SPOUSES MINIANO B. DELA CRUZ AND LETA L. DELA CRUZ, PETITIONERS, VS. ANA MARIE CONCEPCION, RESPONDENT.

G.R. No. 172825. October 11, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

Assailed in this petition for review on certiorari under Rule 45 of the Rules of Court filed by petitioners spouses Miniano B. Dela Cruz and Leta L. Dela Cruz against respondent Ana Marie Concepcion are the Court of Appeals (CA) Decision[1] dated March 31, 2005 and Resolution[2] dated May 24, 2006 in CA-G.R. CV No. 83030.

The facts of the case are as follows:

On March 25, 1996, petitioners (as vendors) entered into a Contract to Sell[3] with respondent (as vendee) involving a house and lot in Cypress St., Phase I, Town and Country Executive Village, Antipolo City for a consideration of P2,000,000.00 subject to the following terms and conditions:

a)

That an earnest money of P100,000.00 shall be paid immediately;

b)

That a full down payment of Four Hundred Thousand Pesos (P400,000.00) shall be paid on February 29, 1996;

c)

That Five Hundred Thousand Pesos (P500,000.00) shall be paid on or before May 5, 1996; and

d)

That the balance of One Million Pesos (P1,000,000.00) shall be paid on installment with interest of Eighteen Percent (18%) per annum or One and a half percent (1-1/2 %) interest per month, based on the diminishing balance, compounded monthly, effective May 6, 1996. The interest shall continue to run until the whole obligation shall have been fully paid. The whole One Million Pesos shall be paid within three years from May 6, 1996;

e)

That the agreed monthly amortization of Fifty Thousand Pesos (P50,000.00), principal and interest included, must be paid to the Vendors, without need of prior demand, on or before May 6, 1996, and every month thereafter. Failure to pay the monthly amortization on time, a penalty equal to Five Percent (5%) of the amount due shall be imposed, until the account is updated. In addition, a penalty of One Hundred Pesos per day shall be imposed until the account is updated;

f)

> That after receipt of the full payment, the Vendors shall execute the necessary Absolute Deed of Sale covering the house and lot mentioned above x x x[4]

Respondent made the following payments, to wit: (1) P500,000.00 by way of downpayment; (2) P500,000.00 on May 30, 1996; (3) P500,000.00 paid on January 22, 1997; and (4) P500,000.00 bounced check dated June 30, 1997 which was subsequently replaced by another check of the same amount, dated July 7, 1997. Respondent was, therefore, able to pay a total of P2,000,000.00.[5]

Before respondent issued the P500,000.00 replacement check, she told petitioners that based on the computation of her accountant as of July 6, 1997, her unpaid obligation which includes interests and penalties was only P200,000.00.[6] Petitioners agreed with respondent and said "if P200,000.00 is the correct balance, it is okay with us."[7]

Meanwhile, the title to the property was transferred to respondent. Petitioners later reminded respondent to pay P209,000.00 within three months.[8] They claimed that the said amount remained unpaid, despite the transfer of the title to the property to respondent. Several months later, petitioners made further demands stating the supposed correct computation of respondent's liabilities.[9] Despite repeated demands, petitioners failed to collect the amounts they claimed from respondent. Hence, the Complaint for Sum of Money With Damages[10] filed with the Regional Trial Court (RTC)[11] of Antipolo, Rizal. The case was docketed as Civil Case No. 98-4716.

In her Answer with Compulsory Counterclaim,[12] respondent claimed that her unpaid obligation to petitioners is only P200,000.00 as earlier confirmed by petitioners and not P487,384.15 as later alleged in the complaint. Respondent thus prayed for the dismissal of the complaint. By way of counterclaim, respondent prayed for the payment of moral damages and attorney's fees. During the presentation of the parties' evidence, in addition to documents showing the statement of her paid obligations, respondent presented a receipt purportedly indicating payment of the remaining balance of P200,000.00 to Adoracion Losloso (Losloso) who allegedly received the same on behalf of petitioners.[13]

On March 8, 2004, the RTC rendered a Decision[14] in favor of respondent, the dispositive portion of which reads:

> WHEREFORE, premises considered, this case is hereby DISMISSED. The plaintiff is hereby ordered to pay the defendant's counterclaim, amounting to wit:
>
> a) P300,000 as moral damages; and
> b) P100,000 plus P2,000 per court appearance as attorney's fees.
>
> SO ORDERED.[15]

The RTC noted that the evidence formally offered by petitioners have not actually been marked as none of the markings were recorded. Thus, it found no basis to grant their claims, especially since the amount claimed in the complaint is different from that testified to. The court, on the other hand, granted respondent's counterclaim.[16]

On appeal, the CA affirmed the decision with modification by deleting the award of moral damages and attorney's fees in favor of respondent.[17] It agreed with the RTC that the evidence presented by petitioners cannot be given credence in determining the correct liability of respondent.[18] Considering that the purchase price had been fully paid by respondent ahead of the scheduled date agreed upon by the parties, petitioners were not awarded the excessive penalties and interests.[19] The CA thus maintained that respondent's liability is limited to P200,000.00 as claimed by respondent and originally admitted by petitioners.[20] This amount, however, had already been paid by respondent and received by petitioners' representative.[21] Finally, the CA pointed out that the RTC did not explain in its decision why moral damages and attorney's fees were awarded.

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Considering also that bad faith cannot be attributed to petitioners when they instituted the collection suit, the CA deleted the grant of their counterclaims.[22]

Aggrieved, petitioners come before the Court in this petition for review on certiorari under Rule 45 of the Rules of Court raising the following errors:

> I.
>
> "THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT ON THE GROUND THAT PLAINTIFF FAILED TO FORMALLY OFFER THEIR EVIDENCE AS DEFENDANT JUDICIALLY ADMITTED IN HER ANSWER WITH COMPULS[O]RY COUNTERCLAIM HER OUTSTANDING OBLIGATION STILL DUE TO PLAINTIFFS AND NEED NO PROOF.
>
> II.
>
> THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT FOR ALLEGED FAILURE OF PLAINTIFFS TO PRESENT COMPUTATION OF THE AMOUNT BEING CLAIMED AS DEFENDANT JUDICIALLY ADMITTED HAVING RECEIVED THE DEMAND LETTER DATED OCTOBER 22, 1997 WITH COMPUTATION OF THE BALANCE DUE.
>
> III.
>
> THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT ON THE GROUND THAT THE DEFENDANT FULLY PAID THE CLAIMS OF PLAINTIFFS BASED ON THE ALLEGED RECEIPT OF PAYMENT BY ADORACION LOSLOSO FROM ANA MARIE CONCEPCION MAGLASANG WHICH HAS NOTHING TO DO WITH THE JUDICIALLY ADMITTED OBLIGATION OF APPELLEE."[23]

Invoking the rule on judicial admission, petitioners insist that respondent admitted in her Answer with Compulsory Counterclaim that she had paid only a total amount of P2 million and that her unpaid obligation amounts to P200,000.00.[24] They thus maintain that the RTC and the CA erred in concluding that said amount had already been paid by respondent. Petitioners add that respondent's total liability as shown in the latter's statement of account was erroneously computed for failure to compound the monthly interest agreed upon.[25] Petitioners also claim that the RTC and the CA erred in giving credence to the receipt presented by respondent to show that her unpaid obligation had already been paid having been allegedly given to a person who was not armed with authority to receive payment.[26]

The petition is without merit.

It is undisputed that the parties entered into a contract to sell a house and lot for a total consideration of P2 million. Considering that the property was payable in installment, they likewise agreed on the payment of interest as well as penalty in case of default. It is likewise settled that respondent was able to pay the total purchase price of P2 million ahead of the agreed term. Afterwhich, they agreed on the remaining balance by way of interest and penalties which is P200,000.00. Considering that the term of payment was not strictly followed and the purchase price had already been fully paid by respondent, the latter presented to petitioners her computation of her liabilities for interests and penalties which was agreed to by petitioners. Petitioners also manifested their conformity to the statement of account prepared by respondent.

In paragraph (9) of petitioners' Complaint, they stated that:

> 9) That the Plaintiffs answered the Defendant as follows: "if P200,000 is the correct balance, it is okay with us." x x x.[27]

But in paragraph (17) thereof, petitioners claimed that defendant's outstanding liability as of November 6, 1997

was P487,384.15.[28] Different amounts, however, were claimed in their demand letter and in their testimony in court.

With the foregoing factual antecedents, petitioners cannot be permitted to assert a different computation of the correct amount of respondent's liability.

It is noteworthy that in answer to petitioners' claim of her purported unpaid obligation, respondent admitted in her Answer with Compulsory Counterclaim that she paid a total amount of P2 million representing the purchase price of the subject house and lot. She then manifested to petitioners and conformed to by respondent that her only balance was P200,000.00. Nowhere in her Answer did she allege the defense of payment. However, during the presentation of her evidence, respondent submitted a receipt to prove that she had already paid the remaining balance. Both the RTC and the CA concluded that respondent had already paid the remaining balance of P200,000.00. Petitioners now assail this, insisting that the court should have maintained the judicial admissions of respondent in her Answer with Compulsory Counterclaim, especially as to their agreed stipulations on interests and penalties as well as the existence of outstanding obligations.

It is, thus, necessary to discuss the effect of failure of respondent to plead payment of its obligations.

Section 1, Rule 9 of the Rules of Court states that "defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived." Hence, respondent should have been barred from raising the defense of payment of the unpaid P200,000.00. However, Section 5, Rule 10 of the Rules of Court allows the amendment to conform to or authorize presentation of evidence, to wit:

> Section 5. Amendment to conform to or authorize presentation of evidence. – When issues not raised by the pleadings are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so with liberality if the presentation of the merits of the action and the ends of substantial justice will be subserved thereby. The court may grant a continuance to enable the amendment to be made.

The foregoing provision envisions two scenarios, namely, when evidence is introduced in an issue not alleged in the pleadings and no objection was interjected; and when evidence is offered on an issue not alleged in the pleadings but this time an objection was raised.[29] When the issue is tried without the objection of the parties, it should be treated in all respects as if it had been raised in the pleadings.[30] On the other hand, when there is an objection, the evidence may be admitted where its admission will not prejudice him.[31]

Thus, while respondent judicially admitted in her Answer that she only paid P2 million and that she still owed petitioners P200,000.00, respondent claimed later and, in fact, submitted an evidence to show that she already paid the whole amount of her unpaid obligation. It is noteworthy that when respondent presented the evidence of payment, petitioners did not object thereto. When the receipt was formally offered as evidence, petitioners did not manifest their objection to the admissibility of said document on the ground that payment was not an issue. Apparently, petitioners only denied receipt of said payment and assailed the authority of Losloso to receive payment. Since there was an implied consent on the part of petitioners to try the issue of payment, even if no motion was filed and no amendment of the pleading has been ordered,[32] the RTC cannot be faulted for admitting respondent's testimonial and documentary evidence to prove payment.[33]

As stressed by the Court in Royal Cargo Corporation v. DFS Sports Unlimited, Inc.,[34]

> The failure of a party to amend a pleading to conform to the evidence adduced during trial does not preclude adjudication by the court on the basis of such evidence which may embody new issues not raised in the pleadings. x x x Although, the pleading may not have been amended to conform to the evidence submitted during trial, judgment may nonetheless be rendered, not simply on the basis of the issues alleged but also on the issues discussed and the assertions of fact proved in the course of the trial. The court may treat the pleading as if it had been amended to conform to the evidence, although it had not been actually amended. x x x Clearly, a court may rule and render judgment on the basis of the evidence before it even though the relevant pleading had not been previously amended, so long as no surprise or prejudice is thereby caused to the adverse party. Put a little differently, so long as the basic requirements of fair play had been met, as where the litigants were given full opportunity to support their respective contentions and to object to or refute each other's evidence, the court may validly treat the pleadings as if they had been amended to conform to the evidence and proceed to adjudicate on the basis of all the evidence before it. (Emphasis supplied)[35]

To be sure, petitioners were given ample opportunity to refute the fact of and present evidence to prove payment.

With the evidence presented by the contending parties, the more important question to resolve is whether or not respondent's obligation had already been extinguished by payment.

We rule in the affirmative as aptly held by the RTC and the CA.

Respondent's obligation consists of payment of a sum of money. In order to extinguish said obligation, payment should be made to the proper person as set forth in Article 1240 of the Civil Code, to wit:

> Article 1240. Payment shall be made to the person in whose favor the obligation has been constituted, or his successor in interest, or any person authorized to receive it. (Emphasis supplied)

The Court explained in Cambroon v. City of Butuan,[36] cited in Republic v. De Guzman,[37] to whom payment should be made in order to extinguish an obligation:

> Payment made by the debtor to the person of the creditor or to one authorized by him or by the law to receive it extinguishes the obligation. When payment is made to the wrong party, however, the obligation is not extinguished as to the creditor who is without fault or negligence even if the debtor acted in utmost good faith and by mistake as to the person of the creditor or through error induced by fraud of a third person.
>
> In general, a payment in order to be effective to discharge an obligation, must be made to the proper person. Thus, payment must be made to the obligee himself or to an agent having authority, express or implied, to receive the particular payment. Payment made to one having apparent authority to receive the money will, as a rule, be treated as though actual authority had been given for its receipt. Likewise, if payment is made to one who by law is authorized to act for the creditor, it will work a discharge. The receipt of money due on a judgment by an officer authorized by law to accept it will, therefore, satisfy the debt.[38]

Admittedly, payment of the remaining balance of P200,000.00 was not made to the creditors themselves. Rather, it was allegedly made to a certain Losloso. Respondent claims that Losloso was the authorized agent of petitioners, but the latter dispute it.

Losloso's authority to receive payment was embodied in petitioners' letter[39] addressed to respondent, dated August 7, 1997, where they informed respondent of the amounts they advanced for the payment of the 1997 real estate taxes. In said letter, petitioners reminded respondent of her remaining balance, together with the amount of taxes paid. Taking into consideration the busy schedule of respondent, petitioners advised the latter to leave the payment to a certain "Dori" who admittedly is Losloso, or to her trusted helper. This is an express authority given to Losloso to receive payment. Moreover, as correctly held by the CA:

> Furthermore, that Adoracion Losloso was indeed an agent of the appellant spouses is borne out by the

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following admissions of plaintiff-appellant Atty. Miniano dela Cruz, to wit:

Q: You would agree with me that you have authorized this Doiry Losloso to receive payment of whatever balance is due you coming from Ana Marie Concepcion, that is correct?
A: In one or two times but not total authority, sir.

Q: Yes, but you have authorized her to receive payment?
A: One or two times, yes x x x. (TSN, June 28, 1999, pp. 16-17)[40]

Thus, as shown in the receipt signed by petitioners' agent and pursuant to the authority granted by petitioners to Losloso, payment made to the latter is deemed payment to petitioners. We find no reason to depart from the RTC and the CA conclusion that payment had already been made and that it extinguished respondent's obligations.

WHEREFORE, premises considered, the petition is DENIED for lack of merit. The Court of Appeals Decision dated March 31, 2005 and Resolution dated May 24, 2006 in CA-G.R. CV No. 83030, are AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Perez,[*] and Mendoza, JJ., concur.

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[*] Designated Acting Member, per Special Order No. 1299 dated August 28, 2012.

[1] Penned by Associate Justice Bienvenido L. Reyes (now a member of this Court), with Associate Justices Godardo A. Jacinto and Rosalinda Asuncion-Vicente, concurring; rollo, pp. 44-52.

[2] Id. at 53-55.

[3] Records, pp. 6-8.

[4] Id. at. 7.

[5] Rollo, p. 45.

[6] Records, p. 2.

[7] Id.

[8] Id. at 3.

[9] Rollo, p. 46.

[10] Records, pp. 1-5.

[11] Branch 73.

[12] Records, pp. 18-21.

[13] Id. at 129.

[14] Penned by Executive Judge Mauricio M. Rivera; id. at 269-273.

[15] Records p. 273.

[16] Id.

[17] Rollo, p. 51.

[18] Id. at 49.

[19] Id. at 49-50.

[20] Id. at 50.

[21] Id.

[22] Id. at 51.

[23] Petition, p. 4.

[24] Rollo, pp. 20-23.

[25] Id. at 25.

[26] Id. at 28-31.

[27] Records, p. 2.

[28] Id. at 3.

[29] Azolla Farms v. Court of Appeals, G.R. No. 138085, November 11, 2004, 442 SCRA 133, 141; 484 Phil. 745, 752 (2004), citing Mercader v. Development Bank of the Phils. (Cebu Branch), G.R. No. 130699, May 12, 2000, 332 SCRA 82, 97.

[30] Sy v. Court of Appeals, G.R. No. 124518, December 27, 2007, 541 SCRA 371, 386-387.

[31] Azolla Farms v. Court of Appeals, supra note 20.

[32] Sy v. Court of Appeals, supra note 30, at 387.

[33] Royal Cargo Corporation v. DFS Sports Unlimited, Inc., G.R. No. 158621, December 10, 2008, 573 SCRA 414.

[34] Id. at 426, citing Bank of America, NT & SA v. American Realty Corporation, G.R. No. 133876, December 29, 1999, 321 SCRA 659, 680-681; Talisay-Silay Milling Co., Inc. v. Asociacion de Agricultores de Talisay-Silay, Inc., G.R. No. 91852, August 15, 1995, 247 SCRA 361, 377-378; and Mercader v. Development Bank of the Philippines (Cebu Branch), supra note 29.

[35] Id. at 426-427.

[36] G.R. No. 163605, September 20, 2006, 502 SCRA 494; 533 Phil. 773 (2006).

[37] G.R. No. 175021, June 15, 2011, 652 SCRA 101, 119.

[38] Cembrano v. City of Butuan, supra note 36, at 511-512; at 790-791. (Citations omitted)

[39] Records, p. 120.

[40] Rollo, pp. 50-51.

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