

ROMAGO ELECTRIC CO., INC., PETITIONER, VS. COURT OF APPEALS, TOYOTA SHAW, INC. AND SEVERINO C. LIM, RESPONDENTS.

G.R. No. 125947. June 08, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This petition for review on certiorari under Rule 45 of the Revised Rules of Court seeks to set aside the decision[1] of the Court of Appeals in CA-G.R. No. 37920 dated July 30, 1996 which reversed and set aside the decision dated 13 September 1991 of the Regional Trial Court of Pasig, Branch 158, in Civil Case No. 59032, an action for collection of a sum of money filed by plaintiff-petitioner Romago Electric Co., Inc. against defendant-private respondents Toyota Shaw, Inc. and Severino Lim. The dispositive portion of the aforesaid decision of the trial court reads:

"WHEREFORE, in view of the foregoing, judgment is rendered in favor of the plaintiff and against defendant Toyota Shaw, Inc. ordering the latter:

- a) To pay plaintiff the amount of P75,060.76 representing its share of the rentals and utilities paid by plaintiff with legal interest from date of judicial demand until fully paid;
- b) To pay plaintiff P10,000.00 for and as attorney's fees, and
- c) Costs of suit.

SO ORDERED."[2]

The trial court absolved defendant Severino Lim of any liability. After defendant Toyota's motion for reconsideration was denied by the trial court in its Order dated January 15, 1992, Toyota appealed to the Court of Appeals assailing the trial court's decision ordering defendants-appellants to pay plaintiff-appellee its share of the rentals and utilities charges paid by the latter and attorney fees. In its decision dated July 30, 1996, respondent Court of Appeals reversed and set aside the trial court's decision.[3]

The facts insofar as material to this petition, are as follows:

Petitioner Romago Electric Co., Inc. (hereafter Romago) and Motown Vehicles, Inc. (hereafter Motown) are/were sister companies. Mr. Francisco Gonzales is the president and principal stockholder of both companies. Romago and Motown used to occupy a building owned by Motown located at the corner of Torres Street and Shaw Boulevard, Mandaluyong, Metro Manila which was built on two adjoining lots with an aggregate area of 4,994 square meters which has been leased by Motown since June 1978 from Tanglaw Realty, Inc. (Tanglaw for short), the registered owner.

When Motown ceased operations sometime in 1986, Romago took over the occupancy of the whole building and assumed Motown's obligation for the full payment of the lease rentals to Tanglaw. Romago paid the rentals direct to Tanglaw for the account of Motown, as no new lease agreement was executed by and between Romago and

Tanglaw.

On November 29, 1988, Francisco Gonzales as president and principal stockholder of Motown, made an offer of sale (Exhibit "2") of 100% equity in Motown held by him and his co-stockholders Roque Ma. Gonzales and Carmen Gonzales to Mr. Enrique Sobrepeña of the College Assurance Plan Philippines, Inc. (CAP) and his Filipino business partners namely: Arthur Macapagal, Col. Coronado Muñasque, Jorge Salazar, and Severino Lim, all co-owners and officers of Toyota Shaw, Inc. (hereafter TSI), who at that time were planning a joint venture to secure a dealership franchise from Toyota Corporation of Japan and Toyota Philippines, Inc. Sobrepeña later withdrew from the planned business venture because of certain legal restrictions. However, under letter dated January 12, 1989 (Exhibit "1") he indorsed/assigned the offer of Gonzales (Exhibit "2") to his other supposed co-investors. The said letter-offer (Exh. "2") of Mr. Gonzales as first conveyed to the group through Sobrepeña, stated among others, that:

1. Motown Vehicles, Inc. has a paid-up capital of P4M divided into 400,000 shares issued and outstanding with a par value of P10.00;
2. Motown owns a building with improvements thereon on a lot covering 4,994 sq. m. at the corner of Torres St. and Shaw Blvd., which lot is owned by Tanglaw Realty and covered by corresponding lease agreement duly annotated on TCTs 9277 and 10366 of the Register of Deeds for the province of Rizal;
3. Motown Vehicles Inc. shares will be sold on a clean basis, that is, free from any liabilities or assets other than the building, improvements and duly annotated lease; and
4. The premises are presently occupied by Romago Inc. and adequate time has to be mutually agreed to effect peaceful transfer. However, portions of the premises may be occupied immediately primarily for [your] training purposes.[4] (Underlining supplied)

On January 23, 1989, a Stock Purchase Agreement, hereinafter referred to as the "Motown Agreement" (Exhibit "A"; also Exh. "3") was entered into by and between the stockholders of Motown represented by Francisco Gonzales, as Vendors and TSI represented by Severino Lim as Vendee regarding the sale to the latter of all the fixed and movable improvements and equipment of Motown and 100% of all its issued and outstanding shares of stock including all subscription rights to the capital stock of Motown and deposits for future stock subscriptions at the total purchase price of P11,500,000.00. Of this amount, P6,746,000.00 represents the purchase price of the 400,000 outstanding and issued Motown shares of stock, the value of all subscription rights to the capital stock of Motown and all deposits made for future stock subscriptions to capital stock of Motown. The balance of P4,754,000.00 represents the total loans and advances made by Romago and other shareholders to Motown. Under the Motown Agreement, Vendee assumes none of Motown's liabilities, real or contingent except the aforementioned P4,754,000.00 total loans and advances from Romago and Vendors warrant that there are no claims or encumbrances against the fixed assets, properties and equipment of Motown.

On February 9, 1989 after TSI made an initial payment of P2,000,000.00, Mr. Gonzales allowed TSI to occupy a portion (about 209 square meters) of the approximately 5,000 square meter Motown building to enable it to install its facilities and do the renovation work on the dealership showroom that was to be established therein. Thus Romago and TSI jointly occupied the building and the leased premises from the middle of February up to May 1989 when Romago vacated the premises and TSI completed payment under the Stock Purchase Agreement and fully occupied the same. For the months of February and March 1989, Romago paid the rents to Tanglaw and the utilities charges for lights and water. TSI paid for the same expenses for the months of April and May 1989.

Meanwhile, in accordance with its undertaking under the Stock Purchase Agreement, Motown thru Francisco Gonzales made three (3) payments to Romago in the following amounts: P4,754,000.00 as full refund or payment

of Romago's deposit for future subscription to the capital stock of Motown; P1,200,000.00 as payment of Romago's outstanding receivables from Motown; and P3,687,192.00 as partial refund and/or payment of Mr. Gonzales' own deposits for future subscription to capital stock of Motown. Receipt of these payments was acknowledged by Mr. Francisco Gonzales, in his own behalf and as President of Romago, as evidenced by three (3) Release and Quitclaim Affidavits (Exhs. "5", "6" and "7") which uniformly contain a common provision which warranted that for and in consideration of the specified amount of money received from Motown Vehicles, Inc., Motown is released from all claims arising from said advances, and Romago has "no more claim(s) whatsoever from Motown Vehicles, Inc. whether past, present or contingent."

On March 27, 1989, TSI was in receipt of a Statement of Account sent by the chief accountant of Romago in the amount of P107,068.28 (Exh. "B") representing TSI's alleged unpaid one-half share in the rental (of the land) and in utilities charges for light and water for February 1989 and the whole rental and utilities expenses for March 1989. The account was based on a supposed verbal agreement between Mr. Francisco Gonzales and Mr. Severino Lim of TSI regarding an equal sharing in the payment thereof. TSI denied that there was such an agreement and refused to settle the account. On August 17, 1989 a formal letter of demand (Exh. "C") was sent by Romago's Executive Assistant Leah P. Florentino to TSI, and shortly thereafter, Romago filed a complaint before the Regional Trial Court of Pasig against TSI for the collection of the sum of P107,068.28 representing the advances it made for TSI's share in the rental and utilities charges for the months of February and March 1989 plus attorney's fees and costs.

In its decision dated 13 September 1991, the trial court ruled that although there was no written agreement regarding the sharing arrangement for the payment of rentals and utilities charges, there existed an external and verbal agreement to that effect between Romago and TSI and that this verbal agreement is valid because contracts are binding on the parties in whatever form they may have been entered into citing Article 1356 of the Civil Code and the ruling in the case of *Lopez vs. Auditor General* (20 SCRA 658). The trial court based its ruling on "the direct and unequivocal testimonies" of Francisco Gonzales and Leah Florentino stating that on the basis thereof, plaintiff Romago is entitled to be reimbursed by TSI for the advances it has made on the rents and charges for utilities used for the months of February and March 1989.[5]

On appeal, respondent Court of Appeals found that the trial court's decision "contradicts the law and the evidence on record." Respondent Court concluded that the Stock Purchase Agreement (Exh. "A" or Exh. "3") is the only agreement entered into by the parties and this Agreement embodied all the terms agreed upon and also set forth all the necessary elements to put into effect and complete the sale of the Motown stocks to TSI. Respondent Court also disagreed with the finding of the trial court that the offer made by Mr. Gonzales to Mr. Sobrepeña regarding the sale of Motown shares should not be extended to the owners of TSI. Respondent Court maintained that Mr. Sobrepeña did not enter into the negotiations in his personal capacity but in behalf and as an agent of the group of investors who at that time desired to enter into a car dealership business with Toyota Corporation of Japan and the letter-offer of Mr. Gonzales dated November 29, 1988, (Exh. "2") was the same letter-offer indorsed and assigned by Mr. Sobrepeña to Jorge Salazar and Severino Lim of TSI on January 12, 1989 (Exh. "1").

Lastly, respondent Court of Appeals opined that based on equity, TSI should not be held liable to Romago for the rents and utilities charges. Since both Romago and TSI had occupied the premises for four (4) months and both parties paid equally two months rent and utilities charges (Romago for February and March 1989 and TSI for April and May 1989), the matter of payment of rentals and utilities charges has been "sufficiently settled".[6]

In the instant petition for review, petitioner seeks the reinstatement of the trial court's decision alleging that the respondent Court of Appeals committed the following errors in its decision, to wit:

1. THAT THERE WAS NO AGREEMENT WHATSOEVER, WHETHER ORAL OR WRITTEN, ON THE

SHARING OF THE RENTALS AND UTILITIES EXPENSES, (p.8, Decision) THEREBY REVERSING THE FINDINGS OF FACT OF THE TRIAL COURT.

2. THAT THE OFFER TO MR. ENRIQUE SOBREPENÑA, JR. WAS THE SAME OFFER GIVEN BY PETITIONER TO PRIVATE RESPONDENTS (pp. 9-10, Decision)

3. THAT THE STOCK PURCHASE AGREEMENT IS SILENT ON THE SHARING OF RENTALS, HENCE, PETITIONER CANNOT CLAIM THE SAME.

4. IN RELYING ON THE QUITCLAIMS, EXHIBITS "5", "6" AND "7", THEREBY CONCLUDING THAT PRIVATE RESPONDENTS HAVE NO MORE OBLIGATION TO PETITIONER (pp. 11-12, Decision).

5. THAT THE TRIAL COURT HAD NO BASIS TO SUPPORT ITS FINDING THAT THERE WAS AN AGREEMENT TO SHARE THE RENTALS AND UTILITIES EXPENSES (p. 12, Decision).

6. THAT RESPONDENT COURT OF APPEALS FAILED TO APPRECIATE ARTICLE 1236 OF THE NEW CIVIL CODE,[7] more particularly paragraph 2 thereof which states:

"Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor."

Essentially, except for No. 6, the aforestated assigned errors are reiterations of the same grounds relied upon by the trial court in support of its decision dated 13 September 1991. The petition raises practically the same arguments raised by petitioner in its appellee's brief in the Court of Appeals and are reiterated in its Reply. In sum, petitioner contends that private respondent TSI, on the basis of an alleged verbal agreement with petitioner Romago, should be held liable for a portion of the rentals and utilities charges due on the subject leased premises for the months of February and March 1989.

In their Comment private respondents counter-argue that other than the self-serving statements of its witnesses, namely, Francisco Gonzales and Leah Florentino, petitioner Romago has absolutely failed to show any basis for its claim for reimbursement. They contend that under Section 1 of Rule 131 (Burden of Proof and Presumptions) of the Revised Rules of Evidence, it is petitioner Romago which has the burden of proving the existence of an agreement on the sharing of the rentals and charges alleged in its complaint. This, petitioner allegedly failed to do. Private respondents further claim that based on the letter-offer of Francisco Gonzales (Exhibit "2") which culminated in the execution of the Motown Agreement (Exh. "3"), private respondents, their successors and assigns were entitled to immediate possession of portions of the subject leased premises rent-free.

The core issue is whether or not there existed a verbal agreement between Romago and TSI, separate from the Motown Agreement, for an equal sharing of payment of rentals and charges for lights and water consumption for the months of February and March 1989 during which they (Romago and TSI) shared the use and occupancy of the leased premises. This is basically a factual issue. The trial court found that there was such a verbal agreement as established by the "direct and unequivocal testimonies" of petitioner's witnesses Francisco Gonzalez and Leah Florentino. The Court of Appeals, on the other hand, ruled that on the basis of the documentary evidence on record, namely; Sobrepenña's letter-indorsement/assignment of Gonzales' letter-offer of sale of Motown (Exh. "1"); the letter-offer of sale of Motown made by Mr. Francisco Gonzales in his capacity as Motown's president and principal stockholder (Exh. "2"); the Stock Purchase Agreement (Exh. "A" or "3"); and the three (3) Release and Quitclaim Affidavits executed by Mr. Francisco Gonzales as President and principal stockholder of Romago (Exhs. "5", "6" and "7") plus the testimonies of TSI Director Jorge Salazar, (TSN, Nov. 29, 1990, pp. 12-13) and Severino Lim, General Manager, Executive Vice-President and Director of TSI, (TSN, December 7, 1990, pp. 11 & 12), there was no such verbal arrangement.

The prevailing rule is that findings of fact of the trial court particularly when affirmed by the Court of Appeals are binding upon the Supreme Court.[8] As a rule, the jurisdiction of this Court in cases brought to it from the Court of Appeals is limited to the review and revision of errors of law allegedly committed by the appellate court as its findings of fact are deemed conclusive. As such, this Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below. This rule (on the conclusiveness of the findings of fact of the Court of Appeals) however, is not without exceptions. The findings of fact of the Court of Appeals may admit of review by this Court when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible and/or when the judgment of the Court of Appeals is premised on a misapprehension of facts.[9] The review of the findings of fact of the Court of Appeals is undertaken by this Court to determine whether or not an error of law has been committed by the appellate court in its conclusion which warrants a review thereof under Rule 45 of the Rules of Court.[10]

After a careful review of the records, we find that the Court of Appeals committed no reversible error in declaring that there was no such separate verbal agreement as borne out by the evidence on record.

Respondent Court of Appeals is correct when it stated that the trial court's decision upholding the existence of a verbal agreement/arrangement between Romago and TSI for the payment of rentals and utilities charges was based solely on the self-serving and unsubstantiated testimonies of Romago's witnesses Francisco Gonzales and Leah Florentino. Evaluated against the documentary and testimonial evidence presented by private respondents, said testimonies did not substantially and sufficiently prove the existence of the alleged verbal agreement. It bears stress that as a general rule, testimonial evidence cannot prevail over documentary evidence.[11]

A contract is defined as a meeting of minds between two persons whereby one binds himself with respect to the other, to give something or to render some service.[12] Generally, contracts need not be in writing in order to be valid. Contracts are obligatory in whatever form they may have been entered into provided all essential requisites for their validity are present[13] We are not convinced that there was a meeting of the minds between Romago and TSI regarding the question of sharing of payment of rentals and utilities charges, pending the consummation of the Stock Purchase Agreement. There is no adequate showing that TSI consented to any such verbal agreement.[14] On the contrary, TSI through its General Manager Severino Lim and Director Jorge Salazar denied the existence of such verbal agreement or understanding.

The Court of Appeals also correctly found that the taking of possession by TSI of a portion of the leased premises in February 1989 after making an initial payment of P2,000,000.00, was one of those "come-ons" stated in Mr. Francisco Gonzales' letter-offer dated November 29, 1988 (Exh. "2") which culminated in the execution of the Motown Agreement. Respondent Court of Appeals aptly stated that "the understanding of the parties was that, unless and until complete and substantial payment on the Motown transaction shall have been made, TSI's occupancy is allowed as a concession or as "come-on" or incentive for the sale because they could immediately enter into the premises and begin renovation work." [15] Apparently, as a result of this understanding, no mention was made by the parties in the Motown Agreement regarding TSI taking immediate possession of portions of the premises and of any interim sharing of payment of rentals and utilities charges.

We are not inclined to disturb the appellate court's observation that since both Romago and TSI paid equally two months rents and utilities charges for the four months period (from February to May 1989) they shared the use and occupancy of the subject leased premises, the parties actually paid their respective share (of rentals and utilities charges) out of equity and mutual consideration and not pursuant to any verbal agreement existing between them.

Under the last assigned error, petitioner avers that even assuming that there was no agreement as to the sharing of

rentals and utilities charges, petitioner can still recover from private respondent the amount paid/advanced by it pursuant to Article 1236[16] of the Civil Code, more specifically under the second paragraph thereof because the payments redounded to the benefit of private respondents. This contention was not brought out in the proceedings in the trial court and also in the Court of Appeals and is being raised belatedly for the first time in the instant petition for review. This omission is fatal to petitioner. The rule is well-settled that points of law, theories, issues and arguments not brought out in the proceedings below will ordinarily not be considered by the reviewing court as they cannot be raised for the first time on appeal because this would be offensive to the basic rules of fair play, justice and due process.[17]

WHEREFORE, the petition is DENIED, and the assailed decision of the Court of Appeals is AFFIRMED. Costs against petitioner.

SO ORDERED.

Melo, (Chairman), Panganiban, and Purisima, JJ., concur.

Vitug, J., abroad, on official business.

[1] Penned by Associate Associate Justice Corona Ibay-Somera, concurred in by Associate Justices Jorge b. Imperial and Celia Lipana-Reyes.

[2] RTC Decision, p. 4; RTC Records, p. 200.

[3] CA Decision, p. 26, Rollo, p. 65.

[4] See Exh. "2", pp. 28-29, Folder of Exhibits, RTC Records.

[5] RTC Decision, p. 3; RTC Records, p. 199.

[6] CA decision, pp. 21 and 25.

[7] Petition, pp.9 & 25; Rollo, pp. 18 & 34.

[8] *Uraca vs. Court of Appeals*, 278 SCRA 702; *Xentrex Automotive, Inc. vs. Court of Appeals*, 291 SCRA 66; *Heirs of Spouses Benito Gavino and Juana Euste vs. Court of Appeals*, 291 SCRA 495.

[9] *Fuentes vs. Court of Appeals*, 268 SCRA 703.

[10] *National Steel Corporation vs. Court of Appeals*, 283 SCRA 45.

[11] *Ereñeta vs. Bezore*, 54 SCRA 13; *Soriano vs. Compañia General de Tabacos de Filipinas*, 18 SCRA 999.

[12] Article 1305, Civil Code; *Coronel vs. Court of Appeals*, 263 SCRA 15.

[13] Article 1356, *supra*; *Tan vs. Lim*, 296 SCRA 455.

[14] *Duque vs. Domingo*, 80 SCRA 654.

[15] CA Decision, p. 21; Rollo, p. 60.

[16] Art. 1236 states:

"The creditor is not bound to accept payment or performance by a third person who has no interest in the fulfillment of the obligation, unless there is a stipulation to the contrary.

Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor."

[17] Philippine Airlines, Inc. vs. NLRC, 259 SCRA 459; Salafranca vs. Pamplona Village Homeowners Association, Inc. 300 SCRA 469.

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