PIONEER CONCRETE PHILIPPINES, INC., PIONEER PHILIPPINES HOLDINGS, AND PHILIP J. KLEPZIG, PETITIONERS, VS. ANTONIO D. TODARO, RESPONDENT.

G.R. No. 154830. June 08, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari seeking to annul and set aside the Decision[1] of the Court of Appeals (CA) dated October 31, 2000 in CA-G.R. SP No. 54155 and its Resolution[2] of August 21, 2002 denying petitioners' Motion for Reconsideration.

The factual and procedural antecedents of the case are as follows:

On January 16, 1998, herein respondent Antonio D. Todaro (Todaro) filed with the Regional Trial Court (RTC) of Makati City, a complaint for Sum of Money and Damages with Preliminary Attachment against Pioneer International Limited (PIL), Pioneer Concrete Philippines, Inc. (PCPI), Pioneer Philippines Holdings, Inc. (PPHI), John G. McDonald (McDonald) and Philip J. Klepzig (Klepzig).[3]

In his complaint, Todaro alleged that PIL is a corporation duly organized and existing under the laws of Australia and is principally engaged in the ready-mix concrete and concrete aggregates business; PPHI is the company established by PIL to own and hold the stocks of its operating company in the Philippines; PCPI is the company established by PIL to undertake its business of ready-mix concrete, concrete aggregates and quarrying operations in the Philippines; McDonald is the Chief Executive of the Hongkong office of PIL; and, Klepzig is the President and Managing Director of PPHI and PCPI; Todaro has been the managing director of Betonval Readyconcrete, Inc. (Betonval), a company engaged in pre-mixed concrete and concrete aggregate production; he resigned from Betonval in February 1996; in May 1996, PIL contacted Todaro and asked him if he was available to join them in connection with their intention to establish a ready-mix concrete plant and other related operations in the Philippines; Todaro informed PIL of his availability and interest to join them; subsequently, PIL and Todaro came to an agreement wherein the former consented to engage the services of the latter as a consultant for two to three months, after which, he would be employed as the manager of PIL's ready-mix concrete operations should the company decide to invest in the Philippines; subsequently, PIL started its operations in the Philippines; however, it refused to comply with its undertaking to employ Todaro on a permanent basis.[4]

Instead of filing an Answer, PPHI, PCPI and Klepzig separately moved to dismiss the complaint on the grounds that the complaint states no cause of action, that the RTC has no jurisdiction over the subject matter of the complaint, as the same is within the jurisdiction of the NLRC, and that the complaint should be dismissed on the basis of the doctrine of forum non conveniens.[5]

In its Order dated January 4, 1999, the RTC of Makati, Branch 147, denied herein petitioners' respective motions to dismiss.[6] Herein petitioners, as defendants, filed an Urgent Omnibus Motion[7] for the reconsideration of the trial court's Order of January 4, 1999 but the trial court denied it via its Order[8] dated June 3, 1999.

On August 3, 1999, herein petitioners filed a Petition for Certiorari with the CA.[9] On October 31, 2000, the CA rendered its presently assailed Decision denying herein petitioners' Petition for Certiorari. Petitioners filed a Motion for Reconsideration but the CA denied it in its Resolution dated August 21, 2002.

Hence, herein Petition for Review on Certiorari based on the following assignment of errors:

> A.
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> THE COURT OF APPEALS' CONCLUSION THAT THE COMPLAINT STATES A CAUSE OF ACTION AGAINST PETITIONERS IS WITHOUT ANY LEGAL BASIS. THE ANNEXES TO THE COMPLAINT CLEARLY BELIE THE ALLEGATION OF EXISTENCE OF AN EMPLOYMENT CONTRACT BETWEEN PRIVATE RESPONDENT AND PETITIONERS.
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> B.
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> THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW AND WITH APPLICABLE DECISIONS OF THE SUPREME COURT WHEN IT UPHELD THE JURISDICTION OF THE TRIAL COURT DESPITE THE FACT THAT THE COMPLAINT INDUBITABLY SHOWS THAT IT IS AN ACTION FOR AN ALLEGED BREACH OF EMPLOYMENT CONTRACT, AND HENCE, FALLS WITHIN THE EXLCUSIVE JURISDICTION OF THE NATIONAL LABOR RELATIONS COMMISSION.
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> C
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> THE COURT OF APPEALS DISREGARDED AND FAILED TO CONSIDER THE PRINCIPLE OF "FORUM NON CONVENIENS" AS A VALID GROUND FOR DISMISSING A COMPLAINT.[10]

In their first assigned error, petitioners contend that there was no perfected employment contract between PIL and herein respondent. Petitioners assert that the annexes to respondent's complaint show that PIL's offer was for respondent to be employed as the manager only of its pre-mixed concrete operations and not as the company's managing director or CEO. Petitioners argue that when respondent reiterated his intention to become the manager of PIL's overall business venture in the Philippines, he, in effect did not accept PIL's offer of employment and instead made a counter-offer, which, however, was not accepted by PIL. Petitioners also contend that under Article 1318 of the Civil Code, one of the requisites for a contract to be perfected is the consent of the contracting parties; that under Article 1319 of the same Code, consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract; that the offer must be certain and the acceptance absolute; that a qualified acceptance constitutes a counter-offer. Petitioners assert that since PIL did not accept respondent's counter-offer, there never was any employment contract that was perfected between them.

Petitioners further argue that respondent's claim for damages based on the provisions of Articles 19 and 21 of the Civil Code is baseless because it was shown that there was no perfected employment contract.

Assuming, for the sake of argument, that PIL may be held liable for breach of employment contract, petitioners contend that PCPI and PPHI, may not also be held liable because they are juridical entities with personalities which are separate and distinct from PIL, even if they are subsidiary corporations of the latter. Petitioners also aver that the annexes to respondent's complaint show that the negotiations on the alleged employment contract took place between respondent and PIL through its office in Hongkong. In other words, PCPI and PPHI were not privy to the negotiations between PIL and respondent for the possible employment of the latter; and under Article 1311 of the Civil Code, a contract is not binding upon and cannot be enforced against one who was not a party to it even if he be aware of such contract and has acted with knowledge thereof.

Petitioners further assert that petitioner Klepzig may not be held liable because he is simply acting in his capacity

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as president of PCPI and PPHI and settled is the rule that an officer of a corporation is not personally liable for acts done in the performance of his duties and within the bounds of the authority conferred on him. Furthermore, petitioners argue that even if PCPI and PPHI are held liable, respondent still has no cause of action against Klepzig because PCPI and PPHI have personalities which are separate and distinct from those acting in their behalf, such as Klepzig.

As to their second assigned error, petitioners contend that since herein respondent's claims for actual, moral and exemplary damages are solely premised on the alleged breach of employment contract, the present case should be considered as falling within the exclusive jurisdiction of the NLRC.

With respect to the third assigned error, petitioners assert that the principle of forum non conveniens dictates that even where exercise of jurisidiction is authorized by law, courts may refuse to entertain a case involving a foreign element where the matter can be better tried and decided elsewhere, either because the main aspects of the case transpired in a foreign jurisdiction or the material witnesses have their residence there and the plaintiff sought the forum merely to secure procedural advantage or to annoy or harass the defendant. Petitioners also argue that one of the factors in determining the most convenient forum for conflicts problem is the power of the court to enforce its decision. Petitioners contend that since the majority of the defendants in the present case are not residents of the Philippines, they are not subject to compulsory processes of the Philippine court handling the case for purposes of requiring their attendance during trial. Even assuming that they can be summoned, their appearance would entail excessive costs. Petitioners further assert that there is no allegation in the complaint from which one can conclude that the evidence to be presented during the trial can be better obtained in the Philippines. Moreover, the events which led to the present controversy occurred outside the Philippines. Petitioners conclude that based on the foregoing factual circumstances, the case should be dismissed under the principle of forum non conveniens.

In his Comment, respondent extensively quoted the assailed CA Decision maintaining that the factual allegations in the complaint determine whether or not the complaint states a cause of action.

As to the question of jurisdiction, respondent contends that the complaint he filed was not based on a contract of employment. Rather, it was based on petitioners' unwarranted breach of their contractual obligation to employ respondent. This breach, respondent argues, gave rise to an action for damages which is cognizable by the regular courts.

Even assuming that there was an employment contract, respondent asserts that for the NLRC to acquire jurisdiction, the claim for damages must have a reasonable causal connection with the employer-employee relationship of petitioners and respondent.

Respondent further argues that there is a perfected contract between him and petitioners as they both agreed that the latter shall employ him to manage and operate their ready-mix concrete operations in the Philippines. Even assuming that there was no perfected contract, respondent contends that his complaint alleges an alternative cause of action which is based on the provisions of Articles 19 and 21 of the Civil Code.

As to the applicability of the doctrine of forum non conveniens, respondent avers that the question of whether a suit should be entertained or dismissed on the basis of the principle of forum non conveniens depends largely upon the facts of the particular case and is addressed to the sound discretion of the trial judge, who is in the best position to determine whether special circumstances require that the court desist from assuming jurisdiction over the suit.

The petition lacks merit.

Section 2, Rule 2 of the Rules of Court, as amended, defines a cause of action as the act or omission by which a

party violates a right of another. A cause of action exists if the following elements are present: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and, (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages.[11]

In Hongkong and Shanghai Banking Corporation Limited v. Catalan,[12] this Court held:

> The elementary test for failure to state a cause of action is whether the complaint alleges facts which if true would justify the relief demanded. Stated otherwise, may the court render a valid judgment upon the facts alleged therein? The inquiry is into the sufficiency, not the veracity of the material allegations. If the allegations in the complaint furnish sufficient basis on which it can be maintained, it should not be dismissed regardless of the defense that may be presented by the defendants.[13]

Moreover, the complaint does not have to establish or allege facts proving the existence of a cause of action at the outset; this will have to be done at the trial on the merits of the case.[14] To sustain a motion to dismiss for lack of cause of action, the complaint must show that the claim for relief does not exist, rather than that a claim has been defectively stated, or is ambiguous, indefinite or uncertain.[15]

Hence, in resolving whether or not the Complaint in the present case states a cause of action, the trial court correctly limited itself to examining the sufficiency of the allegations in the Complaint as well as the annexes thereto. It is proscribed from inquiring into the truth of the allegations in the Complaint or the authenticity of any of the documents referred or attached to the Complaint, since these are deemed hypothetically admitted by the respondent.

This Court has reviewed respondent's allegations in its Complaint. In a nutshell, respondent alleged that herein petitioners reneged on their contractual obligation to employ him on a permanent basis. This allegation is sufficient to constitute a cause of action for damages.

The issue as to whether or not there was a perfected contract between petitioners and respondent is a matter which is not ripe for determination in the present case; rather, this issue must be taken up during trial, considering that its resolution would necessarily entail an examination of the veracity of the allegations not only of herein respondent as plaintiff but also of petitioners as defendants.

The Court does not agree with petitioners' contention that they were not privy to the negotiations for respondent's possible employment. It is evident from paragraphs 24 to 28 of the Complaint[16] that, on various occasions, Klepzig conducted negotiations with respondent regarding the latter's possible employment. In fact, Annex "H"[17] of the complaint shows that it was Klepzig who informed respondent that his company was no longer interested in employing respondent. Hence, based on the allegations in the Complaint and the annexes attached thereto, respondent has a cause of action against herein petitioners.

As to the question of jurisdiction, this Court has consistently held that where no employer-employee relationship exists between the parties and no issue is involved which may be resolved by reference to the Labor Code, other labor statutes or any collective bargaining agreement, it is the Regional Trial Court that has jurisdiction.[18] In the present case, no employer-employee relationship exists between petitioners and respondent. In fact, in his complaint, private respondent is not seeking any relief under the Labor Code, but seeks payment of damages on account of petitioners' alleged breach of their obligation under their agreement to employ him. It is settled that an action for breach of contractual obligation is intrinsically a civil dispute.[19] In the alternative, respondent seeks redress on the basis of the provisions of Articles 19 and 21 of the Civil Code. Hence, it is clear that the present action is within the realm of civil law, and jurisdiction over it belongs to the regular courts.[20]

With respect to the applicability of the principle of forum non conveniens in the present case, this Court's ruling in Bank of America NT & SA v. Court of Appeals[21] is instructive, to wit:

> The doctrine of forum non conveniens, literally meaning "the forum is inconvenient", emerged in private international law to deter the practice of global forum shopping, that is to prevent non-resident litigants from choosing the forum or place wherein to bring their suit for malicious reasons, such as to secure procedural advantages, to annoy and harass the defendant, to avoid overcrowded dockets, or to select a more friendly venue. Under this doctrine, a court, in conflicts of law cases, may refuse impositions on its jurisdiction where it is not the most "convenient" or available forum and the parties are not precluded from seeking remedies elsewhere.
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> Whether a suit should be entertained or dismissed on the basis of said doctrine depends largely upon the facts of the particular case and is addressed to the sound discretion of the trial court. In the case of Communication Materials and Design, Inc. vs. Court of Appeals, this Court held that "xxx [a] Philippine Court may assume jurisdiction over the case if it chooses to do so; provided, that the following requisites are met: (1) that the Philippine Court is one to which the parties may conveniently resort to; (2) that the Philippine Court is in a position to make an intelligent decision as to the law and the facts; and, (3) that the Philippine Court has or is likely to have power to enforce its decision."
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> Moreover, this Court enunciated in Philsec. Investment Corporation vs. Court of Appeals, that the doctrine of forum non conveniens should not be used as a ground for a motion to dismiss because Sec. 1, Rule 16 of the Rules of Court does not include said doctrine as a ground. This Court further ruled that while it is within the discretion of the trial court to abstain from assuming jurisdiction on this ground, it should do so only after vital facts are established, to determine whether special circumstances require the court's desistance; and that the propriety of dismissing a case based on this principle of forum non conveniens requires a factual determination, hence it is more properly considered a matter of defense.[22] (emphasis supplied)

In the present case, the factual circumstances cited by petitioners which would allegedly justify the application of the doctrine of forum non conveniens are matters of defense, the merits of which should properly be threshed out during trial.

WHEREFORE, the instant petition is DENIED and the assailed Decision and Resolution of the Court of Appeals are AFFIRMED.

Costs against petitioners.

SO ORDERED.

Austria-Martinez, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

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[1] Penned by Justice Oswaldo D. Agcaoili and concurred in by Justices Fermin A. Martin Jr. and Eriberto U. Rosario, Jr.; rollo, p. 75.

[2] Penned by Justice Oswaldo D. Agcaoili and concurred in by Justices Ruben T. Reyes (now CA Presiding Justice) and Martin S. Villarama, Jr., id. at 91.

[3] Id. at 92-104.

[4] Id.

[5] Id. at 120-150.

[6] Id. at 181.

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[7] Id. at 186.

[8] Id. at 233.

[9] CA rollo, p. 1.

[10] Rollo, p. 47.

[11] Nadela v. City of Cebu, 458 Phil. 164, 176 (2003).

[12] G.R. No. 159590, October 18, 2004, 440 SCRA 498.

[13] Id. at 510.

[14] Santos v. De Leon, G.R. No. 140892, September 21, 2005, 470 SCRA 455, 460.

[15] Id.

[16] Rollo, pp. 98-99.

[17] Id. at 116.

[18] Mariño, Jr. v. Gamilla, G.R. No. 132400, Jan. 31, 2005, 450 SCRA 198, 214.

[19] Yusen Air and Sea Service Philippines, Inc. v. Villamor, G.R. No. 154060, August 16, 2005, 467 SCRA 167, 172 citing Dai-Chi Electronics Manufacturing v. Villarama, G.R. No. 112940, November 21, 1994, 238 SCRA 267.

[20] Mariño, Jr. v. Gamilla, id. at 215.

[21] 448 Phil. 181 (2003).

[22] Bank of America NT & SA v. Court of Appeals, supra note 21, at 196-197.

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