

UNIVERSAL ROBINA CORPORATION, PETITIONER, VS. ALBERT LIM, DOING BUSINESS UNDER THE NAME AND STYLE “NEW H-R GROCERY,” RESPONDENT.

G.R. NO. 154338. October 05, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolutions dated January 16, 2002 and July 1, 2002 of the Court of Appeals in CA-G.R. SP No. 67368.

The present controversy stemmed from a contract of sale between Universal Robina Corporation, petitioner, and Albert Lim, respondent. Pursuant to the contract, petitioner sold to respondent grocery products in the total amount of P808,059.88. After tendering partial payments, respondent refused to settle his obligation despite petitioner's repeated demands.

Thus, on May 31, 1999, petitioner filed with the Regional Trial Court, Branch 227, Quezon City, a complaint against respondent for a sum of money, docketed as Civil Case No. Q-99-37791.[1]

On June 22, 1999, the trial court issued an Order dismissing the complaint *motu proprio* on grounds of lack of jurisdiction and improper venue, thus:

The case is misplaced with respect to jurisdiction and venue. There is not even a remote connection by the parties to Quezon City, where this Regional Trial Court sits, the plaintiff corporation has principal office at Pasig City and the defendant is, as provided in the complaint, from Laoag City.

Wherefore, premises considered, this case is hereby DISMISSED without prejudice for improper venue and for lack of jurisdiction.[2]

Accordingly, petitioner filed a motion for reconsideration together with an amended complaint alleging that the parties agreed that the proper venue for any dispute relative to the transaction is Quezon City.

In an Order dated October 11, 1999, the trial court granted the motion and admitted petitioner's amended complaint.

On December 6, 1999, summons was served upon respondent. For his failure to file an answer seasonably and upon motion of petitioner, the trial court issued an Order dated September 12, 2000 declaring him in default and allowing petitioner to present its evidence *ex parte*.[3]

However, on April 17, 2001, the trial court, still unsure whether venue was properly laid, issued an Order directing petitioner to file a memorandum of authorities on whether it can file a complaint in Quezon City.[4] Subsequently, on May 11, 2001, the trial court again issued an Order dismissing the complaint on the ground of improper venue, thus:

It appears that there is no connection whatsoever between Quezon City and the parties. Plaintiff's official place of business is in Pasig whereas the defendant's residence is stated to be in Laoag City – both stipulated in the Complaint. The filing is based on the stipulation at the back of the delivery receipt that venue shall be in Quezon City --- which is not even stated in the Complaint nor admitted to have been signed by the defendant.

WHEREFORE, premises considered, venue is hereby declared to have been improperly laid. This case is hereby dismissed without prejudice to filing in the proper venue.[5]

Petitioner filed a motion for reconsideration but it was denied by the trial court in its Resolution dated August 15, 2001.[6]

Petitioner then filed with the Court of Appeals a petition for review. But it was dismissed due to petitioner's failure to attach thereto an explanation why copies of the petition were not served by personal service but by registered mail, in violation of Section 11, Rule 14 of the 1997 Rules of Civil Procedure, as amended.[7] Petitioner filed a motion for reconsideration but it was likewise denied by the appellate court in a Resolution dated July 1, 2002, thus:

After a careful assessment of the petitioner's motion for reconsideration of the Resolution dated March 21, 2002 dismissing the instant case for failure to comply with Section 11, Rule 14, this Court finds the reasons therein alleged to be not well-taken.

Moreover, Supreme Court Circular No. 1-88 and Administrative Circular No. 3-96, provide that subsequent compliance with the requirements of a petition for review/certiorari shall not warrant reconsideration of the order of dismissal unless the court is fully satisfied that the non-compliance with the said requirements was not in any way attributable to the party, despite due negligence on his part, and that there are highly justifiable and compelling reasons for the court to make such other disposition as it may deem just and equitable.

We find such reasons wanting in the present case.

Besides, after a restudy of the facts, law and jurisprudence, as well as the dispositions already contained in the assailed Resolutions of public respondent, we find the present petition for certiorari to be patently without merit, and the questions raised therein are too unsubstantial to require consideration.

WHEREFORE, the motion for reconsideration is hereby DENIED for utter lack of merit.[8]

Hence, this petition.

The fundamental issue being raised is whether the trial court may dismiss *motu proprio* petitioner's complaint on the ground of improper venue.

Sections 2 and 4, Rule 4 of the same Rules provide:

Sec. 2. Venue of personal actions. – All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

Sec. 4. When Rule not applicable. – This Rule shall not apply –

(a) In those cases where a specific rule or law provides otherwise; or

(b) Where the parties have validly agreed in writing before the filing of the action on the exclusive venue thereof.

Clearly, in personal actions, the plaintiff may commence an action either in the place of his or her residence or the place where the defendant resides. However, the parties may agree to a specific venue which could be in a place

where neither of them resides.

Corollarily, Section 1, Rule 9 of the same Rules provides for the instances when the trial court may *motu proprio* dismiss a claim, thus:

Section 1. Defenses and objections not pleaded. – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

Implicit from the above provision is that improper venue not impleaded in the motion to dismiss or in the answer is deemed waived. Thus, a court may not dismiss an action *motu proprio* on the ground of improper venue as it is not one of the grounds wherein the court may dismiss an action *motu proprio* on the basis of the pleadings.

In *Dacoycoy v. Intermediate Appellate Court*,^[9] this Court held that a trial court may not *motu proprio* dismiss a complaint on the ground of improper venue, thus:

Dismissing the complaint on the ground of improper venue is certainly not the appropriate course of action at this stage of the proceedings, particularly as venue, in inferior courts as well as in the courts of first instance (now RTC), may be waived expressly or impliedly. Where the defendant fails to challenge timely the venue in a motion to dismiss as provided by Section 4 of Rule 4 of the Rules of Court, and allows the trial to be held and a decision to be rendered, he cannot on appeal or in a special action be permitted to belatedly challenge the wrong venue, which is deemed waived.

Indeed, it was grossly erroneous for the trial court to have taken a procedural short-cut by dismissing *motu proprio* the complaint on the ground of improper venue without first allowing the procedure outlined in the rules of court to take its proper course. Although we are for the speedy and expeditious resolution of cases, justice and fairness take primary importance. The ends of justice require that respondent trial court faithfully adhere to the rules of procedure to afford not only the defendant, but the plaintiff as well, the right to be heard on his cause.

In *Rudolf Lietz Holdings Inc. v. Registry of Deeds of Parañaque*,^[10] the Court likewise held that a trial court may not *motu proprio* dismiss a complaint on the ground of improper venue, thus:

Rule 9, Section 1 of the 1997 Rules of Civil Procedure states that defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. The court may only dismiss an action *motu proprio* in case of lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata* and prescription. Therefore, the trial court in this case erred when it dismissed the petition *motu proprio*. It should have waited for a motion to dismiss or a responsive pleading from respondent, raising the objection or affirmative defense of improper venue, before dismissing the petition.

In the instant case, respondent, despite proper service of summons, failed to file an answer and was thus declared in default by the trial court. Verily, having been declared in default, he lost his standing in court and his right to adduce evidence and present his defense,^[11] including his right to question the propriety of the venue of the action.

WHEREFORE, the Petition for Review is GRANTED. The assailed Resolutions of the Court of Appeals in CA-G.R. SP No. 67368 are REVERSED. The Regional Trial Court, Branch 227, Quezon City is ordered to REINSTATE Civil Case No. Q-99-37791 and conduct an *ex parte* hearing for the reception of petitioner's evidence and dispose of the case with dispatch.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Rollo, p. 63.

[2] Id., p. 73.

[3] Id., p. 90.

[4] Id., p. 91.

[5] Id., p. 61.

[6] Id., p. 62.

[7] Id., p. 42.

[8] Id., p. 31.

[9] G.R. No. 74854, April 2, 1991, 195 SCRA 64.

[10] 398 Phil. 626 (2000).

[11] Rural Bank of Sta. Catalina v. Land Bank of the Philippines, G.R. No. 148019, July 26, 2004, 435 SCRA 183.

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