

CORPORATE VISIONS, INC., PLAINTIFF-APPELLEE, VS. THE APPAREL FAR EAST, DEFENDANT-APPELLANT.

Ponente: DIMARANAN-VIDAL, J.

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DIMARANAN-VIDAL, J.:

This is an appeal which seeks to set aside the Decision[1] dated 10 April 2001 of the Regional Trial Court (Br. 49, Manila) in Civil Case No. 01-99749 entitled CORPORATE VISIONS, INC., Plaintiff, versus THE APPAREL FAR EAST, Defendant, in a suit for Sum of Money and Damages.

THE FACTS

Sometime in April 2000, Plaintiff-Appellee CORPORATE VISIONS INC., (hereinafter Appellee) as the Agency, entered into a Memorandum of Agreement [2](MOA) with THE APPAREL FAR EAST (hereinafter Appellant) as the client, wherein the former will provide temporary/contractual personnel for the latter's operational requirements. During the effectivity of the Agreement, the Appellant failed to comply with its obligation particularly par. 7 of the MOA which provides:

7. For and in consideration of the faithful performance by the AGENCY of its obligations under this Agreement, the Client shall pay the AGENCY the fees itemized under ANNEX "A" hereto which shall be payable within seven (7) working days from receipt of the billing.

However, despite repeated demands by the Appellee the last of which was a demand letter[3] dated 18 December 2000, the Appellant failed to fulfill its obligation under the MOA, the Appellee was therefore constrained to file a Complaint for Sum of Money and Damages[4] against the Appellant for collection of sums of money and damages, seeking:

- the amount of Five Hundred Two Thousand Pesos Six Hundred Ninety Seven and Five Centavos (Php502,697.05);
- the amount of One Hundred Thousand Pesos (Php100,000.00) as and by way of Attorney's and Acceptance Fees;
- the amount of Five Thousand (Php5,000.00) as and by way of Appearance Fee for every appearance of counsel in court hearings;
- the amount of Fifty Thousand Pesos (Php50,000.00) as and by way of exemplary damages;
- and cost of suit.

Accordingly, Summons[5] was then sent and duly served[6] upon the Appellant but as borne by the records, the latter failed to file any responsive pleading. The Appellees then moved to declare the Appellant in default[7] which was granted by the court a quo in its 19 February 2001 Order[8] and in same order, the court a quo allowed the Appellee to present evidence ex-parte while Appellant was permitted to participate in the proceedings after its Answer shall have been filed, which the Appellant failed to do.

On 10 April 2001, the court a quo rendered the assailed Decision[9] in favor of Appellee and against Appellant, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the latter to pay the plaintiff the following amounts:

- P502,697.05, representing the principal claim;
- P50,000.00, as and for attorney's fees; and
- The cost of the suit.

The Appellant then seasonably filed a Motion for New Trial[10] citing mistake or excusable negligence as grounds: "the well founded belief that the parties could arrive at an amicable settlement" and that it wasted no time in arranging the immediate discussions between the parties to settle their differences.

On 4 May 2001 the court a quo then directed[11] the parties to submit their computations on their respective claims but only the Appellee complied thereto. Despite negotiations between the parties, they failed to reach an amicable settlement of the case.

Finally, in an Order dated 20 August 2001,[12] the court a quo directed its Decision dated 20 April 2001, reinstated and further declared that all other incidents filed thereafter will no longer be entertained.

Hence, the instant appeal raising the following assignment of errors, thus-

- THE TRIAL COURT GRAVEDLY ABUSED ITS DISCRETION WHEN IT DENIED DEFENDANT-APPELLANT'S MOTION FOR NEW TRIAL DATED APRIL 30, 2001; AND
- THE TRIAL COURT GRAVELY ERRED WHEN IT REVERSED ITS OWN RULINGS ON MAY 11 AND 25, 2001 ALLOWING THE PARTIES TO PRESENT EVIDENCE;[13]

OUR RULING

We resolve to DENY the appeal.

The court a quo did not err in adjudging that the Appellee is entitled to the reliefs prayed for in the complaint and subsequently denied the Appellant's Motion for New Trial.

The Appellant submits that the trial court erred in denying its Motion for New Trial which was anchored on the ground of mistake and excusable negligence because the parties were at the stage of finalizing their settlement and that during their meeting on 21 February 2001 and 9 March 2001 and series of telephone conversations on 10 March 2001, 19 March 2001 and 26 March 2001, the parties were discussing the possibility of amicably settling their differences and appellant had the "well founded belief that the parties could arrive at an amicable settlement"[14]. The Appellant further posits that the following matters were taken up during the meetings between the parties, to wit:

- a) the possibility of plaintiff's willingness to deduct from its total claim the 13th month pay for the year 2000 advanced by defendant to the employees of the former, either in the amount of P136,236.40 per computation of plaintiff or P200,476.60 per computation of defendant;
- b) the possibility of plaintiff's willingness to waive the claimed differential in the amount of P136,917.59 stated on Annex "B" of the instant complaint because they were unauthorized except for the amount of P26,789.85 representing under payment covering the payroll period of July 24 to August 7, 2000;
- c) the possibility of defendant's willingness to pay the unpaid billings covering the payroll period of October

23 to November 22, 2000 less the amount of P25,779.91 representing proportionate 13th month pay and proportionate unremitted SSS/Philhealth Premium of P8,199.76 (October 23 to November 7, 2000 payroll) and P10,504.77 (November 8 to 22, 2000 payroll);

d) the possibility of plaintiff's willingness to waive Attorney's Fee; and

e) defendant's desire to be furnished with proof of remittances of SSS/Philhealth made by plaintiff.

On the occasion of the parties' meeting, it was further agreed that Defendant-appellant had advanced the 13th month pay of the laborers.

Appellant further allege that during the telephone conversations between the parties' representatives, the Appellant informed the Appellee that-

- 1.) defendant (herein appellant) is willing to settle the differential in the total amount of P136,917.59;
- 2.) defendant is willing to settle the unpaid billings in the total amount of P365,779.46 corresponding to two (2) pay days covering the period October 23 to November 7, 2000 and November 7 to November 22, 2000 less the amount of P25,779.91 which is equivalent to the proportionate 13th month pay;
- 3.) defendant is insisting that plaintiff should deduct from the total claim the 13th month pay advanced by defendant to the employees of the former in the amount of P200,476.60 and not only the amount of P136,236.40 as computed by plaintiff;
- 4.) defendant is insisting that plaintiff should likewise deduct from its claim the amount of P135,116.29 paid by defendant for SSS/Philhealth premiums which were never shown remitted (sic) by plaintiff; and
- 5.) defendant is not willing to pay attorney's fee.[15]

The Appellant maintains that "relying on the meritoriousness of its counter demands to plaintiff to enter into a compromise, it (Appellant) made a genuine and excusable miscalculation by a well-founded belief that the instant case will be settled amicably without going through the litigation process which the Appellant is ignorant of." [16]

In fine, Appellant now seeks refuge by alluding to mistake and excusable negligence in praying for the reversal of the court a quo's Decision.

We are not persuaded.

As defined, MISTAKE is some unintentional act, omission or error arising from ignorance, surprise, imposition or misplaced confidence. It is the result of ignorance of the law or of fact that has misled the person to commit that which, if he had not been in error, he could not have done. It may arise either from unconsciousness, ignorance, forgetfulness, imposition, or misplaced confidence [17] and the mistake that is allowable under Rule 37 of the Revised Rules of Court is one which ordinary prudence could not have guarded against [18] On the other hand, negligence to be excusable must be one which ordinary diligence and prudence could not have guarded and the test of excusable negligence is whether a party has acted with ordinary prudence while x x x transacting important business [19].

Such being the case, the Appellant falls short of the aforementioned crucial tests.

It is significant to note that during the proceedings in the court a quo, the Appellant was declared in default by failing to file an answer to the complaint. The court a quo even relaxed the rules and gave the Appellant a chance to participate in the proceedings by submitting its evidence after Answer shall have been filed. But Defendant-appellant did not take this opportunity to present its side despite the liberality accorded it.

Further, it cannot escape the attention of this Court that the court a quo in accommodating the Appellant's Motion for New Trial, issued an Order on 4 May 2001, *supra*, directing the parties to submit their respective computations. This, again was not heeded by Appellant. And as borne by the records, only the Appellee submitted its Compliance to the said 4 May 2001 Order. It is also significant to note that in the said Compliance by the Appellee, it reduced its claim from P552,697.05 to P365,314.58. Such fact remains un rebutted since the Appellant, still, and continuously failed to comply to the court a quo's directives.

The foregoing considered, We are not convinced that Defendant-appellant had the mistake of misappreciating the events which would lead to a compromise between the parties. The court a quo did give the parties every available opportunities to settle the case amicably but this proved futile. Appellant's contention that they were in the process of negotiating with Appellee could hardly be characterized as mistake much less an excusable negligence. Perforce, the Appellant's claim of mistake and excusable negligence as grounds for new trial is devoid of merit and it is but correct for the court a quo to deny the same.

On the Second assigned of error, the Appellant maintains that the court a quo erred when it reversed its rulings of 11 and 25 May 2001, in allowing the parties to present evidence.

This argument does not hold water.

To refresh, in the assailed Orders dated 11 and 25 of May 2001, the court a quo directed the parties to be present on the scheduled hearings and be prepared to present evidence of their respective claims. Verily, the court a quo explored all possible avenues with a view to allowing the parties to resolve their differences amicably albeit a Decision, *supra* was already rendered in this case. This is evident in its Order dated 6 July 2001 and 23 July 2001 granting additional time for the parties to enter into compromise agreement. Thus, it is incorrect for the Appellant to aver that the court a quo vacated its Decision when it allowed the parties to present their respective computations. Evidently, in it is but the court a quo's honest to goodness intention to mediate between the parties and help them arrive at a just and fair compromise without necessarily vacating its Decisions.

Given the above disquisition, Appellant can not fault the court a quo in reinstating its 10 April 2001 Decision which was not vacated at all since the Motion for New Trial was not given due course. In fact the Order dated 20 August 2001 effectively denied the said motion together with all the other incidents filed thereafter.

All told, the failure of the Appellant to file its Answer to the Complaint and subsequently failing to heed the Order of the court a quo to present evidence to prove its claim by submitting the required computations, it unwittingly sealed its fate and stripped itself of any further relief.

WHEREFORE PREMISES CONSIDERED, the appeal is hereby DENIED. The assailed Decision of the court a quo is AFFIRMED in toto.

SO ORDERED.

Reyes, (Chairman) and Lampas-Peralta, JJ., concur.

[1] Records, p. 39.

[2] Records., pp. 5-6.

[3] *Id.*, p. 9.

[4] *Id.*, p. 1.

- [5] Records., p. 10.
- [6] Id., p. 11.
- [7] Id., p. 12.
- [8] Id. p. 15
- [9] Id., p. 39.
- [10] Records pp. 42-47
- [11] Records p. 56
- [12] Records, p. 82
- [13] Rollo, pp. 22-23
- [14] Rollo, pp. 24-25
- [15] Rollo, p. 25
- [16] Rollo, p. 26, 1st par.
- [17] Remedial Law, Herrera, Vol.II, 1994 Ed. P. 122.
- [18] Viking Industrial Corp. v. Court of Appeals, 434 SCRA 223 [2004]
- [19] AirPhils. Corp. v. International Business Aviation Services Phils. Inc., 438 SCRA 51 at 66 [2004].

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