FREDERICK F. FELIPE, PETITIONER, VS. MGM MOTOR TRADING CORPORATION, DOING BUSINESS UNDER THE NAME AND STYLE NISSAN GALLERY-ORTIGAS, AND AYALA GENERAL INSURANCE CORPORATION, RESP...

G.R. No. 191849. September 23, 2015

Ponente: PEREZ, J.

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PEREZ, J.:

This Petition for Review on Certiorari assails the 14 January 2010 Decision[1] of the Court of Appeals and its 16 March 2010 Resolution[2] in CA-G.R. CV No. 89665 affirming the 22 February 2005 Order[3] of the Regional Trial Court (RTC) of Quezon City, Branch 80 which dismissed the case for specific performance and damages on demurrer to evidence.

In his Complaint for Specific Performance and Damages against respondents MGM Motors, Inc. (MGM Motors) and Ayala General Insurance Corporation (Ayala Insurance), petitioner Frederick Felipe claimed that he purchased on installment basis a Nissan Terrano Wagon through MGM Motors' authorized representative Jane Sarmiento (Sarmiento). Petitioner allegedly gave a P200,000.00 downpayment and P5,000.00 reservation fee to Sarmiento. He further issued seven (7) Allied Bank checks, each bearing the amount of P24,165.00 payable to MGM Motors. On 14 May 1997, MGM Motors delivered the subject vehicle to petitioner. He then insured the vehicle with Ayala Insurance under Policy No. PC970000440001-00-000 and paid a premium of P40,220.67. On 15 November 1997, the subject vehicle, while parked along Adriatico Street in Manila, was reportedly lost. He tried to claim from Ayala Insurance but the latter refused to pay its liability causing damages to petitioner. On the other hand, MGM Motors refused to produce, despite repeated demands, the document of sale by installment covering the vehicle. Petitioner allegedly paid additional P200,000.00 on 7 May 1998 as partial payment for the vehicle. The refusal of MGM Motors to produce the document and its renouncement of the existence of the installment sale; and the subsequent unlawful insistence on a cash transaction agreement, had caused damages to petitioner.[4]

In its Answer, MGM Motors denied receiving the down payment of P200,000.00 and P5,000.00 reservation fee paid through Sarmiento. The following is its version of the controversy:

MGM Motors offered Petitioner a discount of P220,000.00 if the latter would pay in cash. MGM Motors averred that the vehicle was delivered to petitioner on 14 May 1997 but the latter failed to pay in cash, thus MGM Motors did not give the registration papers to petitioner. MGM Motors sent two letters to petitioner demanding the payment for the said vehicle but the latter refused or failed to pay. MGM Motors stated that petitioner was able to fraudulently register the vehicle with the Land Transportation Office in his name and insure the same with Ayala Insurance. During a negotiation, the parties agreed that petitioner's obligation amounted to P1,020,000.00. In an effort to settle petitioner's obligation, his mother Purificacion issued a postdated check for P1,020,000.00 as full payment for the subject vehicle but, upon maturity, the check bounced. Consequently, MGM Motors filed a case

for violation of Batas Pambansa Bilang 22 (BP 22) against petitioner's mother. In order to settle the civil aspect of the BP 22 case, petitioner paid P200,00.00 to MGM Motors. MGM Motors counterclaimed for damages.[5]

Ayala Insurance, for its part, contended that petitioner had no valid cause of action against it. Ayala Insurance asserted that petitioner had no insurable interest because he is not the owner of the vehicle that he had insured with it. Ayala Insurance also counterclaimed for damages.[6]

Trial proceeded with petitioner and his father Alberto Felipe (Alberto) testifying on the behalf of the former. Petitioner's testimony was however stricken off the record because he failed to return, despite numerous opportunities, to the witness stand for cross-examination. Only two pieces of evidence were admitted by the trial court: (1) the Official Receipt dated 7 May 1998 issued by MGM Motors wherein it acknowledged receipt of P200,000.00 from petitioner; and (2) the testimony of his father Alberto that he was present when petitioner paid P200,000.00 to MGM Motors.

MGM Motors and Ayala Insurance filed their respective Motions to Dismiss on demurrer to evidence.

On 22 February 2005, the RTC dismissed the case. The trial court reasoned that the evidence admitted by the trial court do not prove the material allegations of petitioner's complaint, as well as the alleged liability of Ayala Insurance.

Petitioner filed a motion for reconsideration from said Order but it was denied by the trial court on 23 May 2005.[7]

Meanwhile, the trial, with respect to MGM Motor's counterclaim, subsisted.

On 6 June 2007, the trial court awarded P25,000.00 in attorney's fees to MGM Motors.[8]

Petitioner elevated the matter to the Court of Appeals. On 14 January 2010, the appellate court gave weight to the factual findings of the trial court and found no reason to reverse its ruling.[9] Petitioner filed a motion for reconsideration but it was likewise denied by the Court of Appeals.

In the instant petition for review on certiorari, petitioner raises a lone argument, to wit:

> THE COURT OF APPEALS HAS DISPOSED OF PETITIONER'S (PLAINTIFF-APPELLANT THEREIN) APPEAL IN A WAY NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THIS HONORABLE TRIBUNAL, THUS COMMITTING ERRORS THAT WARRANT REVERSAL BY THIS HONORABLE TRIBUNAL. THIS HAPPENED WHEN:
> THE COURT OF APPEALS AFFIRMED THE RULING OF THE TRIAL COURT THAT FAILED/REFUSED TO GRANT PETITIONER THE RELIEFS PRAYED FOR IN THE COMPLAINT DESPITE THE FACT THAT WITH THE EVIDENCE THAT HE ADDUCED HE HAS CLEARLY, CONVINCINGLY AND PREPONDERANTLY PROVEN HIS CAUSES OF ACTION AGAINST THE RESPONDENTS (DEFENDANTS). THIS IS TRUE EVEN IF A CONSIDERABLE PORTION OF HIS EVIDENCE WAS DENIED ADMISSION BY THE TRIAL COURT.[10]

Petitioner insists that the two pieces of evidence admitted by the trial court are sufficient to substantiate the material allegations of the complaint. Petitioner stresses that Alberto's testimony established that the purchase of. the subject vehicle was on installment basis from MGM Motors; that Petitioner paid additional P200,000.00; and that MGM Motors failed and refused to deliver the promised documents, of sale on installment despite payments having been made. The fact of sale on installment, according to petitioner, was further proved by the receipt issued by MGM Motors. Petitioner highlights the fact that the vehicle was actually delivered to him, thus ownership was transferred to him upon delivery thereof. Proceeding from the same line of argument, petitioner states that with respect to Ayala Insurance, he is already the owner of the subject vehicle when the insurance on it

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was taken and when the subject vehicle was lost. Assuming arguendo that title to the subject vehicle remained with MGM Motors, petitioner adds that his insurable interest on the vehicle consisted of the substantial amount that he had paid on the purchase price of the vehicle.

MGM Motors cites the Municipal Trial Court's (MTC) finding in the criminal complaint for BP 22 against petitioner's mother that the agreement. for the purchase of the subject vehicle was on cash basis and not installment, MGM Motors echoes the trial court's ruling that petitioner failed to substantiate the material allegations in his complaint.

On its part, Ayala Insurance puts up the argument that the only evidence submitted by petitioner against it was the receipt of the P200,000.00 that he paid to MGM Motors. The evidence does not constitute proof of the insurable interest. Moreover, Ayala Insurance asserts that petitioner also failed to establish the following proof: (1) premium payment; (2) that the insurable interest existed at the time of the loss; (3) deed of sale; (4) proximate cause of the loss is one of the perils insured against; (5) existence of the original insurance policy. Ayala Insurance maintains that Petitioner failed to establish his case by preponderance of evidence.

The basic issue is whether the trial court correctly granted the demurrer to evidence and subsequently dismissed the complaint.

We agree.

A demurrer to evidence is a motion to dismiss on the ground of insufficiency of evidence and is presented after the plaintiff rests his case. It is an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue.[11]

Rule 33, Section 1 of the 1997 Rules of Civil Procedure provides:

> Section 1. Demurrer to evidence.—After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied, he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.

The essential question to be resolved in a demurrer to evidence is whether the plaintiff has been able to show that he is entitled to his claim, and it is incumbent upon the trial court judge to make such a determination.[12]

A review of the dismissal of the complaint naturally entails a calibration of the evidence to determine whether the material allegations of the complaint were sufficiently backed by evidence. We have repeatedly stressed that the remedy of appeal by certiorari under Rule 45 of the Rules of Court contemplates only questions of law, not of fact.

A question of law exists when there is doubt or controversy as to what the law is on a certain state of facts. There is a question of fact when doubt. arises as to the truth or falsity of the statement of facts. The resolution of a question of fact necessarily involves a calibration of the evidence, the credibility of the witnesses, the existence and the relevance of surrounding circumstances, and the probability of specific situations. It is for this reason that this Court defers to the factual findings of a trial judge, who has had the distinct advantage of directly observing the witnesses on the stand and determining from their demeanor whether they were speaking or distorting the truth.[13]

The questions on whether the sale was on cash or installment basis and whether petitioner had insurable interest on the subject car are evidently questions of fact which are beyond the purview of the instant petition.

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In any event, a perusal of the records show that the trial court correctly dismissed petitioner's complaint on demurrer to evidence.

Well-established is the rule that the burden of proof lies on the party who makes the allegations.[14] There is no dispute that the only pieces of evidence admitted in court are the testimony of Alberto and the receipt showing MGM Motors receiving P200,000.00 from petitioner as partial payment of the subject car. The allegation that the purchase of the vehicle was on an installment basis was not supported by any evidence. The receipt of a partial payment does not suffice to prove that the purchase was made on an installment basis. Petitioner did not present any document to prove said allegation while MGM Motors produced a sales invoice wherein it was stated that the mode of payment is "COD" or cash on delivery.

In the same vein, petitioner failed to substantiate his allegation against Ayala Insurance. Petitioner has the burden of proof to show that a loss occurred and said loss was covered by his insurance policy. Considering that the trial court only admitted two pieces of evidence in petitioner's favor and none of those tend to prove loss of the subject car and coverage thereof under the insurance policy, petitioner is not entitled to the reliefs he had prayed for.

BASED ON THE FOREGOING, the Petition is DENIED. The 14 January 2010 Decision of the Court of Appeals and its 16 March 2010 Resolution in CA-G.R. CV No. 89665 are AFFIRMED.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Jardeleza,[*] JJ., concur.

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[*] Acting Member per Special Order No. 2188 dated 16 September 2015.

[1] Rollo, pp. 32-38; Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Andres B. Reyes, Jr. and Priscilla J. Baltazar-Padilla, concurring.

[2] Id. at 39.

[3] Id. at 99-101; Issued by Judge Agustin S. Dizon.

[4] Id. at 49-54; See Complaint.

[5] Id. at 56-66; See Answer of MGM Motors.

[6] Id. at 69-70; See Answer of Ayala Insurance.

[7] Records, p. 356-357.

[8] Rollo, p. 73-76; Presided by Pairing Judge Ma. Theresa Dela Torre-Yadao.

[9] Id. at 37.

[10] Rollo, pp. 16-17.

[11] Celino v. Heirs of Alejo Santiago, 479 Phil. 617, 623 (2004).

[12] Uy v. Chua, 616 Phil. 768, 784 (2009).

[13] Abad v. Guimba, 503 Phil. 321, 328-329 (2005).

[14] Heirs of Pedro Pasag v. Spouses Parocha, 550 Phil. 571, 583 (2007).

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