

NARRA INTEGRATED CORPORATION, PETITIONER, VS. THE COURT OF APPEALS AND NC INDUSTRIAL TRADE, INC., RESPONDENTS.

G.R. No. 137915. November 15, 2000

Ponente: GONZAGA-REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-137915/>

GONZAGA-REYES, J.:

Before us is a petition for review on certiorari of the decision of the Court of Appeals[1] in C.A. G.R. CV No. 54397, which affirmed the partial decision dated June 28, 1995 of the Regional Trial Court[2] declaring petitioner to be liable to private respondent in the amount of P1,485,776.93, attorney's fees of P10,000.00 and costs of suit.

The factual antecedents of the case, as found by the Court of Appeals, are as follows:

"Sometime in November 1991, Narra Integrated Corporation contracted from NC Industrial Trade, Inc., manpower services and materials for the agreed consideration hereinbelow indicated, to wit:

A.

Supply of Labor, trader, tools, `equipment and supervision necessary to complete the installation, lay-out, testing and commissioning of one (1) lot ELECTRICAL POWER DISTRIBUTION SYSTEM for the factory of Kyung-Il Philippines at the construction site located in Dasmarinas, Cavite- - - - -

P3,683,710.00

"B.

For the supply of labor trades, tools, equipment and supervision necessary for piping installation, spotting and positioning of WASTE WATER TREATMENT PLANT EQUIPMENT AND MACHINERIES FOR KYUNG-IL PHILIPPINES at Dasmarinas, Cavite -----

P1,344,100.00

"C.

For the supply of labor, materials, tools, consumables and supervision necessary for FABRICATION DELIVERY AND INSTALLATION OF ONE (1) LOT CATWALK RAILINGS AND LADDER at Waste Water Treatment Project - - - - -

P1,485,776.93

The abovestated undertakings are evidenced by the following Sales Invoices issued by NC Industrial Trade, Inc., viz: Invoice Nos. 106 and 107, respectively dated June 13 and August 11, 1992 for the first project; Invoice Nos. 105 and 108, respectively dated June 13 and August 11, 1992 for the second undertaking; and Invoice No. 103, dated May 25, 1992 for the third project. For failure of Narra Integrated Corporation to pay a balance totaling P1,485,776.93 out of the consideration agreed upon for the aforesaid contracts, NC Industrial Trade, Inc. caused a demand letter dated October 24, 1992 to be sent to the former.

Claiming that Narra Integrated Corporation refused to heed its demand letter as aforesaid, and based on the foregoing factual antecedents and the actionable documents evidencing the same, NC Industrial Trade Inc. filed its complaint for a sum of money and damages. xxx

xxx

Having been duly served with summons, the defendant Narra Integrated Corporation filed its answer alleging, among other matters, that it merely hired the plaintiff as a sub-contractor in the project it was doing for Kyung-Il Philippines, Inc.; that in the aforesaid capacity, plaintiff was aware that its payments were subject to the progress payments made by the project owner (Kyung-Il) to the defendant; that it has, itself, not been paid by Kyung-Il Philippines, Inc. on account of supposed defects in the works done in the project, including those done by the plaintiff; and, that the latter was apprised of the situation and, along with its other sub-contractors, had agreed that the defendant be first allowed to pursue payment from Kyung-Il Philippines, Inc. Contending that the plaintiff had no cause of action against it and that the case was prematurely filed, the defendant prayed for the dismissal of the complaint and the grant of its counterclaims for moral and exemplary damages, attorney's fees and litigation expenses. On the ground that it still had an outstanding balance in the sum of P4,102,661.01 from the project owner and that it would not have been hailed into the instant suit by the plaintiff had its demands for payment of the works already completed under the premises were heeded, Narra Integrated Corporation in turn filed a third-party complaint against Kyung-Il Philippines, Inc. xxx

xxx

After the trial court's denial of the motion to dismiss it filed on the ground of improper service of summons, the third-party defendant Kyung-Il Philippines, Inc. filed another motion to dismiss for failure of the defendant/third-party plaintiff to attach a certification of non-forum shopping to the third-party complaint, and the said pleading's supposed inadmissibility and impropriety. Over the opposition of the defendant/third-party plaintiff Narra Integrated Corp., the motion was granted by the trial court dismissing the third-party complaint in its order of October 18, 1993. However, the said order of the dismissal was set aside by the lower court upon the defendant/third-party plaintiff's motion for reconsideration and subsequent compliance with Supreme Court Circular No. 28-91.

With the denial of its motion seeking the reconsideration of the order that reinstated the third party complaint, the third-party defendant filed its answer, specifically denying the material allegations of the said pleading. As affirmative defenses, it alleged, among other matters, that despite the fact that it was the one who drew the contracts between them, the defendant/third-party plaintiff violated the same by failing to submit adequate performance bond, incurring substantial delays, hiring subcontractors without prior approval and submitting defective, if not substandard, construction work. The third-party defendant sought the dismissal of the third-party complaint and prayed for liquidated, moral and exemplary damages, attorney's fees and litigation expenses.

The issues thus joined, the court a quo set the case for pre-trial. Alleging that the answer filed by the defendant/third party plaintiff did not tender an issue on account of the said party's admission of the material allegations of the complaint and the actionable documents attached thereto, the plaintiff filed a motion for summary judgment. The defendant/third-party plaintiff interposed its opposition thereto. Nevertheless, the motion was granted by the trial court in the partial decision which is the subject matter of the instant appeal xxx"[3](citations omitted)

Petitioner appealed the Partial Decision[4]dated June 25, 1995 of the trial court to the Court of Appeals. The appellate court upheld the judgment of the trial court in its Decision[5]dated November 27, 1998. The Motion for Reconsideration filed by petitioner was likewise denied by the Court of Appeals in a Resolution[6]dated March

12, 1999.

Hence, this petition for review on certiorari where petitioner raises the following arguments[7]

I.

THE HONORABLE COURT OF APPEALS GROSSLY ERRED IN AFFIRMING THE LOWER COURT'S ERRONEOUS DECISION ALLOWING A JUDGMENT ON THE PLEADINGS WHERE THERE ARE IN FACT GENUINE ISSUES RAISED IN PETITIONER'S ANSWER THAT WOULD NECESSITATE A TRIAL OR HEARING ON THE MERITS UPON ITS MISTAKEN PERCEPTION THAT THE ALLEGATIONS THEREOF MERELY GAVE A REASON, NOT JUSTIFICATION, OF ITS FAILURE TO PAY EVEN AS IT FURTHER FAILED TO TAKE INTO ACCOUNT THAT THE MATTER OF THE COMPLETION OF THE PROJECT IS STILL THE SUBJECT MATTER OF THE LITIGATION PENDING BEFORE THE LOWER COURT.

II.

THE HONORABLE COURT OF APPEALS, BY DISREGARDING THE GLARING AND APPARENT EXISTENCE OF CONTENTIOUS ISSUES RAISED BY PETITIONER-APPELLANT IN ITS ANSWER FILED BEFORE THE REGIONAL TRIAL COURT, AND AFFIRMING THE LOWER COURT'S PARTIAL DECISION RENDERED WITHOUT AWAITING THE RESULTS OF THE THIRD PARTY COMPLAINT WHICH PETITIONERS FILED WITH LEAVE OF COURT AGAINST THE PROJECT OWNER, KYUNGI, PHILS. INC., WHICH RULING IN EFFECT DEPARTED FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS AND HAS DECIDED THE ISSUES RAISED BY PETITIONER-APPELLANT IN A WAY NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT."

We affirm the decision of the Court of Appeals.

At the onset, we note that the petitioner, as shown in its assignment of errors, is guilty of the usual error of equating a summary judgment with a judgment on the pleadings. While the petitioner makes mention of the lower court's promulgation of a judgment on the pleadings, we have gone over the records and it is clear that what the trial court actually rendered was a summary judgment.

The existence or appearance of ostensible issues in the pleadings, on the one hand, and their sham or fictitious character, on the other, are what distinguish a proper case for summary judgment[8] from one for a judgment on the pleadings[9]. In a proper case for judgment on the pleadings, there is no ostensible issue at all because of the failure of the defending party's answer to raise an issue. On the other hand, in the case of a summary judgment, issues apparently exist - i.e. facts are asserted in the complaint regarding which there is as yet no admission, disavowal or qualification; or specific denials or affirmative defenses are in truth set out in the answer - but the issues thus arising from the pleadings are sham, fictitious or not genuine, as shown by affidavits, depositions, or admissions. In other words, a judgment on the pleadings is a judgment on the facts as pleaded, while a summary judgment is a judgment on the facts as summarily proven by affidavits, depositions, or admissions.[10]

As such, even if the answer does tender issues -- and therefore a judgment on the pleadings is not proper -- a summary judgment may still be rendered on the plaintiff's motion if he can show that the issues thus tendered are not genuine, sham, fictitious, contrived, set up in bad faith, or patently unsubstantial.[11] The trial court can determine whether there is a genuine issue on the basis of the pleadings, admissions, documents, affidavits and/or counter-affidavits submitted by the parties to the court.[12]

In the instant case, the answer[13] submitted by the petitioner in Civil Case No. 92-3567 appears on its face to tender issues. The answer purports to deal with each of the material allegations of the complaint[14], and either

specifically denies, partially admits, or professes lack of knowledge or information to form a belief as to them. The answer likewise sets up affirmative defenses.

A cursory reading of petitioner's answer in the trial court would therefore, show that it does ostensibly raise issues. The question that must be answered then is whether or not these issues are sham or fictitious so as to justify a summary judgment?[15]In answering this question, the trial court may rely on the pleadings, admissions, affidavits, and documents submitted by the private respondent in support of his Motion for Partial Summary Judgment[16]These include the affidavits of petitioner's own General Manager and of private respondent's President and the Letter Contract dated November 6, 1991[17]between petitioner and private respondent.

To begin with, petitioner, in its Answer, does not deny that it entered into the November 6, 1991 letter-contract with private respondent for the supply of labor, trader, tools, equipment and supervision necessary for the installation of an electrical power distribution system, waste water treatment plant, and catwalk railings and ladder. Neither did it specifically deny the invoices issued by private respondent which show the various amounts owed by it to private respondent. Finally, petitioner did not dispute the unpaid balance of P1,485,776.93 which it still allegedly owes private respondent.

Petitioner insists, however, that there are genuine issues raised in its Answer which require a full-blown trial on the merits. Specifically, petitioner claims that paragraphs 7 to 10 of the Answer clearly allege that the project undertaken by respondent is subject to the acceptance by the project owner, Kyung-Il Phils., Inc. and/or by the petitioner, as General Contractor. Paragraphs 7 to 10 of the Answer is quoted hereunder, as follows:

"7. As one of the numerous subcontractors of defendant in Kyungil, Dasmarinas, Cavite Project, Defendant, before entering into the sub-contractor agreement, was well aware of the fact that:

a) their billings are subject to progress payments which, before its release to plaintiff, must follow certain requirements of inspection, approval and/or certification from defendant's and the project owner's representatives;

b) progress payments on plaintiff's progress billings shall be subject to the progress payments of the project owner to the principal contractor, defendant herein;

c) payments of its progress billings to defendant is subject to the project owner's acceptance of the works done by the principal contractor defendant herein which necessarily includes acceptance of plaintiff's works as it is defendant's sub-contractor;

8. Unfortunately, defendant herein, the principal contractor of the project, has not been paid up to the present time by the project owner despite numerous oral as well as written demands served on it.

9. The project owner, faced with defendant's demand letters for payment of the contract price which include the balance of plaintiff's claim against the defendant, alleged and continues to allege defects in the works of the defendant, including those of the plaintiff herein as the basis of its refusal to pay defendant the balance of its contract price;

10. The plaintiff is very much aware of the situation and that one of the works alleged by Kyungil to be defective are those of the plaintiff. Several meetings and conferences were held by the defendant with its subcontractors who likewise remain unpaid, and it was decided, by consensus, that defendant, as the principal contractor, pursue its demand for payment by the project owner, Kyungil Philippines, Inc, for itself and in behalf of the contractors;[18]

On these alleged special and affirmative defenses, we agree with the trial court and the Court of Appeals that, rather than tendering genuine issues, these allegations merely give an unjustified reason for petitioner's failure to

pay the undisputed balance owing to private respondent. We note with approval the following pronouncement of the Court of Appeals:

"It will be noted that rather than tendering genuine issues insofar as the complaint is concerned, the foregoing allegations merely give a reason - an unjustified one at that - for the appellant's failure to pay the undisputed balance owing to the plaintiff-appellee. The fact that the appellant is not thereby excused is evident from its own allegations charging the plaintiff-appellee (herein-respondent) only with awareness of - not consent to - the supposed payment scheme it had entered into with the third-party defendant-appellee. Absent any allegation indicating the appellee's privity and/or consent to the contract between the appellant and the third-party defendant-appellee, we find no reason to disturb the partial judgment the court a quo rendered in the premises. In the case of *D.D. Comendador Construction Corp. vs. Sayo* (118 SCRA 590), summary judgment was pronounced proper where the defense interposed was the supposed understanding between the parties that payment will proceed from the defendant's own collectibles which, as in the instant case, is belied by the document evidencing the transaction sued upon." [19]

Petitioner insists however, that these allegations do not merely set up an unjustified reason for its failure to pay the balance due to private respondent. For one thing, petitioner argues that its Answer puts into issue the question of whether or not there has been a final acceptance on its part of the work done by private respondents. Petitioner claims that this is a genuine issue and is supported by paragraph XIII of the letter-contract between petitioner and private respondent which provides, as follows:

"The letter contract shall be terminated upon the completion and acceptance of the work by the GENERAL CONTRACTOR. Any partial payment prior to the termination does not waive the right of the GENERAL CONTRACTOR to have the SUB-CONTRACTOR correct deficiencies or defects subsequently found or become evident. xxx" [20]

Admittedly, by the terms of the written contract, there is a need for the acceptance by herein petitioner, as General Contractor, of the work undertaken by the private respondent before payment can be made. However, the issue of whether or not there has been an acceptance in the instant case can be resolved without the need for a lengthy trial.

At the onset, we note that the terms of the written contract do not specify what form the acceptance of the project should take. As such, the same can be inferred and implied from the actions of petitioner regarding the work undertaken by private respondent. In this regard, petitioner's own General Manager, Mr. Francisco Overall, in an affidavit which formed part of petitioner's third-party complaint against Kyung-Il Phils., Inc and which was attached to private respondent's Motion for Partial Summary Judgment, admitted that "the construction/project had been fully completed since May 1992 and that Kyung-Il had been in full operation and use (sic) of all the facilities constructed by Narra under the Construction Contract since said date." [21] It is clear from this statement that petitioner has already regarded the work done on the project as fully complete. As such, the logical inference is that petitioner has already accepted the portions of the project undertaken by private respondent, otherwise, it would not have turned over the same to Kyung-Il, Phils., Inc. Having thus accepted and turned-over the work done by private respondent to Kyung-Il Phils., Inc., we see no reason why petitioner should not pay private respondent the unpaid balance due to the latter.

Petitioner likewise claims that the answer puts into issue the alleged need for the final acceptance by the project-owner, Kyung-Il Phils., Inc. of the projects undertaken by private respondent. Allegedly, this is supported by paragraph II (b) of the contract which reads, as follows:

"The ten percent (10%) retention shall be released to the SUB-CONTRACTOR sixty (60) days after the final acceptance of the project and after the SUB-CONTRACTOR has submitted an affidavit or undertaking under

oath that all salaries/wages and allowances due his employees/workers in the project have been paid to their full and complete satisfaction."[22]

We are not persuaded. It is axiomatic that contracts take effect only between the parties who execute them.[23]The paragraph cited by petitioner speaks only of the acceptance of the project and the submission of an affidavit or undertaking as prerequisites before the 10% retention can be released. As the contract is only between the petitioner and private respondent and no mention is made of the project owner, Kyung-Il, Phils., Inc., it follows that the acceptance referred to is the acceptance by petitioner itself. Considering that, as previously discussed, petitioner has already accepted the project undertaken by private respondent and respondent, further, has previously submitted the required affidavit/undertaking[24], there is no more reason for petitioner to hold on to the 10% retention amount.

Finally, petitioner questions the propriety of the promulgation of a summary judgment considering that it has also filed a third-party complaint against the Project Manager, Kyung-Il, Phils., Inc. for indemnity or contribution in respect of respondent's claim.

This issue is not one of first impression. We have previously held that a trial court may render a judgment on the pleadings even if there is pending before the same court, a third-party complaint. Thus:

"Utassco claims that the trial court should have withheld judgment on the pleadings until after the third-party action brought by Utassco against the owner of Lanuza Lumber on the indemnity agreement executed between them, had gone forward to judgment. The third party complaint could, of course, have been proceeded quite separately from the principal action between PNB and Utassco. Indeed there was no reason at all why the trial court should have deferred rendering judgment on the pleadings in the principal action, considering that the PNB was not interested at all in the outcome of the third party complaint. Under Section 12, Rule 6 of the Revised Rules of Court, the purpose of a third party complaint is to enable a defending party to obtain contribution, indemnity, subrogation or other relief from a person not a party to the action. Thus, notwithstanding the judgment of the pleadings, Utassco could still proceed with the prosecution of its third party complaint."[25]

Although the quoted decision deals with a judgment on the pleadings, we see no reason why the same cannot be applied in the instant case involving a summary judgment. In the case at bench, private respondent is likewise not interested in the outcome of the third-party complaint which petitioner filed against the third-party respondent, Kyung-Il Phils., Inc. Petitioner, as third-party plaintiff, is suing Kyung-Il Phils., Inc. on the basis of its own contracts[26]with the latter. It must be stressed that these contracts are only between petitioner and Kyung-Il Phils. and, in fact, no mention is made of private respondent in these contracts, either as a party or a sub-contractor. As such, the third-party complaint could proceed quite separately from the principal action between petitioner and private respondent. Consequently, there was no reason for the trial court to defer rendering a summary judgment until the resolution of the third-party complaint.

Under the circumstances herein set forth, there are clearly no substantial triable issues in the instant case. The fitness and propriety of a summary judgment cannot therefore, be disputed.

WHEREFORE, the decision of the Court of Appeals dated November 27, 1998 is hereby AFFIRMED. The instant petition is DENIED for lack of merit.

SO ORDERED.

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

- [1] Per Justice Fermin A. Martin, Jr., with Justice Romeo J. Callejo and Justice Mariano M. Umali, concurring.
- [2] Branch 141, Makati City, in Civil Case No. 92-3567.
- [3] Rollo, pp. 41-45.
- [4] Annex "A" of Petition; Rollo, pp. 25-31.
- [5] Annex "B" of Petition; Rollo, pp. 39-51.
- [6] Annex "D" of Petition; Rollo, pp. 81-82.
- [7] Rollo, p. 12.
- [8] Under Rule 34 of the 1964 Rules of Court (now Rule 35 of the 1997 Rules of Civil Procedure).
- [9] Under Rule 19 of the 1964 Rules of Court (now Rule 34 of the 1997 Rules of Civil Procedure).
- [10] Diman vs. Alumbres, 299 SCRA 459.
- [11] Vergara, Sr. vs. Suelto, 156 SCRA 753.
- [12] Excelsa Industries, Inc. vs. Court of Appeals, 247 SCRA 560.
- [13] RTC Records, pp. 19-23.
- [14] RTC Records, pp. 1-10.
- [15] Diman vs. Alumbres, *supra*.; Vergara, Sr. vs. Suelto, *supra*.
- [16] Annex "D" of Memorandum for Private Respondent; Rollo, pp. 302-305.
- [17] Annex "B" of Memorandum of Private Respondent; Rollo, pp. 293-298.
- [18] RTC Records, pp. 20-21.
- [19] Rollo, p. 49.
- [20] Rollo, p. 296.
- [21] Rollo, p. 291.
- [22] Rollo, p. 293.
- [23] Article 1311, New Civil Code.
- [24] Rollo, p. 330.
- [25] Philippine National Bank vs. Utility Assurance and Surety Co., 177 SCRA 208.
- [26] RTC Records, pp. 36-64.

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.