

FERNANDO GO, GO NAM, PONCIANO CUI VILLAS, FRANCISCO COSUANGCO AND SOUTH PACIFIC HARDWARE CO., (A REGISTERED PARTNERSHIP), PETITIONERS, VS. HON. COURT OF APPEALS, SPECIAL FOURTH ...

G.R. No. L-25393. October 30, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

This petition seeks primarily to question the jurisdiction of the respondent Court of Appeals to render a decision in a case, appealed from the Court of First Instance of Iloilo, where petitioners, who were third-party defendants, were neither appellants nor appellees in the appeal, but were nevertheless held in said decision liable for sums of money to the appellee which was held liable to the appellant, the dispositive portion of the respondent court's decision reading as follows:

"WHEREFORE, for the foregoing considerations, the judgment appealed from is reversed and defendants Juanito Hubo and Visayan Surety and Insurance Corporation are condemned, jointly and severally, to pay to plaintiff Western Construction Company, Inc. the sum of Two Thousand Six Hundred Seventy-Three Pesos and Seven Centavos P2,673.07) with 6% interest thereon per annum from June 16, 1955 until full payment, plus the sum of P1,000.00 as attorney's fees, and costs in both instances. The indemnitors (1) Maximino Sorongon, (2) Fernando Go, (3) South Pacific Hardware Company, (4) Go Nan, (5) Ponciano Cui Villas, and (6) Francisco Cusuangco, and (7) Juanito Hubo are hereby adjudged, jointly and severally, to pay to Visayan Surety and Insurance Corporation the full amount of whatever the said Visayan Surety shall pay to the plaintiff under this judgment, plus the stipulated 12% interest thereon per annum from date of payment until full reimbursement. The cross-claim of the indemnitors against Maximino Sorongon, their co-indemnitor, is hereby dismissed. Juanito Hubo, in turn, is sentenced to pay the indemnitors whatever the latter (indemnitors) shall have paid to the Visayan Surety and Insurance Corporation for and in the account of this judgment with 6% interest thereon per annum."[1]

The relevant facts, for the purpose of the instant petition, may be briefly stated without setting forth in detail the facts constituting the causes of action, first, in the original complaint between the plaintiff, Western Construction Co., Inc., (WESTERN, for short), and the defendants Juanito Hubo and the Visayan Surety & Ins. Corp. (VISAYAN, for short); and second, in the cross-claim and third-party complaint filed by VISAYAN against Juanito Hubo and petitioners, respectively, and the defenses put up by the defendants in each case, the issue raised in the instant petition being purely legal, on a matter of procedure.

WESTERN filed an action for collection of sum of money in the Court of First Instance of Iloilo against Juanito Hubo, and his bond furnished by VISAYAN for the faithful performance of its obligation to the latter.[2] In its answer to the complaint,[3] VISAYAN filed a cross-claim against its co-defendant, Juanito Hubo, and a third-party complaint against herein petitioners on their counter-bond executed in favor of VISAYAN. Petitioners filed their answer to the third-party complaint against them, and after trial, the court dismissed the complaint of

WESTERN against VISAYAN and Juanito Hubo, as well as the third-party complaint of VISAYAN against petitioners herein. Only WESTERN, the plaintiff, appealed to the Court of Appeals,[4] assigning the following errors:

"I. The trial court erred in not holding defendant Visayan Surety & Insurance Corporation jointly and severally with defendant Juanito Hubo to pay plaintiff the amount of P2,678.07 in accordance with its surety bond (Exhibit B);

"II. The trial court further erred in exempting the Visayan Surety & Insurance Corporation from liability on its surety bond (Exhibit B) on the alleged ground that plaintiff did not follow the contract (Exhibit A); and

III. The trial court erred in absolving the defendant Visayan Surety & Insurance Corporation from liability on the surety bond (Exhibit B) it had issued in behalf of defendant Juanito Hubo in favor of plaintiff."

It appears that appellant WESTERN had furnished not only counsel for VISAYAN, as the sole appellee in its appeal, of copies of its Notice of Appeal and motions related to the perfection of its appeal, the record on appeal,[5] and its appellant's brief, but also petitioners' counsel who filed a brief on July 18, 1960, as stated in the brief for respondent VISAYAN, which was filed on August 18, 1960. On October 2, 1965, the Court of Appeals (Fourth Division) rendered judgment[6] the dispositive portion of which was quoted at the threshold of this decision, which petitioners seek to reverse or annul, insofar as it imposes liability on them despite that they were never parties to the appeal of the decision of the trial court to the Court of Appeals.

Aside from the alleged lack of jurisdiction of the Court of Appeals to render the aforementioned decision against them, petitioners also claim denial of due process insofar as the Court of Appeals reversed the decision of the Court of First Instance dismissing the third-party complaint against them,[7] the third-party plaintiff (VISAYAN) never having appealed said decision of dismissal, nor had it served petitioners, as the third-party defendants, with a copy of its brief, which was exclusively in answer to the brief of appellant (WESTERN).

The question raised is purely on a procedural matter. In this jurisdiction, the rule is pretty well-settled that a party who does not appeal from the decision may not obtain any affirmative relief from the appellate court other than what he has obtained from the lower court, if any, whose decision is brought up on appeal.[8] The respondent VISAYAN has not appealed the decision of the Court of First Instance of Iloilo for the simple reason that it dismissed the complaint against it. When its third-party complaint against petitioners as third-party defendants was also dismissed, it nevertheless could have appealed, if it wanted the appellate court to reverse the decision dismissing its third-party complaint, in the event that, as was an ever-present possibility, the decision of the appellate court would be adverse to it, and favorable to appellant. This would be the more prudent action to take. It would be motivated by the same consideration of avoiding multiplicity of actions, as was what prompted VISAYAN to file the third-party complaint in the lower court, as the Rules allow and encourage, if not require and demand.

Verily, it is the appeal taken by one of the parties against the other, that gives jurisdiction of the appellate court over said parties. The appellate court cannot acquire jurisdiction over persons who are neither appellants nor appellees. For the respondent court, in the instant case, to have rendered a decision against petitioners who were neither appellants nor appellees in the appeal brought before said court, is to act entirely without jurisdiction. As a corollary, petitioners would also be denied due process, never having been put on notice that they were involved in the appeal so that they would have tried to prevent the appellate court from rendering an adverse decision against them in the ordinary course of law.

True it is that petitioners filed a brief on July 18, 1960, apparently under a mistaken belief that having been furnished a copy of appellant WESTERN's brief which it was not its duty to do, they also had to file their own.

They certainly did not have to, because appellant WESTERN did not appeal, as it could not have done so, from the decision of the trial court dismissing the third-party complaint against them. If they have to file a brief, it should be one in answer to that of appellee VISAYAN. But VISAYAN did not furnish petitioners with its brief, which was filed on August 18, 1960 later than the filing of petitioners' aforementioned brief on July 28, 1960, which, therefore, was not in reply to VISAYAN's brief.

We are not persuaded that the cases relied upon by the respondent court in rendering the questioned decision against petitioners who were not parties to the appeal justify its action complained of as lacking in authority or jurisdiction and denying petitioners their right to due process. If judgment is rendered by the appellate court without having given the appellee an opportunity to be heard through its brief, the judgment is clearly vulnerable on ground of denial of due process. With more reason would a judgment be similarly assailable as against one who was not even an appellee at all, as herein petitioners. The American cases cited by the Court of Appeals[9] speak of either "co-parties," some having appealed but others did not, or of "joint liability" and "joint judgment," neither of which is extant in the present case. Petitioners are not co-parties with VISAYAN. Neither is their liability as alleged, a "joint" one with VISAYAN, insofar as appellant WESTERN is concerned. The judgment on the original complaint is likewise not a "joint judgment" with that dismissing the third party complaint.

The Philippine case cited[10] in the decision under review is clearly inapplicable. It speaks of an appeal of one of several judgment debtors, and whether it would affect the liability of those who did not appeal. Petitioners were never judgment debtors because the complaint against them seeking to impose monetary liability on them was dismissed by the trial court.

It is worth also noticing that the Court of Appeals rendered judgment against petitioners because it sustained VISAYAN's contention that although the appeal was interposed by WESTERN alone, the whole case can be considered open again for adjudication of all the questions involved therein which were submitted to the lower court, including the dismissal of its cross-claim and third-party complaint against herein petitioners, despite that no appeal was taken from the dismissal of both cross-claim and third-party complaint.[11] It is, likewise, to be noticed that petitioners were never given an opportunity to controvert the above contention of VISAYAN. The denial of due process in this specific instance therefore, manifests itself loud and clear.

WHEREFORE, the decision appealed from hereby is reversed insofar as it holds the petitioners liable as third-party defendants to the third-party plaintiff, the herein respondent Visayan Surety & Insurance Corporation. No costs.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] pp. 17-18, Decision, Court of Appeals, Annex "A" to Petition.

[2] pp. 2-5, Record on Appeal, Annex "D" to Petition.

[3] pp. 19-26, Record on Appeal, Id.

[4] p. 80, Record on Appeal, Id.

[5] pp. 80, 82, Record on Appeal.

[6] Annex "A" to Petition.

[7] pp. 12-16, Petitioners' Brief

[8] Zamboanga Trans. Co. Inc. vs. Court of Appeals, 30 SCRA 717, 725; Dy, et al. vs. Kuizon, 3 SCRA 617, 619.

[9] . . . (see pp. 16-17, Court of Appeals' decision, annex "A" to petition).

[10] Municipality of Orion vs. F. B. Concha, et al., 50 Phil. 679.

[11] p. 15, Court of Appeals' decision, Annex "A" to Petition.

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