

METROPOLITAN BANK AND TRUST CO. AND SOLIDBANK CORPORATION, PETITIONERS, VS. BERNARDITA H. PEREZ, REPRESENTED BY HER ATTORNEY-IN-FACT PATRIA H. PEREZ, RESPONDENT.

G.R. No. 181842. February 05, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On September 17, 1997, petitioner Solidbank Corporation (Solidbank) forged a lease contract with Bernardita H. Perez (respondent), represented by her attorney-in-fact Patria H. Perez[1], over two parcels of land located in Sta. Maria, Bulacan for a period of 15 years commencing on January 1, 1998. Solidbank was to, as it did, construct a one-storey building specifically suited for bank premises.

Solidbank was later acquired by its co-petitioner Metropolitan Bank and Trust Company (Metrobank), the latter as the surviving entity.

On September 24, 2002, Metrobank sent a notice of termination of the lease contract effective September 30, 2002.[2] Respondent, objecting to the termination, filed a complaint for breach of contract and damages against herein petitioners Solidbank and Metrobank before the Regional Trial Court (RTC) of Malolos, Bulacan praying that, inter alia, herein petitioners be ordered to pay her "the would be unrealized income for the ensuing idle months of the said building." [3]

Metrobank asserted in its Answer with Counterclaim, however, that the lease contract did not prohibit pre-termination by the parties.

After respondent rested her case, Metrobank was, by Order of January 12, 2006, declared to have waived its right to present evidence after its counsel incurred several unexcused absences.

By Decision of April 5, 2006, Branch 22 of the Malolos RTC ruled in favor of respondent, disposing as follows:

WHEREFORE, IN VIEW OF THE FOREGOING, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the latter, jointly and severally:

- To pay the plaintiff the amount of P212,322.60 as unrealized income before the filing of the case (Sept. 2002 to Feb. 2003);
- To pay the plaintiff the amount of P2,013,753.03 as unrealized (income) after the filing of the case up to present (March 2003 to March 2006);
- To pay the plaintiff the would be unrealized income for the ensuing idle months of said building amounting to P7,126,494.30 (covering April 2006 until expiration of the contract of lease);
- To pay plaintiff the amount of P200,000.00 as moral damages;

- To pay plaintiff the amount of P100,000.00 as exemplary damages;
- To pay plaintiff the amount of P100,000.00 as attorney's fees and
- To pay plaintiff as litigation expenses.

SO ORDERED.[4] (emphasis and underscoring supplied)

On appeal, Metrobank challenged, in the main, the trial court's award of "unrealized income for the ensuing idle months" despite respondent's failure to pay docket fees thereon to thus render the complaint dismissible for lack of jurisdiction.

By Decision[5] of November 23, 2007, the appellate court affirmed that of the trial court[6] and denied, by Resolution of February 21, 2008, a reconsideration thereof. Hence, the present petition for review on certiorari.

In her Comment, respondent admitted that the filing fees she paid did not cover her prayer for unrealized income for the ensuing idle months, for "at the time of filing and payment[,] the period that the building would be idle could not yet be determined." [7]

In sustaining respondent's justification for nonpayment of additional docket fees, the appellate court held:

For one, plaintiff-appellee Perez could not have been certain at the time she filed the Complaint that defendant-appellant Metrobank would no longer return to the Leased Property. It would have been speculative therefore on the part of plaintiff-appellee Perez to allege in her Complaint any unrealized income for the remaining period of the Lease Contract considering that the possibility of defendant-appellant Metrobank reconsidering its decision to terminate the said Lease Contract and returning to the Leased Property at some future time was not definitively foreclosed when the Complaint was filed. In light of her predicament, plaintiff-appellee Perez was thus justified in just making a general prayer for the court a quo to award unrealized income for the "ensuing idle months" of the Leased Property.[8] (italics in the original; underscoring supplied)

The petition is partly meritorious.

In *Manchester Development Corporation v. Court of Appeals*,[9] the Court held that a pleading which does not specify in the prayer the amount sought shall not be admitted or shall be expunged, and that a court acquires jurisdiction only upon payment of the prescribed docket fee. This rule was relaxed in *Sun Insurance Office, Ltd. v. Asuncion*[10] which was echoed in the 2005 case of *Heirs of Bertuldo Hinog v. Melico*, the pertinent portion of the decision in the latter case reads:

Plainly, while the payment of prescribed docket fee is a jurisdictional requirement, even its non-payment at the time of filing does not automatically cause the dismissal of the case, as long as the fee is paid within the applicable prescriptive or reglementary period, more so when the party involved demonstrates a willingness to abide by the rules prescribing such payment. Thus, when insufficient filing fees were initially paid by the plaintiffs and there was no intention to defraud the government, the Manchester rule does not apply.[11] (emphasis and underscoring supplied)

Metrobank takes exception to the application of *Sun Insurance Office* to the present case because, by its claim, respondent deliberately concealed the insufficient payment of docket fees.

Metrobank's position fails. The ensuing months in which the leased premises would be rendered vacant could not be determined at the time of the filing of the complaint. It bears recalling that the building constructed on respondent's leased premises was specifically constructed to house a bank, hence, the idle period before another occupant with like business may opt to lease would be difficult to project.

On Metrobank's raising the issue of lack of jurisdiction over the complaint for respondent's failure to pay the correct docket fees, apropos is the ruling in *National Steel Corporation v. Court of Appeals*: [12]

Although the payment of the proper docket fees is a jurisdictional requirement, the trial court may allow the plaintiff in an action to pay the same within a reasonable time before the expiration of the applicable prescriptive or reglementary period. If the plaintiff fails to comply with this requirement, the defendant should timely raise the issue of jurisdiction or else he would be considered in estoppel. In the latter case, the balance between the appropriate docket fees and the amount actually paid by the plaintiff will be considered a lien on any award he may obtain in his favor.[13] (emphasis and underscoring supplied)

Metrobank raised the issue of jurisdiction only before the appellate court after it and its co-petitioner participated in the proceedings before the trial court. While lack of jurisdiction may be raised at any time, a party may be held in estoppel if, as in the present case, it has actively taken part in the proceedings being questioned.

The foregoing disposition notwithstanding, respondent is liable for the balance between the actual fees paid and the correct payable filing fees to include an assessment on the award of unrealized income, following Section 2 of Rule 141 which provides:

SEC. 2. Fees in lien. - Where the court in its final judgment awards a claim not alleged, or a relief different from, or more than that claimed in the pleading, the party concerned shall pay the additional fees which shall constitute a lien on the judgment in satisfaction of said lien. The clerk of court shall assess and collect the corresponding fee (underscoring supplied),

and jurisprudence, viz:

The exception contemplated as to claims not specified or to claims although specified are left for determination of the court is limited only to any damages that may arise after the filing of the complaint or similar pleading for then it will not be possible for the claimant to specify nor speculate as to the amount thereof.[14] (emphasis and underscoring supplied)

A word on the grant of moral and exemplary damages and attorney's fees.

The Court notes that respondent's witness-attorney-in-fact testified only on the existence of the lease agreement and unrealized income due to pre-termination. Since an award of moral damages is predicated on a categorical showing from the claimant that emotional and mental sufferings were actually experienced, absent any evidence thereon in the present case,[15] the award must be disallowed. And so too must the award of attorney's fees, absent an indication in the trial court's Decision of the factual basis thereof, the award having been merely stated in the dispositive portion.[16] Parenthetically, while respondent prayed in her complaint for the award of attorney's fees and testified during the trial that:

Q: Now, in connection with the filing of this case and hiring your lawyer, do you have agreement with your counsel with respect to attorney's fees?

A: P100,000.00 acceptance fees.

Q: What about appearance fees?

A: I forgot already, sir.,[17]

there is no showing that she submitted any documentary evidence in support thereof.

WHEREFORE, the petition is in part GRANTED. The November 23, 2007 Decision of the Court of Appeals is MODIFIED. The Clerk of Court of the Regional Trial Court of Malolos, Bulacan is ordered to reassess, determine and collect additional fees that should be paid by respondent within fifteen (15) days, in accordance with the

foregoing discussion of the Court, provided the applicable prescriptive or reglementary period has not yet expired, which additional fees shall constitute a lien on the judgment in satisfaction of said lien. The award of moral and exemplary damages and attorney's fees is DELETED.

In all other respects, the appellate court's Decision is AFFIRMED.

SO ORDERED.

Puno, C.J., Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] Special Power of Attorney executed by Bernardita H. Perez; records, p. 9.

[2] Rollo, p. 82

[3] Records, pp. 6-7.

[4] Id. at 247-248.

[5] Penned by Justice Andres B. Reyes, Jr. with the concurrence of then CA Justice Jose C. Mendoza (now Supreme Court Associate Justice) and Justice Ramon M. Bato, Jr.

[6] CA rollo, pp. 59-84.

[7] Rollo, p. 127.

[8] Id. at 58-59.

[9] G.R. No. L-75919, May 7, 1987, 149 SCRA 562.

[10] G.R. Nos. 79937-39, February 13, 1989, 170 SCRA 274.

[11] G.R. No. 140954, April 12, 2005, 455 SCRA 460, 475.

[12] G.R. No. 123215, February 2, 1999, 302 SCRA 522.

[13] Id. at 531.

[14] Proton Pilipinas Corporation v. Banque Nationale de Paris, G.R. No. 151242, June 15, 2005, 460 SCRA 260, 278 citing Ayala Corporation v. Madayag.

[15] Bank of Commerce v. Sps. Prudencio San Pablo, Jr., G.R. No. 167848, April 27, 2007, 522 SCRA 713, 715.

[16] Philippine Airlines, Inc. v. Court of Appeals, G.R. No. 123238, Sept. 22, 2008, 566 SCRA 124, 137-138.

[17] TSN, May 20, 2004, p. 21.

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