

VIRGINIA REAL, PETITIONER, VS. SISENANDO H. BELO, RESPONDENT.

G.R. NO. 146224. January 26, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Revised Rules of Court assailing the Resolution[1] dated June 16, 2000 of the Court of Appeals (CA) which dismissed outright the petition for review of Virginia Real (petitioner) in CA-G.R. SP No. 58799, and the CA Resolution[2] dated November 27, 2000 which denied her Motion for Reconsideration.

The facts of the case:

Petitioner owned and operated the Wasabe Fastfood stall located at the Food Center of the Philippine Women's University (PWU) along Taft Avenue, Malate, Manila. Sisenando H. Belo (respondent) owned and operated the BS Masters fastfood stall, also located at the Food Center of PWU.

Around 7:00 o'clock in the morning of January 25, 1996, a fire broke out at petitioner's Wasabe Fastfood stall. The fire spread and gutted other fastfood stalls in the area, including respondent's stall. An investigation on the cause of the fire by Fire Investigator SFO1 Arnel C. Pinca (Pinca) revealed that the fire broke out due to the leaking fumes coming from the Liquefied Petroleum Gas (LPG) stove and tank installed at petitioner's stall. For the loss of his fastfood stall due to the fire, respondent demanded compensation from petitioner. However, petitioner refused to accede to respondent's demand.

Hence, respondent filed a complaint for damages against petitioner before the Metropolitan Trial Court, Branch 24, Manila (MeTC), docketed as Civil Case No. 152822.[3] Respondent alleged that petitioner failed to exercise due diligence in the upkeep and maintenance of her cooking equipments, as well as the selection and supervision of her employees; that petitioner's negligence was the proximate cause of the fire that gutted the fastfood stalls.[4]

In her Answer dated September 23, 1996, petitioner denied liability on the grounds that the fire was a fortuitous event and that she exercised due diligence in the selection and supervision of her employees.[5]

After trial, the MeTC rendered its Decision[6] dated April 5, 1999 in favor of the respondent, the dispositive portion of which reads:

WHEREFORE, in light of the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendant ordering the latter:

- 1) To pay the plaintiff the sum of P50,000.00 representing temperate or moderate damages; and
- 2) To pay the plaintiff the sum of P25,000.00 as and for attorney's fees and litigation expenses.

The counterclaim filed by the defendant is hereby DENIED FOR LACK OF MERIT.

SO ORDERED.[7]

The MeTC held that the investigation conducted by the appropriate authority revealed that the fire broke out due to the leaking fumes coming from the LPG stove and tank installed at petitioner's fastfood stall; that factual circumstances did not show any sign of interference by any force of nature to infer that the fire occurred due to fortuitous event; that the petitioner failed to exercise due diligence, precaution, and vigilance in the conduct of her business, particularly, in maintaining the safety of her cooking equipment as well as in the selection and supervision of her employees; that even if petitioner passes the fault to her employees, Article 2180 of the Civil Code finds application; that in the absence of supporting evidence, the amount of actual damages and unrealized profits prayed for by respondent cannot be granted; that, nonetheless, respondent is entitled to temperate damages since respondent sustained pecuniary loss, though its true value cannot, from the very nature of the case, be proved with certainty.

Dissatisfied, petitioner filed an appeal with the Regional Trial Court, Branch 43, Manila (RTC), docketed as Civil Case No. 99-94606, insisting that the fire was a fortuitous event. On November 26, 1999, the RTC affirmed the Decision of the MeTC but increased the amount of temperate damages awarded to the respondent from P50,000.00 to P80,000.00.[8]

Petitioner filed a Motion for Reconsideration contending that the increase in the award of temperate damages is unreasonable since she also incurred losses from the fire.

In its Order dated April 12, 2000, the RTC denied petitioner's Motion for Reconsideration holding that it cannot disregard evidence showing that the fire originated from petitioner's fastfood stall; that the increased amount of temperate damages awarded to respondent is not a full compensation but only a fair approximate of what he lost due to the negligence of petitioner's workers.[9]

Petitioner then filed a Petition for Review with the CA, docketed as CA-G.R. SP No. 58799.[10] On June 16, 2000, the CA issued a Resolution dismissing the petition for being "procedurally flawed/deficient." [11] The CA held that the attached RTC Decision was not certified as a true copy by the Clerk of Court; that a certified true copy of the MeTC Decision was not attached; that material portions of the record, such as the position papers of the parties and affidavits of witnesses, as would support the material allegations of the petition were also not attached.[12]

On July 14, 2000, petitioner filed her Motion for Reconsideration,[13] attaching photocopies of the Decisions of the RTC and MeTC as certified correct by the Clerk of Court.[14]

On November 27, 2000, the CA issued its Resolution denying petitioner's Motion for Reconsideration.[15]

Hence, the present petition raising the following issues:

- Whether the submitted certified true copy of the appealed decision of the Regional Trial Court as authenticated by a court employee other than the Clerk of Court who was not around at that time said copy was secured constitutes compliance with the Rules?
- Whether the submission of a certified true copy of the Metropolitan Trial Court's judgment is still an indispensable requirement in filing a petition for review before the Court of Appeals despite the fact that said judgment was already modified by the above decision of the Regional Trial Court and it is the latter decision that is the proper subject of the petition for review?
- Whether the submission of copies of the respective position papers of the contending parties is still an indispensable requirement in filing a petition for review before the Court of Appeals despite the fact that the contents thereof are already quoted in the body of the verified petition and in the subject judgment of the

Metropolitan Trial Court?

- Whether the herein petitioner could be held liable for damages as a result of the fire that razed not only her own food kiosk but also the adjacent foodstalls at the Food Center premises of the Philippine Women's University, including that of the respondent?

- Whether the Regional Trial Court could increase the amount of damages awarded by the Metropolitan Trial Court in favor of the respondent who has not even filed an appeal therefrom?[16]

Petitioner submits that rules of procedure should not be applied in a very harsh, inflexible and technically unreasonable sense.

While admitting that the RTC Decision and Order were not certified by the Clerk of Court himself, petitioner insists that they were certified as authentic copies by Administrative Officer IV Gregorio B. Paraon of the RTC.

As to the MeTC Decision, petitioner contends that the submission of a certified true copy thereof is not an indispensable requirement because that judgment is not the subject of the petition for review.

In any case, petitioner submits that she had substantially complied with the requirements of the rule when she attached with her Motion for Reconsideration the copies of the Decisions of the RTC and MeTC as certified correct by the Clerk of Court.

Anent the non-submission of the position papers of the parties, petitioner maintains that the contents of said position papers were lengthily quoted verbatim in the petition and in the attached copy of the MeTC Decision.

On the submission of affidavits of witnesses, petitioner contends that it was not necessary because the case before the MeTC was not covered by summary proceedings.

On the merits of her petition before the CA, petitioner avers that she should not be held liable for a fire which was a fortuitous event since the fire could not be foreseen and the spread of the fire to the adjacent fastfood stalls was inevitable.

Lastly, she argues that the RTC cannot increase the amount of temperate damages since the respondent did not appeal from the judgment of the MeTC.

Respondent opted not to file a Comment, manifesting that the petition contains no new arguments which would require a comment since the arguments are but a rehash of those raised and decided by the lower courts.[17]

The Court gave due course to the petition and required both parties to submit their respective memoranda.[18] In compliance therewith, petitioner submitted her Memorandum.[19] On the other hand, respondent filed a Manifestation stating that since no new issues have been raised by the petitioner in her petition and in order not to be redundant, he adopts as his memorandum the memoranda he filed in the MeTC and the RTC.[20]

In his Memoranda before the MeTC and RTC, respondent emphasized the evidence he presented to establish his cause of action against petitioner, principally the testimony of Fire Investigator SFO1 Arnel G. Pinca stating that the fire originated from the LPG stove and tank in petitioner's fastfood stall.

The requirements as to form and content of a petition for review of a decision of the RTC are laid down in Section 2 of Rule 42 of the Revised Rules of Court, thus:

Sec. 2. Form and contents. - The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the

matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. (Emphasis supplied)

x x x x

Under Section 3 of the same Rule, failure to comply with the above requirements “shall be sufficient ground for the dismissal thereof.”

However, Section 6, Rule 1 of the Revised Rules of Court also provides that rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Indeed, rules of procedure should be used to promote, not frustrate justice.[21]

In the present case, petitioner’s submission of copies of the RTC Decision and Order certified as correct by the Administrative Officer IV of the RTC is insufficient compliance with the requirements of the rule. Petitioner failed to show that the Clerk of Court was officially on leave and the Administrative Officer was officially designated as officer-in-charge. The rule is explicit in its mandate that the legible duplicate originals or true copies of the judgments or final orders of both lower courts must be certified correct by the Clerk of Court.

Nonetheless, a strict application of the rule in this case is not called for. This Court has ruled against the dismissal of appeals based solely on technicalities in several cases, especially when the appellant had substantially complied with the formal requirements.[22] There is ample jurisprudence holding that the subsequent and substantial compliance of a party may call for the relaxation of the rules of procedure.[23] When the CA dismisses a petition outright and the petitioner files a motion for the reconsideration of such dismissal, appending thereto the requisite pleadings, documents or order/resolution, this would constitute substantial compliance with the Revised Rules of Court.[24]

Thus, in the present case, there was substantial compliance when petitioner attached in her Motion for Reconsideration a photocopy of the Decision of the RTC as certified correct by the Clerk of Court of the RTC. In like manner, there was substantial compliance when petitioner attached, in her Motion for Reconsideration, a photocopy of the Decision of the MeTC as certified correct by the Clerk of Court of the RTC.

On the necessity of attaching position papers and affidavits of witnesses, Section 2 of Rule 42 of the Revised Rules of Court requires attachments if these would support the allegations of the petition.[25] In the present case, there was no compelling need to attach the position papers of the parties since the Decisions of the MeTC and RTC already stated their respective arguments. As to the affidavits, the Court notes that they were presented by the respondent as part of the testimony of his witness Fire Investigator Pinca and therefore would not support the allegations of the petitioner.

Truly, in dismissing the petition for review, the CA had committed grave abuse of discretion amounting to lack of jurisdiction in putting a premium on technicalities at the expense of a just resolution of the case.

The Court’s pronouncement in *Republic of the Philippines v. Court of Appeals*[26] is worth echoing: “cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In that way, the ends of justice would be better served.”[27] Thus, what should guide judicial action is that a party litigant is given the fullest opportunity to establish the merits of his action or defense rather than for him to lose life, honor or property on mere

technicalities.[28]

The next most logical step would then be for the Court to simply set aside the challenged resolutions, remand the case to the CA and direct the latter to resolve on the merits of the petition in CA-G.R. SP No. 58799. But, that would further delay the case. Considering the issues raised which can be resolved on the basis of the pleadings and documents filed, and the fact that petitioner herself has asked the Court to decide her petition on the merits, the Court deems it more practical and in the greater interest of justice not to remand the case to the CA but, instead, to resolve the controversy once and for all.[29]

The Court shall now address the issue of whether the fire was a fortuitous event.

Jurisprudence defines the elements of a “fortuitous event” as follows: (a) the cause of the unforeseen and unexpected occurrence must be independent of human will; (b) it must be impossible to foresee the event which constitutes the caso fortuito, or if it can be foreseen, it must be impossible to avoid; (c) the occurrence must be such as to render it impossible for the debtor to fulfill his obligation in a normal manner; and (d) the obligor must be free from any participation in the aggravation of the injury resulting to the creditor. [30]

Article 1174 of the Civil Code provides that no person shall be responsible for a fortuitous event which could not be foreseen, or which, though foreseen, was inevitable. In other words, there must be an entire exclusion of human agency from the cause of injury or loss.[31]

It is established by evidence that the fire originated from leaking fumes from the LPG stove and tank installed at petitioner’s fastfood stall and her employees failed to prevent the fire from spreading and destroying the other fastfood stalls, including respondent’s fastfood stall. Such circumstances do not support petitioner’s theory of fortuitous event.

Petitioner’s bare allegation is far from sufficient proof for the Court to rule in her favor. It is basic in the rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof.[32] In short, mere allegations are not evidence.[33]

The Civil Code provides:

Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. x x x

Art. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

x x x x

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

x x x x

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

Whenever an employee’s negligence causes damage or injury to another, there instantly arises a presumption juris tantum that the employer failed to exercise diligentissimi patris families in the selection (culpa in eligiendo) or

supervision (*culpa in vigilando*) of its employees.[34] To avoid liability for a quasi-delict committed by his employee, an employer must overcome the presumption by presenting convincing proof that he exercised the care and diligence of a good father of a family in the selection and supervision of his employee.[35]

In this case, petitioner not only failed to show that she submitted proof that the LPG stove and tank in her fastfood stall were maintained in good condition and periodically checked for defects but she also failed to submit proof that she exercised the diligence of a good father of a family in the selection and supervision of her employees. For failing to prove care and diligence in the maintenance of her cooking equipment and in the selection and supervision of her employees, the necessary inference was that petitioner had been negligent.[36]

As to the award of temperate damages, the increase in the amount thereof by the RTC is improper. The RTC could no longer examine the amounts awarded by the MeTC since respondent did not appeal from the Decision of the MeTC.[37] It is well-settled that a party who does not appeal from the decision may not obtain any affirmative relief from the appellate court other than what he has obtained from the lower court, if any, whose decision is brought up on appeal.[38] While there are exceptions to this rule, such as if they involve (1) errors affecting the lower court's jurisdiction over the subject matter, (2) plain errors not specified, and (3) clerical errors,[39] none apply here.

WHEREFORE, the petition is GRANTED. The assailed Resolutions dated June 16, 2000 and November 27, 2000 of the Court of Appeals are REVERSED and SET ASIDE. The Decision dated November 26, 1999 of the Regional Trial Court, Branch 43, Manila is AFFIRMED with MODIFICATION that the temperate damages awarded is reduced from P80,000.00 to P50,000.00 as awarded by the Metropolitan Trial Court, Branch 24, Manila in its Decision dated April 5, 1999.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Renato C. Dacdao and concurred in by Associate Justices B. A. Adefuin-De la Cruz (now retired) and Martin S. Villarama, Jr.; CA rollo, p. 44.

[2] Id. at 73.

[3] Docketed as Civil Case No. 152882-CV in the MeTC Decision, id. at 36.

[4] Id. at 28.

[5] Id. at 33.

[6] Id. at 36.

[7] Id. at 42.

[8] Id. at 21.

[9] Id. at 27.

[10] Id. at 6.

[11] Id. at 44-45.

[12] Id.

[13] Id. at 46.

[14] Id. at 50 and 56.

[15] Supra note 2.

[16] Rollo, pp. 14-15.

[17] Id. at 83.

[18] Id. at 89.

[19] Id. at 96.

[20] Id. at 94.

[21] *Mendoza v. David*, G.R. No. 147575, October 22, 2004, 441 SCRA 172, 179; *Vidal v. Escueta*, 463 Phil. 315, 330 (2003).

[22] *Mendoza v. David*, supra, citing *Reyes v. Court of Appeals*, 456 Phil. 520, 534 (2003); *Posadas-Moya & Associates Construction Co., Inc. v. Greenfield Development Corporation*, 451 Phil. 647, 661 (2003); *Jaro v. Court of Appeals*, 427 Phil. 532, 547 (2002); *Piglas-Kamao (Sari-Sari Chapter) v. National Labor Relations Commission*, G.R. No. 138556, May 9, 2001, 357 SCRA 640, 648; *Uy v. Bureau of Internal Revenue*, 397 Phil. 892 (2000); *Cusi-Hernandez v. Sps. Diaz*, 390 Phil. 1245, 1252 (2000); *Cadayona v. Court of Appeals*, 381 Phil. 619, 627 (2000).

[23] *Philippine Radiant Products, Inc. v. Metropolitan Bank & Trust Company, Inc.*, G.R. No. 163569, December 9, 2005, 477 SCRA 299, 314; *Wack Wack Golf & Country Club v. National Labor Relations Commission*, G.R. No. 149793, April 15, 2005, 456 SCRA 280, 294.

[24] *Garcia v. Philippine Airlines, Inc.*, G.R. No. 160798, June 8, 2005, 459 SCRA 768, 780-781. See also *Gutierrez v. Secretary of the Department of Labor and Employment*, G.R. No. 142248, December 16, 2004, 447 SCRA 107, 119.

[25] *Benguet Corporation v. Cordillera Caraballo Mission, Inc.*, G.R. No. 155343, September 2, 2005, 469 SCRA 381, 385.

[26] 354 Phil. 252 (1998).

[27] Id. at 260.

[28] *Government Service Insurance System v. Bengson Commercial Buildings, Inc.*, 426 Phil. 111, 130-131 (2002); *APEX Mining, Inc. v. Court of Appeals*, 377 Phil. 482, 496 (1999).

[29] *Golangco v. Court of Appeals*, 347 Phil. 771, 778 (1997); *Heirs of Crisanta Y Gabriel-Almoradie v. Court of Appeals*, G.R. No. 91385, January 4, 1994, 229 SCRA 15, 29.

[30] *Perla Compania De Seguros, Inc. v. Sarangaya III*, G.R. No. 147746, October 25, 2005, 474 SCRA 191, 200; *Lea Mer Industries, Inc. v. Malayan Insurance Co., Inc.*, G.R. No. 161745, September 30, 2005, 471 SCRA 698, 707-708.

[31] *Perla Compania De Seguros, Inc. v. Sarangaya III*, supra; *Vasquez v. Court of Appeals*, G.R. No. L-42926, September 13, 1985, 138 SCRA 553, 557.

[32] Domingo v. Robles, G.R. No. 153743, March 18, 2005, 453 SCRA 812, 818; Ongpauco v. Court of Appeals, G.R. No. 134039, December 21, 2004, 447 SCRA 395, 400.

[33] Mayor v. Belen, G.R. No. 151035, June 3, 2004, 430 SCRA 561, 567; Marubeni Corporation v. Lirag, 415 Phil. 29, 38 (2001).

[34] Macalinao v. Ong, G.R. No. 146635, December 14, 2005, 477 SCRA 740, 757; Delsan Transport Lines, Inc. v. C & A Contruction, Inc., 459 Phil. 156, 163-164 (2003).

[35] Macalinao v. Ong, supra; Light Rail Transit Authority v. Natividad, 445 Phil. 31, 39 (2003); Metro Manila Transit Corp. v. Court of Appeals, 435 Phil. 129, 138-139 (2002).

[36] Perla Compania De Seguros, Inc. v. Sarangaya III, supra note 30.

[37] St. Joseph's College v. St. Joseph's College Workers' Association (SAMAHAN), G.R. No. 155609, January 17, 2005, 448 SCRA 594, 608; Radiowealth Finance Company v. Spouses Del Rosario, 390 Phil. 601, 614 (2000).

[38] Tangalin v. Court of Appeals, 422 Phil. 358, 364 (2001); Rural Bank of Sta. Maria, Pangasinan v. Court of Appeals, 373 Phil. 27, 45 (1999).

[39] Tangalin v. Court of Appeals, supra; Santos v. Court of Appeals, G.R. No. 100963, April 6, 1993, 221 SCRA 42, 46.

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