

**METROPOLITAN BANK & TRUST COMPANY,
PLAINTIFF-APPELLEE, VS. CATHAY BUILDERS CENTER, INC.,
DEFENDANT-APPELLANT.**

Ponente: SORONGON, E.D., J.

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SORONGON, E.D., J.

This is an Appeal[1] from the Decision[2] dated February 27, 2007 of the Regional Trial Court of Makati City, Branch 59 in Civil Case No. 06-266 entitled Metropolitan Bank and Trust Co. vs. Cathay Builders Center, Inc. for Sum of Money.

Background of the Case

The instant case arose from the interlocking relationships among three entities, to wit: (1) Between Belvedere Properties Corporation (Belvedere) and Cathay Builders Center, Inc.(Cathay) as lessor and lessee respectively; (2) between Metropolitan Bank & Trust Company (Metrobank) and Cathay as creditor and debtor, respectively; and (3) Between Cathay and Metrobank as sub-lessor and lessee, respectively, of the same property being leased by Cathay from Belvedere.

The Antecedent Facts

On September 24, 2003, Belvedere and Cathay entered into a Contract of Lease[3] over the former's 2,000 square meter lot and building located at 1194 EDSA, Quezon City. Though the contract of lease does not contain a prohibition from subleasing the property, the same must however conform to the following term of the contract:

“15. The LESSEE shall not transfer, assign or in any manner alienate its leasehold rights on the leased premises or any party thereof without the prior written consent of the LESSOR. The LESSEE may sub-lease a portion of leased premises only with the proper notice to the LESSOR. The contract drawn by the LESSEE and SUB-LESSEE should co-terminate with this lease. In case of default by the LESSEE the LESSOR shall have the right to collect rentals from all SUB-LESSEES.”

Meanwhile, to finance the operations of its business, Cathay obtained loans from Metrobank secured by Real Estate Mortgage. When Cathay failed to pay its loan obligations, it agreed to transfer and convey to Metrobank, by way of Dacion En Pago, the mortgaged real property. Cathay also agreed to shoulder the expenses of the Dacion in the total amount of Four Million Pesos (Php4,000,000.00). Pursuant thereto, a Memorandum of Agreement (MOA) was executed by and between Cathay and Metrobank, the terms thereof are hereunder reproduced:

x x x x

WHEREAS, the DEBTOR is the sub-lessor of a parcel of land with building and improvement situated at No. 1194 Unit A & B, EDSA, Quezon City.

WHEREAS, the DEBTOR has an outstanding obligation to METROBANK arising from the dacion expenses

incurred and advanced by METROBANK in connection with the registration of the Dacion Agreement dated December 10, 2003 in the amount of PESOS: FOUR MILLION only (P4,000,000.00).

WHEREAS, METROBANK is leasing a portion of the above-mentioned property with a total rental for three (3) years equivalent to PESOS: TWO MILLION FOUR HUNDRED TWENTY TWO THOUSAND EIGHT HUNDRED ONLY (P2,422,800.00) – P60,000.00/month on the 1st year, P66,000.00/month on the 2nd year and P75,900.00/month on the 3rd year.

WHEREAS, the DEBTOR acknowledges the validity and legality of METROBANK'S claim and in order to settle the same agreed to ASSIGN as it hereby ASSIGNS its right to the monthly rental equivalent to a total of P2,422,800.00 (from September 1, 2003 to August 31, 2006) to METROBANK-EDSA Congressional Branch.

WHEREAS, METROBANK accepts the offer of the DEBTOR subject to the following terms and conditions:

- a. Assignment of the monthly rental of P60,000.00 on the 1st year for a total yearly rental of P720,000.00
- b. Assignment of the monthly rental of P66,000.00 on the 2nd year for a total yearly rental of P792,000.00
- c. Assignment of the monthly rental of P75,900.00 on the 3rd year for a total yearly rental of P910,800.00
- d. The remaining balance in the amount of P1,577,200.00 shall be paid at the end of the 3rd year or before the expiration of the Lease Agreement on August 31, 2006; provided, that should the existing Lease Agreement is renewed by the parties, the DEBTOR shall commit to assign the monthly rentals in favor of METROBANK until its obligations with the latter mentioned in the Second WHEREAS Clause is fully settled.

In accordance with the aforementioned MOA, Cathay and Metrobank executed a Sub-Lease Agreement[4] on December 26, 2003.

Circumstances, however, worked against the full completion of the terms of the MOA and Sub-lease Agreement as Belvedere made a final demand to vacate and pay rental arrearages on January 18, 2005 against Cathay because of the latter's failure to pay the rent on the subject premises. Moreover, Belvedere noted that Cathay sub-leased the premises in violation of the terms of the Contract of Lease by failing to notify it of the said sub-lease. Hence, Belvedere terminated the Contract of Lease.[5]

Due to this development, Metrobank stopped paying the rent to Cathay as well as debiting the rentals from the latter's obligation under the MOA effective April 2005. As of said date Metrobank was only able to collect from Cathay the amount of Php942,000.00 leaving a balance of P3,057,000.98.[6]

Accordingly, beginning April 2005, Metrobank directly paid the rent to Belvedere in accordance with the right given to the latter to directly collect rent from sub-lessees as provided under paragraph 15 of the Contract of Lease[7]. In turn, in light of the termination of the lease agreement between Belvedere and Cathay, Metrobank thereupon made its respective demand to Cathay to pay[8] the remaining balance of the Four-Million Peso (Php4,000,000.00) Dacion service charges. As of November 30, 2005, Cathay's liability has amounted to Php3,223,855.00[9].

Despite repeated demands, Metrobank was unable to collect from Cathay prompting it to file a collection suit[10] against the latter.

Cathay counter-argued that the MOA was never rescinded. Thus, its terms continue to govern the terms of payment of the Four-Million Peso (Php4,000,000.00) Dacion expenses. It being so, the obligation to pay the subsequent payments most especially the Php1,577,200.00 which would mature on August 31, 2006 was not yet due at the time of the filing of the complaint.

After due hearing, the trial court issued its assailed Decision on February 27, 2007, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing discussion, this Court hereby finds for the plaintiff Metrobank and against defendant Cathay for sum of money for violation of the Memorandum of Agreement and the Sublease Agreement, and hereby orders the defendant Cathay Builders Center, Inc. to pay Metropolitan Bank and Trust Company:

1. the sum of THREE MILLION PESOS TWO HUNDRED TWENTY-THREE THOUSAND PESOS as of November 30, 2005, plus legal interest at SIX PERCENT (6%) per annum computed from the time of judicial demand and TWELVE PERCENT (12%) per annum computed from the finality of this decision until its full execution;
2. a sum equivalent to TEN PERCENT (10%) of the total amount due as and by way of attorney's fees; and
3. the cost of suit.

SO ORDERED.”

Displeased, Cathay through this appeal alleged:

I

THE REGIONAL TRIAL COURT ERRED IN ORDERING APPELLANT TO PAY APPELLEE THE AMOUNT OF P3,223,000.00 CONSIDERING THAT APPELLANT DID NOT CONSENT TO APPELLEE'S ACT OF PAYING BELVEDERE PROPERTIES CORPORATION.

II

THE REGIONAL TRIAL COURT ERRED IN FAILING TO REALIZE THAT APPELLANT'S LIABILITY, IF ANY, SHOULD NOT, AS IT COULD NOT, EXCEED P1,577,200.00 THE AMOUNT AGREED UPON BY BOTH APPELLANT AND APPELLEE.

In support of the foregoing submissions, Cathay argued that the applicable law is Article 1236 of the Civil Code of the Philippines. Thus, since Cathay did not consent to Metrobank's direct payment of rents to Belvedere the latter can only collect that which is proved to be beneficial to Cathay. The latter noted that the payment of its obligation was via the payment of rents to it. Due to the inconsiderate act of Metrobank in paying directly to Belvedere there was no benefit that accrued as far as it is concerned. Therefore, the trial court should have declared Cathay free from liability.

Thusly, the bone of contention here lies on -

- whether or not Article 1236 of the Civil Code of the Philippines is applicable in the case at bar; and
- whether or not the trial court was correct in ordering Cathay to pay the monetary claims of Metrobank.

Anent the first issue. Article 1236 of the Civil Code of the Philippines provides that:

"Art. 1236. The creditor is not bound to accept payment or performance by a third person who has no interest in the fulfillment of the obligation, unless there is a stipulation to the contrary".

Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor.

The foregoing provision of law provides for the right of a creditor to accept payment from someone who has no interest in the prestation.[11] It also deals with the extent of liability of the debtor and the right of the payor to recover, if and when a he insists to pay the debtor's debt.[12]

In the case of Land Bank of the Philippines vs. Ong[13], the Supreme Court emphasized that Article 1236 applies only when a third person is not acting for his own interest. And, that his payment was specifically intended to settle a debtor's liability.

Accordingly, the submissions of Cathay are misplaced. Article 1236 does not apply in the case at bar. First, this is not a case of a third person recovering what he has paid on behalf of a debtor. Rather, this is a case about collection of a sum of money still owed by Cathay to Metrobank. Second, while it is true that Metrobank directly paid Belvedere after the latter rescinded its contract with Cathay, that payment was not intended to be applied to the liability of Cathay to Belvedere. It must be noted that Metrobank made such payment to preserve its own interest in securing for itself the rented space.

The trial court is, therefore, correct in ruling that Metrobank can directly pay its rent to Belvedere by reason of the rescission of the contract of lease in favor of Cathay. The Contract of Lease clearly provided that Belvedere can collect rents directly from the sub-lessees in the event the principal lessee failed to settle its obligation.

We go now to the second issue.

Under the terms of the MOA dated December 10, 2003. Metrobank and Cathay agreed that the expense for the registration of the Dacion agreement shall be shouldered by the latter and the terms of the payment shall be for a period of three years with the balance of P1,577,200.00 to be paid in full at the expiration of the third year installment. Since Metrobank is sub-leasing a portion of the building being leased by Cathay, the former agreed to just apply its monthly rent to the monthly loan payment of the latter to Metrobank.

Clearly, Cathay's obligation to Metrobank is in the nature of an obligation with a period whereby the monthly installments fell due as the period arrives. In its appeal, Cathay vehemently argued that at the time of the demand, some of its obligations were not yet due. Hence, Metrobank's right over said payments, especially the amount of P1,577,200.00 was not yet due and demandable.

We agree with Cathay that at the time of the filing of the complaint on March 2006, the monthly payment of Php75,900[14] covering the period of April 2006 until August 2006 and the amount of P1,577,200.00 were not yet due. However, we are of the opinion that Cathay has lost its right to make use of the period pursuant to the provisions of Article 1198 (4) of the Civil Code of the Philippines which provides that:

Art. 1198. The debtor shall lose every right to make use of the period:

x x x x

(4) When the debtor violates any undertaking, in consideration of which the creditor agreed to the period;

x x x x

Here, Metrobank agreed to the period because it was a sub-lessee of Cathay. That was the main consideration why Metrobank agreed to just offset the monthly loan payments of Cathay with that of its rent as each fell due. However, Cathay has violated the warranties provided in the lease contract it inked with Belvedere by failing to notify the latter of the existence of its said sub-lease agreement with Metrobank. Moreover, the rescission of the Contract of Lease between Cathay and Belvedere was due to the former's fault. Cathay failed to pay the monthly rents due to Belvedere. Thus, the rights of Metrobank to the property was greatly prejudiced.

In fine, the entire obligation has become a pure obligation and the entire balance immediately due and demandable even before the expiration of the period.[15] The trial court is therefore correct in ordering Cathay to pay Metrobank the amount of Php3,223,855.00.

We thence proceed to the propriety of the award of attorney's fees.

In the case of *Benedicto vs. Villaflores*[16] it was held that:

It is settled that the award of attorney's fees is the exception rather than the general rule; counsel's fees are not awarded every time a party prevails in a suit because of the policy that no premium should be placed on the right to litigate. Attorney's fees, as part of damages, are not necessarily equated to the amount paid by a litigant to a lawyer. In the ordinary sense, attorney's fees represent the reasonable compensation paid to a lawyer by his client for the legal services he has rendered to the latter; while in its extraordinary concept, they may be awarded by the court as indemnity for damages to be paid by the losing party to the prevailing party. Attorney's fees as part of damages are awarded only in the instances specified in Article 2208 of the Civil Code. As such, it is necessary for the court to make findings of fact and law that would bring the case within the ambit of these enumerated instances to justify the grant of such award, and in all cases it must be reasonable.

Indeed, the power of the court to award attorney's fees under Article 2208 demands factual, legal, and equitable justification. Even when a claimant is compelled to litigate with third persons or to incur expenses to protect his rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.[17] In the case at bar, the trial court failed to lay down the basis of its award for attorney's fees. Neither did Cathay successfully establish its right thereto. Hence, we are left with no option but to delete the same.

WHEREFORE, the Appeal is hereby DISMISSED. Accordingly, the Decision dated February 27, 2007 of the Regional Trial Court of Makati City, Branch 59 in Civil Case No. 06-266 is hereby AFFIRMED with MODIFICATION on the award of Attorney's Fees which is hereby DELETED for lack of substantial basis.

SO ORDERED.

Carandang (Chairperson) and Gonzales-Sison, JJ., concur.

[1] Rollo, pages 37-49.

[2] Rolo, pages 51-62.

[3] Record, Exhibit 3, pages 108-112.

[4] Record, Exhibit "B", pages 73-76.

[5] Record, Exhibit "E", pages 80-81.

[6] Record, Exhibits "D" in relation to Exhibit "F", pages 79 and 83, respectively.

[7] Supra, note 3.

[8] Record, Exhibit "C", page 77.

[9] Record Exhibit "D", page 79.

[10] Complaint for Sum of Money, Record, pages 1-6.

[11] Commentaries and Jurisprudence on the Civil Code of the Philippines. Arturo M. Tolentino. Volume IV. Central Law Book Publishing Co., Inc. 1991. pages 279-280

[12] Ibid.,

[13] G.R. 190755, November 24, 2010.

[14] Supra, note 4.

[15] Commentaries and Jurisprudence on the Civil Code of the Philippines. Arturo M. Tolentino. Volume IV. Central Law Book Publishing Co., Inc. 1991. page 201.

[16] G.R. No. 185020, October 6, 2010.

[17] PNCR vs. APAC Marketing, G.R. No. 190957, June 5, 2013.

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