

CAMARINES SUR IV ELECTRIC COOPERATIVE, INC., PETITIONER, VS. EXPEDITA L. AQUINO, RESPONDENT.

G.R. No. 167691. September 23, 2008

Ponente: CORONA, J.

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CORONA, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court seeks to set aside the January 5, 2005 decision[1] and March 22, 2005 resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 81666.

Respondent Expedita L. Aquino bought several personal computers and leased a commercial building in Tigaon, Camarines Sur for purposes of establishing a computer gaming business. She had the electrical service in the building restored because the former tenant, a certain Mrs. Paglinawan,[3] had it disconnected when she gave up the occupancy thereof. Respondent paid the reconnection fee as well as the fee corresponding to the electric consumption covering the period of April 17, 2002 to May 16, 2002 to petitioner Camarines Sur IV Electric Cooperative, Inc. in Mrs. Paglinawan's name. However, respondent failed to pay the electric bills in the succeeding months.

Because of adverse reports, petitioner conducted an inspection of the electrical wiring of the leased building, took pictures thereof and gave respondent's overseer a report of pilferage of electricity with the notation:

"Disconnected w/light/illegal tapping."

Petitioner alleged that respondent violated RA 7832[4] and required her to pay the differential billing and penalty within 48 hours; otherwise, the electric service would be disconnected. A conciliatory conference between the parties was held where petitioner presented respondent with two options: deposit the differential billing of P3,367.00 to avoid disconnection during the pendency of the criminal action to be filed by petitioner or pay the amount of the differential billing and the penalty of P15,000.00, in which case the matter would be considered closed and the filing of a criminal case dispensed with.

Respondent refused to choose any of the options as she felt that to do so would be tantamount to an admission of guilt. Consequently, her electrical service was permanently disconnected on January 23, 2003.

Respondent filed a complaint for damages against petitioner in the Regional Trial Court (RTC). She alleged that due to the disconnection of electrical services, her business operation was interrupted causing her damages in the form of unrealized income, rentals paid for the premises she was unable to use and renovation costs of the leased building.

Petitioner filed an answer with affirmative defenses. It alleged, among others, that the complaint failed to state a cause of action. According to petitioner, no contract to supply electricity was entered into between them. Thus, respondent's complaint had no basis and should be dismissed.

Respondent subsequently amended her complaint. Petitioner still insisted on moving for its dismissal, reiterating

that the complaint stated no cause of action.

The trial court initially denied the motion to dismiss in an order dated July 10, 2003. It held that, as respondent was in possession of the premises to which petitioner supplied electricity, there was, in a way, a contract between the parties.

When petitioner moved for reconsideration, the court a quo, in its December 22, 2003 order, made a turnaround and ruled in petitioner's favor (second RTC order).[5] It stated that respondent's payment of the reconnection fee did not suffice to create a new contract between the parties as the same was made in Mrs. Paglinawan's name, whose contract with petitioner was terminated upon the disconnection of the electrical service.

Respondent received a copy of the second RTC order on December 23, 2003 and moved for reconsideration thereof on January 5, 2004. Respondent mailed a copy of her motion for reconsideration (with notice of hearing) to petitioner's counsel only on the same date. The notice of hearing indicated that the hearing of the motion was set on January 9, 2004. Petitioner filed an opposition thereto, alleging, among others, that the motion should be denied as respondent did not comply with the 3-day rule (as provided in the Rules of Court).

On February 3, 2004, the trial court denied respondent's motion for reconsideration for lack of merit.[6] However, it was silent on the motion's non-compliance with the 3-day rule.

Respondent filed an appeal in the CA on February 5, 2004, insisting that the complaint sufficiently stated a cause of action for damages. For its part, petitioner reiterated its stand on the issue. It also called the CA's attention to the alleged flaw in respondent's motion for reconsideration in the

RTC. It argued that the motion was a pro forma motion (since it violated the 3-day rule) which should have been dismissed outright by the trial court. Furthermore, it did not stop the running of the 15-day period for respondent to appeal which should have been reckoned from her receipt of the second RTC order on December 23, 2003. Consequently, her February 5, 2004 notice of appeal (which was filed 44 days after she received a copy of the second RTC order) was filed late.

The appellate court held that the RTC erred in dismissing the complaint as indeed a cause of action existed. The CA ruled that the matter of whether or not a contract, express or implied, existed between the parties was a matter of defense that must be resolved in a trial on the merits. It stated that such issue was not relevant in a motion to dismiss based on failure to state a cause of action. However, it did not pass upon the issue relative to the timeliness of respondent's appeal.

Petitioner filed a motion for reconsideration. It was denied. Hence, this petition.

The issues before us are: (1) whether or not respondent's complaint for damages stated a cause of action against petitioner and (2) whether or not respondent's appeal in the CA was filed on time.

There is a cause of action when the following elements are present: (1) the legal right of the plaintiff; (2) the correlative obligation of the defendant and (3) the act or omission of the defendant in violation of said legal right.[7] In determining the presence of these elements, only the facts alleged in the complaint must be considered. The test is whether the court can render a valid judgment on the complaint based on the facts alleged and the prayer asked for,[8] such that the facts alleged in the complaint, if true, would justify the relief sought. Only ultimate facts, not legal conclusions or evidentiary facts, are considered for purposes of applying the test.[9]

Based on the allegations in the amended complaint, we hold that respondent stated a cause of action for damages. Respondent was in possession of the property supplied with electricity by petitioner when the electric service was disconnected. This resulted in the alleged injury complained of which can be threshed out in a trial on the merits.

Whether one is a party or not in a contract is not determinative of the existence of a cause of action. Participation in a contract is not an element in considering whether or not a complaint states a cause of action^[10] because even a third party outside the contract can have a cause of action against either or both contracting parties.

Be that as it may, respondent's appeal in the CA should have been denied outright for having been filed out of time.

In its petition in this Court, petitioner insisted that respondent mailed a copy of her motion for reconsideration (with notice of hearing) to its (petitioner's) counsel only on January 5, 2004, although the motion was already scheduled for hearing on January 9, 2004. Respondent should have foreseen that the registered mail, which originated from Naga City, would not be able to reach the law office of petitioner's counsel in Manila at least 3 days before said date. As expected, the mail did not reach petitioner's counsel on time. In fact, he received it only on the day of the hearing itself.^[11] Thus, respondent's motion for reconsideration was fatally flawed for failure to comply with the 3-day rule under Section 4, Rule 15 of the Rules of Court. It did not toll the reglementary period for respondent to appeal the RTC's decision.

We note that respondent's comment did not even touch on the issues of the perceived deficiency in her motion for reconsideration and the timeliness of her appeal in the CA. Although her memorandum briefly discussed these issues, the same was insufficient as it merely reiterated the statement of facts in her appellant's brief in the CA (specifically, as to when she filed said motion in the RTC). No discussion was proffered regarding the date of mailing of a copy of the assailed motion to petitioner's counsel. Furthermore, as if admitting her failure to comply with the mandatory rule on notice of hearing, respondent invoked the much abused exhortation of losing litigants on the primacy of substantial justice over mere technicalities.

Respondent's arguments have no merit.

Section 4, Rule 15 of the Rules of Court provides:

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

Every written motion required to be heard and the notice of 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. (Emphasis supplied)

Time and again, we have held that non-compliance with Section 4 of Rule 15 of the Rules of Court is a fatal defect. A motion which fails to comply with said Rule is a mere scrap of paper. If filed, such motion is not entitled to judicial cognizance.^[12] The fact that the RTC took cognizance of a defective motion, such as requiring the parties to set it for hearing and denying the same for lack of merit, did not cure the defect of said motion.^[13] It did not suspend the running of the period to appeal.^[14]

Based on the foregoing, respondent's defective motion for reconsideration did not stop the running of her period to appeal. Thus, the appeal in the CA should have been dismissed outright as the decision of the RTC had by then already become final and executory.

WHEREFORE, the petition is hereby GRANTED. The January 5, 2005 decision and March 22, 2005 resolution of the Court of Appeals are REVERSED and SET ASIDE and CA-G.R. CV No. 81666 is ordered DISMISSED.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Azcuna and Leonardo-De Castro, JJ., concur.

[1] Penned by Associate Justice (now Presiding Justice) Conrado M. Vasquez, Jr. and concurred in by Associate Justices Josefina Guevara-Salonga and Fernanda Lampas Peralta of the Former Sixth Division of the Court of Appeals. Rollo, pp. 20-28.

[2] Id., p. 29.

[3] Not a party to this case.

[4] The Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994.

[5] Rollo, pp. 43-44.

[6] Id., p. 52.

[7] Ilano v. Espanol, G.R. No. 161756, 16 December 2005, 478 SCRA 365, 372.

[8] Banco Filipino Savings and Mortgage Bank v. CA, G.R. No. 143896, 8 July 2005, 463 SCRA 64, 73 and Abacan, Jr. v. Northwestern University, Inc., G.R. No. 140777, 8 April 2005, 455 SCRA 136, 147, citing Peltan Development, Inc. v. CA, 336 Phil. 824, 833-34 (1997).

[9] Id., citing G & S Transport Corp. v. CA, 432 Phil. 7, 17-18 (2002).

[10] Sarming v. Dy, et al., 432 Phil. 685, 697 (2002).

[11] Per the date stamped on counsel for petitioner's copy of respondent's motion for reconsideration. Rollo, pp. 45-51.

[12] Garcia v. Sandiganbayan, G.R. No. 167103, 31 August 2006, 500 SCRA 631, 639, citing Cruz v. CA, G.R. No. 123340, 29 August 2002, 388 SCRA 72, 80.

[13] Garcia v. Sandiganbayan, supra, at 640, citing Andrada v. CA, No. L-31791, 30 October 1974, 60 SCRA 379, 382 and Pojas v. Gozo-Dadole, G.R. No. 76519, 21 December 1990, 192 SCRA 575, citing Filipinas Fabricators & Sales, Inc. v. Magsino, No. L-47574, 29 January 1988, 157 SCRA 469, 475.

[14] Garcia v. Sandiganbayan, supra, at 639.

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