

HYATT INDUSTRIAL MANUFACTURING CORP., AND YU HE CHING, PETITIONERS, VS. LEY CONSTRUCTION AND DEVELOPMENT CORP., AND PRINCETON DEVELOPMENT CORP., RESPONDENTS

G.R. NO. 147143. March 10, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on certiorari seeking the nullification of the Decision dated May 4, 2000 of the Court of Appeals' (CA) then Seventh Division in CA-G.R. CV No. 57119, which remanded Civil Case No. 94-1429 to the trial court and directed the latter to allow the deposition-taking without delay;^[1] and the CA Resolution dated February 13, 2001 which denied petitioners' motion for reconsideration.^[2]

The facts are as follows:

On April 8, 1994, respondent Ley Construction and Development Corporation (LCDC) filed a complaint for specific performance and damages with the Regional Trial Court of Makati, Branch 62 (RTC), docketed as Civil Case No. 94-1429, against petitioner Hyatt Industrial Manufacturing Corporation (Hyatt) claiming that Hyatt reneged in its obligation to transfer 40% of the pro indiviso share of a real property in Makati in favor of LCDC despite LCDC's full payment of the purchase price of P2,634,000.00; and that Hyatt failed to develop the said property in a joint venture, despite LCDC's payment of 40% of the pre-construction cost.^[3] On April 12, 1994, LCDC filed an amended complaint impleading Princeton Development Corporation (Princeton) as additional defendant claiming that Hyatt sold the subject property to Princeton on March 30, 1994 in fraud of LCDC.^[4] On September 21, 1994, LCDC filed a second amended complaint adding as defendant, Yu He Ching (Yu), President of Hyatt, alleging that LCDC paid the purchase price of P2,634,000.00 to Hyatt through Yu.^[5]

Responsive pleadings were filed and LCDC filed notices to take the depositions of Yu; Pacita Tan Go, Account Officer of Rizal Commercial Banking Corporation (RCBC); and Elena Sy, Finance Officer of Hyatt. Hyatt also filed notice to take deposition of Manuel Ley, President of LCDC, while Princeton filed notice to take the depositions of Manuel and Janet Ley.^[6]

On July 17, 1996, the RTC ordered the deposition-taking to proceed.^[7]

At the scheduled deposition of Elena Sy on September 17, 1996, Hyatt and Yu prayed that all settings for depositions be disregarded and pre-trial be set instead, contending that the taking of depositions only delay the resolution of the case. The RTC agreed and on the same day ordered all depositions cancelled and pre-trial to take place on November 14, 1996.^[8]

LCDC moved for reconsideration^[9] which the RTC denied in its October 14, 1996 Order, portion of which reads:

This Court has to deny the motion, because: 1) as already pointed out by this Court in the questioned Order said depositions will only delay the early termination of this case; 2) had this Court set this case for pre-trial conference and trial thereafter, this case would have been terminated by this time; 3) after all, what the parties

would like to elicit from their deponents would probably be elicited at the pre-trial conference; 4) no substantial rights of the parties would be prejudiced, if pre-trial conference is held, instead of deposition.[10]

On November 14, 1996, the scheduled date of the pre-trial, LCDC filed an Urgent Motion to Suspend Proceedings Due to Pendency of Petition for Certiorari in the Court of Appeals.[11] The petition, which sought to annul the Orders of the RTC dated September 17, 1996 and October 14, 1996, was docketed as CA-G.R. SP No. 42512[12] and assigned to the then Twelfth Division of the CA.

Meanwhile, pre-trial proceeded at the RTC as scheduled[13] and with the refusal of LCDC to enter into pre-trial, Hyatt, Yu and Princeton moved to declare LCDC non-suited which the RTC granted in its Order dated December 3, 1996, thus:

On September 17, 1996, this Court noticing that this case was filed as early (as) April 4, 1994[14] and has not reached the pre-trial stage because of several depositions applied for by the parties, not to mention that the records of this case has reached two (2) volumes, to avoid delay, upon motion, ordered the cancellation of the depositions.

On September 24, 1996, plaintiff filed a motion for reconsideration, seeking to reconsider and set aside the order dated September 17, 1996, which motion for reconsideration was denied in an order dated October 14, 1996, ruling among others that "after all, what the parties would like to elicit from these deponents would probably be elicited at the pre-trial conference", and, reiterated the order setting this case for pre-trial conference on November 14, 1996.

On the scheduled pre-trial conference on November 14, 1996, a petition for certiorari was filed with the Court of Appeals, seeking to annul the Order of this Court dated September 17, 1996 and October 14, 1996, furnishing this Court with a copy on the same date.

At the scheduled pre-trial conference on November 14, 1996, plaintiff orally moved the Court to suspend pre-trial conference alleging pendency of a petition with the Court of Appeals and made it plain that it cannot proceed with the pre-trial because the issue on whether or not plaintiff may apply for depositions before the pre-trial conference is a prejudicial question. Defendants objected, alleging that even if the petition is granted, pre-trial should proceed and that plaintiff could take deposition after the pre-trial conference, insisting that defendants are ready to enter into a pre-trial conference.

This Court denied plaintiff's motion to suspend proceedings and ordered plaintiff to enter into pre-trial conference. Plaintiff refused. Before this Court denied plaintiff's motion to suspend, this Court gave Plaintiff two (2) options: enter into a pre-trial conference, advising plaintiff that what it would like to obtain at the deposition may be obtained at the pre-trial conference, thus expediting early termination of this case; and, terminate the pre-trial conference and apply for deposition later on. Plaintiff insisted on suspension of the pre-trial conference alleging that it is not ready to enter into pre-trial conference in view of the petition for certiorari with the Court of Appeals. Defendants insisted that pre-trial conference proceed as scheduled, manifesting their readiness to enter into a pre-trial conference.

When plaintiff made it clear that it is not entering into the pre-trial conference, defendants prayed that plaintiff be declared non-suited. x x x

x x x x

In the light of the foregoing circumstances, this Court is compelled to dismiss plaintiff's complaint.

WHEREFORE, for failure of plaintiff to enter into pre-trial conference without any valid reason, plaintiff's complaint is dismissed. Defendants' counterclaims are likewise dismissed.

SO ORDERED.[15]

LCDC filed a motion for reconsideration[16] which was denied however by the trial court in its Order dated April 21, 1997.[17] LCDC went to the CA on appeal which was docketed as CA-G.R. CV No. 57119 and assigned to the then Seventh Division of the CA.[18]

On July 24, 1997, the CA's then Twelfth Division,[19] in CA-G.R. SP No. 42512 denied LCDC's petition for certiorari declaring that the granting of the petition and setting aside of the September 17, 1996 and October 14, 1996 Orders are manifestly pointless considering that the complaint itself had already been dismissed and subject of the appeal docketed as CA-G.R. CV No. 57119; that the reversal of the said Orders would have practical effect only if the dismissal were also set aside and the complaint reinstated; and that the dismissal of the complaint rendered the petition for certiorari devoid of any practical value.[20] LCDC's motion for reconsideration of the CA-G.R. SP No. 42512 decision was denied on March 4, 1998.[21] LCDC then filed with this Court, a petition for certiorari, docketed as G.R. No. 133145 which this Court dismissed on August 29, 2000.[22]

On May 4, 2000, the CA's then Seventh Division issued in CA-G.R. CV No. 57119 the herein assailed decision, the fallo of which reads:

WHEREFORE, premises considered, finding the appeal meritorious, this case is remanded to the court a quo for further hearing and directing the latter to allow the deposition taking without delay.

SO ORDERED.[23]

The CA reasoned that: LCDC complied with Section 1, Rule 23 of the 1997 Rules of Civil Procedure which expressly sanctions depositions as a mode of discovery without leave of court after the answer has been served; to unduly restrict the modes of discovery during trial would defeat the very purpose for which it is intended which is a pre-trial device, and at the time of the trial, the issues would already be confined to matters defined during pre-trial; the alleged intention of expediting the resolution of the case is not sufficient justification to recall the order to take deposition as records show that the delay was brought about by postponement interposed by both parties and other legal antecedents that are in no way imputable to LCDC alone; deposition-taking, together with the other modes of discovery are devised by the rules as a means to attain the objective of having all the facts presented to the court; the trial court also erred in dismissing the complaint as LCDC appeared during the pre-trial conference and notified it of the filing of a petition before the CA; such is a legitimate justification to stall the pre-trial conference, as the filing of the petition was made in good faith in their belief that the court a quo erred in canceling the deposition scheduled for no apparent purpose.[24]

Hyatt and Princeton filed their respective motions for reconsideration which the CA denied on February 13, 2001.[25]

Hyatt and Yu now come before the Court via a petition for review on certiorari, on the following grounds:

I

THE COURT OF APPEALS, SEVENTH DIVISION, COMMITTED GRAVE ABUSE OF DISCRETION, ACTUALLY AMOUNTING TO LACK OF JURISDICTION, IN HOLDING IN EFFECT INVALID THE ORDERS OF THE LOWER COURT DATED SEPTEMBER 17, 1996 AND OCTOBER 14, 1996 WHICH ARE NOT RAISED OR PENDING BEFORE IT, BUT IN ANOTHER CASE (CA-G.R. SP. No. 42512) PENDING BEFORE ANOTHER DIVISION OF THE COURT OF APPEALS, TWELFTH DIVISION, AND WHICH CASE WAS DISMISSED BY THE SAID DIVISION OF THE COURT OF APPEALS AND FINALLY BY THE HONORABLE SUPREME COURT IN G.R. NO. 133145.

II

THE COURT OF APPEALS, SEVENTH DIVISION, COMMITTED GRAVE ABUSE OF DISCRETION AND SERIOUS ERRORS OF LAW IN REVERSING THE LOWER COURT'S ORDER DATED DECEMBER 3, 1996 AND APRIL 21, 1997 HOLDING RESPONDENT NON-SUITED FOR FAILURE TO ENTER INTO PRE-TRIAL.[26]

Anent the first issue, petitioners claim that: the validity of the RTC Order dated September 17, 1996 which set the case for pre-trial, as well as its Order dated October 14, 1996 denying LCDC's motion for partial reconsideration are not involved in CA-G.R. CV No. 57119 but were the subject of CA-G.R. SP No. 42512, assigned to the then Twelfth Division, which dismissed the same on July 24, 1997 and which dismissal was affirmed by this Court in G.R. No. 133145; in passing upon the validity of the Orders dated September 17, 1996 and October 14, 1996, the CA's then Seventh Division in CA-G.R. CV No. 57119 exceeded its authority and encroached on issues taken cognizance of by another Division.[27]

On the second issue, petitioners claim that: the CA's then Seventh Division should have outrightly dismissed the appeal of LCDC as the same did not involve any error of fact or law but pertains to a matter of discretion which is properly a subject of certiorari under Rule 65 of the Revised Rules of Court; conducting discovery thru deposition is not a condition sine qua non to the holding of a pre-trial and the fact that LCDC wanted to take the deposition of certain persons is not a valid ground to suspend the holding of pre-trial and subsequently the trial on the merits; the persons whose depositions were to be taken were listed as witnesses during the trial; to take their depositions before the lower court and to present them as witnesses during the trial on the merits would result in unnecessary duplicity; the fact that LCDC has a pending petition for certiorari with the CA's then Twelfth Division docketed as CA-G.R. SP No. 42512 is not a ground to cancel or suspend the scheduled pre-trial on November 14, 1996 as there was no restraining order issued; LCDC's availment of the discovery procedure is causing the undue delay of the case; it is only after LCDC has filed its complaint that it started looking for evidence to support its allegations thru modes of discovery and more than two years has already passed after the filing of the complaint yet LCDC still has no documentary evidence to present before the lower court to prove its allegations in the complaint.[28]

Petitioners then pray that the Decision dated May 4, 2000 and the Resolution dated February 13, 2001 of the CA's then Seventh Division in CA-G.R. CV No. 57119 be annulled and set aside and the validity of the Orders dated December 3, 1996 and April 21, 1997 of the RTC of Makati, Branch 62 in Civil Case No. 94-1429 be sustained.[29]

In its Comment, LCDC argues that the petitioners erred in claiming that the CA's then Seventh Division overstepped its authority as this Court has ruled in G.R. No. 133145 that the issue of whether LCDC has been denied its right to discovery is more appropriately addressed in the appeal before the then Seventh Division in CA-G.R. CV No. 57119 below rather than by the then Twelfth Division in the certiorari proceeding in CA-G.R. SP No. 42512; and while the appeal of the final Order of the RTC dated December 3, 1996 also questioned the Orders dated September 17, 1996 and October 14, 1996, it does not render the appeal improper as this Court in G.R. No. 133145 held that the subsequent appeal constitutes an appropriate remedy because it assails not only the Order dated December 3, 1996, but also the two earlier orders.[30]

On the second issue, LCDC contends that: the mere fact that a deponent will be called to the witness stand during trial is not a ground to deny LCDC the right to discovery and does not cause "unnecessary duplicity", otherwise no deposition can ever be taken; a deposition is for the purpose of "discovering" evidence while trial is for the purpose of "presenting" evidence to the court; if petitioners' concern was the delay in the disposition of the case, the remedy is to expedite the taking of the depositions, not terminate them altogether; petitioners have nothing to fear from discovery unless they have in their possession damaging evidence; the parties should be allowed to utilize the discovery process prior to conducting pre-trial since every bit of relevant information unearthed

through the discovery process will hasten settlement, simplify the issues and determine the necessity of amending the pleadings; the trial court erred in not suspending the pre-trial conference pending the petition for certiorari before the then Twelfth Division of the CA since considerations of orderly administration of justice demanded that the trial court accord due deference to the CA; not only was LCDC's petition for certiorari filed in good faith, the CA found it meritorious, vindicating LCDC's insistence that the pre-trial be suspended; the undue delay in the disposition of the case was not attributable to LCDC's deposition-taking but to the flurry of pleadings filed by defendants below to block LCDC's depositions and prevent it from gaining access to critical evidence; the critical evidence that LCDC needs to obtain through discovery is evidence that is totally within the knowledge and possession of petitioners and defendant Princeton and is not available elsewhere.[31]

On September 17, 2001, the Court required the parties to file their respective memoranda.[32] Hyatt and Yu on the one hand and LCDC on the other filed their respective memoranda reiterating their positions.[33]

On January 2, 2002, Princeton filed a "Comment" which this Court considered as its Memorandum in the Resolution dated January 30, 2002.[34]

In said memorandum, Princeton averred that: it is not true that Princeton failed to comply with any discovery orders as all information requested of Princeton was duly furnished LCDC and there are no pending discovery orders insofar as Princeton is concerned; LCDC is seeking to dictate its procedural strategies on the RTC and the opposing parties; LCDC was not deprived due process as it was given all the opportunity to prepare for its case and to face its opponents before the court; LCDC admits to the probability of forum shopping as it filed a petition for certiorari with the then Twelfth Division of the CA and later an appeal with the then Seventh Division of the CA; the RTC did not bar LCDC from presenting witnesses or discovering any evidence, as all it did was to transfer the venue of the testimony and discovery to the courtroom and get on with the case which LCDC did not want to do; that discovery proceedings need not take place before pre-trial conference; trial court judges are given discretion over the right of parties in the taking of depositions and may deny the same for good reasons in order to prevent abuse; the trial court did not err in not granting LCDC's motion to suspend proceedings due to the pendency of a petition for certiorari with the CA since there was no order from said court and there was no merit in the petition for certiorari as shown by the dismissal thereof by the then Twelfth Division; there was proper and legal ground for the trial court to declare LCDC non-suited; appearance at the pre-trial is not enough; there is no evidence to support LCDC's claim that Hyatt surreptitiously transferred title to Princeton.[35]

The Court is in a quandary why Hyatt and Yu included Princeton as respondent in the present petition when Princeton was their co-defendant below and the arguments they raised herein pertain only to LCDC. With the failure of petitioners to raise any ground against Princeton in any of its pleadings before this Court, we shall treat Princeton's inclusion as respondent in the present petition as mere inadvertence on the part of petitioners.

Now to the merits. The issues that need to be resolved in this case may be simplified as follows: (1) Whether the CA's then Seventh Division exceeded its authority in ruling upon the validity of the Orders dated September 17, 1996 and November 14, 1996; and (2) Whether the CA erred in remanding the case to the trial court and order the deposition-taking to proceed.

We answer both questions in the negative.

Petitioners assert that the CA's then Twelfth Division in CA-GR SP No. 42512 and this Court in G.R. No. 133145 already ruled upon the validity of the Orders dated September 17, 1996 and November 14, 1996, thus the CA's then Seventh Division in CA G.R. CV No. 57119 erred in ruling upon the same.

A cursory reading of the decisions in CA-GR SP No. 42512 and G.R. No. 133145, however, reveals otherwise.

The CA's then Twelfth Division in CA-G.R. SP No. 42512 was explicit in stating thus:

x x x Any decision of ours will not produce any practical legal effect. According to the petitioner, if we annul the questioned Orders, the dismissal of its Complaint by the trial [court] will have to be set aside in its pending appeal. That assumes that the division handling the appeal will agree with Our decision. On the other hand, it may not. Also other issues may be involved therein than the validity of the herein questioned orders.

We cannot pre-empt the decision that might be rendered in such appeal. The division to [which] it has been assigned should be left free to resolve the same. On the other hand, it is better that this Court speak with one voice.[36]

This Court in G.R. No. 133145 also clearly stated that:

x x x First, it should be stressed that the said Petition (CA-G.R. SP No. 42512) sought to set aside only the two interlocutory RTC Orders, not the December 3, 1996 Resolution dismissing the Complaint. Verily, the Petition could not have assailed the Resolution, which was issued after the filing of the former.

Under the circumstances, granting the Petition for Certiorari and setting aside the two Orders are manifestly pointless, considering that the Complaint itself had already been dismissed. Indeed, the reversal of the assailed Orders would have practical effect only if the dismissal were also set aside and the Complaint reinstated. In other words, the dismissal of the Complaint rendered the Petition for Certiorari devoid of any practical value.

Second, the Petition for Certiorari was superseded by the filing, before the Court of Appeals, of a subsequent appeal docketed as CA-G.R. CV No. 57119, questioning the Resolution and the two Orders. In this light, there was no more reason for the CA to resolve the Petition for Certiorari.

x x x x

In this case, the subsequent appeal constitutes an adequate remedy. In fact, it is the appropriate remedy, because it assails not only the Resolution but also the two Orders.

x x x x

WHEREFORE, the Petition is DENIED and the assailed Resolutions AFFIRMED. x x x.[37]

With the pronouncements of the CA in CA-G.R. SP No. 42512 and by this Court in G.R. No. 133145 that the subsequent appeal via CA-G.R. CV No. 57119 constitutes as the adequate remedy to resolve the validity of the RTC Orders dated September 17, 1996 and November 14, 1996, the arguments of petitioners on this point clearly have no leg to stand on and must therefore fail.

On the second issue, the Court finds that the CA was correct in remanding the case to the RTC and ordering the deposition-taking to proceed.

A deposition should be allowed, absent any showing that taking it would prejudice any party.[38] It is accorded a broad and liberal treatment and the liberty of a party to make discovery is well-nigh unrestricted if the matters inquired into are otherwise relevant and not privileged, and the inquiry is made in good faith and within the bounds of law.[39] It is allowed as a departure from the accepted and usual judicial proceedings of examining witnesses in open court where their demeanor could be observed by the trial judge, consistent with the principle of promoting just, speedy and inexpensive disposition of every action and proceeding;[40] and provided it is taken in accordance with the provisions of the Rules of Court, i.e., with leave of court if summons have been served, and without such leave if an answer has been submitted; and provided further that a circumstance for its admissibility exists (Section 4, Rule 23, Rules of Court).[41] The rules on discovery should not be unduly restricted, otherwise, the advantage of a liberal discovery procedure in ascertaining the truth and expediting the disposal of litigation

would be defeated.[42]

Indeed, the importance of discovery procedures is well recognized by the Court. It approved A.M. No. 03-1-09-SC on July 13, 2004 which provided for the guidelines to be observed by trial court judges and clerks of court in the conduct of pre-trial and use of deposition-discovery measures. Under A.M. No. 03-1-09-SC, trial courts are directed to issue orders requiring parties to avail of interrogatories to parties under Rule 45 and request for admission of adverse party under Rule 26 or at their discretion make use of depositions under Rule 23 or other measures under Rule 27 and 28 within 5 days from the filing of the answer. The parties are likewise required to submit, at least 3 days before the pre-trial, pre-trial briefs, containing among others a manifestation of the parties of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners.[43]

Since the pertinent incidents of the case took place prior to the effectivity of said issuance, however, the depositions sought by LCDC shall be evaluated based on the jurisprudence and rules then prevailing, particularly Sec. 1, Rule 23 of the 1997 Rules of Court which provides as follows:

SECTION 1. Depositions pending action, when may be taken.— By leave of court after jurisdiction has been obtained over any defendant or over property which is the subject of the action, or without such leave after an answer has been served, the testimony of any person, whether a party or not, may be taken, at the instance of any party, by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. (Emphasis supplied).

As correctly observed by the CA, LCDC complied with the above quoted provision as it made its notice to take depositions after the answers of the defendants have been served. LCDC having complied with the rules then prevailing, the trial court erred in canceling the previously scheduled depositions.

While it is true that depositions may be disallowed by trial courts if the examination is conducted in bad faith; or in such a manner as to annoy, embarrass, or oppress the person who is the subject of the inquiry, or when the inquiry touches upon the irrelevant or encroaches upon the recognized domains of privilege,[44] such circumstances, however are absent in the case at bar.

The RTC cites the delay in the case as reason for canceling the scheduled depositions. While speedy disposition of cases is important, such consideration however should not outweigh a thorough and comprehensive evaluation of cases, for the ends of justice are reached not only through the speedy disposal of cases but more importantly, through a meticulous and comprehensive evaluation of the merits of the case.[45] Records also show that the delay of the case is not attributable to the depositions sought by LCDC but was caused by the many pleadings filed by all the parties including petitioners herein.

The argument that the taking of depositions would cause unnecessary duplicity as the intended deponents shall also be called as witnesses during trial, is also without merit.

The case of *Fortune Corp. v. Court of Appeals*[46] which already settled the matter, explained that:

The availability of the proposed deponent to testify in court does not constitute "good cause" to justify the court's order that his deposition shall not be taken. That the witness is unable to attend or testify is one of the grounds when the deposition of a witness may be used in court during the trial. But the same reason cannot be successfully invoked to prohibit the taking of his deposition.

The right to take statements and the right to use them in court have been kept entirely distinct. The utmost freedom is allowed in taking depositions; restrictions are imposed upon their use. As a result, there is accorded

the widest possible opportunity for knowledge by both parties of all the facts before the trial. Such of this testimony as may be appropriate for use as a substitute for viva voce examination may be introduced at the trial; the remainder of the testimony, having served its purpose in revealing the facts to the parties before trial, drops out of the judicial picture.

x x x [U]nder the concept adopted by the new Rules, the deposition serves the double function of a method of discovery - with use on trial not necessarily contemplated - and a method of presenting testimony. Accordingly, no limitations other than relevancy and privilege have been placed on the taking of depositions, while the use at the trial is subject to circumscriptions looking toward the use of oral testimony wherever practicable.[47]

Petitioner also argues that LCDC has no evidence to support its claims and that it was only after the filing of its Complaint that it started looking for evidence through the modes of discovery.

On this point, it is well to reiterate the Court's pronouncement in *Republic v. Sandiganbayan*[48]:

What is chiefly contemplated is the discovery of every bit of information which may be useful in the preparation for trial, such as the identity and location of persons having knowledge of relevant facts; those relevant facts themselves; and the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things. Hence, "the deposition-discovery rules are to be accorded a broad and liberal treatment. No longer can the time-honored cry of "fishing expedition" serve to preclude a party from inquiring into the facts underlying his opponent's case. Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation. To that end, either party may compel the other to disgorge whatever facts he has in his possession. The deposition-discovery procedure simply advances the stage at which the disclosure can be compelled from the time of trial to the period preceding it, thus reducing the possibility, of surprise.[49]

It also does not escape this Court's attention that the trial court, before dismissing LCDC's complaint, gave LCDC two options: (a) enter into a pre-trial conference, advising LCDC that what it would like to obtain at the deposition may be obtained at the pre-trial conference, thus expediting early termination of the case; and (b) terminate the pre-trial conference and apply for deposition later on. The trial court erred in forcing LCDC to choose only from these options and in dismissing its complaint upon LCDC's refusal to choose either of the two.

The information LCDC seeks to obtain through the depositions of Elena Sy, the Finance Officer of Hyatt and Pacita Tan Go, an Account Officer of RCBC, may not be obtained at the pre-trial conference, as the said deponents are not parties to the pre-trial conference.

As also pointed out by the CA:

x x x To unduly restrict the modes of discovery during trial, would defeat the very purpose for which it is intended, as a pre-trial device. By then, the issues would have been confined only on matters defined during pre-trial. The importance of the modes of discovery cannot be gainsaid in this case in view of the nature of the controversy involved and the conflicting interest claimed by the parties.[50]

Deposition is chiefly a mode of discovery, the primary function of which is to supplement the pleadings for the purpose of disclosing the real matters of dispute between the parties and affording an adequate factual basis during the preparation for trial.[51]

Further, in *Republic v. Sandiganbayan*[52] the Court explained that:

The truth is that "evidentiary matters" may be inquired into and learned by the parties before the trial. Indeed, it is the purpose and policy of the law that the parties — before the trial if not indeed even before the pre-trial — should discover or inform themselves of all the facts relevant to the action, not only those known to them

individually, but also those known to their adversaries; in other words, the desideratum is that civil trials should not be carried on in the dark; and the Rules of Court make this ideal possible through the deposition—discovery mechanism set forth in Rules 24 to 29. The experience in other jurisdictions has been the ample discovery before trial, under proper regulation, accomplished one of the most necessary ends of modern procedure; it not only eliminates unessential issues from trials thereby shortening them considerably, but also requires parties to play the game with the cards on the table so that the possibility of fair settlement before trial is measurably increased.

As just intimated, the deposition-discovery procedure was designed to remedy the conceded inadequacy and cumbersomeness of the pre-trial functions of notice-giving, issue-formulation and fact revelation theretofore performed primarily by the pleadings.

The various modes or instruments of discovery are meant to serve (1) as a device, along with the pre-trial hearing under Rule 20, to narrow and clarify the basic issues between the parties, and (2) as a device for ascertaining the facts relative to those issues. The evident purpose is, to repeat, to enable the parties, consistent with recognized privileges, to obtain the fullest possible knowledge of the issues and facts before civil trials and thus prevent that said trials are carried on in the dark.[53] (emphasis supplied)

In this case, the information sought to be obtained through the depositions of Elena and Pacita are necessary to fully equip LCDC in determining what issues will be defined at the pre-trial. Without such information before pre-trial, LCDC will be forced to prosecute its case in the dark — the very situation which the rules of discovery seek to prevent. Indeed, the rules on discovery seek to make trial less a game of blind man's bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent. [54]

Considering the foregoing, the Court finds that the CA was correct in remanding the case to the trial court and ordering the depositions to proceed.

WHEREFORE, the petition is denied for lack of merit.

Costs against petitioner.

SO ORDERED.

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

[1] Rollo, pp. 40-49, penned by Associate Justice Corona Ibay-Somera and concurred in by Associate Justices Portia Aliño-Hormachuelos and Elvi John S. Asuncion.

[2] Id. at 51-52.

[3] Records, pp. 1-6. See also CA Decision in CA G.R. CV No. 57119, rollo, p. 41.

[4] Id. at 40-46.

[5] Id. at 133-140.

[6] Id. at 553-557, 567, 613.

[7] Id. at 745-747.

- for Elena C. Sy, (by plaintiff) on September 17, 1996 at 2:00 o'clock in the afternoon;

- for Manuel Ley (by defendant Hyatt) on September 24, 1996 at 2:00 o'clock in the afternoon.

- for Yu He Ching (by plaintiff) on September 26, 1996 at 2:00 p.m.
- for Manuel Ley and Janet Ley (by defendant Princeton) on October 1, 1996 at 2:00 p.m.
- for Pacita Tan Go (by plaintiff) on October 3, 1996 at 2:00 p.m.

[8] Id. at 785.

The fallo of which reads:

"WHEREFORE, in order not to delay the early termination of this case, all depositions set for hearing are hereby cancelled and set this case for Pre-trial on November 14, 1996 at 2:00 o'clock in the afternoon."

[9] Id. at 790-796.

[10] Id. at 808.

[11] Id. at 815-818.

[12] Ley Construction & Development Corp. v. Hyatt Industrial Manufacturing Corp., 393 Phil. 633, 636-638 (2000). See also Petition, rollo, pp. 13-14.

[13] Records, at 836, December 3, 1996 RTC Order.

[14] Should be "April 8, 1994."

[15] Records, pp. 835-837.

[16] Id. at 838-847.

[17] Id. at 872-873.

[18] Rollo, p. 40.

[19] Penned by Justice Hector L. Hofileña, with the concurrence of Justices Artemon D. Luna and Artemio G. Tuquero.

[20] Ley Construction v. Hyatt, supra note 12, at 640.

[21] Id. at 636.

[22] Ley Construction v. Hyatt, supra note 12.

[23] Rollo, pp. 48-49.

[24] Id. at 44-49.

[25] Id. at 51-52.

[26] Id. at 16-17.

[27] Id. at 17-20.

[28] Id. at 20-24.

[29] Id. at 24.

[30] Id. at 60-63.

[31] Id. at 63-77.

[32] Id. at 82-83.

[33] Id. at 97-110; 112-168.

[34] Id. at 187.

[35] Id. at 170-186.

[36] Ley Construction v. Hyatt, *supra* note 12, at 638-639.

[37] Id. at 640-643.

[38] Jonathan Landoil International Co. Inc. v. Mangudadatu, G.R. No. 155010, August 16, 2004, 436 SCRA 559, 575.

[39] Ayala Land, Inc. v. Tagle, G.R. No. 153667, August 11, 2005, 466 SCRA 521, 532; Jonathan Landoil v. Mangudadatu, *supra*, at 573.

[40] Jonathan Landoil v. Mangudadatu, *supra*, at 574.

[41] Id., See also Secs. 1 & 4 of Rule 23 of the Rules of Court.

[42] Ayala Land, Inc. v. Tagle, *supra* at 531.

[43] A.M. No. 03-1-09-SC, pars. I.A. 1.2; 2(e).

[44] Jonathan Landoil v. Mangudadatu, *supra*, at 573.

[45] Dulay v. Dulay, G.R. No. 158857, November 11, 2005.

[46] G.R. No. 108119, January 19, 1994, 229 SCRA 355.

[47] Id. at 376-377.

[48] G.R. No. 90478, November 21, 1991, 204 SCRA 212.

[49] Id. at 224.

[50] Rollo, pp. 45-46.

[51] Dulay v. Dulay, *supra*; Ayala Land v. Tagle, *supra* at 530; Jonathan Landoil v. Mangudadatu, *supra*, at 573.

[52] *Supra* note 48.

[53] Id. at 222-223.

[54] Fortune Corp. v. Court of Appeals, *supra* at 363.

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