which the MeTC granted in its Order dated September 14, 1999. Petitioner filed an Opposition to the Archiving of the Case with Motion to Dismiss[6]. The MeTC reinstated the case, treated the Opposition as an Answer, and set the case for pre-trial. Petitioner filed a Motion for Reconsideration for treating its Opposition as an Answer and asked for time to file its responsive pleading, which the MeTC granted. Petitioner failed to file its Answer; hence, he was declared in default and the case was set for ex-parte presentation of evidence.[7] Petitioner thereafter filed a Motion for Reconsideration to lift the order of default as well as a Motion for Bill of Particulars. The MeTC granted the lifting of the order of default but denied the Motion for Bill of Particulars. However, for failure of respondent to take any action, the MeTC archived the case until revived as seen in the Order[8] dated June 30,

2000.

On April 10, 2008, petitioner moved that the case be dismissed for failure to prosecute. Respondent immediately filed a Motion to Revive Case. The MeTC denied both motions.

Petitioner filed another Motion to Dismiss which respondent opposed.

Respondent filed its Comment/Opposition and reiterated its motion to revive the case. The MeTC, in its Order^[9] dated October 7, 2008, found merit in respondent's Motion to Revive and scheduled the case for preliminary conference.

During the preliminary conference scheduled on September 10, 2009, the parties were referred to the Philippine Mediation Center Unit. As per Mediator's Report dated November 11, 2009, the mediation failed.

On February 9, 2010, the case was ordered dismissed without prejudice for failure of the parties to appear despite notice. Respondent moved for reconsideration which was granted by the MeTC. The case was then set for Judicial Dispute Resolution (JRD) but the parties failed to arrive at any settlement.

Petitioner then filed a Manifestation requesting that the case be transferred to the small claims court. This was denied by the trial court in the Order dated March 31, 2011. Petitioner filed another Manifestation and later on a Motion to Resolve his request to have the case transferred to the small claims court.

On August 31, 2011, petitioner failed to appear despite notice during the preliminary conference. On motion of respondent, judgment was rendered pursuant to Section 7 in relation to Section 6 of the Rules on Summary Procedure.^[10]

To substantiate its complaint, respondent submitted the Terms and Conditions Governing the Issuance and Use of BPI Credit Card, Statement of Account from February 9, 1997 up to November 16, 1998, demand letter dated November 3, 1998 as well as the registry receipt and registry return card, Secretary's Certificate and Certificate of Filing Articles of Merger.

On January 27, 2012, the MeTC rendered a Decision^[11] granting respondent's complaint, the decretal portion states:

“WHEREFORE, premises considered, judgment is hereby rendered ordering defendants (sic) Teodoro R. Miguel to pay plaintiff BPI Card Corporation the amount of P94,329.70 plus interest of 2.0% per month from filing of this complaint on February 10, 1999 until the account is fully paid, the amount of P10,000.00 as attorney's fees, and to pay the costs.

SO ORDERED.”

On appeal by petitioner, the MeTC ruling was affirmed with modification by the RTC of Makati City, Branch 62, in the assailed Decision dated June 26, 2012. Petitioner was ordered to pay the principal amount of P42,793.19 with 12% interest per annum from February 10, 1999 until its full payment.

Petitioner moved for reconsideration but the same was denied in the assailed Order dated May 29, 2013.

Hence, this petition with the following assignment of errors:

1] WITH DUE RESPECT, THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN UPHOLDING THE METROPOLITAN TRIAL COURT'S RULING TO RENDER JUDGMENT IN ACCORDANCE WITH SECTION 7 IN RELATION TO SECTION 6 OF THE RULE ON SUMMARY PROCEDURE.

2] WITH DUE RESPECT, THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN UPHOLDING THE METROPOLITAN TRIAL COURT'S FINDING THAT BY PREPONDERANCE OF EVIDENCE RESPONDENT HAS ESTABLISHED PETITIONER'S FAILURE TO COMPLY WITH HIS UNDERTAKING UNDER THE TERMS AND CONDITION GOVERNING THE ISSUANCE OF CREDIT CARD WITHOUT ASCERTAINING ON WHETHER THE PETITIONER HAS INDEED OBTAINED THE OBLIGATION IN QUESTION.

3] WITH DUE RESPECT TO THE HONORABLE REGIONAL TRIAL COURT, IT GRAVELY ERRED IN ASCRIBING DELAY IN THIS CASE TO THE PETITIONER, SINCE IT WAS THE RESPONDENT WHO FILED THE CASE IN 1999, THEN MOVED TO HAVE IT ARCHIVED ON AUGUST 23, 1999. WHEN THE COURT FINALLY ARCHIVED IT ON JUNE 30, 2000, THE RESPONDENT FAILED [TO] DO ANYTHING FOR EIGHT (8) YEARS.

The petition is devoid of merit.

Petitioner asserts that the MeTC should not have rendered judgment in accordance with Section 7 in relation to Section 6 of the Rules on Summary Procedure. Not being represented by counsel, petitioner claims that he failed to appear during the preliminary conference on August 31, 2011 believing that the MeTC had not yet passed upon his Motion to Resolve dated July 5, 2011, and that the court had to resolve it first before proceeding to the next step. Petitioner further contends that the respondent failed to establish by preponderance of evidence if he even made those charges in his credit card. The Statements of Account submitted by respondent is, according to petitioner, self-serving and cannot be relied upon as basis for ruling in favor of respondent. We have judiciously examined the records of the case and We find no grave error committed by the RTC in affirming the MeTC's Decision which rendered judgment in accordance with Section 7 in relation to Section 6 of the Rules on Summary Procedure for failure of petitioner to appear during the preliminary conference despite due notice.

Section 7 of the Rules on Summary Procedure provides that if a sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 of the Rules. In turn, Section 6 states that the court shall, *motu proprio*, or on motion of the plaintiff, 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 if being excessive or otherwise unconscionable.

It was established that petitioner received the Notice of Hearing dated July 22, 2011 setting the preliminary conference on August 31, 2011. His receipt is evident in petitioner's letter to the MeTC dated August 8, 2011.[12] Yet, he failed to appear during the preliminary conference stating as reason his pending Motion to Resolve his request to transfer the case to the small claims court which remained unresolved, and which he believed must be resolved first before proceeding to the next step. The excuse given is not valid and reasonable and will not justify from not attending the preliminary conference.

Settled is the rule that the appearance of a party during the preliminary conference or pre-trial is mandatory in character. Petitioner cannot claim that since he was not assisted or represented by a counsel, he cannot be faulted for not understanding the processes of the Court or the consequences of his action or non-action. Petitioner admitted that he filed his own pleadings, signed them and appeared in Court on his own. This is warranted under Section 34[13] of Rule 138 of the Rules of Court which recognizes the right of an individual to represent himself in any case to which he is a party. The individual litigant may personally do everything in the course of proceedings from commencement to the termination of the litigation. Considering that a party personally conducting his litigation is restricted to the same rules of evidence and procedure as those qualified to practice law, petitioner herein, not being a lawyer himself, runs the risk of falling into the snares and hazards of his own ignorance.[14]

Hence, the MeTC correctly proceeded in rendering judgment pursuant to Section 7 in relation to Section 6 of the Rule on Summary Procedure for petitioner's failure to appear during the preliminary conference despite receipt of the Notice of Hearing.

From the evidence submitted by respondent, it was able to establish by preponderance of evidence that petitioner is indebted to respondent arising from the former's use of the credit card issued by the latter. Petitioner has due and demandable obligation which remains unpaid. Respondent has shown that petitioner had incurred credit charges by using and availing of respondent's credit card and despite demand, petitioner refused to pay the same.

The Statements of Account adduced by respondent, which are summaries of petitioner's unpaid obligations, proves that petitioner is liable to respondent for the outstanding amount stated therein. Petitioner cannot casually deny that he has no unpaid obligation, when in fact, he even admitted that out of the amount of P26,932.96, petitioner had paid the amount of P16,812.03.[15]

As found by the RTC, the principal obligation of petitioner on the subject credit card amounted to P42,793.19 as of June 19, 1997, exclusive of any interests, penalties and other charges. However, this Court notes from the correspondences exchanged between petitioner and respondent that the principal obligation of petitioner, after respondent waived the disputed items of petitioner, amounts to only P23,320.88[16] as per the letter dated March 5, 2008. The legal rate of interest of 12% shall be applied starting February 10, 1999, the date of filing the complaint, until its satisfaction in full.

WHEREFORE, premises considered, the instant petition is DENIED. The Decision dated June 26, 2012 and the Order dated May 29, 2013 of the RTC of Makati City, Branch 62, is hereby AFFIRMED with MODIFICATION in that petitioner is ordered to pay respondent the principal amount of P23,320.88 with 12% legal interest from February 10, 1999 until full payment.

SO ORDERED.

Gonzales-Sison and Sorongon, JJ., concur.

[1] Rollo, pp. 41-45

[2] Rollo, p. 46.

[3] Rollo, pp. 64-67.

[4] Rollo, p. 82.

[5] Rollo, pp. 83-84.

[6] Rollo, p. 85.

[7] Order dated January 14, 2000, Rollo, p. 88.

[8] Rollo, p. 89.

[9] Rollo, pp. 104-105.

[10] Rollo, p. 115.

[11] Rollo, p. 59-63.

[12] Rollo, p. 114

[13] Sec. 34. By whom litigation is conducted. - In the court of a justice of the peace, a party may conduct his litigation in person, with the aid of an agent or friend appointed by him for that purpose, or with the aid of an attorney. In any other court, a party may conduct his litigation personally or by aid of an attorney, and his appearance must be either personal or by a duly authorized member of the bar. (Bold Ours)

[14] Cruz vs. Judge Mijares, G.R. No. 154464, September 11, 2008.

[15] RTC Decision, p. 3, Rollo, p. 43.

[16] Rollo, p. 165

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