

FAR CORPORATION, PETITIONER, VS. THE HONORABLE INTERMEDIATE APPELLATE COURT, ALBERTO G. GOROSPE AND RAFAEL GOROSPE, RESPONDENTS.

G.R. No. 74345. January 29, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

Such are the wheels of justice in this country that they have brought this simple case of an undelivered letter all the way up to the highest tribunal of the land. The irony of it is that the letter itself, sent from Baguio City, was allegedly never received by the addressee, who was only about 250 kilometers away in Quezon City and not, as one might suppose, across the seas.

Delivery of the letter was entrusted by Alberto Gorospe on February 22, 1979, to the herein petitioner, which collected from him a service fee of P1.50.[1] Gorospe claimed he was assured the letter would reach his son, the other private respondent, within three days. But it never did.

No confirmation of the receipt of the letter was ever given to him by the petitioner although he had asked for it several times. Finally, he had to go to Quezon City to verify and was told by his son that he had not received the letter. When Gorospe returned to Baguio City and demanded an explanation, the petitioner could not give any.[2]

Gorospe eventually wrote to the petitioner demanding satisfaction for the non-delivery of the letter.[3] Significantly, the petitioner's reply did not deny that the letter had not been delivered. Instead, it merely argued that he had not indicated that it was a valuable communication for which he should have paid a higher service fee. "In this case," the petitioner said, "we regret to inform you that the sender of the alleged letter did not attach too much value to the said letter." [4]

The private respondents then filed a complaint for damages against the petitioner on May 8, 1979. Notably, they had trouble at the very start with the service of the summons as narrated by the trial court thus:

"This is an action for damages. The complaint was filed on May 8, 1979. Service of summons and complaint was made on defendant's manager, Rose Caram, through the latter's clerk at Caram's office at 1008 Pasay Road, as certified to by the Provincial Sheriff of Rizal (pp. 18-19, Record).

"On August 27, 1979, Atty. Melquiades Paredes, retained counsel of defendant corporation, in a 'special appearance' moved to dismiss upon the ground that the summons with complaint, was received by a mere clerk of the manager. To avoid alias summons, sending copy of his motion to the President of defendant corporation at 1008 Pasay Road, Makati, Metro Manila; said copy was sent back by Atty. Melquiades Paredes stating that the President did not hold office at said address.

"Alias summons was issued on May 21, 1980 but it was again returned by Atty. Melquiades Paredes, the retained counsel of defendant, upon the reason that it was left with a mere employee at defendant's main office at Iloilo City.

"Summons sent to Pasig for service at 1008 Pasay Road, Metro Manila was likewise returned unserved because defendant corporation could not be located at given address (p. 49, Record).

"In view of the foregoing failures of service of summons, and without the retained counsel voluntarily given the exact address of defendant corporation, counsel for plaintiff had to seek information from the Securities and Exchange Commission (Exh. 'D-2') which informed him that the address was 812 E. de los Santos Avenue, Pasay City (Exhs. 'D' and 'D-1'). Another summons directed to this address, however, was not served.

"After getting the address from the SEC, plaintiff again went to Metro Manila. He found the office of defendant but no one was present except a security guard who did not know where the officers were or if they were coming back.

"On March 3, 1983 plaintiff moved for issuance of alias summons and for the City Sheriff of Baguio to be authorized to effect service. Finally service of summons was made on Rose Caram, President of defendant corporation, on April 26, 1983."[5]

When summons was finally served (after all of four years) and the petitioner filed its answer, the pre-trial was set on June 22, 1983. On this date, the petitioner's counsel submitted a secretary's certificate reading as follows:

"That on March 11, 1983, the Board of Directors of said corporation convened on a special meeting to consider the granting of authority to Atty. Melquiades Paredes to represent FAR Corporation in the pre-trial of all the cases filed by or against its administrative officers, before any and all trial courts in the Philippines;

"That in the said meeting, it was decided by the board to grant such special authority to Atty. Melquiades Paredes empowering him to represent FAR Corporation on all and every matter that may be necessary to be taken up in the said pre-trials of the said cases on the date/dates set for the proceedings/conferences thereof and on all other pre-trial conferences thereafter."[6]

Claiming that the said certificate was not the sufficient power of attorney required by Section 23, Rule 138 of the Rules of Court, the private respondents moved to declare the petitioner in default.[7] Atty. Paredes waived the right to file any written opposition to the motion and agreed to have the same submitted for resolution.[8] When the motion was granted, he filed a motion for reconsideration, which, however, he did not argue on the date and time set for its hearing.[9] The motion for reconsideration was ultimately denied, and the private respondents then submitted their evidence ex parte.[10] In the end, judgment[*] was rendered awarding the private respondent P15,000.00 moral damages, P8,000.00 exemplary damages, P1,000 actual damages, P5,000.00 attorney's fees and legal interests.[11] This decision was affirmed on appeal,[**] except for the moral damages, which were reduced to P5,000.00.[12]

The respondent court is now faulted by the petitioner with grave abuse of discretion for having: a) declared the petitioner in default and accepted the private respondents' evidence ex parte; and b) holding the petitioner liable in damages on the basis of the private respondent's ex parte evidence.

We sustain the challenged decision on the first ground. A reading of the above-quoted secretary's certificate will readily show that it is not the special power of attorney required by the Rules of Court authorizing the client's attorney to represent it in the pre-trial and, among others, enter into compromise with the other litigant.

The cited section of Rule 138 clearly provides as follows:

"Sec. 23. Authority of attorneys to bind clients. - Attorneys have authority to bind their clients in any case by any agreement in relation thereto made in writing, and in taking appeals, and in all matters or ordinary judicial procedure. But they cannot, without special authority, compromise their client's litigation, or receive anything in discharge of a client's claim but the full amount in cash."

The language of the certification is obviously general. The authority given to Atty. Paredes was "to represent FAR Corporation in the pre-trial of all the cases filed by or against FAR Corporation ... on all and every matter that may be necessary to be taken up in the said pre-trials of the said cases on the date/dates set for the proceedings/conferences thereof and on all other pre-trial conferences thereafter." No specific mention was made of the complaint filed by the Gorospes or of the pre-trial thereof and the date and time of the hearing. The authorization was for all the cases filed by or for the petitioner and all its pre-trials.

It is worth observing that when the sufficiency of the counsel's authority was questioned, Atty. Paredes insisted on its validity when it would have been simpler and safer for him to ask for an opportunity to rectify it. And when he moved for reconsideration of the order of default, he did not even bother to argue his motion which he had set for hearing *ex parte*.^[13]

The petitioner now claims that the special authorization was not really necessary because this was required only to compromise the client's case. And he adds he had manifested earlier that FAR was not willing to compromise. However, assuming this would dispense with the requirement, such manifestation does not appear anywhere in the record. In fact, as correctly pointed out by the private respondent, no pre-trial could be held at all precisely because he had questioned Atty. Paredes's authority to represent the petitioner therein.

On the merits, we see no reason either to reverse the factual findings of the respondent court. The petitioner has not denied that the subject letter was not delivered to the other private respondent. In its reply to Gorospe's demand letter, it simply offered the vague argument that he should have paid a higher fee for its delivery if he considered his letter valuable. This seems to suggest that it was Gorospe's fault if the letter had not been delivered. If that is the implication of that argument, it betrays a most cynical attitude, indeed, that hardly befits an entity engaged in a public service by franchise from the government.

It is a standard practice of all entities rendering delivery services to require a receipt of the articles delivered and to confirm the delivery to the sender. In this case, the petitioner could not make such a confirmation, which would have been easy enough for it if the letter had in fact been delivered. Neither in its answer to Gorospe's demand letter nor in its pleadings does the petitioner assert any such confirmation. The petitioner has not proved at all that the service it contracted to render for the private respondents, and for which it had collected a fee of P1.50, had actually been discharged. On the other hand, the private respondents have shown that the letter that was supposed to have been delivered never reached the addressee at all.^[14]

As a public utility, the petitioner is under a special obligation to render its services with full fidelity to the public it is committed to serve. The public avails itself of the services of the petitioner and other companies engaged in similar business because of the special attention it expects in exchange for the higher service fee it is willing to pay. Otherwise, the ordinary letter-sender would simply rely on the government postal services, paying the usual lower costs and assuming the higher risk of loss of the article mailed.

It is futile for the petitioner to argue that the lost letter was not classified by the sender as valuable mail matter for which a higher delivery rate should have been paid. What it is saying in effect is that it is not required to exercise extra care in dealing with matters entrusted to it if only the ordinary fee is paid for its delivery. Stated otherwise, its position is that the customer must take his chances of non-delivery if he does not choose to pay the special rates for valuable mail and must bear his own loss if the petitioner is negligent. This is the sum and substance of the petitioner's defense, and we consider it most inadequate, to say the least. Given this insolent excuse, we must and do find for the respondents.

The Court expresses its stern disapproval of the dilatory and evasive tactics employed by the petitioner to frustrate the private respondents' legitimate claims against its clearly negligent acts. The transparent efforts to prevent the

service of summons upon it do not speak well of its counsel, who could have demonstrated a more cooperative attitude toward a brother lawyer. Indeed, as the record shows, Atty. Paredes employed the most obvious maneuvers to prevent as long as he could the service of summons which he knew would be effected anyway sooner or later. It is no credit to him that he succeeded in delaying such service for four years and in imposing needless difficulty upon the other counsel.

When, after filing his motion for reconsideration of the order of default, Atty. Paredes did not even bother to appear on the date and time it was set for hearing as he himself had requested, he was again obviously pursuing his strategy of delay.^[15] It was as if, having no valid defense, he was bent on at least giving the claimants a run for their money, so to speak, and postponing as long as he could the inevitable judgment against his client.

But more important than all this is the tardiness of this petition itself, which for this reason alone could have been dismissed outright. According to its recitals, a copy of the decision rendered by the respondent court was received by the security guard at Atty. Paredes's office on February 5, 1986, but it was only on February 12, 1986, that the said counsel was himself informed about it because of his absence from his office "due to his extensive participation in the just passed electoral exercise."^[16] The petitioner had fifteen days from February 5, 1980, or until February 17, 1986, within which to file a motion for reconsideration, but instead it filed a motion for extension of time to file the motion for reconsideration. The reason given was certainly not an excuse for non-compliance with the Rules of Court, and in any event the petitioner could not demand such extension as a matter of right. The motion for reconsideration was therefore already fourteen days tardy when it was filed on March 3, 1986. Indeed, even if the 15-day period were to be counted from February 12, 1986, the motion for reconsideration would still have been filed four days late, after the decision sought to be reconsidered had become final and executory on February 27, 1986. On this score alone, to repeat, the petitioner's case must fall.

Cases like this should never reach the Supreme Court at all, considering the simplicity of the subject and even of the legal issues involved. If they have unnecessarily burdened the judicial dockets, it is usually because of a thoughtless refusal to recognize what are clearly just obligations, abetted by "clever" counsel whose dubious maneuvers to frustrate clearly legitimate claims can hardly add luster to their profession or improve their own standing as members of the Philippine bar. The Court once again calls upon litigants and lawyers alike to cooperate with it in the quest for the orderly and speedy administration of justice for all as one of the hallmarks of a democratic society and the responsibility of all its citizens.

Atty. Melquiades N. Paredes is hereby CENSURED for his conduct in this case and warned that repetition of the tactics he employed herein to obstruct the administration of justice will be dealt with more severely.

WHEREFORE, the petition is DENIED and the decision of the respondent court is affirmed in toto. This decision is immediately executory. It is so ordered.

Teehankee, C.J., Narvasa, Paras, and Gancayco, JJ., concur.

[1]Rollo, p. 21.

[2] Ibid.

[3] Id.

[4] Id., p. 24.

[5] Id., pp. 19-20.

[6] Id., p. 22.

[7] Id., p. 20.

[8] Id.

[9] Id.

[10] Id.

[*] Judge Bonifacio T. Doria, RTC Baguio City, Branch VI.

[11] Id., p. 18.

[**] Penned by Justice Bienvenido C. Ejercito, with Justices Jorge R. Coquia, Mariano A. Zosa and Florelana Castro-Bartolome concurring (Third Division).

[12] Id., p. 25.

[13] Id., p. 20.

[14] Id., pp. 23-24.

[15] Id., p. 20.

[16] Id., p. 42.

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