

RAZA APPLIANCE CENTER, REPRESENTED BY ATTY. MIGUEL RANILLO, PETITIONER, VS. HON. ROLANDO R. VILLARAZA, IN HIS CAPACITY AS THE PRESIDING JUDGE OF BRANCH II OF THE CITY COURT OF C...

G.R. No. 58452. September 30, 1982

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

On November 21, 1979, petitioner Raza Appliance Center of Dipolog City issued a purchase order addressed to R.A. Uy Appliance Center of Cagayan de Oro City directing the latter to furnish the petitioner one Weinstein Accousticon Piano worth P7,710.00. The order was honored by respondent R.A. Uy Appliance Center which issued a delivery receipt for the item.

Upon the alleged refusal of Raza to pay for the piano inspite of repeated demands made by Uy, the latter filed a complaint for collection and/or sum of money on January 19, 1981 with the City Court of Cagayan de Oro City. The complaint was docketed as Civil Case No. 7602 of the respondent court.

Raza filed a motion to dismiss Civil Case No. 7602, alleging that the venue of the case properly falls in Dipolog City and not Cagayan de Oro City. The motion to dismiss was denied by the respondent court for lack of merit. Hence, this petition was filed.

Section 1(b) of Rule 4 provides:

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"(b) Personal actions.—All other civil actions in inferior courts shall be brought:

"(1) In the place specified by the parties by means of a written agreement, whenever the court shall have jurisdiction to try the action by reason of its nature or the amount involved;

"(2) If there is no such agreement, in the place of the execution of the contract sued upon as appears therefrom;

"(3) When the place of execution of the written contract sued upon does not appear therein, or the action is not upon a written contract, then in the municipality where the defendant or any of the defendants resides or may be served with summons."

The petitioner and respondent are agreed that they have no written agreement specifying where the action arising out of an alleged violation of the contract should be filed.

The issue is whether or not to apply the second paragraph on "the place of execution of the contract sued upon as appears therefrom."

There are two documents evidencing the transaction.

Annex A of the complaint is a purchase order on a printed form of Raza Appliance Center directed to the private respondent asking that Raza be furnished the piano as described in the order. The purchase order form understandably carries the address of Raza in Dipolog City.

Annex B is the delivery receipt on a printed form of R.A. Uy Appliance Center directed to the petitioner stating the delivery of the piano. The printed receipt carries the address of the private respondent in Cagayan de Oro City.

Where was the contract of sale executed?

Petitioner Raza Appliance Center contends that:

"The contract 'sued upon', no doubt, is none other than the purchase order marked as Annex A to the complaint. But as has already been stated, there is nothing in said document to point out the place of execution of the contract. Indeed the said Annex A points and indicates clearly the residence of the petitioner which is Dipolog City, in the same manner that the residence of the private respondent is very well noted as Cagayan de Oro City. It is precisely for this reason why the Rule insists on the phraseology 'in the place of execution of the contract sued upon as appears therefrom.' When the place of the execution of the contract does not appear on its face then the Rule says in the municipality where the defendant or any of the defendants resides or may be served with summons."

On the other hand, respondent R.A. Uy Appliance Center states that the place of execution of the contract sued upon is Cagayan de Oro. It argues:

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"The reason being that the unilateral act merely of petitioner of preparing in Dipolog City the purchase order, that it relied so much in the instant petition, partaking as it does, simply of an order, offer or proposal to buy, did not and cannot yet give rise to a valid contract for without the conformity of the other party, the same was still wanting of the meeting of the minds of the parties, that negates the essential element of a contract.

"That is why petitioner had to address its purchase order to private respondent in Cagayan de Oro City where it could obtain the latter's conformity and ascertain whether or not its order could be granted and finally executed by its delivery.

"The fact that private respondent issued a delivery receipt in Cagayan de Oro City itself clearly indicates that it conformed to petitioner's order only in Cagayan de Oro City.

"Consequently, it is only in Cagayan de Oro City where the meeting of the minds of the parties took place, where the elements of a valid contract were complied with, and the agreement of the parties finally executed by its delivery. It is incidentally in Cagayan de Oro City where ownership was transferred, as in obedience to law and jurisdiction, it is delivery that generally transfer ownership (Art. 1496, New Civil Code).

"Execution is not limited to signing alone, as when petitioner prepared and signed its purchase order. 'Execution imports,' includes or involves delivery. (Miller vs. Jansen, 21 Cal. 2d 473, 132 P. 2d 801, 802; McCarthy Co. vs. Commissioner of Internal Revenue, C.C.A. 9, 80F. 2d 618, 620; Stocks vs. Luzer, 232 Ala. 482, 168 So. 877, 878; p. 678 Black Law Dictionary, 4th ed)"

We agree with the private respondent. The respondent court did not act without jurisdiction or with grave abuse of discretion. The petition has no merit.

The purchase order is not, as contended by the petitioner, the contract sued upon. By itself, it was only an offer to buy. Under Article 1475, the contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price. In *Philippine Virginia Tobacco Administration v. De los Angeles* (87 SCRA 197, 210) this Court, speaking through the Senior Associate Justice and now Chief Justice

Enrique M. Fernando, emphasized that this has been the rule since the 1902 decision of *Irureta v. Tambunting* (1 Phil. 490) and cited subsequent cases adhering to the doctrine. (Cf. *Barretto v. Santa Marina*, 26 Phil. 200 [1913]; *Cruzado v. Bustos and Escaler*, 34 Phil. 17 [1916]; *Ocejo, Perez and Co. v. International Banking Corp.*, 37 Phil 631 [1918]; *Warner, Barnes and Co. v. Inza*, 43 Phil. 505 [1922]; *Earnshaw Docks vs. Collector of Internal Revenue*, 54 Phil. 696 [1930]; *Chua Ngo v. Universal Trading Co., Inc.*, 87 Phil. 331 [1950]; and *Soriano v. Latoño*, 87 Phil. 757 [1950]).

The meeting of minds took place in Cagayan de Oro City when the vendor received the purchase order, agreed to its terms, and acted upon it. As a matter of fact, it was not alone the meeting of minds but also the consummation of the contract which happened in Cagayan de Oro. The petitioner's representative received the piano at Cagayan de Oro and assumed the responsibility and expenses of bringing it to Dipolog City. He signed the delivery receipt at Cagayan de Oro.

Under the circumstances of this case, the documents evidencing the contract show the place of execution to be Cagayan de Oro City. The purchase order (Exhibit A) was an offer to buy directed to R.A. Uy Appliance Center with address at Cagayan de Oro City. It was brought to the latter city to be acted upon at that place. The delivery receipt (Exhibit B) indicates the acceptance of the offer and the delivery of the piano also at Cagayan de Oro City. The entry on the delivery receipt showing that the purchased item was delivered to Raza Appliance Center of Dipolog City merely indicates the name and address of the buyer but not the place of the execution of the contract.

WHEREFORE, the petition is hereby dismissed for lack of merit. The temporary restraining order dated October 28, 1981 is set aside. Costs against the petitioner.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Vasquez, and Relova, JJ., concur.

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