

QUEDAN AND RURAL CREDIT GUARANTEE CORPORATION, (NO. 34, PANAY AVENUE, 1100 QUEZON CITY) PLAINTIFF-APPELLANT, VS. CAPITOL CITY BANK, INC., A RURAL BANK (FORMER CAPITOL RURAL BANK...

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

Elevated on appeal[1] before Us were two Resolutions[2] of the Regional Trial Court, National Capital Judicial Region, Branch 96, Quezon City in Civil Case No. 10-67708, insofar as the trial court's dismissal of the suit for a sum of money due to alleged payment, and the denial of the plaintiff's Motion for Reconsideration from the adverse ruling.

Plaintiff-appellant filed a Complaint[3] for Sum of Money with Damages against defendant-appellee to recover its total outstanding obligation of P102,944,169.84 as of June 2010 inclusive of interest, penalties and surcharges.

In response, the defendant filed an Answer[4] on September 3, 2010 which principally aired two exculpations, viz: (1) no cause of action, and (2) payment, which defenses triggered the plaintiff's Reply.[5]

Thereafter, defendant's Motion to Dismiss (With Leave of Court)[6] materialized on October 19, 2010 which re-asserted payment and integrated lack of personality and/or authority of the plaintiff's counsel to represent the plaintiff for the Complaint.

Following an exchange of pleadings, as well as the plaintiff's Ex-Parte Motion to Set the Case for Pre-Trial Conference,[7] the trial court granted the Motion to Dismiss based on payment and denied the plaintiff's Motion for Reconsideration.

Hence, We shall now address the alleged errors from the trial court as attributed by the appellant in this manner:[8]

A. THE RTC ERRED IN GRANTING CCBi'S MOTION TO DISMISS AND WORSE, NOT ON THE GROUND RELIED UPON.

B. THE RTC ERRED IN DISMISSING THE COMPLAINT GIVING EVIDENTIARY WEIGHT AND CREDENCE TO THE PHOTOCOPIES OF THE CERTIFICATION AND RELEASES OF MORTGAGE ATTACHED TO THE ANSWER WITHOUT TRIAL.

We perceive merit relative to the plaintiff's appeal.

It is a basic norm in civil procedure that a Motion to Dismiss is filed within the time but before the Answer is filed.[9]

As a general rule, a Motion to Dismiss that is filed after the Answer has been filed, is considered filed out of time and the defending party is estopped from filing the Motion to Dismiss.[10]

However, a Motion to Dismiss may be filed even after the filing of the Answer and will not be considered filed out of time if the ground raised on the Motion, which appears from the pleadings or the evidence on record, is either of these concepts in remedial law:

- (a) lack of jurisdiction over the subject matter;
- (b) that there is another action pending between the same parties for the same cause;
- (c) that the action is barred by a prior judgment;
- (d) that the action is barred by statute of limitations.[11]

Current legal manuscript also spoke about the prospect of dismissal of a suit even after the Answer upon “... discovery during trial of evidence that would constitute a ground for dismissal.”[12]

Undoubtedly, the Motion to Dismiss[13] was filed subsequent to the filing of the Answer.[14] Withal, the twin grounds raised on the Motion to Dismiss (With Leave of Court) about payment and the lawyer’s alleged lack of authority to file the case for the plaintiff were beyond the aforementioned exceptions acknowledged by the rule and jurisprudence relative to recognized saving clauses to the branch of the Omnibus Motion Rule in Section 1, Rule 9 of the 1997 Rules of Civil Procedure.[15]

From a different perspective, and yes, without necessarily placing the cart ahead of the horse, so to speak, what can hardly be ignored too, were the photocopies,[16] nay, secondary evidence of documents which were utilized by the trial court in appreciating the so-called payment. Yet, these pieces of substitutionary evidence were seriously contested by the plaintiff’s Reply.[17]

In the same vein, like the hearing of an affirmative defense on the Answer as slated for hearing at the court’s discretion,[18] the record was mute as to any formal hearing in Section 2, Rule 16 to determine whether the issues ventilated on the Motion to Dismiss were appreciated following reception of facts and evidence in lieu of bare allegations. Indeed, courts could not afford to dismiss a litigant’s Complaint on the basis of half-baked conclusions with no evidence to show for it.[19]

At this juncture, We reiterate nuggets of wisdom from *Capiral v. Robles*: [20]

xxxx.

The Court does not agree.

Contrary to petitioner’s contention, holding insofar as hearings on a motion to dismiss are concerned, Sec. 2, Rule 16 of the Rules of Court sanctions trial-type proceedings in the sense that the parties are allowed to present evidence and argue their respective positions before the court, thus:

Sec. 2. Hearing of Motion.- At the hearing of the motion, the parties shall submit their arguments on the questions of law and their evidence on the questions of fact involved except those not available at that time. Should the case go to trial, the evidence presented during the hearing shall automatically be part of the evidence of the party presenting the same.

In *Rimbunan Hijau Group of Companies v. Oriental Wood Processing Corporation*, [21] this Court had occasion to rule that the issues raised in a motion to dismiss have to be determined in accordance with the evidence and facts presented, not on the basis of unsubstantiated allegations and that the courts could not afford to dismiss a litigant’s complaint on the basis of half-baked conclusions with no evidence to show for it. In emphasizing the need for a formal hearing, the Court held that the demand for a clear factual finding to justify the grant or denial of a motion to dismiss cannot be dispensed with. To this end, the Court added that Sec. 2, Rule 16 of the Rules of Court allows not only a hearing on the motion to dismiss, but also for the parties to submit their evidence on the questions of fact involved, which may be litigated extensively at the hearing or hearings on the motion. During the

said hearings, the parties are allowed to submit their respective evidence, and even rebut the opposing parties' evidence. The hearings should provide the parties the forum for full presentation of their sides. Moreover, from the trial court's perspective, the extent of such hearings would depend on its satisfaction that the ground in filing the motion to dismiss has been established or disestablished.

xxxx.

WHEREFORE, premises considered, the plaintiff's APPEAL is hereby GRANTED. Hence, the assailed Resolutions dated March 11, 2011 and April 29, 2011 in Civil Case No. Q-10-67708 of RTC, Branch 96, Quezon City are hereby REVERSED.

SO ORDERED.

Reyes, Jr. J. C., Chairperson, and Acosta, F. P., JJ., concur.

[*] Per Office Order No. 04-15-ABR dated January 05, 2015 effective January 07, 2015. [1] Dated May 17, 2011, Record, pp. 209-210.

[2] Resolution Dated March 11, 2011, Record, pp. 173-178, Resolution Dated April 29, 2011.

[3] See Complaint dated July 27, 2010, Record, pp. 1-6.

[4] See page 2 of the Answer dated September 1, 2010, Record, page 52.

[5] Reply dated September 16, 2010, Record, pp. 73-78.

[6] See Motion to Dismiss (With Leave of Court) dated October 15, 2010, Record, pp. 130-135.

[7] Record, pp. 142-170.

[8] See page 1, Appellant's Brief dated February 22, 2012, Rollo, page 14.

[9] See Sec. 1, Rule 16, Rules of Court; 1 Herrera, Remedial Law, 2007 edition, page 1005.

[10] Philville v. Javier, 477 SCRA 533,537 as cited in page 427, Civil Procedure (The Bar Lectures Series), Volume I, Riano, 2011 Bantam Edition.

[11] See Section 1, Rule 9, Rules of Court; as cited in page 427, Civil Procedure (The Bar Lectures Series), Volume I, Riano, 2011 Edition.

[12] 1 Feria and Noche, Civil Procedure Annotated, 2013 edition, page 482, citing Panganiban vs. Pilipinas shell Petroleum Corporation, G.R. No. 131471, January 22, 2003.

[13] See Stamp Received dated October 19, 2010 on page 1 of the Motion to Dismiss dated October 15, 2010, Record, page 136.

[14] See Stamp Received dated September 3, 2010 on page 1 of the Answer dated September 1, 2010, Record, page 51.

[15] 1 Regalado, Remedial Law Compendium, 10[th] Edition, 2010, page 287.

[16] Record, pp. 59-72.

[17] Record, pp. 73-129.

[18] Section 6, Rule 16, 1997 Rules of Civil Procedure.

[19] See *Capiral vs. Robles*, G.R. No. 173628, November 16, 2011; 1 Herrera, Vide, page 1042, citing *Excel Agro-Industrial Corporation*, G.R. No. 77032, September 30, 1988, 166 SCRA 191.

[20] *Capiral vs. Robles*, G.R. No. 173628, November 16, 2011, as cited in Volume I, Riano, *Civil Procedure (The Bar Lectures Series)*, 2011 Edition, pp. 436-437.

[21] *Rimbunan Hijau Group of Companies vs. Oriental Wood Processing Corporation*, G.R. NO. 152228, September 23, 2005, 470 SCRA 650 as cited in the case of *Capiral vs. Robles*, G.R. No. 173628, November 16, 2011.

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