UNIWIDE SALES, INC., PETITIONER, VS. MIRAFUENTE & NG, INC., RESPONDENT.

G.R. No. 172454. August 17, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Uniwide Sales, Inc. (petitioner) and Mirafuente and Ng, Inc. (respondent), represented by Architect Robert Mirafuente, forged on December 13, 1993 a "DESIGN SERVICES: Architectural Services Agreement"[1] (the agreement) whereby petitioner engaged respondent "to plan and design the proposed UNIWIDE SALES MALL" located at a 10-hectare lot along Roxas Boulevard, Parañaque for a consideration of Two Million Five Hundred Thousand (P2,500,000) Pesos "for Architectural Design Service only." The pertinent portions of the agreement read:

> ARTICLE 1 SCOPE OF WORK
>
> That the scope of work to be done by the Architect, as herein authorized by the Owner, for the subject Project herein referred to consist of professional services for the preparation, planning, design and documentation for architectural drawings of the project. The work is deemed ninety five percent (95%) complete upon submission of complete working drawings and documents for construction. The last five percent (5%) consist of task required during the construction phase as stipulated in this contract.
>
> x x x x
>
> ARTICLE 2 ARCHITECT FEES AND MANNER OF PAYMENTS
>
> - The Owner shall pay the Architect TWO MILLION FIVE HUNDRED THOUSAND PESOS (P2,500,000.00) as compensation for the Architectural Design Service only.
>
> x x x x
>
> - Payments of the Architectural Design Fee shall be made in accordance with the following schedule:

Signing of this Agreement
Ten percent
(10%)

Schematic Design Phase
Fifteen percent
(15%)

Pro-rata to completed phase

Design Development Phase
Thirty Five Percent

(35%)

Pro-rata to completed phase

Construction Document Phase
Thirty Five Percent
(35%)

Pro-rata to completed phase

Construction Phase
Five Percent
(5%)

Pro-rata to contractor's payment

TOTAL One Hundred Percent 100%

> - The Owner agrees to make partial payments during each of the various stages of the Design Architect's work upon his request, provided it is within the framework of the schedule of payments outlined above.
>
> x x x x
>
> x x x x
>
> ARTICLE 5 OTHER EXPENSES CHARGEABLE TO OWNER
>
> x x x x
>
> - Work Suspended or abandoned: If the work of the Architect is abandoned or suspended, in whole or in part, due to causes not attributable to the Architect, the Architect is to be paid by the Owner for services rendered corresponding to the fees due on the stage of suspension or abandonment of work.
>
> - Change Order by Owner: If changes occur after the final design has been approved and confirmed, or changes and additions during construction, then the Architect is to be paid by the Owner for additional services rendered equivalent to six (6) percent of revised construction cost of the affected design submitted by the Contractor concerned.
>
> x x x x[2] (Emphasis in the original; italics and underscoring supplied)

The agreement contained no provision within which respondent was to accomplish its services.

By letter of August 16, 1995 signed by respondent's Production Manager Architect Leo Villamor and noted by Architect Mirafuente, respondent submitted to petitioner, "Attn. Mr. Jimmy Gow, Chairman,"

> x x x x
>
> . . . copies of the Master Plans (e.g. Ground, Second and Third) of the latest plans of above project showing all the changes we have agreed including the changes made from last meeting with your interior design group at City Garden Restaurants.[3]

In the same letter, respondent informed that it had "submitted the same plans together with the complete package of all Architectural plans (1 set) to Arch. Rene De Guzman on August 9, 1995 (TR# BS 00183) to cover our Change Order."

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Petitioner, however, through its consultant Asian Technicon Managers & Consultants, Inc., by letter of August 22, 1995 which was received on August 23, 1995 by respondent, terminated the latter's services. The notice of termination reads:

> Subject: THE COASTAL MALL PROJECT
> NOTICE OF CONTRACT TERMINATION
>
> - Further to our verbal instruction given to you on 08 August 1995 that all your works be put on-hold, the Owner has finally decided to stop all the works immediately and terminate your Consultancy Services for the preparation, planning, design and documentation for Architectural drawings of the Project.
>
> - We hereby serve this Notice of Termination with immediate effect and the Owner will be very grateful to receive from you (if any) all documents and data that have been developed for this project.
>
> - To properly close the contract, you are requested to submit your final statement of account relative to this project. Your usual cooperation is appreciated.[4] (Emphasis and underscoring supplied)

Respondent thereafter sent petitioner a letter of September 18, 1995 following up its "billing amounting to FOUR HUNDRED THOUSAND PESOS (P400,000.00) representing full payment for the Change Order requested by Owner." It also sent another letter of even date following up its "billing amounting to FOUR HUNDRED THIRTY SEVEN THOUSAND FIVE HUNDRED PESOS (P437,500.00) representing full payment for the Construction Document Phase-Architectural Design Fee."[5] These letters were telefaxed to petitioner on October 19, 1995.

As respondent's demands were not acted upon by petitioner, respondent, by letter of December 15, 1995, again demanded payment for its services, particularly for the "Construction Document Phase" and for the "Change Order," in the amounts of P437,500 and P400,000, respectively. Through its Chairman of the Board Jimmy Gow, petitioner replied by letter of December 20, 1995 reading:

> Dear Arch. Mirafuente:
>
> I refer to your letter of December 15, 1995 demanding payment from our firm of the amount of Eight Hundred Thirty Seven Thousand Five Hundred Pesos (Php 837,500.00) for the Uniwide Coastal Mall Project.
>
> Please be advised that we are still in the process of reconciling our records. We would, therefore, appreciate it if you can provide us with the supporting documents for said amount.
>
> We will revert to you as soon as we receive your inputs and our records have been reconciled.
>
> Thank you and may you have a Merry Christmas![6] (Emphasis and underscoring supplied)

Its demands for the payment of its services having remained unheeded, respondent filed on February 27, 1996 with the Regional Trial Court (RTC) of Pasig a complaint for sum of money - P437,500 representing payment due on the "Construction Document Phase" of the project, and P400,000 representing payment due on the "Change Order," plus interest thereon at the rate of 24% per annum from August 9, 1995 until petitioner pays its obligation; attorney's fees equivalent to 25% of the amounts due and demandable; and costs of suit.[7]

Branch 155 of the Pasig RTC found for respondent by Decision of June 19, 2001, ordering petitioner to pay it the following:

> - PhP837,500.00 representing the total amount of unpaid architectural fees owing to the plaintiff, plus legal interest of 6% per annum from the date of extra-judicial demand until the finality of the herein Decision;
>
> - Peso equivalent of 25% of the amount due and collectible as and by way of attorney's fees; and,

- The costs of suit.[8]

On appeal, the Court of Appeals, by Decision of November 14, 2005,[9] affirmed the trial court's decision.

In affirming the trial court's decision, the appellate court found that respondent submitted to petitioner the complete and final set of architectural designs, plans and specifications prior to the termination of its services,[10] but the termination appeared to be a mere ploy of petitioner to avoid its obligation to pay respondent's fees.[11]

The appellate court went on to note that petitioner never presented any proof showing that it was dissatisfied with respondent's services,[12] for if it was, it could have, early on, terminated the same without waiting for respondent to complete its undertakings under the agreement.

The appellate court even noted that at the time petitioner terminated respondent's services, the construction of the mall had already begun.[13]

Hence, the present petition, petitioner faulting the appellate court:

- . . . IN HOLDING THAT THE PETITIONER WAS NOT ABLE TO SUFFICIENTLY PROVE ITS DEFENSE AGAINST THE CLAIM OF THE RESPONDENT.

- . . . IN HOLDING THAT THE RESPONDENT WAS ABLE TO SUBMIT TO THE PETITIONER THE COMPLETE AND FINAL SET OF ARCHITECTURAL DESIGNS, PLANS AND SPECIFICATIONS PRIOR TO THE TERMINATION OF ITS SERVICES BY THE PETITIONER.

- . . . [IN] DECID[ING] THE CASE IN A WAY NOT IN ACCORD WITH LAW AND THE APPLICABLE DECISIONS OF THE SUPREME COURT.[14]

Petitioner urges this Court to take exception to the rule that in a petition filed under Rule 45, such as the one at bar, only questions of law are allowed for, so petitioner contends, the inference made by the Court of Appeals from its findings of fact is manifestly erroneous or absurd.[15]

Petitioner insists that respondent failed to fulfill its obligations under the agreement, hence, it is justified in refusing to heed respondent's monetary claims.[16]

Specifically, petitioner alleges that despite its verbal agreement with respondent that the plans should be submitted within six (6) months from the signing of the agreement,[17] respondent complied with it only after a year and a half. And petitioner emphasizes that when respondent transmitted the architectural design and plans on August 9, 1995 (to petitioner's Architect de Guzman) and August 16, 1995 (to petitioner's Chairman Jimmy Gow), its Chairman Jimmy Gow had in June 1995 verbally terminated respondent's services.

The petition fails.

The resolution of the petition hinges on a determination of whether the termination of the agreement by petitioner was made prior to respondent's compliance with its undertakings thereunder.

By petitioner's own admission, the petition raises a factual issue which is beyond the ambit of the present petition under Rule 45.

Both the trial and appellate courts found that the architectural design prepared by respondent was delivered to petitioner before the termination of the agreement. Absent any sufficient and convincing evidence to the contrary, such finding binds this Court as it is supported by sufficient evidence.

Albeit this Court entertains factual determination of a case brought to it via Rule 45 under certain circumstances, e.g. (a) where there is grave abuse of discretion; (b) when the finding is grounded entirely on speculations,

surmises or conjectures; (c) when the inference made is manifestly mistaken, absurd or impossible; (d) when the judgment of the Court of Appeals was based on a misapprehension of facts; (e) when the factual findings are themselves conflicting; (f) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both appellant and appellee; (g) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; (h) where the findings of fact of the Court of Appeals are contrary to those of the trial court; (i) where the findings of fact are mere conclusions without citation of specific evidence on which they are based; and (j) where the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record,[18] the petition at bar does not present any similar or analogous circumstance.

As noted earlier, the agreement forged by the parties does not provide for a period within which respondent has to accomplish its undertakings thereunder. Petitioner claims, however, that there was a verbal agreement with respondent that the architectural design should be finalized and approved by petitioner within six (6) months from signing of their written agreement. Why the parties did not incorporate in the agreement this alleged period within which respondent had to accomplish its services escapes comprehension.

At any rate, if indeed the parties verbally agreed to a period of six months for respondent to comply with its undertakings, why did not petitioner immediately seek the enforcement of such alleged verbal agreement when the period expired on June 13, 1994 or, in the alternative, terminate respondent's services? Why did not petitioner reject the documents sent by respondent on August 9, 1995? Why did not petitioner, in its earlier-quoted December 20, 1995 reply-letter to respondent, complain of respondent's alleged delay in complying with its undertakings within the alleged verbally agreed six-month period? Such glaring omissions negate petitioner's claim of having verbally agreed with respondent delimiting the latter's period of compliance with its undertakings to six months.

But even assuming that there was indeed such verbal agreement, petitioner is estopped from enforcing the same, it having continued to deal with petitioner on the project even after the expiration of the six-month period by, inter alia, recommending revisions of the design and paying respondent's services for the first two phases of the project schedule.[19]

As for petitioner's claim that it had, in June 1995, verbally ordered respondent to stop and cease all its activities relating to the design[20] of the mall, albeit it sent the formal notice of termination on August 22, 1995 which was received by respondent the following day, August 23, 1995, the same fails. The notice of termination does not refer to a verbal advice of termination in June 1995. Instead, it refers to an August 8, 1995 advice to respondent for it to "put on hold [respondent's] works." "[P]ut[ting] on hold" is not equivalent to termination.

In fact, the August 22, 1995 notice of termination of services did not specify the ground behind such termination.

Petitioner was to later claim that it terminated the services of respondent due to "material deficiencies in the architectural design proposals" submitted on August 9, 1995. But did it not earlier claim that it had priorly terminated respondent's services in June 1995 or on August 8, 1995?

Additionally, if indeed petitioner verbally terminated the agreement as early as June 1995, why did it still send a representative to attend the meeting with respondent's representatives on July 18, 1995 at City Garden Restaurant to discuss revisions of the design, which revisions were subsequently incorporated in the architectural drawing package transmitted to petitioner on August 9, 1995?[21]

Even petitioner's witness Jaime Rioflorido of Asian Technicon, the project manager for the mall, admitted that at

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the time said company took over as project manager in July 1995, "[he] saw that the substructure works, meaning the bored piles [sic], were substantially completed."[22] Such admission shows that the mall project had been started by petitioner using the plan prepared by respondent for, as said witness declared, the new architect was appointed only in November 1995.[23]

Without doubt, respondent had discharged its obligation under the agreement prior to the termination of its services by petitioner on August 22, 1995.

For petitioner to terminate the agreement after respondent had complied with its obligation under the agreement violates Article 1159 of the New Civil Code which provides that "[o]bligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith."

WHEREFORE, the Court of Appeals Decision of November 14, 2005 is AFFIRMED.

Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

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[1]Records, Vol. 1, p. 7.

[2]Id. at 7-10.

[3] Id. at 13.

[4] Id. at 21.

[5] Id. at 19-20.

[6]Id. at 14.

[7]Id. at 4-5.

[8] Records, Vol. II, pp. 105-106.

[9] CA rollo, pp. 21-228; penned by Justice Vicente S.E. Veloso, concurred in by Justices Juan Q. Enriquez, Jr. and Amelita G. Tolentino.

[10]Rollo, p. 16.

[11] Id. at 17.

[12]Ibid.

[13]Id. at 18.

[14]Id. at 29.

[15] Id. at 29-30.

[16]Id. at 30.

[17] Id. at 31.

[18]Fuentes v. Court of Appeals, G.R. No. 109849, February 26, 1997, 268 SCRA 703, 709; vide also Bank of the

Philippine Islands v. Court of Appeals, G.R. No. 160890, November 10, 2004, 441 SCRA 637, 642-643 citing PAL, Inc. v. Court of Appeals, G.R. No. 127473, December 8, 2003, 417 SCRA 196, 204-205; Rizal Commercial Banking Corporation v. Alfa RTW Manufacturing Corporation, G.R. No. 133877, November 14, 2001, 368 SCRA 611, 617 citing Siguan v. Lim, G.R. No. 134685, November 19, 1999, 318 SCRA 725.

[19] Records, Vol. 1, pp. 122-124.

[20] Rollo, p. 32.

[21]Records, Vol. 1, p. 324; Exhibit "I."

[22] TSN, September 7, 1998, p. 21.

[23]TSN, December 7, 1998, p. 13.

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