

L.T. DATU & CO., INC., PETITIONER, VS. JOSEPH SY, RESPONDENT.

G.R. No. 143701. March 23, 2004

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court seeks to annul the two orders[1] dated May 29, 2000, and June 30, 2000, of the Regional Trial Court of Manila, Branch 46, in Civil Case No. 99-94515. The orders denied petitioner's motions for new trial or reconsideration.

Respondent Joseph Sy, doing business under the name Akua Union Industrial Sales, is engaged in the sale of hardware and construction materials. From February to October 1997, Sy sold to petitioner L.T. Datu & Company, Inc. hardware products amounting to P686,765.25. These purchases, as provided in the invoices, were charged with interest at 12% per annum after they fell due.[2]

On March 10, 1999, Sy demanded payment of the purchases made by Datu[3] but the latter failed to pay.

On July 15, 1999, Sy filed a complaint for collection against Datu before the Regional Trial Court of Manila.[4] Upon motion filed by its counsel, Atty. Bernoli Arquero, the trial court granted Datu an extension of fifteen (15) days or until September 13, 1999 to file its answer.[5]

Datu, however, failed to file its answer despite the extension. Meanwhile, Atty. Arquero died on September 16, 1999 or three (3) days after the answer was due.[6] The trial court declared Datu in default in an order dated October 15, 1999.[7] Respondent Sy presented evidence ex parte before the Branch Clerk of Court and on December 20, 1999, the trial court rendered a decision the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered ordering the defendant L.T. DATU & COMPANY, INC. to pay plaintiff JOSEPH SY the sum of SIX HUNDRED EIGHTY SIX (sic) THOUSAND SEVEN HUNDRED SIXTY-FIVE PESOS and TWENTY-FIVE CENTAVOS (P686,765.25) plus interest at the rate of twelve percent (12%) per annum from the date of the filing of the complaint on July 15, 1999 plus the additional sum of P10,000.00 as attorney's fees and costs of suit.

IT IS SO ORDERED.[8]

On April 28, 2000, Datu received a copy of the decision and he filed a motion for new trial or reconsideration on May 19, 2000.[9] In the said motion, Datu claimed that it knew of the death of Atty. Arquero only in November 1999, or two months after the latter's death, and had difficulty obtaining the case records. Meanwhile, Sy had filed a motion for execution.

In an order dated May 29, 2000, the trial court denied petitioner's motion for having been filed out of time, thus:

The defendant received a copy of the judgment on April 28, 2000. He (sic) had until May 13, 2000 to file his (sic) motion or appeal from the judgment. Defendant filed his (sic) motion only on May 19, 2000.

WHEREFORE, the motion for new trial or reconsideration is hereby DENIED.

SO ORDERED.[10]

In another order dated June 30, 2000 resolving petitioner's opposition to the motion for execution of judgment, the trial court reiterated its denial of petitioner's motion for reconsideration and added that said motion failed to state that petitioner had a good defense. The trial court thus denied said motion for reconsideration for being pro forma. The trial court ruled:

X X X

X X X

X X X

The records show that the defendant [Datu] received a copy of the decision on April 28, 2000 and therefore had until May 13, 2000 to file its motion for reconsideration or to appeal from the judgment. The defendant filed a motion for new trial/reconsideration by mail on May 15 and was received by the court on May 19, 2000. In said motion, defendant said that the former counsel, Atty. Bernoli P. Arquero, died on September 16, 1999 and because of his death there was difficulty in locating the records of the case. Nevertheless, the motion for reconsideration does not state that the defendant has a good defense. He (sic) claimed that the plaintiff's [Sy] goods were used for the benefit of defendant's client Raycor Industrial Corporation and that the defendant was fully aware of the fact and that payment was to be made upon collection by defendant of its receivable from the said corporation. The facts borne out by the invoices marked Exh. "B" to "B-83", inclusive does not support this claim. The said motion, being pro-forma, the same is hereby denied.

SO ORDERED.[11]

Petitioner Datu argues that the trial court erred:

I. ...IN DISMISSING PETITIONER'S MOTION FOR NEW TRIAL/RECONSIDERATION ON THE GROUND THAT THE SAME WAS FILED OUT OF TIME.

II. ...IN DENYING PETITIONER'S MOTION FOR NEW TRIAL/RECONSIDERATION ON THE GROUND THAT THE SAME IS PRO- FORMA.

III. ...IN DENYING PETITIONER NEW TRIAL.[12]

The sole issue for our resolution is whether the trial court erred in denying petitioner's motion for new trial or reconsideration.

At the outset, it may be noted that although a judgment or final order of the Regional Trial Court may be the proper subject of an appeal through a petition for review under Rule 45 of the 1997 Rules of Civil Procedure, an order denying a motion for new trial or reconsideration is not.[13]

The issue on timeliness of petitioner's motion has been mooted by the order of the trial court dated June 30, 2000 where it impliedly stated that the motion for new trial or reconsideration was served and filed on time by mail. Datu received a copy of the trial court's decision on April 28, 2000. Hence, Datu had until May 13, 2000 to either appeal or move for a new trial or reconsideration. But since May 13, 2000 was a Saturday, it had until May 15, 2000 to comply or submit the appropriate pleading.[14]

Whether the motion for new trial or reconsideration filed by Datu is pro forma is a question of fact which requires

a review of the evidence presented. Settled is the rule that only questions of law can be raised in a petition for review for it is no longer the function of the Court to evaluate the evidence all over again.[15]

By assailing the two orders of the trial court denying its motion for new trial or reconsideration, petitioner is collaterally impugning the main decision of the trial court rendered on December 20, 1999. But the said decision has already attained finality when Datu failed to file an appeal after the denial of its motion for new trial or reconsideration.[16] What cannot be done directly cannot be done indirectly.

The instant petition is clearly without merit. No reversible error could be attributed to the appellate court.

WHEREFORE, the petition is DENIED. Let the records of this case be remanded to the Regional Trial Court of Manila, Branch 46, for immediate execution of judgment. Costs against petitioner.

SO ORDERED.

Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

Puno, (Chairman), J., on leave.

[1] Rollo, pp. 31, 81.

[2] Records, pp. 7-91.

[3] Id. at 92-93.

[4] Id. at 1-3.

[5] Id. at 100.

[6] Id. at 119.

[7] Id. at 103.

[8] Rollo, p. 30.

[9] Records, pp. 116-119.

[10] Rollo, p. 31.

[11] Id. at 81.

[12] Id. at 15.

[13] See Section 1, Rule 41, 1997 Rules of Civil Procedure:

SEC. 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or a particular matter therein when declared by the Rules to be appealable.

No appeal may be taken from:

(a) An order denying a motion for new trial or reconsideration;

x x x

x x x

x x x

[14] See Section 1, Rule 22, 1997 Rules of Civil Procedure:

SEC. 1. How to compute time. — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of the performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

[15] Centeno v. Viray, G.R. No. 141592, 21 November 2002, 392 SCRA 349, 356; Sps. Reyes v. CA, G.R. No. 147758, 26 June 2002, 383 SCRA 471, 480.

[16] See Section 9, Rule 37, 1997 Rules of Civil Procedure:

SEC. 9. Remedy against order denying a motion for new trial or reconsideration. — An order denying a motion for new trial or reconsideration is not appealable, the remedy being an appeal from the judgment or final order.

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