

MA. PATRICIA GARCIA, BELEN G. GUTIERREZ, NICANOR GUTIERREZ, GRACE M.B. GUTIERREZ, CAROLYN M.B. GUTIERREZ, GERWIN GARCIA, GERSON GARCIA, AND GILMER GARCIA, PETITIONERS, VS. COURT...

G.R. No. 117032. July 27, 2000

Ponente: PURISIMA, J.

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PURISIMA, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking to annul and set aside the Decision of the Court of Appeals[1] dated August 31, 1994, in CA-G.R. SP. No. 31231, which sustained the March 30, 1993 Order of Branch 9, Regional Trial Court of Kalibo, Aklan, denying herein petitioners' motion for summary judgment.

The antecedent facts that matter are as follows:

On October 5, 1987, Florencio Junior Garcia, representing himself as attorney in fact of the herein petitioners, brought in the name of the latter, an action for collection of sum of money, against the private respondents, docketed as Civil Case No. 3777 before Branch 9, Regional Trial Court of Kalibo, Aklan. The said complaint alleged inter alia:

"3. That sometime on February 10, 1984, on representations, of defendant Spouses Rafael and Elena DINGLASAN, plaintiffs, through their then Attorney in fact, Florencio Junior Garcia, were prevailed upon to time deposit the following amounts of money issuing to them the following time deposit certificates:

Name Time Deposit

Cert. No. Amount Maturity Date

Ma. Patricia Garcia 1275 P35,000 February 11, 1986

Nicanor Gutierrez 1276 40,000 -do-

Belen B. Gutierrez 1277 35,000 -do-

Grace M.B. Gutierrez 1278 40,000 -do-

Caroline M. B. Gutierrez 1279 35,000 -do-

Gerwin Garcia 1280 33,000 -do-

Gerson Garcia 1281 35,788 -do

Gilmer Garcia 1282 30,000 -do

Total P283,788

(Xerox copies attached hereto as Annex A,B,C,D,E,F,G and H) with interest at 17% per annum starting from Feb. 10, 1984, all defendants assuring plaintiffs that on the maturity dates (Feb. 11, 1986) of the aforesaid Time Deposit Certificates, the same, upon surrender, will be paid in cash;

4. That on Feb. 11, 1986, plaintiffs through their Attorney in fact, (Florencio Junior Garcia) went to defendant Rural Bank, for the purpose of surrendering said Time Deposit Certificates, and to receive the payment from defendants of the amounts therein stated totaling P283,788, plus interest thereon at 17% per annum for 731 days or two years, the interest then amounting to P96,487.92 as of Feb. 11, 1986, for a total of P380,275.92 as of Feb. 11, 1986;

5. That defendants acting through Anthony Casugbo and Leda Suelo (sic), Manager and Cashier respectively of defendant Rural Bank, refused to pay, and told plaintiffs' attorney in fact, to return after one month, which said attorney in fact did, not only one month thereafter, but on several other occasions thereafter either by himself (attorney in fact), or through other authorized representatives; on all of these occasions the promises to pay the time deposits and interest thereon were not fulfilled;

6. That impatient at waiting, plaintiffs, on August 27, 1987, through counsel, sent a letter of demand to defendants, giving to defendants 30 days from receipt within which to pay the Time Deposit plus the interest increments thereof, which letter (Annex I) was received by them on Sept. 4, 1987 (Annex I-1);

However, until the date of the filing of this complaint, which is more than 30 days from Sept. 4, 1987 defendants have not even bothered to reply or to make any arrangements acceptable to plaintiffs;

x x x"[2]

Respondent Rural Bank of Sara, Inc., Anthony Cabugso, and Leda Suello, (manager and cashier, respectively, of respondent bank), filed their answer contending by way of special and affirmative defenses that:

"4. The Complaint states no cause of action against the defendants in as much as the deposits (sic) named in paragraph 3 of the Complaint have not at all authorized and empowered alleged attorney-in-fact, Florencio Junior Garcia, to transact with the defendant bank, Rural bank of Sara (Iloilo), Inc.. Neither have they authorized him to withdraw their deposits with defendant bank;

'5. The said depositors named in paragraph 3 of the complaint never in the past nor up to the present time approached the bank for withdrawal of their deposits, and (sic) reason of and in compliance with the law on secrecy of deposits, the defendant bank cannot divulge to anybody who has not been properly authorized, anything about their deposits. Besides the bank has to be strict with the requirements of specimen signatures of its depositors so that it usually requires proper authorizations duly notarized by a Notary Public. If anybody approaches defendant bank for and in behalf of a depositors (sic) the bank would require such authorization, otherwise no transaction will be made with him;

'6. Since no applications for withdrawal were received by defendant bank from its depositors named in paragraph 3 of the complaint, there was no reason at all to allow alleged attorney-in-fact, Florencio Junior Garcia, who never was properly authorized, to transact for and in behalf of said depositors;

'7. The herein attorney-in-fact, Florencio Junior Garcia, has no capacity to sue and be sued, being not the real party interest (sic) nor has the (sic) authority from the alleged plaintiffs sue (sic) and be sued;

8. There was no valid or legal withdrawal made by the alleged plaintiffs of their alleged deposits, hence it was not legally possible for defendant bank to act with respect to such deposits in view of the prohibition mandated by the law on secrecy of deposits."[3]

The respondent spouses, Rafael Dinglasan and Maria Elena Dinglasan, likewise filed their answer contending by way of special and affirmative defenses, that:

- "4. The complaint states no cause of action against defendants;
5. There is no privity of contract between plaintiffs and defendants;
6. Attorney-in-Fact Florencio Junior Garcia has no apparent authority from plaintiffs to file the instant complaint."

What the petitioners did was to present a Motion for Summary Judgment, asseverating that they are entitled to a judgment as a matter of law, since the pleadings and supporting affidavits submitted are barren of any genuine issue which may be controverted.

On March 30, 1993, the trial court issued its Order under attack denying the motion for summary judgment.

Dissatisfied therewith, petitioners went to the Court of Appeals, theorizing that the trial court gravely abused its discretion in denying their subject motion. On August 31, 1994, however, the Court of Appeals came out with its assailed Decision upholding the March 30, 1993 Order of the lower court.

Undaunted, petitioners found their way to this Court via the present Petition anchored on the grounds, that:

I. THE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT IN HOLDING THAT THERE ARE GENUINE ISSUES AS TO MATERIAL FACTS THAT BAR RENDITION OF SUMMARY JUDGMENT.

II. THE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT IN NOT ORDERING RESPONDENT COURT TO GRANT THE MOTION FOR SUMMARY JUDGMENT.[5]

The Petition is devoid of merit.

Sections 1 and 3, Rule 34, of the Rules of Court provide:

"SECTION 1. Summary judgment for claimant. - A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits for a summary judgment in his favor upon all or any part thereof."

"SEC. 3. Motion and proceedings thereon. - The motion shall be served at least ten (10) days before the time specified for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. After the hearing, the judgment sought shall be rendered forthwith if the pleading, depositions, and admissions on file together with the affidavits, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *

A summary judgment is one granted upon motion by a party for an expeditious settlement of the case, there appearing from the pleadings, depositions, admissions, and affidavits that there are no important questions or issues of fact posed (except as to the amount of damages) and therefore, the moving party is entitled to a judgment as a matter of law.[6]

The aforecited rule does not vest in the trial court jurisdiction to summarily try the issues on depositions and affidavits but gives it limited authority to render summary judgment only when there is no genuine issue of material fact at bar. Upon a motion for summary judgment, the sole function of the court is to determine whether or not there is an issue of fact to be tried, and any doubt as to the existence of an issue of fact must be resolved against the movant. Courts are quite critical of the papers presented by the moving party but not of the papers in opposition thereto. Thus, in ruling on a motion for summary judgment, the court should take that view of the evidence most favorable to the party against whom it is directed, giving such party the benefit of all favorable inferences. That one may surmise from plaintiff's showing that defendant is unlikely to prevail upon a trial is not a

sufficient basis to assume that the allegations of defendant are sham, frivolous or unsubstantial. If the defense relied upon by the defendant is legally sufficient and does not appear patently sham, the motion for summary judgment should be denied.[7]

In the case under consideration, the pleadings and exhibits on record reveal that there exist genuine issues on material or pertinent facts sufficient to preclude a rendition of summary judgment. As correctly found by the Court of Appeals, the pleadings submitted below by the parties raise the following issues:

"1. Whether or not Florencio Junior Garcia is properly authorized to file the complaint for the plaintiffs named in the title of the complaint.

xxx xxx xxx

2. Whether or not defendants (private respondents) spouses Dinglasan may be held jointly and severally liable with their co-defendant (co-private respondent) rural bank."[8]

Verily, there is a need to find out whether Florencio Junior Garcia was duly authorized by the plaintiffs named in Civil Case No. 3777 to file the complaint against the private respondents. It is worthy to note that while the complaint states that the plaintiffs therein mentioned empowered Florencio Junior Garcia to collect the sums due them from the respondent bank, the records on hand show that only four[9] of the eight plaintiffs executed a special power of attorney authorizing Florencio Junior Garcia to deal with respondent bank. Contrarily, it is argued that the absence of a special power of attorney to withdraw the time deposit is of no moment, considering that the present case for collection in the name of the plaintiffs sufficiently shows the latter's intention to collect their money through Florencio Junior Garcia. Apparently, the foregoing theory is meritorious. But the undeniable fact, however, is that not one of the plaintiffs verified the contents of the complaint; and neither was there in the records a special power of attorney authorizing Florencio Junior Garcia to institute the present case against private respondents. Thus the issue of whether or not the plaintiffs named in Civil Case No. 3777, constituted Florencio Junior Garcia as their attorney in fact with authority to bring subject suit for collection of sum of money against the private respondents.

Then too, the issue of whether or not petitioners have a cause of action against the spouses, Rafael Dinglasan and Maria Elena Dinglasan, calls for a trial on the merits. While the said respondent spouses insist that there is no privity of contract between them and the petitioners, the latter claim that the former "prevailed upon them" to time deposit their money with the respondent bank. Indeed, it is only upon presentation of evidence during the trial can it be determined whether the respondent spouses may be held jointly and severally liable with respondent bank.

Premises studiously considered and viewed in proper perspective, the Court is of the ineluctable conclusion, and so holds, that the Court of Appeals erred not in affirming the Order, dated March 30, 1993, of Branch 9, Regional Trial Court of Kalibo, Aklan, in Civil Case No. 3777.

WHEREFORE, the Petition is DENIED; and the Decision of the Court of Appeals, dated August 31, 1994, in CA-G.R. SP. No. 31231 AFFIRMED. No Pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Thirteenth Division, composed of Associate Justices: Ma. Alicia Austria-Martinez (ponente), Alfredo M. Marigomen and Ruben T. Reyes.

[2] Complaint, Rollo, pp. 55-56.

[3] Decision, Rollo, pp. 47-48.

[4] Rollo, pp. 58-59.

[5] Rollo, p. 12.

[*] Now Sections 1 and 3, Rule 35 of the 1997 Rules of Civil Procedure

[6] *Army and Navy Club of Manila, Inc. vs. Court of Appeals*, 271 SCRA 36, p. 49 citing: Secs. 1,2,3, Rule 34. *Philippine National Bank v. Noah's Ark Sugar Refinery*, 226 SCRA 36 (1993); *Vergara, Sr. v. Suelto*, 156 SCRA 753 (1987); *Mercado vs. Court of Appeals*, 162 SCRA 75 (1988)

[7] *Gatchalian vs. Pavilin*, 6 SCRA 508, pp. 511-512 citing: *Moran's Comments on the Rules of Court*, Vol. I, p. 600, 2nd Ed..

[8] Rollo, pp. 50-51.

[9] *Ma. Patricia B. Garcia, Gilmer L. Garcia, Gerson L. Garcia, and Gerwin L. Garcia* (See Rollo, pp. 75-78)

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