

SPOUSES CARLOS AND TERESITA RUSTIA, PETITIONERS, VS. EMERITA RIVERA, RESPONDENT.

G.R. NO. 156903. November 24, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] of the Court of Appeals, dated August 29, 2002, in CA-G.R. SP No. 63265.

In September 1995, Emerita Rivera, respondent, filed with the Metropolitan Trial Court (MeTC), Branch 36, Quezon City, a complaint for sum of money against spouses Carlos and Teresita Rustia, petitioners, and Rosemarie F. Rocha. The complaint was docketed as Civil Case No. 0206. Respondent alleged therein that petitioners obtained from her a loan of P130,000.00, payable within thirty (30) days without need of prior demand. As security for the loan, petitioners executed a promissory note, with Rosemarie Rocha as their co-maker. The loan bears an interest of five percent (5%) per month. Petitioners paid the interest corresponding to the period from January 1991 to March 1994. Thereafter, despite respondent's written demands, they failed to pay any interest or the principal obligation. Respondent then prayed that judgment be rendered ordering petitioners to pay the loan, the accrued interest thereon, and attorney's fees.

After the court's denial of their motion to dismiss the complaint, petitioners filed their answer admitting that respondent extended to them a loan of P130,000.00. However, they denied having agreed to pay interest thereon. While they paid respondent P6,500.00 every month, however, it was for the settlement of the principal obligation. In fact, they overpaid P123,500.00. They prayed that the case be dismissed and that respondent be ordered to refund to them their overpayment plus damages, attorney's fees, and litigation expenses.

During the hearing, respondent offered in evidence petitioners' promissory note and petitioner Teresita Rustia's letter addressed to respondent agreeing to pay 5% monthly interest.

Teresita denied having borrowed P130,000.00 from respondent; that respondent delivered the said amount to petitioners as investment in the latter's business; and that the monthly payment of P6,500.00 they tendered to respondent corresponds to her share in the profits.

On June 11, 1999, the trial court rendered its Decision,[2] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants, as follows:

- Ordering the defendants to pay, jointly and severally, the plaintiff the sum of P130,000.00 plus accrued interest of 5% per month to be reckoned from April 1994 until the same is fully paid;
- Ordering the defendants to pay, jointly and severally, the sum of P10,000.00 as and for attorney's fees;
- Ordering the defendants to pay the costs of suit.

SO ORDERED.

On appeal by petitioners, the Regional Trial Court (RTC), Branch 77, Quezon City affirmed the MeTC's Decision in toto.

Petitioners filed a motion for reconsideration but it was denied by the RTC as it does not contain a notice of the time and place of hearing required by Sections 4 and 5, Rule 15 of the 1997 Rules of Civil Procedure, as amended.

Petitioners filed with the Court of Appeals a petition for review, docketed as CA-G.R. SP No. 63265, but it was denied in a Decision dated August 29, 2002. Their motion for reconsideration was likewise denied.

Hence, the instant petition raising the following issues:

- Whether the Court of Appeals erred in holding that the motion for reconsideration filed with the RTC by petitioners is but a mere scrap of paper for lack of notice of hearing;
- Whether the Court of Appeals erred when it failed to apply Article 1956 of the Civil Code providing that no interest shall be due unless it has been expressly stipulated in writing;

On the first issue, Sections 4 and 5, Rule 15 of the 1997 Rules of Civil Procedure, as amended, provide:

SEC. 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SEC. 5. Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

Section 4 lays the general rule that all written motions shall be set for hearing by the movant, except the non-litigated motions or those which may be acted upon by the court without prejudicing the rights of the adverse party. These ex parte motions include a motion for extension of time to file pleadings,[3] motion for extension of time to file an answer,[4] and a motion for extension of time to file a record on appeal.[5] In *Manila Surety and Fidelity Co., Inc. v. Bath Construction and Company*,[6] we ruled that a notice of time and place of hearing is mandatory for motions for new trial or motion for reconsideration, as in this case. We have reiterated this doctrine in *Magno v. Ortiz*,[7] *Calero v. Yaptichay*,[8] *Vda. de Azarias v. Maddela*,[9] *Phil. Advertising Counselors, Inc. v. Revilla*,[10] *Sacdalan v. Bautista*,[11] *New Japan Motors, Inc. v. Perucho*,[12] *Firme v. Reyes, et al.*,[13] and others. More recently, in *National Commercial Bank of Saudi Arabia v. Court of Appeals*,[14] we reaffirmed the rule that the requirement of notice under Sections 4 and 5, Rule 15 is mandatory and the lack thereof is fatal to a motion for reconsideration.

We thus hold that the Court of Appeals did not err when it affirmed the RTC ruling that petitioners' motion for reconsideration is but a mere scrap of paper because it does not comply with Sections 4 and 5, Rule 15.

Anent the second issue, contrary to petitioners' contention, the trial court found that petitioner Teresita Rustia sent respondent a letter begging the latter's indulgence regarding her difficulty and that of her husband in paying the 5% monthly interest on their P130,000.00 loan. This finding by the trial court was upheld by the RTC and the Court of Appeals. Indeed, such letter proves that petitioners agreed to pay interest. It is basic that findings of fact by the trial court, when affirmed by the Court of Appeals, are binding and conclusive upon this Court.[15] Verily,

the Court of Appeals did not err when it sustained the lower court's finding that respondent is entitled to the payment of interests on the subject loan.

WHEREFORE, we DENY the petition. The challenged Decision of the Court of Appeals dated August 29, 2002 in CA-G.R. SP No. 63265 is AFFIRMED IN TOTO. Costs against petitioners.

SO ORDERED.

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

[1] Rollo, pp. 27-34. Per Associate Justice Cancio C. Garcia (now a member of this Court) and concurred in by Justice Marina L. Buzon and Justice Eliezer R. delos Santos.

[2] Rollo, pp. 44-48.

[3] Moya v. Barton, 76 Phil. 831 (1946); Ballecer v. Bernardo, L-21766, September 30, 1966, 18 SCRA 291.

[4] Amante v. Suñga, L-40491, May 28, 1975, 64 SCRA 192.

[5] Commercial Union Assurance Co., Ltd. v. Lepanto Consolidated Mining Co., L-43342, October 30, 1978, 86 SCRA 79.

[6] L-16636, June 24, 1965, 14 SCRA 435.

[7] L-22670, January 31, 1969, 26 SCRA 692.

[8] L-27654, February 18, 1970, 31 SCRA 562.

[9] L-25932, March 19, 1971, 38 SCRA 35.

[10] L-31869, August 8, 1973, 52 SCRA 246.

[11] L-38014, March 27, 1974, 56 SCRA 175.

[12] L-44387, November 5, 1976, 74 SCRA 14.

[13] L-35858, August 21, 1979, 92 SCRA 713.

[14] G.R. No. 124267, January 31, 2003, 396 SCRA 541.

[15] Megaworld Properties and Holdings, Inc. v. Cobarde, G.R. No. 156200, March 31, 2004, 426 SCRA 689, 694, citing C & S Fishfarm Corp. v. Court of Appeals, 394 SCRA 82 (2002); Peñalosa v. Santos, 363 SCRA 545 (2001), Mercado v. People, 392 SCRA 687 (2002).

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