

NOIDA TORRES-CAPAPAS, PETITIONER-APPELLEE, VS. EDWIN TORRES, RESPONDENT-APPELLANT.

Ponente: REYES-CARPIO, A., J.

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REYES-CARPIO, A., J.:

This is an Appeal, filed under Rule 41 of the 1997 Rules of Civil Procedure, seeking the reversal of the Decision,[1] dated December 20, 2010, rendered by the Regional Trial Court of Rosales, Pangasinan, Branch 53 in Civil Case No. 1391-R, entitled “Noida Torres-Capapas vs. Edwin Torres,” for injunction with prayer for preliminary injunction, temporary restraining order and damages, the dispositive portion of which reads:

“WHEREFORE, premises considered, the petition for injunction is hereby dismissed. The counterclaim of defendant for damages is likewise dismissed for lack of merit.

SO ORDERED.”[2]

The instant case involves real property located in Malabon, with an area of 322.50 square meters, covered by Transfer Certificate of Title No. 47254[3] in the name of Rodrigo Torres, father of petitioner-appellee Noida Torres-Capapas (Noida, for brevity) and respondent-appellant Edwin Torres (hereafter referred to as Edwin). The said property was leased to a third person, earning monthly rentals of P34,000.00.

Noida claimed that their father executed a Springing Durable Power of Attorney (SDPA),[4] dated May 13, 2002, in favor of her and her brother, Edwin. Under the said document, Noida was the attorney-in-fact of Rodrigo Torres with the authority to manage and control any real property owned by Rodrigo, including the collection of income derived therefrom. The pertinent portion reads:

“ TO WHOM IT MAY CONCERN:

RODRIGO TORRES, (the principal) presently residing at 191 Avalon Circle, Vallejo, CA 94589, hereby appoints NOIDA T. CAPAPAS, residing at 191 Avalon Circle, Vallejo, CA 94589 (Telephone 707-552-9795), to serve as the principal's true and lawful agent (attorney-in-fact) for the principal and in the principal's name, place, and stead on the principal's incapacity:

- To manage, control, lease, sublease, and otherwise act concerning any real property that the principal may own, collect and receive rents or income therefrom, pay taxes, charges and assessments on the same, repair, maintain, protect, preserve, alter, and improve the same and do all things necessary or expedient to be done in the agent's judgement (sic) in connection with the property.

x x x

- To collect and deposit for the benefit of the principal all debts, interests, dividends or other assets that may be due, or belong to the principal and to execute and deliver receipts and other discharges therefore; to demand, arbitrate and pursue litigation on the principal's behalf concerning all rights and benefits to which the principal may be entitled; and to compromise, settle, and discharge all such matters as the agent considers appropriate under the circumstances.

x x x

- To grant, sell, transfer, mortgage, deed in trust, pledge and otherwise deal in all property, real and personal, that the principal may own, including but not limited to any real property described on any exhibit attached to this instrument including property acquired after the execution of this instrument; to attach exhibits to this instrument that provide legal description of all such properties; and to execute such instruments as the agent deems proper in conjunction with all matters covered in this paragraph 6.

x x x

- To do all things and enter into all transactions necessary to provide for the principal's personal care, to maintain the principal's customary standard of living, to provide suitable living quarters for the principal, and to hire, compensate, and discharge household, nursing, and other employees as the agent considers advisable for the principal's well-being. The above shall specifically include but not be limited to the authority to pay the ongoing costs of maintenance of the principal's present residence, such as interest, taxes, repairs; to procure and pay for clothing, transportation, recreation, travel, medicine, medical care, food, and other needs; and to make arrangements and enter into contracts on behalf of the principal with hospitals, hospices, nursing homes, convalescent homes, and similar organizations.

x x x

- Generally to do, execute, and perform any other act, deed, matter, or thing, that in the opinion of the agent ought to be done, executed, or performed in conjunction with this power of attorney, of every kind and nature, as fully and effectively as the principal could do if personally present. The enumeration of specific items, acts, rights, or powers does not limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers granted to the agent except where powers are expressly restricted.

x x x.”[5]

However, she discovered that during the time she was in the United States, respondent Edwin started collecting rentals from the property and allocated the proceeds thereof for his personal use when the same was actually for Rodrigo's needs such as medication and hospital expenses. Thus, Noida filed a Petition,⁶ dated April 19, 2007, seeking the following reliefs:

“WHEREFORE, in view of all the foregoing, it is most respectfully prayed of the Honorable Court that:

- Upon filing of this petition, a temporary restraining order (TRO) be issued directing the respondent, his agents and representatives to:

- cease and desist from interfering with the management by the petitioner of the properties of petitioner's father described above;

- cease and desist from collecting rentals from the properties of petitioner's father as well as threatening and/or preventing the lessees therein from paying the rentals to the petitioner;

- After due notice and hearing, to issue a writ of injunction permanently enjoining respondent to:

- cease and desist from interfering with the management by the petitioner of the properties of petitioner's father described above;

- cease and desist from collecting rentals from the properties of petitioner's father as well as threatening and/or preventing the lessees therein from paying the rentals to the petitioner;
- ORDER the respondent to pay the petitioner the following:
 - P400,000.00 by way of moral damages;
 - P250,000.00 by way of exemplary damages;
 - P 71,737.40 by way of actual damages representing the air fare and other expenses of the petitioner from the United States to the Philippines and back;
 - P172,440.00 representing the lost income on the part of the petitioner during her 3-week absence from her work in the United States in order for her to file this case;
 - P100,000.00 by way of attorney's fees and P5,000.00 as appearance fee per hearing of this case.
 - To pay the costs.

Petitioner further prays for such other reliefs and remedies just and equitable in the premises.”[7]

Edwin, in turn, admitted to collecting the rentals from the Malabon property but averred that he did so under authority of his siblings. He also claimed that he was a co-owner of the property upon the death of their mother as the same was conjugal in nature. He also denied the enforceability of the SDPA in the Philippines as the same was executed in the United States.⁸ Thus, respondent-appellant sought the dismissal of the petition and monetary award as follows:

“4. On the Counterclaim, petitioner be made to pay respondent the following:

Php. 300,000.00

as Attorney's Fees

Php. 300,000.00

as exemplary damages

Php. 38,964.00

as actual expenses for air fare of the respondent from the USA to the Philippines and back

Php. 20,000.00

and (sic) his other expenses while in the Philippines

Php. 400,000.00

by way of moral damages

5. Petitioner be also ordered to pay the costs of litigation and other judicial expenses.”[9]

During pre-trial, the issues were narrowed down to the following:

“ISSUES:

- 1) Who between the parties have the better right to collect the rentals.
- 2) Who between the parties have better right to manage the property;

The defendants, through counsel, also raised the following issues:

- 1) What should be the proper pleading to be filed;
- 2) Whether Rodrigo Torres receives pension from the PVAO and GSIS or not;
- 3) Whether Rodrigo Torres is receiving pension from the United States or not;
- 4) Whether Noida should make an accounting of all the money that she received for Rodrigo;
- 5) Whether Rodrigo should stay in the Philippines or not.”[10]

Petitioner-appellee Noida testified and supported her allegations by submitting the following documentary evidence, among others: (1) the SDPA, dated May 13, 2002; (2) a summary of bills and other medical expenses of her father Rodrigo Torres;[11] (3) her passport[12] and airplane tickets;[13] and (4) Power of Attorney for Health Care[14] of Rodrigo Torres, executed in her favor.

On the other hand, respondent-appellant only offered his testimony in evidence.

After hearing the arguments presented before the trial court, it rendered the appealed Decision,[15] dated December 20, 2010, dismissing the action and respondent-appellant's counterclaim, explaining its ruling in this wise:

“It is fundamental that he who alleges must prove. Injunction lies where the applicant has shown a clear and unmistakable right, there is a material and substantial invasion of such right, and there is urgent and present necessity for the writ to prevent serious damage. In the herein case, Noida has not shown any clear right to the writ of injunction after the source law from which her SDPA sprung was not established. Moreover, Philippine Law on agency does not recognize a springing durable authority that takes effect upon the mental disability of the principal as in fact, such can be a ground for the extinguishment of agency in this jurisdiction. Besides, even as this decision is being written, Edwin came to this Court to inform it that Rodrigo Torres has passed away, which if true, writes finis to any agency issued by him and opens up succession to his estate. As to her claim for damages, these cannot be granted when she has failed in her cause.

The same is true in the case of defendant's counterclaim for damages, there being no proof to show that plaintiff was impelled by bad faith or malice to file this suit against him. Noida's act of instituting the instant suit was not whimsical, but impelled by an honest belief and perception that her right to manage Rodrigo's property under the SDPA had been violated by Edwin. x x x.”[16]

Respondent-appellant sought to reconsider the dismissal of his counterclaim[17] but the same was denied in an Order,[18] dated June 2, 2011.

Hence, this appeal.

Respondent-appellant presents the sole issue:

WHETHER THE DENIAL OF ALL DEFENDANT-APPELLANTS (sic) COUNTERCLAIM “FOR LACK OF

MERIT” IS UNJUST; A TOTAL DISREGARD OF THE ISSUES IN THE CASE; CONTRARY TO THE FACTS ESTABLISHED AND THE LAW.[19]

Respondent-appellant Edwin insists that Noida was in bad faith when she alleged that their father was the sole owner of the property when the same was in fact conjugal, half of which had already passed on to Rodrigo's children – including herein parties – upon the death of his wife Purificacion.[20] To the mind of respondent-appellant, petitioner-appellee Noida had misled the court and lied under oath which negates good faith on her part.

In ruling against respondent-appellant, the trial court relied on the case of PNB vs. Court of Appeals,[21] viz:

“In the absence of malice and bad faith, the mental anguish suffered by respondents spouses Medina and Lopez for having been made defendants in Civil Case No. 4507 is not that kind of anxiety which would warrant the award of moral damages. The worries and anxieties suffered by respondents spouses Medina and Lopez were only such as are usually, caused to a party haled into court as a defendant in a litigation. Therefore, there is no sufficient justification for the award of moral damages, more so, exemplary damages.

In the same manner that We find no basis for the award of moral damages to respondents spouses Medina and Lopez, We find petitioner neither liable for attorney's fees.

It is not sound public policy to place a penalty on the right to litigate. To compel the defeated party to pay the fees of counsel for his successful opponent would throw wide open the door of temptation to the opposing party and his counsel to swell the fees to undue proportions. To sentence litigant to pay his adversary's lawyer's fees would be imposing a penalty on his right to litigate. Even under the New Civil Code a litigant would not be entitled to recover the fees paid to his attorney as damages where no bad faith on the part of his adversary was shown. Needless to say, award of attorney's fees is the exception rather than the general rule.”

Respondent-appellant questions the applicability of the aforecited case to the situation at hand. According to him, the Supreme Court's denial of the prayer for moral damages of the Spouses Medina and Lopez was due to the fact that they were only “made defendants” while in the instant case, he is the principal defendant thus, his worries and anxieties were greater than what they had experienced. Also, respondent avers that PNB did not knowingly file a frivolous case against therein defendants unlike the instant case where his sister knowingly resorted to alleging misleading, dishonest and untruthful statements to enjoin him from managing the Malabon property.

We now resolve.

In the case of De Santos vs. Papa,[22] the Supreme Court ruled that the action therein was not filed maliciously by analyzing the law upon which the suit was based and the party's reliance on the same as a basis for the arguments set forth in the complaint. Thus, this Court finds it appropriate to use the same standard in determining whether or not petitioner-appellee maliciously filed the petition for injunction against her brother, herein respondent-appellant.

Petitioner-appellee based her petition for injunction on a document conferring upon her special authority to manage her father's properties as a result of his incapacity. The said document did not specify the particular properties of Rodrigo thus, as any reasonable person would believe, petitioner-appellee proceeded to manage the subject property the title of which was in the name of her father. Respondent-appellant admitted that he had collected the monthly lease rentals thereon, contrary to that stated in the document which his sister used as a basis to sue. Thus, she could not be faulted for honestly believing that a wrong had been done which led her to file the action for injunction to prevent respondent-appellant from further exercising control over the subject property.

In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence,[23]

that is evidence which is of greater weight.[24] Thus, a preponderance of evidence is needed to overthrow the presumption of good faith enjoyed by petitioner-appellee. Respondent-appellant offered nothing but his testimony in order to prove bad faith on the part of his sister. The same remained to be uncorroborated. He could have at least presented the account of his surviving siblings or the tenant of the property to support his allegations but instead, he relied on his own allegations. It must be remembered that mere allegations do not constitute evidence upon which a valid award of damages could be based.

WHEREFORE, in view of the foregoing, the instant Appeal is DENIED. The Decision,[25] dated December 20, 2010, rendered by the Regional Trial Court of Rosales, Pangasinan, Branch 53 in Civil Case No. 1391-R, is AFFIRMED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Tijam, N.G., Chairperson and Baltazar-Padilla, P.J., JJ., concur.

[1] Rollo, pp. 64-68

[2] Rollo, p. 68

[3] Records, p. 10

[4] Records, pp. 12-17

[5] Records, pp. 13-15

[6] Records, pp. 2-8

[7] Records, pp. 6-7

[8] See Answer (with Affirmative Defenses and Counterclaim), Records 66-74

[9] Records, p. 73

[10] See Pre-Trial Order, dated January 31, 2008, Records, p. 149

[11] Records, pp. 234-267

[12] Records, pp. 217-220

[13] Records, pp. 221-222

[14] Records, pp. 210-216

[15] Rollo, pp. 64-68

[16] Rollo, p. 67

[17] See Partial Motion for Reconsideration, dated January 17, 2010, Rollo, pp. 69-79

[18] Rollo, p. 80

[19] See Brief for Respondent-Appellant, Rollo, p. 54

[20] See Brief for Respondent-Appellant, Rollo, p. 57

[21] G.R. No. L-45770. March 30, 1988

[22] G.R. No. 154427, May 8, 2009

[23] Rule 133, Section 1, Revised Rules on Evidence

[24] Ek Lee Steel Works, Corp. vs. Manila Castor Oil, Corp., G.R. No. 119033, July 9, 2008

[25] Rollo, pp. 64-68

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