

NOLI F. PIÑOL, PROPRIETOR/OWNER OF GRAYWORKS SECURITY AGENCY REP. BY ELIODORIE C. CANINI, PLAINTIFF-APPELLEE, VS. MAGATOS BANANA GARDENING MULTI-PURPOSE COOPERATIVE (MABGARMCO) ...

Ponente: LLOREN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f0f0865ab971/>

LLOREN, J.:

This is an appeal from the Decision[1] dated January 5, 2012 of the Regional Trial Court, 11[th] Judicial Region, Branch 30, Tagum City, Davao del Norte, in Civil Case No. 3897.

On May 6, 2005, Grayworks Security Agency (Grayworks), owned by Noli F. Piñol (plaintiff-appellee), and Magatos Banana Gardening Multi-Purpose Cooperative (MABGARMCO) (defendant-appellant) entered into a Security Service Contract[2] (security contract) for a renewable period of one year effective April 26, 2005. Grayworks undertook to provide defendant-appellant with security services to secure the latter's property.

On November 20, 2007, Grayworks filed a Complaint[3] for Collection of Sum of Money. Later, the complaint was amended with plaintiff-appellee as complainant.[4] It was alleged that security services were rendered to defendant-appellant pursuant to the security contract. Defendant-appellant, however, failed to pay for the service rendered in the amount of P404, 000.00 despite repeated demands.

Defendant-appellant filed a Motion to Dismiss[5] the original complaint on the ground that Grayworks had no capacity to sue. However, the trial court denied the motion and ordered defendant-appellant to file its answer.[6] Defendant-appellant filed a Motion for Reconsideration[7] pointing out that Grayworks is neither a natural nor juridical person. This time, the trial court agreed with defendant-appellant but it ordered plaintiff-appellee to amend the complaint instead of dismissing the same.[8]

Meanwhile, defendant-appellant filed its Answer ad Cautelam.[9] It admitted the existence of the security contract but alleged that the same was only a proposal and not implemented. It also alleged that it did not owe plaintiff-appellee since no security service was rendered.

Pursuant to the order of the trial court, the complaint was amended with plaintiff-appellee as complainant. Defendant-appellant filed Omnibus Motions to Expunge Amended Complaint and Dismiss Case.[10] It cited as grounds some defects in the amended complaint. The trial court, however, denied the omnibus motions and set the case for trial.[11]

After trial on the merits, the trial court rendered the assailed judgment with the following dispositive portion:

WHEREFORE, in light of the foregoing, judgment is rendered partially granting the complaint ordering, as follows:

- Defendant to pay plaintiff in the total amount of One Hundred Thousand Pesos (P100,000.00) with 12% per annum interest until its full payment for security services rendered covering the periods April 16-30, 2005 and

May 1-16, 2005; and

- The dismissal of the counterclaims of the defendant.

SO ORDERED.

Defendant-appellant now comes before this Court and raises the following issues:

I

WHETHER OR NOT THE TRIAL COURT ERRED IN NOT DISMISSING THE ORIGINAL COMPLAINT AND LATER ADMITTING THE AMENDED COMPLAINT IN THE CASE.

II

WHETHER OR NOT THE TRIAL COURT ERRED IN HOLDING THE DEFENDANT-APPELLANT MABGARMCO LIABLE TO THE PLAINTIFF-APPELLEE GRAYWORKS SECURITY AGENCY FOR SECURITY SERVICES ALLEGEDLY RENDERED FOR THE PERIODS APRIL 16-30, 2005 AND MAY 1-16, 2005 IN THE TOTAL AMOUNT OF P100,000.00 PESOS WITH 12% INTEREST, BASED ON INCOMPLETE EVIDENCES (SIC) IN THE CASE.[12]

Non-dismissal of the case

Defendant-appellant failed to pursue the issue of whether the trial court should have dismissed the case. Understandably, the trial court did not anymore tackle this issue in its Decision as the same was not even listed as one of the issues to be resolved in the Pre-Trial Order.[13] To be able to raise this issue on appeal, defendant-appellant should have it included in the pre-trial order.

The following is instructive:

Pre-trial is primarily intended to insure that the parties properly raise all issues necessary to dispose of a case. The parties must disclose during pre-trial all issues they intend to raise during the trial, except those involving privileged or impeaching matters. Although a pre-trial order is not meant to catalogue each issue that the parties may take up during the trial, issues not included in the pre-trial order may be considered only if they are impliedly included in the issues raised or inferable from the issues raised by necessary implication. The basis of the rule is simple. Petitioners are bound by the delimitation of the issues during the pre-trial because they themselves agreed to the same.[14]

If issues not included in the pre-trial order are barred in the trial, it is with more reason that such issues cannot be taken up on appeal. "It is settled that an issue which was not raised during the Trial in the court below would not be raised for the first time on appeal as to do so would be offensive to the basic rules of fair play, justice and due process."[15]

Liability of defendant-appellant

A contract undergoes three distinct stages: preparation, perfection, and consummation. Preparation or negotiation begins when the prospective contracting parties manifest their interest in the contract and ends at the moment of their agreement. Perfection or birth of the contract occurs when they agree upon the essential elements thereof. Consummation, the last stage, occurs when the parties fulfill or perform the terms agreed upon in the contract, culminating in the extinguishment thereof.[16]

While the security contract bears the word "Proposed," it is a perfected contract as shown by the fact that it was

duly notarized and even made retroactive. The perfection of the contract, however, does not necessarily mean that it was implemented by the parties. In order to recover, plaintiff-appellee must establish the liability of defendant-appellant. Hence, plaintiff-appellee has to show that security services were rendered pursuant to the contract in order to recover for such unpaid services.

In finding defendant-appellant liable, the trial court ratiocinated in this wise:

True, Mr. Eliodorie Canini, testified on how he arrived on the amount claimed under the complaint however, only his claim for Twenty-Eight Thousand Pesos (P28,000.00) and Seventy Two Thousand Pesos (P72,000.00) were proven. This is because these are covered by Statements of Accounts dated April 30, 2005 covering the period from April 16-30, 2005 (Exhibit "G") and May 15, 2005 covering the period from May 1-15, 2005 (Exhibit "H").

x x x

Notably, the Security Service Contract itself provides that payment to the agency (plaintiff) shall be in a semi-monthly upon presentation of the corresponding statement of account. Thus, notwithstanding the failure of the plaintiff to submit a detailed listing of the security guards who rendered security services in the months of April and May, both of 2005, or any document to that effect to show that indeed they have rendered security services, this Court is convinced from the positive testimony of plaintiff's witness untrampled even by the rigid cross-examination by the defendant's counsel that indeed security services were rendered by the plaintiff on the properties of the defendant on these months.[17]

Contrary to the finding of the trial court, the statements of account could not be considered as competent and conclusive proof that security services were rendered. They could not bind defendant-appellant who neither admitted them nor participated in their preparation. Plaintiff-appellee should have at least presented reliable evidence such as the duty detail order of the security guards, payrolls and daily time records. Unfortunately, not even one of the security guards testified.

It is also error for the trial court to consider the testimony of plaintiff-appellee's witness as sufficient to establish that security services were rendered. In view of defendant-appellant's denial that security services were rendered, such testimony has been rendered unreliable, self-serving, inconclusive and unsubstantial.

It is basic that he who alleges must prove.[18] This rule has been expounded as follows:

x x x Simply put, he who alleges the affirmative of the issue has the burden of proof, and upon the plaintiff in a civil case, the burden of proof never parts. However, in the course of trial in a civil case, once plaintiff makes out a prima facie case in his favor, the duty or the burden of evidence shifts to defendant to controvert plaintiff's prima facie case, otherwise, a verdict must be returned in favor of plaintiff. Moreover, in civil cases, the party having the burden of proof must produce a preponderance of evidence thereon, with plaintiff having to rely on the strength of his own evidence and not upon the weakness of the defendant's. The concept of "preponderance of evidence" refers to evidence which is of greater weight, or more convincing, that which is offered in opposition to it; at bottom, it means probability of truth.[19]

In the present case, plaintiff-appellee failed to overcome the burden of proof. He was not able to establish the liability of defendant-appellant. Hence, the action to recover should fail.

WHEREFORE, the appeal is GRANTED. The Decision dated January 5, 2012 of the Regional Trial Court, 11th Judicial Region, Branch 30, Tagum City, Davao del Norte, in Civil Case No. 3897, finding defendant-appellant liable to plaintiff-appellee, is REVERSED and SET ASIDE.

SO ORDERED.**CERTIFICATION**

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.

Azcarraga-Jacob and Contreras, JJ., concur.

[1] Records, pp. 298-307; Penned by Judge Rowena Apao-Adlawan

[2] Exhibit C, Id., pp. 167-169

[3] Id., pp. 1-3

[4] Records, pp. 59-61

[5] Id., pp. 15-16

[6] Id., pp. 42-43

[7] Id., pp. 44-46

[8] Id., pp. 53-55

[9] Id., pp. 48-51

[10] Id., pp. 74-76

[11] Id., pp. 88-90

[12] Rollo, p. 17

[13] Records, pp. 116-188

[14] LICOMCEN, Inc. v. Abainza, G.R. No. 199781, February 18, 2013 (citation omitted)

[15] Macaslang v. Zamora, G.R. No. 156375, May 30, 2011 (citation omitted)

[16] Rockland Construction Company, Inc. v. Mid-Pasig Land Development Corp., G.R. No. 164587, February 4, 2008 (citation omitted)

[17] Records, pp. 303 & 305 (reference omitted)

[18] Bejoc v. Cabrereros, G.R. No. 145849, July 22, 2005 (citation omitted)

[19] Manongsong v. Estimo, G.R. No. 136773 (citation omitted)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.