

**METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS),
PLAINTIFF-APPELLEE, VS. SAMAHAN NG MGA NAGHAHANAPBUHAY
SA BALARA GATE (SNBG), REPRESENTED BY ITS PRESIDENT,
ADOLFO P. AZUL AN...**

Ponente: ABDULWAHID, J.

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ABDULWAHID, J.:

Before us is an appeal interposed by defendants-appellants Samahan ng mga Naghahanapbuhay sa Balara Gate (SNBG), through its president, Adolfo P. Azul, and other persons claiming rights under SNBG, from the Decision[1] dated November 29, 2012 and Order[2] dated June 20, 2013 of the Regional Trial Court (RTC), Branch 224, Quezon City in Civil Case No. Q-10-68433.

The present appeal arose from a Complaint[3] for recovery of possession of property and collection of sum of money filed on December 13, 2010 by plaintiff-appellee Metropolitan Waterworks and Sewerage System (MWSS) against defendants-appellants. The subject of the Complaint is a parcel of land situated at the corner of Ventura Street and Katipunan, Barangay Pansol, Balara, Quezon City.

In the above-mentioned Complaint, MWSS averred that it was the absolute owner of the subject property in Barangay Pansol. Pursuant to a Contract of Lease[4] dated January 15, 2007, said property was leased out to SNBG, particularly the following members:

1. Adolfo P. Azul
2. Virgilio Luces
3. Zenaida Reyes
4. Fe Crisostomo
5. Feliza Ablaza
6. Vicente Villasquez
7. Elpidia Sevilla
8. Renato De Jesus
9. Bayani Gabriel
10. Rizalina Baduria
11. Melissa Nebdrida
12. Rodolfo Matinez
13. Carmelita Encila
14. Alexander Estanol
15. Maximo Borja
16. Virgilio Encila
17. Aileen Regino
18. Aida Mahusay
19. Terry Arriola
20. Stella Avendano

21. Nelda V. Coronel
22. Amelia Vinoya
23. Katherine Omogtong
24. Lotto Outlet
25. Wilfredo Solomon

MWSS likewise alleged that the subject property was leased to the above-mentioned defendants at an agreed rental rate of Php25,000.00 per month, payable on/or before the end of each month. Corollary thereto, the pertinent provision of the Contract of Lease relevant to the instant case reads, as follows:[5]

5. Default. – LESSEE shall be considered in default if it fails to pay three (3) consecutive monthly rentals. Accordingly, LESSOR shall have the right to terminate this contract and demand LESSEE to surrender and peacefully vacate the leased premises.

However, despite repeated demands by MWSS that SNBG pay its accrued rentals as agreed upon under the Contract of Lease, SNBG had defaulted on the payment of the rentals for the leased units since July 2007 up to September 2010. As of the time of the filing of the Complaint, the accrued rentals amounted to Php1,373,595.50. Consequently, MWSS served upon SNBG a Demand Letter[6] dated October 5, 2010, ordering SNBG to pay the accrued rentals and to vacate the subject premises. However, SNBG failed to comply with MWSS' demands, thus resulting in the filing of the instant Complaint, wherein MWSS prayed, as follows:[7]

8. WHEREFORE, it is respectfully prayed that judgment be rendered:

- a) ordering the defendant and all persons deriving title from him to vacate the area occupied by him at the corner of H. Ventura Street, and Katipunan Road, Brgy. Pansol, Balara, Quezon City;
- b) ordering the defendant to pay the plaintiff the amount of Php1,373,595.50 representing the amount due for the premises from June 2007 to September 2010 with interest at the legal rate from the date of filing of the complaint until fully paid;
- c) ordering the defendant to pay the plaintiff the amount of Php25,000.00/month from the date of filing until he has actually vacated the premises and return the possession thereof to the plaintiff; and
- d) to pay the plaintiff the cost of the suit.

On February 15, 2011, the Summons[8] dated January 3, 2011 was served upon SNBG through Mr. Azul. Despite filing a Motion for Extension of Time to File Answer[9] on February 23, 2011, SNBG never filed its Answer to the Complaint, thus causing MWSS to file a Motion to Declare Defendants in Default[10] on June 28, 2011. During the hearing on MWSS' Motion on July 6, 2011, MWSS was required by the court a quo to submit proof of service of the above Motion to defendants-appellants.[11] MWSS later filed a Compliance[12] dated October 20, 2011, attaching thereto a copy of the same Motion and indicating therein that the same was mailed to defendants-appellants via registered mail, as evidenced by Registry Receipt No. 10224, but the same was found to be not the proof of service that the RTC required. Thus, on February 6, 2012, MWSS filed a second Motion to Declare Defendants in Default,[13] with the Copy Furnished portion signed and received by Mr. Virgilio Luces, one of the concerned members of SNBG. In addition, MWSS presented in open court the Affidavit of Proof of Service[14] executed by Arturo M. Tuason, Jr., an employee of MWSS, who stated therein that he personally served the Motion to SNBG and that the same was received by the latter's vice-president, Mr. Luces. Consequently, on March 23, 2012, the RTC issued an Order[15] declaring defendants-appellants in default for failure to file their Answer, despite service of Summons upon them, and setting the case for the presentation of MWSS' evidence ex-parte.

During hearing, MWSS presented Mr. Ceasar C. Raymundo, the Acting Division Manager of MWSS, to testify in

its behalf.[16] Mr. Raymundo testified that, as part of the duties and responsibilities of his office, he was in charge of the safekeeping of pertinent documents concerning the real properties belonging to MWSS. Thus, he brought the original copies for comparison with the copies of the documents which he had certified as true copies of the original, and which were later formally offered in evidence for MWSS, to wit: (1) Contract of Lease dated January 15, 2007 (Exhibit A); (2) Notice to Proceed dated January 11, 2007, directing SNBG to proceed with the construction of their commercial structures on the subject property (Exhibit B); (3) Demand Letter to pay and vacate dated October 5, 2010 (Exhibit C); (4) Order of Payment dated March 24, 2011, for the partial payment of SNBG's arrears (Exhibit D); (5) Official Receipt dated March 24, 2011, for the partial payment of SNBG's arrears (Exhibit E); (6) Demand Letter dated September 3, 2009 (Exhibit F); and (7) Statement of Lease Accounts stating that SNBG's unpaid rentals amounted to Php2,158,482.65 (Exhibit G).[17]

The foregoing exhibits were admitted in evidence, after which, the case was deemed submitted for decision.

On November 29, 2012, the RTC rendered its Decision by default, disposing the case in favor of MWSS, viz:[18]

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff as follows:

a)

The defendant, "Samahan Ng Mga Naghahanapbuhay sa Balara Gate" represented by its president, Adolfo P. Azul, and all persons deriving title from it are Ordered to vacate the area occupied by them at the corner of H. Ventura Street and Katipunan Road, Brgy. Pansol, Balara, Quezon City;

b)

The said defendant is also Ordered to pay the plaintiff the amount of One Million Three Hundred Seventy Three Thousand Five Hundred Ninety Five Pesos and Fifty Centavos (Php 1,373,595.50) representing the amount due for the premises from July 2007 to September 2010 with interest at the legal rate from the date of filing of the Complaint until fully paid;

c)

The said defendant is further Ordered to pay the plaintiff the amount of Twenty Five Thousand Pesos (Php 25,000.00) per month from the date of filing of the Complaint until the defendant and all persons deriving title from it actually vacate the premises and return the possession thereof to the plaintiff; and

d)

The said defendant is finally Ordered to pay the plaintiff the cost of the suit.

SO ORDERED.

SNBG received a copy of the above judgment by default on January 28, 2013, and subsequently filed its Urgent Motion to Set Aside Judgment by Default[19] on February 11, 2013, citing fraud on the part of MWSS in obtaining the Order declaring the former in default and the judgment by default. In particular, SNBG averred that, on March 24, 2011, MWSS officials, Atty. Jeff Codamon, Atty. Darlene Uy (changed to Atty. Annabelle Altura in a subsequent Manifestation and Motion[20] dated February 20, 2013), Acting Manager Engr. Raymundo and Department Manager Benedicto Arellano, informed Mr. Azul that, upon payment of Php56,100.00, the instant

case would be settled and that SNBG would just have to wait for the new contract to be executed by MWSS and SNBG, which will include the arrears and rental fees of Php1,000.00 for a period of five years, at the rate of Php1,313.76 per stall per month. Thus, upon the representation of the foregoing MWSS officials, SNBG no longer filed an Answer and merely ignored the notices which it received at its office. However, SNBG was surprised when it received the Order of default dated March 23, 2012. Thus, SNBG prayed that the order of default be lifted, that the judgment by default be set aside and reconsidered, and that SNBG be allowed to present their evidence in court.

On May 2, 2013, MWSS filed its Compliance[21] by way of comment to defendants-appellants' Urgent Motion, categorically denying the latter's allegations.

On June 20, 2013, the RTC rendered its assailed Order, denying the motion to lift the order of default and to set aside the judgment in default, thus:[22]

This Court is not persuaded. The defendants' bare allegation of fraud is not only insufficient but it is not of the kind which ordinary prudence could have guarded against. Moreover, there is no showing of undisputed facts constituting the said defendants' good and substantial defense. The record clearly shows and the defendants have admitted that they did not file any Answer and ignored the Notices they have received. The Order declaring defendants in default is the proper legal consequence sanctioned under the Rules of Court. The Decision was also rendered in accordance with due process of law and based on the testimonial and documentary evidence presented in Court.

There is simply no competent evidence which shows that the plaintiff, through its officials, had given the defendants' representative, Adolfo P. Azul, any kind of assurance that the instant case would be settled and a new contract of lease would be executed. Despite duly receiving the subject Summons and Notices in this case, the defendants had imprudently chosen not to file any Answer and they still intentionally failed to heed the Notices concerning the proceedings conducted before this Court. Significantly, the alleged fraud imputed by the defendants does not appear to be extrinsic which would have prevented them from having their day in court. "Extrinsic or collateral fraud is trickery practiced by the prevailing party upon the unsuccessful party, which prevents the latter from fully proving his case—it affects not the judgment itself but the manner in which said judgment is obtained." (People vs. Bitanga, 525 SCRA 623)

Furthermore, the defendants failed to sufficiently show their complete payment to extinguish their contractual monetary obligation to the plaintiff. They could only show proof of partial payment and no renewal of the lease contract as their representative, Adolfo P. Azul, claims. As regards the defendants' unpaid rental claim only for the period of January 15, 2009 to September 10, 2010, the same is apparently based on their own letter-request which was not favorably acted upon. The foregoing cannot be considered a good and substantial defense for the said defendants which means that the Contract of Lease dated January 15, 2007 remained valid and subsisting as a basis for the Judgment in favor of the plaintiff.

WHEREFORE, premises considered, the instant "Urgent Motion to Set Aside Judgment by Default" filed by the defendants is hereby DENIED for lack of merit. Accordingly, the Decision of this Court dated November 29, 2012 STANDS.

SO ORDERED.

On August 12, 2013, defendants-appellants moved for reconsideration[23] of the above-assailed Order, but the motion was denied for lack of merit in the RTC's Order[24] dated November 8, 2013.

Aggrieved, defendants-appellants had the case elevated on appeal to this Court, praying that the Decision dated November 29, 2012 and Order dated June 20, 2013 of the RTC be set aside and that the case be remanded to the RTC for further proceedings, on the basis of the following assignment of errors:[25]

- IT WAS ERROR FOR THE JUDGE TO RULE THAT THE RENTALS IN ARREARS OF APPELLANTS WAS PHP1,373,595.00 BECAUSE THE BASIS OF COMPUTATION WAS PHP25,000.00 PER MONTH WHEN IT SHOULD HAVE BEEN PHP3,000.00 PER MONTH ONLY; and
- IT WAS ERROR FOR THE JUDGE TO RULE THAT THERE WAS NO EXTERNAL FRAUD COMMITTED BY MWSS. (Emphasis supplied)

The instant appeal is bereft of merit.

To reiterate, the RTC declared SNBG in default due to its failure to file an Answer to the Complaint, despite the Summons duly served upon the latter, and despite the Motion for Extension of Time to File Answer filed by SNBG. In its defense, SNBG cited fraud on the part of MWSS, claiming that the latter's officials had deceived SNBG into thinking that MWSS would enter into a settlement with SNBG and that a new contract of lease would be executed, with the rental arrears incorporated therein and spread out over a period of five years.

However, as pointed out by the RTC, SNBG failed to present any evidence to prove its allegations of fraud. Aside from its self-serving allegation that it was defrauded or deceived by MWSS representatives into believing that a compromise settlement would be reached, SNBG failed to substantiate its claims with any form of evidence. As a matter of fact, the alleged settlement agreement was never reduced into writing, nor did either party ever bother to inform the court a quo of said agreement to settle the case between themselves. On the contrary, MWSS gave all indications to prove its intention to continue with the trial proceedings, including moving for the declaration of SNBG in default. On this note, it is a hornbook doctrine that the party who alleges a fact has the burden of proving the same, and mere allegation is not an evidence.[26] This principle holds true in the case of allegations of fraud.

In addition, it is significant to note that, despite SNBG's claim that the parties had reached an agreement to settle SNBG's overdue rental fees on March 24, 2011, it never denied that it continued to receive notices and other court processes from the court a quo, indicating that the proceedings in relation to the civil case was still ongoing. On the contrary, SNBG itself admitted in its Urgent Motion to Set Aside Judgment by Default that it chose to just ignore said notices and other court processes served upon it at its office, on the basis of the alleged misrepresentations of the MWSS. Moreover, SNBG acknowledged that it had received the Order of default dated March 23, 2012, more than a year after the alleged verbal agreement between SNBG and MWSS. Even prior to that, MWSS filed two successive motions to declare SNBG in default for failing to file an Answer to the Complaint. Again, SNBG never denied that it had received copies of both motions, or alleged otherwise. In fact, the court a quo took great pain to ensure that SNBG was furnished copies of the same, when the RTC refused to accept the registry receipt as sufficient proof of service. Thus, MWSS was constrained to refile the motion a second time, this time serving SNBG through its vice president, Mr. Luces, a copy of the motion via personal service, as evidenced by the signature of Mr. Luces on the original copy thereof and the Affidavit of Service of MWSS messenger. Despite receipt of MWSS' motions, as well as the subsequent order of default, and the various court processes from the RTC, signifying the ongoing trial proceedings, SNBG never bothered to make its voice heard and to inform the RTC that the parties had reached a settlement agreement and that MWSS had agreed to terminate its civil action against SNBG. It was only after its receipt of the RTC's judgment by default that SNBG finally rose from its nearly two-year silence and deigned to respond to the court processes being served upon it, contrary to Section 3(b), Rule 9, of the Rules of Court, which reads:

SEC. 3. Default; declaration of. – x x x

(a) x x x

(b)

Relief from order of default. – A party declared in default may at any time after notice thereof and before judgment file a motion under oath to set aside the order of default upon proper showing that his failure to answer was due to fraud, accident, mistake or excusable negligence and that he has a meritorious defense. In such case, the order of default may be set aside on such terms and conditions as the judge may impose in the interest of justice.

Clearly, SNBG was given all opportunities to question the order of default and to move, at an earlier date, to be allowed to present evidence in its behalf, prior to the issuance of the judgment by default. For reasons known only to SNBG, it failed to do so. At the very least, upon receiving continuous notices from the RTC, SNBG should have tried to confirm with the court a quo regarding the status of the case and to respond to the notices by manifesting that it had reached an agreement with MWSS to settle the case, and not merely relied on the representations of the latter.

Anent the issue on the correct computation of the rental arrears, SNBG maintained that the computation of said arrears should have been based upon an alleged Letter Contract[27] dated March 28, 2005, wherein the parties agreed that the subject property would be leased to SNBG at the rate of Php3,833.33 per month, and not at the rate of Php25,000.00 per month as stated in the Contract of Lease dated January 15, 2007. However, suffice it to state that the Letter Contract cannot overcome the terms of the subsequent, notarized Contract of Lease. Time and again, it has been stated that, when the terms of an agreement have been reduced to writing, no evidence of terms other than those included in the written agreement can be admitted, subject only to the exceptions expressly enumerated in Section 9, Rule 130, of the Rules of Court, to wit:

SEC. 9. Evidence of written agreements. – When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.

However, a party may present evidence to modify, explain or add to the terms of the written agreement if he puts in issue in his pleading:

(a)

An intrinsic ambiguity, mistake or imperfection in the written agreement;

(b)

The failure of the written agreement to express the true intent and agreement of the parties thereto;

(c)

The validity of the written agreement; or

(d)

The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.

The term “agreement” includes wills.

In the present case, the Contract of Lease expressly stated that the subject property would be leased to the latter at a monthly rental fee of Php25,000.00. As previously mentioned, said Contract of Lease was notarized, thus, it carries the evidentiary weight conferred upon it with respect to its due execution, and it has in its favor the presumption of regularity which may only be rebutted by clear and convincing evidence to the contrary.[28] In the present case, SNBG admitted to signing the Contract of Lease and never questioned the regularity of its notarization. SNBG merely alleged, without substantiating proof, that it was pressured into signing the Contract of Lease since it was in danger of being evicted from the subject property. Despite this, SNBG claimed that the true agreement of the parties could be found in the Letter Contract dated March 28, 2005. However, the same cannot now be admitted to negate the clear and express terms found in the Contract of Lease since the Letter Contract had never been identified in court or formally offered in evidence, as in fact, as previously discussed, SNBG had already given up its right to present evidence in its behalf.

Even assuming that the Letter Contract can be properly admitted and considered for the purpose of rebutting the terms of the Contract of Lease, the former consists of terms agreed upon by the parties prior to the execution of the notarized Contract of Lease and thus does not fall under Section 9(d), Rule 130, of the Rules of Court. At most, the Letter Contract, written nearly two years before the formal Contract of Lease was executed, can be considered as part or evidence of the negotiation process, and not the actual and final contract itself.

Considering the foregoing disquisition, we find no reversible error on the part of the RTC in denying SNBG's Urgent Motion to Lift Judgment by Default and in basing its computation of the accrued and unpaid rental fees on the terms of the Contract of Lease dated January 15, 2007.

WHEREFORE, the instant appeal is DENIED. The Decision dated November 29, 2012, and Order dated June 20, 2013 of the RTC, Branch 224, Quezon City, in Civil Case No. Q-10-68433, is AFFIRMED in toto.

SO ORDERED.

[*]Inting, S.B., and [†] Sadang, M.Q.C., JJ., concur.

[*] Acting Senior Member, vice J. P.J. Baltazar-Padilla, per Office Order No. 135-15-ABR dated April 17, 2015.

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[1] Rollo, pp. 5-7.

[2] Id. at 55-56.

[3] Records, pp. 2-6.

[4] Id. at 7-12.

[5] Id. at 9.

- [6] Id. at 13.
- [7] Id. at 4-5.
- [8] Id. at 14.
- [9] Id. at 15-16.
- [10] Id. at 17-18.
- [11] Id. at 20.
- [12] Id. at 22-23.
- [13] Id. at 27-28.
- [14] Id. at 30.
- [15] Id. at 32.
- [16] TSN, June 14, 2012; Id. at 67-78.
- [17] Id. at 51-53.
- [18] See Note 1 at 7.
- [19] Records, pp. 88-96.
- [20] Id. at 110-112.
- [21] Id. at 130-135.
- [22] See Note 2.
- [23] Records, pp. 181-195.
- [24] Rollo, pp. 57-58.
- [25] Id. at 16.
- [26] Heirs of Yabao vs. Van der Kolk, G.R. No. 207266, June 25, 2014.
- [27] Records, p. 105.
- [28] Rural Bank of Cabadbaran, Inc. vs. Melecio-Yap, G.R. No. 178451, July 30, 2014.

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