

**REDGID AUTO PARTS SUPPLY (FORMER 2DK AUTO SUPPLY),
REPRESENTED BY ITS PROPRIETRESS MRS. NONA LENDIO,
PETITIONER, VS. ATLANTIC AUTO SUPPLY, REPRESENTED BY ITS
GENERAL MANAGER MR....**

Ponente: REYES-CARPIO, A., J.

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REYES-CARPIO, A., J.:

This is a Petition for Review,[1] filed under Rule 42 of the 1997 Rules of Civil Procedure, seeking to reverse the Decision,[2] dated May 30, 2013, rendered by the Regional Trial Court of Quezon City, Branch 105 in Civil Case No. Q-12-72396 for sum of money with damages.

The instant case stemmed from a Complaint,[3] filed on July 18, 2007 by respondent Atlantic Auto Supply (Atlantic) against petitioner Redgid Auto Parts Supply (Redgid).

Atlantic alleged that in the period between August to November 2003, it sold several autoparts to Redgid as follows:

PERIOD AMOUNT

December 30, 1899 P144,549.00

September 5, 2003 P 89,594.50

October 29, 2003 P 3,432.00

November 6, 2003 P 6,538.00

TOTAL P244,113.50

Despite several demands, Redgid failed to pay its obligation. Finally, Atlantic sent a written demand on May 21, 2007. However, Redgid still ignored the same prompting Atlantic to file the action for collection of sum of money before the Metropolitan Trial Court of Quezon City, docketed as Civil Case No. 37-601.

Redgid filed its Answer with Compulsory Counterclaim,[4] asserting lack of legal capacity on the part of Atlantic on the ground that it was neither a natural nor juridical person. Thereafter, Atlantic filed its Preliminary Conference Brief,[5] dated October 3, 2007.

The MTC, meanwhile, issued a Notice of Preliminary Conference,[6] dated October 17, 2007, setting the same for November 26, 2007 where the parties were required to present their respective pre-trial briefs with the warning that failure to do so shall be given the same effect as failure to appear at pre-trial.

On November 22, 2007, counsel for Redgid filed a Manifestation/Motion,[7] dated November 20, 2007, alleging that he could not appear on the said day as he had a prior scheduled hearing before the RTC Binangonan, Rizal and thereby sought the resetting of the pre-trial.

The MTC then issued an Order,[8] dated November 26, 2007, the pertinent portion of which reads:

“When this case was called for pre-trial conference, plaintiff, together with their counsel is present in Court. Defendant Redgid Auto Parts Supply represented by Nona Lendio is also present in court. While there is a motion to reset scheduled preliminary conference filed by defendant's counsel, plaintiff's counsel observed that the defendant in this case have (sic) failed to file their pre-trial brief to this date despite having received the Notice of Preliminary Conference (Pre-Trial). For which reason, plaintiff's counsel moved that they be allowed to present their evidence Ex-Parte. Let the motion of the plaintiff be considered for resolution.”[9]

On December 27, 2007, the MTC promulgated an Order[10] granting Atlantic's motion to present evidence ex-parte on the following ground:

“The Supreme Court has held 'this court has consistently held that the pre-trial, whose objective is to simplify, abbreviate and expedite trial, if not fully dispense with it, is of mandatory character. What is mandatory is not merely the appearance of the parties and counsel at the pre-trial conference. Of equal importance is that the parties and their counsel also file their pre-trial briefs within three (3) days before such conference in accordance with the law' (Atty. Fonacier Jr., et. al. vs. Taggat Industries Inc. et. al. G.R. no. 148525, Jan. 28, 2002.).”[11]

Redgid moved for reconsideration[12] of the aforequoted Order and filed its Pre-Trial Brief[13] on January 25, 2008. The motion was opposed by Atlantic and denied by the trial court in an Order,[14] dated July 8, 2008.

Undeterred, Redgid filed a Motion for Reconsideration[15] of the July 8, 2008 Order which was again denied on September 19, 2008.[16] Several other motions were filed by counsel for Redgid, which included a Motion for Inhibition and a Motion to Annul Proceedings, all of which were denied by the MTC. Atlantic, meanwhile, was allowed to present its evidence ex-parte and after presentation thereof, the MTC rendered its Decision,[17] dated July 23, 2012, in favor of Atlantic, to wit:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiff Atlantic Auto Supply represented by its General Manager Henry Co against the defendant Redgid Auto Parts Supply (formerly 2DK Auto Supply) represented by Nona Lendio ordering the latter as follows:

- To pay the plaintiff the amount of Php244,113.50 representing the unpaid obligation, with six percent (6%) interest per annum from the time of final demand, which was on May 28, 2007; when this judgment has become final and executory, twelve percent (12%) interest shall be imposed until its full satisfaction;
- To pay plaintiff the amount of Php15,000.00 as attorney's fees; and
- To pay the plaintiff the costs of suit.

Defendant's Counterclaim is DENIED for lack of merit.

SO ORDERED.”[18]

Redgid elevated the case to the Regional Trial Court of Quezon City, raising the following issues:

“I. THE LOWER COURT GRAVELY ERRED IN SUSTAINING THE FINDINGS OF THE FORMER PRESIDING JUDGE LUIS ZENON Q. MACEREN, AS REGARDS THE LATTER'S ORDER OF ALLOWING THE PLAINTIFF-APPELLEE TO PRESENT HIS EVIDENCE EX-PARTE WITHOUT FIRST DECLARING HEREIN APPELLANT IN DEFAULT.

II. THE LOWER COURT ALSO GRAVELY ERRED IN DISALLOWING HEREIN DEFENDANT-APPELLANT TO PARTICIPATE IN THE HEARING DEPRIVING HER OF HER BASIC CONSTITUTIONAL RIGHT TO DUE PROCESS.”[19]

The RTC narrowed the issue to whether or not the MTC erred in allowing ex-parte presentation of evidence by Atlantic.

The same was resolved in the Decision,[20] dated May 30, 2013, which is the subject of the instant petition for review, the pertinent portion of which reads:

“Even assuming that his non-appearance during the scheduled pre-trial conference is justified, he did not proffer any reason why he failed to file the required pre-trial brief. Appearance during the pre-trial conference and submission of the pre-trial brief are two (2) different things. Both command mandatory compliance under the rules. While defendant's counsel could have been justified for not appearing (sic) the scheduled pre-trial conference, such is not a justification for not filing the required pre-trial brief on time. As aptly put up by the trial court, procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they maybe (sic) relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed (citing *Galang vs. Court of Appeals*, 1899 SCRA 683 [1991]).

The Court is not unmindful that defendant's preclusion from presenting evidence during trial does not automatically result in a judgment in favor of plaintiff. The plaintiff must still substantiate with preponderant evidence the allegations of the Complaint.

In this case, the Court affirms the finding of the trial court that plaintiff substantiated the allegations in the Complaint, i.e., that a contract of loan existed between the parties in this case. x x x.

x x x

WHEREFORE, finding no reversible error committed, the appeal is denied. The assailed decision is hereby affirmed in toto.

SO ORDERED.”[21]

Hence, the instant petition based on the sole ground that the RTC's ruling violated its right to due process.

Petitioner argues that it was deprived of the opportunity to establish the merits of its case because of sheer technicality by a questionable application of the rules of procedure thus defeating its constitutional right to due process.

This contention must be struck down.

Time and again, the Supreme Court has emphasized the purpose and importance of pre-trial in the judicial process. In *Suico Industrial Corp. and Spouses Suico v. Hon. Marilyn Lagura-Yap, et al.*,[22] the Supreme Court emphasized that pre-trial in civil actions is mandatory with the chief objective of simplification, abbreviation and expedition of the trial. Consequently, “the [r]ules oblige not only the lawyers but the parties as well to appear for this purpose before the Court x x x.”

The rules of pre-trial are simple, clear and unequivocal. After the last pleading has been served and filed, the plaintiff must move that the case be set for pre-trial.[23] Thereafter, the notice of pre-trial shall be served on counsel or the party who has no counsel and appearance at the pre-trial, as stated above, is mandatory.[24] At least three (3) days prior to the scheduled pre-trial, the parties must file their pre-trial briefs with the court and serve the same upon the adverse party.[25] The foregoing rules, however, are not so unyielding that it would automatically penalize a party who fails to appear at the pre-trial. It provides that “non-appearance of a party may be excused only if a valid cause is shown therefor.”[26]

The rules also emphasize the importance of filing the pre-trial brief. Rule 18 provides:

“SEC. 6. Pre-trial brief. – The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

- (a) A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof;
- (b) A summary of admitted facts and proposed stipulation of facts;
- (c) The issues to be tried or resolved;
- (d) The documents or exhibits to be presented, stating the purpose thereof;
- (e) A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners; and
- (f) The number and names of the witnesses and the substance of their respective testimonies.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.” (Emphasis Ours)

Section 6, therefore, provides a situation where the party and counsel are physically present during pre-trial but are considered to have failed to appear because the requisite pre-trial brief was not filed, as in the instant case.

Agulto vs. Tecson[27] explained that [t]he failure of a party to appear at the pre-trial has adverse consequences. Section 5 of Rule 18 succinctly provides that a failure on the part of the defendant, in this case petitioner Redgid, to appear at pre-trial shall be cause to allow the plaintiff to present his evidence ex-parte and the court to render judgment on the basis thereof.

Here, it appears that counsel for petitioner received the Notice of Pre-Trial on November 20, 2007, if not earlier, as can be gleaned from the fact that he had his Manifestion/Motion seeking postponement prepared as early as the said date. While his excuse for non-appearance, specifically a conflicting trial appearance, may constitute as a valid excuse for non-appearance, there was no explanation offered for the failure to file the pre-trial brief on or before the deadline, which fell on November 23, 2007. According to the rules, therefore, although Redgid's representative Nona Lendio was actually present during the pre-trial, the absence of a pre-trial brief negates such attendance.

Petitioner argues that it was not allowed to participate in the proceedings “merely because of sheer technicality.” It has apparently overlooked the doctrine repeatedly laid down by the Supreme Court that pre-trial and its governing rules are not technicalities which the parties may ignore and trifle with.[28] Jurisprudence dictates that concomitant to a liberal application of the rules of procedure, which is prayed for by petitioner, should be an effort on the part of the party invoking liberality to at least explain its failure to comply with the rules.[29] Such explanation was absent in this situation. In its place were various cries of deprivation of due process and finger-pointing by counsel for petitioner in the form of numerous motions filed before the trial court. Hence, this Court appropriately quotes the Supreme Court pronouncement in the aforementioned Suico case:

“As held by this Court in *Lapid v. Judge Laurea*, concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to at least explain its failure to comply with the rules. Members of the bar are reminded that their first duty is to comply with the rules of procedure, rather than seek exceptions as loopholes. Technical rules of procedure are not designed to frustrate the ends of justice. These are provided to effect the prompt, proper and orderly disposition of cases and thus effectively prevent the clogging of the court dockets. Utter disregard of these rules cannot justly be rationalized by harking on the policy of liberal construction.

The failure to file the pre-trial brief is then attributable to the fault or negligence of petitioner's counsel. The settled rule is that the negligence of a counsel binds his clients. x x x." (Emphasis Ours)

As to the deprivation of the constitutional right to due process bewailed by petitioner, the same cannot be given any consideration. The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense.[30] Where the opportunity to be heard, either through verbal arguments or pleadings, is accorded, and a party can present its side or defend its interest in due course, there is no denial of procedural due process.[31] Procedural due process is that which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial.[32]

Petitioner was afforded the right to defend its interest in due course. It was given the ample period to file its mandatory pre-trial brief which was ignored. To reiterate, the rules are not inflexible if there is a just and valid reason for failure to comply with the same. Such reason, again, is absent in this case. Petitioner cannot now complain of an alleged violation of its right to due process when it was by its own fault that the opportunity to present evidence was lost.

The due process requirement is satisfied when the parties are afforded a fair and reasonable opportunity to explain its side of the controversy.[33] As previously mentioned, petitioner had filed several motions which were all considered by the trial court but the same contained no statement which would excuse the failure to file its pre-trial brief in accordance with the rules. Records also show that petitioner had the chance to file his Answer where he could have raised all the defenses he deemed proper. Such pleading was not struck down by the failure to file the pre-trial brief and in fact, could be considered by the trial court in the reception of plaintiff's (herein respondent) presentation of evidence ex-parte.

Thus, when the party seeking due process in fact had several opportunities to be heard and air his side, but it is by his own fault or choice that he squanders these chances, then his cry for due process must fail.

WHEREFORE, in view of the foregoing, the Petition for Review is DENIED. The Decision,[34] dated May 30, 2013, rendered by the Regional Trial Court of Quezon City, Branch 105 in Civil Case No. Q-12-72396 is AFFIRMED.

SO ORDERED.

Carandang, R.D., Chairperson, and Barza, R.F., JJ., concur.

[1] Rollo, pp. 7-20

[2] Rollo, pp. 30-34

[3] Rollo, pp. 41-46

[4] Rollo, pp. 47-49

[5] Rollo, pp. 51-53

[6] Rollo, pp. 54-55

[7] Rollo pp. 56-57

[8] Rollo, p. 58

[9] Ibid.

- [10] Rollo, pp. 59-60
- [11] Rollo, p. 59
- [12] See Manifestation, Omnibus Motion, filed on January 25, 2008, Rollo, pp. 61-63
- [13] Rollo, pp. 65-72
- [14] Rollo, pp. 85-87
- [15] Rollo, pp. 88-92
- [16] Rollo, pp. 93-94
- [17] Rollo, pp. 21-29
- [18] Rollo, p. 29
- [19] Rollo, p. 232
- [20] Rollo, pp. 30-34
- [21] Rollo, pp. 33-34
- [22] G.R. No. 177711, September 5, 2012
- [23] Rule 18, Section 1, 1997 Rules of Civil Procedure
- [24] Rule 18, 1997 Rules of Civil Procedure –
SEC. 4. Appearance of parties – It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.
- [25] Rule 18, Section 6, 1997 Rules of Civil Procedure
- [26] Rule 18, Section 4, 1997 Rules of Civil Procedure
- [27] G.R. No. 145276, November 29, 2005
- [28] Vera vs. Rigor and Court of Appeals, G.R. No. 147377, August 10, 2007
- [29] Suico Industrial Corp. vs. Hon. Marilyn Lagura-Yap, et al., G.R. No. 177711, September 10, 2012
- [30] Air Philippines Corporation v. International Business Aviation Services Philippines, Inc., G.R. No. 151963, 9 September 2004
- [31] Ibid.
- [32] Aberca, et al. v. Ver, G.R. No. 166216, March 14, 2012
- [33] The Heirs of Jolly R. Bugarin vs. Republic of the Philippines, G.R. No. 174431, August 6, 2012
- [34] Rollo, pp. 30-34.

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