

DILSON ENTERPRISES, INC., PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND RAMON DY PRIETO, RESPONDENTS.

G.R. No. 74964. February 27, 1989

Ponente: PARAS, J.

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PARAS, J.:

Petitioner Dilson Enterprises, Inc., is the operator of the Manila Monte Hotel located at Rizal Avenue, Manila. On December 18, 1976, one Antonio Dy Prieto, a son of Ramon Dy Prieto, the private respondent in this case, while a guest of Manila Monte, parked a Colt Gallant owned by his father in the parking area of Manila Monte.

Antonio gave the car key to Reynante Oliveros, a security guard of Central Protective Agency. Said agency was hired by petitioner Dilson Enterprises to secure the parking basement and the hotel managed by Dilson. On the evening of said date, the car key was taken by an unknown person who claimed to be Antonio's brother from Oliveros.

On or about April 20, 1977, private respondent's car was found in an auto repair shop by the Anti-Carnapping unit, Metropolitan Police Force, and returned to private respondent's son, Antonio in a very bad and poor condition.

Ramon Dy Prieto then brought an action before the then Court of First Instance of Manila against petitioner and Oliveros. The case went to trial and on September 26, 1983, the Regional Trial Court of Manila rendered judgment, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered sentencing defendant Dilson Enterprises, Inc. and Central Protective Agency, Inc., jointly and severally, to pay the plaintiff the following sums:

- a. P14,785.00 corresponding to the value of the missing car accessories and parts of his motor vehicle;
- b. P8,000.00 corresponding to the cost of repainting, repair and adjustments to put the motor vehicle in a running condition;
- c. P5,000.00 for and as attorney's fees;
- d. costs of suit." (p. 4, Rollo)

In a Motion for Reconsideration filed by Ramon Dy Prieto in said decision, the lower court awarded also interest. The decision was appealed to the then Intermediate Appellate Court by petitioner Dilson Enterprises.

In a Decision[*] promulgated on February 26, 1986, which was received by petitioner's counsel on April 4, 1986, the respondent Intermediate Appellate Court rendered judgment for the private respondent, the dispositive part of which reads:

"WHEREFORE, modified in the sum that we reduce the cost of repair and repainting to P2,500.00, the decision a quo is hereby AFFIRMED in all other respects. No costs." (p. 64, Rollo)

The Motion for Reconsideration filed by petitioner Dilson Enterprises before the Intermediate Appellate Court was denied "for Lack of Merit," (Annexes "L").

Hence, this petition for review on the following grounds:

"1. the private respondent (plaintiff) in the case) has no cause of action against petitioner; and

"2. there is no legal basis for the award of attorney's fees." (p. 5, Rollo)

The petition having been given due course, We now resolve the same.

Under the first proposition, petitioner points out that private respondent (Ramon Dy Prieto) has no interest in this case, essentially because it was his son who was the guest of the hotel. This contention is completely unmeritorious. As aptly stated by the Court of Appeals: "Plaintiff's son was the guest of the hotel, but plaintiff (Ramon Dy Prieto, private respondent) is the owner of the car carnapped while parked in the basement used for parking purposes. As owner of the car, plaintiff succeeds to the personal rights and obligations of his son in the latter's contract or juridical relation with Dilson in representation of the Manila Monte Hotel." (p. 63-A, Rollo) Undoubtedly, he has material interest in the thing.

"A real party in interest is one who could be benefitted or injured by the judgment or the party entitled to the avails of the suit." (Salonga vs. Warner, Barner & Co., Ltd., L-2246, Jan. 31, 1951).

"A person who is not a party obliged principally or subsidiarily in a contract may exercise an action for nullity of the contract if he is prejudiced in his rights with respect to one of the contracting parties, and can show the detriment which would positively result to him from the contract in which he had no intervention." (Banez vs. Court of Appeals, 59 SCRA 15)

The other proposition that there is no legal basis for the award of attorney's fees arguing that there is no basis or justification for the award likewise lacks merit. The award of attorney's fees is justifiable under paragraph 2 of Art. 2208 of the Civil Code, which provides:

"Art. 2208 - In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except x x x

"2. When defendant's act or omission has compelled the plaintiff to litigate with third person or to incur expenses to protect his interest."

In the instant case, the private respondent was compelled to litigate this case to protect his rights and interests after the petitioner completely ignored his letters of demand (Exhs. "J", "J-1", and "J-2") demanding the return of the motor vehicle lost or payment of its value in the total amount of P60,000.00 including accessories. (TSN, March 19, 1979, p. 43).

PREMISES CONSIDERED, the appealed decision of the Intermediate Appellate Court is hereby AFFIRMED in all respects.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[*]Penned by Justice Ines-Luciano; concurred in by Justices Gaviola, Jr., Caguioa and Quetulio-Losa.

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