

CORPORATE SECURITY AND INVESTIGATION AGENCY, INC., PETITIONER, VS. N. COREA INTERNATIONAL/COREAN VAN INTERNATIONAL, RESPONDENT.

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Review[1] filed by Corporate Security & Investigation Agency, Inc. (Agency) assailing the Order[2] of Branch 13, Regional Trial Court (RTC), Davao City, reversing the decision[3] of Branch 1, Municipal Trial Court of Cities (MTCC), Davao City, the dispositive portion of the Order states:

WHEREFORE, in view of all the foregoing, the appealed Decision is hereby reversed and set aside.

In lieu thereof, the Court rules that plaintiff is the one liable to defendant in the principal amount of P167,000.00 (P195,000.00 less P38,000.00), plus attorney's fees in the amount of P50,000.00.

SO ORDERED.

The facts of the case are as follows:

In its Complaint[4], the Agency alleged, among others, that: (1) it rendered security services to respondent N. Corea International Corp./Corean Van International (Corea); (2) Corea failed to pay the security services rendered for a period covering December 16, 2004 to April 9, 2005; (3) the total amount due from Corea is P38,000.00; and (4) despite 3 demand letters, Corea refused to pay.

Consequently, the Agency filed an action for sum of money against Corea before the MTCC of Davao City.

In its Answer with Counterclaims and Affirmative Defenses[5], Corea alleged, among others, that: (1) Ronilo Bernal, an employee of the Agency deployed to Corea, stole a vehicle owned by Corea; (2) the vehicle is worth P195,000.00; (3) the City Prosecution Office has recommended the filing of an Information for Carnapping against Bernal; (4) the Agency is liable for the acts of its employees under Article 2180 of the Civil Code; and (5) the Agency has no cause of action against it.

The MTCC ruled in favor of the Agency contending that the liability of the employer for felonies committed by their employees is only subsidiary and will only accrue after conviction.[6]

Corea filed its Notice of Appeal dated November 14, 2008.[7] The RTC, acting on a Motion for Time to File Appeal Memorandum, gave Corea until March 26, 2009 to file it.[8] In another motion, Corea asked that it be allowed to file the Memorandum on April 15, 2009.[9] In still another motion, Corea asked that it be allowed to file its Memorandum on April 15, 2009.[10] The Memorandum was filed on April 15, 2009.[11]

The RTC reversed the ruling of the MTCC finding that it is the Agency which owes money to Corea because of the act committed by its employee.[12]

Aggrieved, the Agency filed the instant petition and raised the following grounds:

I.THE HONORABLE RTC BRANCH 11 SERIOUSLY ERRED IN ITS FINDINGS OF FACT AND LAW WHEN IT REVERSED THE DECISION OF THE COURT A QUO AND INSTEAD GRANTED THE COUNTERCLAIM OF THE RESPONDENT EVEN THERE IS NO EVIDENCE SUBMITTED BY THE LATTER THAT THE KIA AVELLA VEHICLE IS WORTH P195,000.00;

II.THE HONORABLE RTC BRANCH 13 SERIOUSLY ERRED IN ADMITTING THE MEMORANDUM ON APPEAL OF THE RESPONDENT SINCE IT WAS ALREADY FILED OUT OF TIME;

III.THE HONORABLE RTC BRANCH 13 SERIOUSLY ERRED IN DECLARING THAT THE PETITIONER IS LIABLE TO PAY THE RESPONDENT UNDER ART. 2180 OF THE CIVIL CODE.

Our Ruling

The appeal is without merit.

The Agency argues that: (1) there is no evidence presented that the value of the stolen vehicle is P195,000.00[13]; (2) the motions filed by Corea were defective since the notice of hearing did not set the time and date of the hearing and the motions were filed out of time[14]; (3) Corea has yet to prove that it was Bernal who stole the vehicle[15]; and (4) the liability of an employer for felonies committed by its employees is only subsidiary pursuant to Article 103 of the Revised Penal Code.[16]

The arguments fail.

"A counterclaim partakes of the nature of a complaint or cause of action against the plaintiff so that a counterclaimant is the plaintiff in his counterclaim.[17]"

The stealing of the car by the Agency's employee and its value were part of the counterclaim of Corea. Under the Rules on Summary Procedure, "the answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.[18]"

Under the Rules of Court:

Section. 10. A defendant must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters upon which he relies to support his denial. Where a defendant desires to deny only a part of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state, and this shall have the effect of a denial.

Section. 11. Material averment in the complaint, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied. Allegations of usury in a complaint to recover usurious interest are deemed admitted if not denied under oath.

Thus, the Agency, who failed to specifically deny these allegations in its pleadings before the MTCC and even in the RTC, necessarily admitted these allegations as facts. The first time the Agency raised the value of the car as an issue was when it filed its Motion for Reconsideration[19] against the adverse judgment of the RTC. "Matters, theories or arguments not submitted before the trial court cannot be considered for the first time on appeal or certiorari.[20]"

"[A] motion for extension of time xxx is not a litigated motion where notice to the adverse party is necessary to afford the latter an opportunity to resist the application, but an ex parte motion made to the court in behalf of one or the other of the parties to the action, in the absence and usually without the knowledge of the other party or parties.[21]" Thus, the Agency's allegation that the motions filed by Corea were defective and hence its memorandum was not filed on time has no leg to stand on.

The Civil Code provides:

Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

Art. 2177. Responsibility for fault or negligence under the preceding article is entirely separate and distinct from the civil liability arising from negligence under the Penal Code. But the plaintiff cannot recover damages twice for the same act or omission of the defendant.

Art. 2178. The provisions of Articles 1172 to 1174 are also applicable to a quasi-delict.

Art. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

x x x

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

x x x

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

Art. 2181. Whoever pays for the damage caused by his dependents or employees may recover from the latter what he has paid or delivered in satisfaction of the claim.

"An act or omission causing damage to another may give rise to two separate civil liabilities on the part of the offender, i.e., (1) civil liability ex delicto, under Article 100 of the Revised Penal Code; and (2) independent civil liabilities, such as those (a) not arising from an act or omission complained of as felony [e.g. culpa contractual or obligations arising from law under Article 31 of the Civil Code, intentional torts under Articles 32 and 34, and culpa aquiliana under Article 2176 of the Civil Code]; or (b) where the injured party is granted a right to file an action independent and distinct from the criminal action [Article 33, Civil Code]. Either of these two possible liabilities may be enforced against the offender subject, however, to the caveat under Article 2177 of the Civil Code that the offended party cannot recover damages twice for the same act or omission or under both causes.[22]"

The liability of the employer under the quasi-delict provisions is direct and primary; thus in one case the Supreme Court held: "As the employer of Pajarillo, Safeguard is primarily and solidarily liable for the quasi-delict committed by the former. Safeguard is presumed to be negligent in the selection and supervision of his employee by operation of law.[23]"

In the instant case, Corea anchored its counterclaim on the quasi-delict provisions of the Civil Code asserting that: (1) the Agency deployed a security guard to Corea; (2) the security guard assigned to Corea stole a vehicle owned by Corea; (3) as employer of the security guard, the Agency is liable for the damage caused by the employee. "There is fault when a person acts in a manner contrary to what should have been done.[24]" Instead of guarding the vehicle, the security guard stole it.

Thus, it is separate and distinct from the criminal prosecution for Carnapping against the employee. The Agency's assertion of Article 103 of the Revised Penal Code, while valid, will only apply in the Carnapping case but not in the action for quasi-delict. "The responsibility for quasi-delict is separate from the civil liability arising from the felony but the plaintiff cannot recover damages twice for the same act or omission although the incident may give rise to two or more causes of action.[25]"

WHEREFORE, the instant appeal is DENIED. The Decision of the Regional Trial Court is AFFIRMED.

SO ORDERED.

[*]Borja, (Acting Chairperson), and Perez, JJ., concur.

[*] Designated Member vice J. Camello, per Raffle dated June 18, 2014

[1] Rollo, pp. 6-26

[2] Rollo, pp. 141-143

[3] Rollo, p. 84-88

[4] Rollo, pp. 30-31

[5] Rollo, pp. 39-42

[6] Rollo, pp. 84-88

[7] Rollo, p. 89

[8] Rollo, p. 92

[9] Rollo, p. 121

[10] Rollo, p. 122

[11] Rollo, p. 124

[12] Rollo, pp. 141-143

[13] Rollo, p. 20

[14] Rollo, p. 23

[15] Rollo, p. 24

[16] Rollo, p. 25

[17] Univ. of Sto. Tomas v. Court of Appeals and Canicosa, G.R. No. 124250, October 18, 2004

[18] Section 5

[19] Rollo, pp. 144-147

[20] Huang v. Phil. Hoteliers Inc. et al., G.R. No. 180440, December 5, 2012

[21] Sarmiento v. Zaratan, G.R. No. 167471, February 5, 2007

[22] Cancio Jr. v. Isip, G.R. No. 133978, November 12, 2002

[23] Safeguard Security Agency Inc. et al. v. Tangco et al., G.R. No. 165732, December 14, 2006

[24] Tolentino, Commentaries and Jurisprudence on Civil Code of the Philippines Volume V, p. 593 (1992)

[25] Vitug, Civil Law Volume III Obligations and Contracts, p. 630 (2003)

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