

LARA & S GIFT AND DECORS, INC., PETITIONER, V. PNB GENERAL INSURERS CO., INC. AND UCPB GENERAL INSURANCE CO., INC., RESPONDENTS.*G.R. Nos. 230429-30. January 24, 2018*

Ponente: VELASCO JR., J.

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Nature of the Case

Before this Court is a petition for review under Rule 45 of the Rules of Court, seeking to reverse and set aside the March 6, 2017 Amended Decision[1] of the Court of Appeals (CA), Special Former Fifth Division, in CA-G.R. SP Nos. 138321 and 138774. The Amended Decision granted respondents' motions for the reconsideration of the December 21, 2015 Decision[2] of the CA's Former Fifth Division annulling and setting aside the Omnibus Orders dated October 1, 2014 and November 26, 2014 of the Regional Trial Court (RTC) of Makati City, Branch 147, in Civil Case No. 11-238.

Factual Antecedents

Petitioner Lara's Gifts and Decors, Inc. (LGDI) is engaged in the business of manufacturing, selling, and exporting various handicraft items and decorative products. It leased buildings/warehouses, particularly Buildings R1, R2, R3, R4, Y2, Y3, Y4, and Y4 Annex, from J.Y. & Sons Realty Co., Inc., located at JY & Sons Compound, Philippine Veterans Center, Taguig City, for its business operations. The warehouses leased also served as production and storage areas of its goods and stocks.

The handicraft products, raw materials, and machineries and equipment of petitioner were insured against fire and other allied risks with respondent PNB General Insurers Co., Inc. (PNB Gen) in the total amount of P582,000,000 covering the period of February 19, 2007 (4:00 p.m.) to February 18, 2008 (4:00p.m.). The insurance policy, which is in the nature of an "open policy," was covered by Fire Insurance Policy No. FI-NIL-HO- 0018666, wherein PNB Gen assumed 55% of the total amount insured. Meanwhile, respondent UCPB General Insurance Co., Inc. (UCPB), as co- insurer, assumed the remaining 45% through Fire Insurance Policy No. HOF07D-FLS072788. The policy was subsequently increased to P717,000,000, pursuant to Policy Endorsement No. FI-NIL- HO20070005944A.

On February 19, 2008, approximately four hours before the policy was about to expire, a fire broke out and razed Buildings Y2, Y3, and Y4 of the JY & Sons Compound. Petitioner immediately claimed from the respondents for the loss and damage of its insured properties.

To evaluate and ascertain the amount of loss, respondents engaged the services of Cunningham Lindsey Philippines, Inc. (CLPI), an independent adjuster. CLPI required petitioner to submit supporting documents material for the proper determination of the actual amount of loss; the latter, however, failed to comply with the request. Thereafter, respondents appointed a new adjuster, Esteban Adjusters and Valuer's Inc. (ESTEBAN) to

undertake the valuation of the loss. ESTEBAN similarly found petitioner's documents insufficient to properly evaluate and assess the amount of the loss claimed.

Taking into consideration the findings of the independent adjusters and the report of its forensic specialists, respondents denied petitioner's claim for coverage of liability under the insurance policy due, inter alia, to the following reasons: 1) violation of Policy Conditions Nos. 13 and 19; 2) misdeclaration/subsequent exclusion of laser machines from claim for machineries and equipment; and 3) absence of independent and competent evidence to substantiate loss (additional alternative ground for claim on stocks and machineries/equipment).[3]

Resultantly, petitioner filed a Complaint for Specific Performance and Damages against respondents before the Makati City RTC, docketed as Civil Case No. 11-238. The case was raffled to Branch 62 of the trial court.

In its Notice of Pre-Trial Conference,[4] the RTC directed the parties to submit their respective pre-trial briefs, accompanied by the documents or exhibits intended to be presented, at least three days before the scheduled Pre-Trial Conference. It also contained a stern warning that "no evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that had been earlier identified and pre-marked during the pre-trial, except if allowed by the Court for good cause shown."

During the Pre-Trial Conference, both parties made admissions and proposed stipulations of facts and issues to simplify the course of the trial. On account of the voluminous documentary exhibits to be presented, identified, and marked, the parties allotted six meetings/conferences just for the pre-marking of exhibits.

After the termination of the Pre-Trial Conference, the RTC issued a Pre-Trial Order dated September 12, 2013, in which the parties were given the opportunity to amend or correct any errors found therein within five days from receipt thereof. In the same Order, all the parties made a reservation for the presentation of additional documentary exhibits in the course of the trial.

The parties filed their respective Motions to Amend/Correct Pre-Trial Order.[5] None of the parties, however, sought to amend the Pre-Trial Order for the purpose of submitting additional judicial affidavits of witnesses or the admission of additional documentary exhibits not presented and pre-marked during the Pre-Trial Conference.

Trial on the merits ensued on November 7, 2013. Among the witnesses presented by petitioner are Gina Servita (Servita) and Luis Raymond Villafuerte (Mr. Villafuerte). Servita testified on cross-examination that she was able to reconstitute, collect, and/or collate and keep in her possession copies of several commercial documents consisting of purported Purchase Orders (POs), Sales Invoices (Sis), and Delivery Receipts (DRs) (collectively, the Questioned Documents), months after the fire broke out.[6] Mr. Villafuerte, meanwhile, testified on his involvement and participation in the management and operations of petitioner corporation. He further admitted, however, that he had divested his full interest in the management and operations of the company to devote his time as Governor of Camarines Sur from 2004 to 2013. As such, his participation in the business was reduced to a mere advisor of his wife, Mrs. Lara Maria Villafuerte (Mrs. Villafuerte), petitioner corporation's president, who is likewise slated to testify.[7]

During the continuation of Mr. Villafuerte's cross-examination on July 10, 2014, petitioner furnished respondents with a copy of the 2nd Supplemental Judicial Affidavit[8] of Mrs. Villafuerte dated July 9, 2014 (the 1st Supplemental Judicial Affidavit of Mrs. Villafuerte was filed during the Pre-Trial for the re-marking of exhibits). PNB Gen, through a Motion to Expunge,[9] sought to strike from the records the said 2nd Supplemental Judicial Affidavit of Mrs. Villafuerte and all documents attached thereto for alleged violation of Administrative Matter No. 12-8-8-SC, otherwise known as the "Judicial Affidavit Rule" (JA Rule) and A.M. No. 03-1-09-SC,[10] or the Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of

Deposition-Discovery Measures (Guidelines on Pre-Trial). UCPB filed its Manifestation and Motion,[11] adopting in toto PNB Gen's Motion. The twin Motions were set to be heard on September 19, 2014.

On September 18, 2014, or a day prior to the hearing of the Motion to Expunge, the re-direct examination of Mr. Villafuerte continued. During the trial, petitioner's counsel produced the Questioned Documents in open court and asked Mr. Villafuerte to identify those documents, seeking to introduce and mark them as exhibits. Respondents immediately objected in open court to the introduction and presentation of the Questioned Documents on the grounds that they were neither touched upon nor covered by the witness' cross-examination, and that the same were being introduced for the first time at this late stage of proceeding, without giving the parties opportunity to verify their relevance and authenticity. They argued that since these documents were not presented, identified, marked, and even compared with the originals during the Pre-Trial Conference, they should be excluded pursuant to the Guidelines on Pre-Trial and JA Rule. The documents are further alleged to be the same documents subject of the respondents' twin Motions to Expunge, i.e., the same Questioned Documents which were never presented, marked, or compared during the various Pre-Trial Conferences of the case, or were never presented to the insurers and adjusters early on.

Ruling of the RTC

On September 18, 2014, the RTC issued an Order[12] overruling the objections of respondents and allowing petitioner to propound questions relating to the Questioned Documents, without prejudice to the hearing on the motions to expunge the 2[nd] Supplemental Judicial Affidavit of Mrs. Villafuerte, to wit:

ACCORDINGLY, the objection interposed by the defendants is overruled, the court allows the plaintiff to ask questions on the documentary evidence being shown to the witness and the witness is allowed to answer questions related or in connection with the said documents. This is without prejudice to the hearing that will be conducted on the manifestation and motion set for tomorrow with respect to the Supplemental Judicial Affidavit of another witness in the person of Lara Villafuerte.

SO ORDERED.

Aggrieved, respondents moved for the reconsideration of the above-mentioned Order in open court.

On October 1, 2014, the RTC issued an Omnibus Order[13] resolving respondents' motions in this wise:

WHEREFORE, premises considered, the motion for reconsideration of the Order dated September 18, 2014, Motion to Expunge filed on September 11, 2014 and the Manifestation and Motion filed on September 15, 2014 by the defendants are hereby denied for lack of merit.

SO ORDERED.

The RTC allowed Mr. Villafuerte to testify on the contested documentary exhibits, on the ground that both the trial court and the parties are bound by the reservations made for the presentation of additional evidence, and in keeping with the interest of justice that evidence should be liberally allowed to be heard than to be suppressed, subject to the final appreciation of its weight and credence. The Omnibus Order likewise denied UCPB's Motion seeking to expunge from the records the 2[nd] Supplemental Judicial Affidavit of Mrs. Villafuerte and its accompanying exhibits.

Respondents separately moved for the reconsideration of the denial of their motions to expunge, but the trial court denied the same in an Omnibus Order[14] dated November 26, 2014.

Aggrieved, respondents filed a petition for certiorari[15] under Rule 65 of the Rules of Court before the CA, imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the trial court in

issuing the foregoing October 1, 2014 and November 26, 2014 Omnibus Orders.

Ruling of the Court of Appeals

On December 21, 2015, the CA, through its Former Fifth Division, rendered a Decision, the dispositive portion of which states:

WHEREFORE, both Petitions are DISMISSED. Public Respondent Judge Ronald B. Moreno's (a) September 18, 2014 Order; (b) October 1, 2014 Omnibus Order; and (c) November 26, 2014 Omnibus Order; issued in Civil Case No. 11-238, are hereby AFFIRMED in toto.

SO ORDERED.

In dismissing the petitions, the CA held that the RTC has the discretion, pursuant to Section 7,[16] Rule 132 of the Rules of Court, to allow the Questioned Documents to be presented and admitted in support of Mr. Villafuerte's answers during his cross-examination. Anent the admission of the 2[nd] Supplemental Judicial Affidavit of Mrs. Villafuerte, the CA noted that the records show that "all the parties made reservations" to present "additional documentary exhibits" in the course of the trial, as embodied in the Pre-Trial Order.

Dissatisfied, respondents moved for reconsideration of the CA Decision.

On March 6, 2017, the CA Special Former Fifth Division issued an Amended Decision reversing its initial pronouncement, thus:

WHEREFORE, the motions for reconsideration are granted and the petitions in these cases are granted. The Omnibus Orders of the Regional Trial Court of Makati City, Branch 147 dated October 1, 2014 and November 26, 2014 are Annulled and Set Aside.

SO ORDERED.

Finding merit in the respondents' contentions, the CA ruled that the RTC erred in allowing the introduction of the 2[nd] Supplemental Judicial Affidavit in evidence, including the attached Questioned Documents, since petitioner failed to comply with Sections 2 and 10 of the JA Rule which prohibit the presentation, marking and identification of additional exhibits during trial that were not promptly submitted during pre-trial. In addition, the CA declared Mr. Villafuerte as incompetent to testify on the Questioned Documents since he was neither involved in the preparation nor execution thereof thus, his testimony respecting the documents is hearsay. Accordingly, the CA annulled and set aside the October 1, 2014 and November 26, 2014 RTC Orders.

Hence, the instant petition.

Petitioner, in the main, argues that the introduction of additional documentary evidence during re-direct examination of a witness is not absolutely proscribed by A.M. No. 03-1-09-SC,[17] or the Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures (Guidelines in the Conduct of Pre-Trial), and the JA Rule. Petitioner likewise contends that the trial court was well within its discretion to allow the introduction of additional evidence during re-direct examination to explain or supplement the answers of a witness during his or her cross-examination. Anent the submission of the 2[nd] Supplemental Judicial Affidavit of Mrs. Villafuerte, petitioner asserts that the JA Rule allows for the belated submission of judicial affidavits, subject only to applicable penalties.

Respondents, for their part, insist that the allowance of the 2[nd] Supplemental Judicial Affidavit and its attachments to be introduced into evidence violates the express provisions of the JA Rule, Rule 10, Section 6 of the Rules of Court and other procedural rules. They further maintain that the provisions of the Guidelines on

Pre-Trial and JA Rule—prohibiting the submission, presentation, and identification of evidence which were not identified, compared, and marked during pre-trial—are mandatory, and thus, should not have been disregarded by the trial court. They further contend that Mr. Villafuerte should not have been allowed to testify on the Questioned Documents since he does not have personal knowledge of the matters contained therein.

Issue

The sole issue for the resolution of the Court is whether or not the CA erred in disallowing the introduction of additional documentary exhibits during trial and the filing of the 2[nd] Supplemental Judicial Affidavit of Mrs. Villafuerte.

Our Ruling

We find merit in the petition.

In an action for certiorari, the primordial task of the court is to ascertain whether the court a quo acted with grave abuse of discretion amounting to excess or lack of jurisdiction in the exercise of its judgment, such that the act was done in a capricious, whimsical, arbitrary or despotic manner. Grave abuse of discretion means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.[18] The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[19]

The jurisdiction of the court in such cases is narrow in scope since it is limited to resolving only errors of jurisdiction, or one where the acts complained of were issued without or in excess of jurisdiction.[20] There is excess of jurisdiction where the court or quasi-judicial body, being clothed with the power to determine the case, oversteps its authority as declared by law. Hence, as long as the court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal or a petition for review under Rule 45 of the Rules of Court.

This was the issue the CA was confronted with. Specifically, the CA was called to determine whether the trial court correctly allowed the petitioner to submit the 2[nd] Supplemental Judicial Affidavit, together with the documentary evidence attached thereto, even though trial had already commenced when it submitted the same, and hence, had not been submitted and pre-marked during the pre-trial.

We agree with the CA Former Fifth Division's December 21, 2015 Decision that the trial court did not gravely abuse its discretion in issuing the assailed Omnibus Orders.

The JA Rule, which took effect on January 1, 2013, was promulgated to address congestion and delays in courts. Designed to expedite court proceedings, it primarily affects the manner by which evidence is presented in court,[21] particularly with regard to the taking of the witnesses' testimonies. Consequently, in lieu of direct testimony in court, the parties are required to submit the judicial affidavits of their witnesses within a given period. Nevertheless, the JA Rule was not devised to supplant or amend existing procedural rules; rather, it is designed to supplement and augment them. In this regard, reference must be made to the Guidelines on Pre-Trial in relation to the Rules on Pre-Trial, which, interestingly, both parties invoke in support of their respective arguments.

Invoking the avowed objectives of the Guidelines on Pre-Trial and the JA Rule to abbreviate court proceedings, ensure prompt disposition of cases, and decongest court dockets,[22] respondents contend that the submission of the 2[nd] Supplemental Judicial Affidavit of Mrs. Villafuerte and the corresponding documentary evidence will

unduly prolong the case and defeat the purposes of these rules.

We are not persuaded.

The JA Rule and the Guidelines on Pre-Trial do not totally proscribe the submission of additional evidence even after trial had already commenced

Certainly, the parties are mandated under Sec. 2 of the JA Rule to file and serve the judicial affidavits of their witnesses, together with their documentary or object evidence, not later than five days before pre-trial or preliminary conference, to wit:

Section 2. Submission of Judicial Affidavits and Exhibits in lieu of direct testimonies. - (a) The parties shall file with the court and serve on the adverse party, personally or by licensed courier service, not later than five days before pre-trial or preliminary conference or the scheduled hearing with respect to motions and incidents, the following:

(1) The judicial affidavits of their witnesses, which shall take the place of such witnesses' direct testimonies; and

(2) The parties' documentary or object evidence, if any, which shall be attached to the judicial affidavits and marked as Exhibits A, B, C, and so on in the case of the complainant or the plaintiff, and as Exhibits 1, 2, 3, and so on in the case of the respondent or the defendant. x x x

The documentary and testimonial evidence submitted will then be specified by the trial judge in the Pre-Trial Order. Concomitant thereto, Sec. 10 of the same Rule contains a caveat that the failure to timely submit the affidavits and documentary evidence shall be deemed to be a waiver of their submission, thus:

Section 10. Effect of non-compliance with the Judicial Affidavit Rule. - (a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission. The court may, however, allow only once the late submission of the same provided, the delay is for a valid reason, would not unduly prejudice the opposing party, and the defaulting party pays a fine of not less than P 1,000.00 nor more than P 5,000.00 at the discretion of the court. (Emphasis supplied)

It bears to note that Sec. 10 does not contain a blanket prohibition on the submission of additional evidence. However, the submission of evidence beyond the mandated period in the JA Rule is strictly subject to the conditions that: a) the court may allow the late submission of evidence only once; b) the party presenting the evidence proffers a valid reason for the delay; and c) the opposing party will not be prejudiced thereby.

Corollary thereto, the Guidelines on Pre-Trial instructs the parties to submit their respective pre-trial briefs at least three (3) days before the pre-trial, containing, inter alia, the documents or exhibits to be presented and to state the purposes thereof, viz:

I. Pre-Trial

A. Civil Cases

- The parties shall submit, at least three (3) days before the pre-trial, pre-trial briefs containing the following:

x x x x

d.

The documents or exhibits to be presented, stating the purpose thereof (No evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that had been earlier identified and pre-marked during the pre-trial, except if allowed by the court for good cause shown) x x

x. (Emphasis supplied)

Notwithstanding the foregoing procedural prescription, the same rule confers upon the trial court the discretion to allow the introduction of additional evidence during trial other than those that had been previously marked and identified during the pre-trial, provided there are valid grounds.

The trial court precisely exercised this discretion. It allowed the introduction of the Questioned Documents during the re-direct examination of Mr. Villafuerte upon petitioner's manifestation that the same are being presented in response to the questions propounded by PNB Gen's counsel, Atty. Mejia, during the cross-examination:[23]

Atty. Mejia:

Did you for instance submit proofs of purchases of raw materials for the production of the goods worth P330 Million?

Witness:

We have delivery receipts from subcontractors to prove the validity and existence of these because we feel. ..

Atty. Mejia:

Do these delivery receipts amount to P330 Million?

Witness:

I do not know the total but as I mentioned earlier, sir, we have already proven proof of loss.

Atty. Mejia:

Did you for instance submit job orders issued by LGD to its subcontractors for the production of the goods worth P330 Million?

Witness:

We have purchase orders that we issued to our subcontractors.

Atty. Mejia:

Did you issue purchase orders to your subcontractors?

Witness:

Yes, sir.

Atty. Mejia:

Did you submit copies of these purchase orders to your subcontractors?

Witness:

I think so.[24] (Emphasis supplied)

To echo the CA's observation, Atty. Mejia first raised the matter of petitioner's issuance and submission of purchase orders to its subcontractors during Mr. Villafuerte's cross-examination.[25] Granting that the line of questioning refers to the fact of petitioner's submission of proofs of purchase of raw materials used for the production of its goods, the existence of such proofs of purchase was injected into the testimony due to Mr. Villafuerte's answers. The Court wishes to point out that Atty. Mejia failed to have Mr. Villafuerte's answers stricken out the records although the same were unresponsive to the questions propounded. Pursuant, therefore, to Sec. 7, Rule 132 of the Rules of Court, Mr. Villafuerte may be examined again by petitioner's counsel to supplement and expound on his answers during the cross-examination:

SEC. 7. Re-direct examination; its purpose and extent. - After the cross-examination of the witness has been concluded, he may be re-examined by the party calling him, to explain or supplement his answer given during the cross-examination. On re-direct examination, questions on matters not dealt with during the cross-examination, may be allowed by the court in its discretion.

Respondents understandably take issue on Mr. Villafuerte's competence to testify on the Questioned Documents given his admission that he no longer has any direct participation in the operations and management of petitioner corporation upon divesting his interests thereat in 2004, and that his current participation in the company is only limited to an advisory capacity.[26] Nevertheless, the issues of Mr. Villafuerte's incompetence as a witness to testify on the object and documentary evidence presented and the propriety of presentation of the Questioned Documents, while intimately related, are separate and distinct from each other.

Moreover, to disallow the presentation of the Questioned Documents on the ground of Mr. Villafuerte's incompetence to identify and authenticate the same for lack of personal knowledge is premature at this juncture. Sec. 34, Rule 132 of the Revised Rules on Evidence clearly instructs that:

Section 34. Offer of evidence. — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified. (Emphasis supplied)

Sec. 20[27] of the same Rule, in turn, provides that before any private document is received in evidence, its due execution and authenticity must be proved either by anyone who saw the document executed or written, or by evidence of the genuineness of the signature or handwriting of the maker. Following Sec. 19[28] of Rule 132, the documents sought to be presented undoubtedly are private in character, and hence, must be identified and authenticated in the manner provided in the Rules. The failure to properly authenticate the documents would result in their inadmissibility.[29] The court, however, can only rule on such issue upon the proponent's formal offer of evidence, which, pursuant to Sec. 35,[30] Rule 132, is made after the presentation of the party's testimonial evidence. The present case clearly has not reached that stage yet when the documents were introduced in court.

The 2[nd] Supplemental Judicial Affidavit of Mrs. Villafuerte was properly admitted by the trial court.

With regard to the admission of the 2[nd] Supplemental Judicial Affidavit, We reiterate the requirements laid down in Sec. 2 of the JA Rule that the parties must file with the court and serve on the adverse party the Judicial Affidavits of their witnesses not later than five days before pre-trial or preliminary conference. While the belated submission of evidence is not totally disallowed, it is still, to reiterate, subject to several conditions, which petitioner failed to comply with. Specifically, the records are bereft of any justification, or "good cause," for the filing of the 2[nd] Supplemental Judicial Affidavit during trial instead of during the pre-trial. Petitioner merely

filed and served the affidavit during the hearing on July 10, 2014, without any accompanying motion setting forth any explanation and valid reason for the delay. Further, whether denominated as merely "supplemental," the fact that the affidavit introduces evidence not previously marked and identified during pre-trial qualifies it as new evidence.

Nevertheless, the Court is constrained to rule that the 2[nd] Supplemental Judicial Affidavit was properly admitted in evidence by the trial court. As can be gleaned from Page 64 of the Pre-Trial Order, both parties reserved the right to present additional evidence, thus:

All the parties made a reservation for the presentation of additional documentary exhibits in the course of the trial.[31]

Clearly, the foregoing reservation is tantamount to a waiver of the application of Secs. 2 and 10 of the JA Rule. That respondents waived their right to object to petitioner's introduction of additional evidence is further reinforced by their counsel's manifestation during the hearing on November 21, 2013:

Atty. Zarate:

May I ask her your honor. Who else is knowledgeable about the documents, Madam Witness?

Witness:

The DRs and the Purchase Orders, your honor, were prepared by Lara's Gifts and Decors. They were sent to the subcontractors, your Honor. And then, however, their copies were burned so we now asked the subcontractors to give us copies of the purchase orders that we sent to them so these are the purchase orders, your honor.

x x x x

Atty. Zarate:

These are the copies of the DRs of the subcontractors, your honor, because our copies were burned by the fire.

Witness:

Your honor Please, we will not be objecting to the introduction in evidence of boxes of documents which were prepared by persons who are not before the court who apparently will not be brought to court for cross-examination by us, provided that there [is] a showing today that these alleged products or supplies delivered have something to do with specific purchase orders that established the contractual obligation to manufacture the 1,081,000 pieces of candle holders.

x x x x

Atty. Zarate:

x x x Now, if they say, later on, they will be able to connect the relevance or materiality, it will be after the presentation of Mrs. Lara Villafuerte whom the witness claims is knowledgeable about these documents, your honor.

Court:

. . . that is why, he is saying, that it will be the President who can testify.

Atty. Zarate:

We would rather wait for the President to identify these documents, your Honor.

Court:

... that is I believe the manifestation of the counsel.

Atty. Zarate:

Yes, I am agreeable to that, your Honor.[32] (Emphasis supplied)

Notably, respondents argued that the parties' respective reservations to allow them to introduce additional evidence do not constitute a waiver of the parties' rights and obligations under the Pre-Trial Order and the Rules. They further maintained that the introduction of additional evidence must be predicated on necessity, and within the bounds of the issues that have been defined, limited, and identified in the Pre-Trial Order.[33] This argument deserves scant consideration.

For one, following the Guidelines on Pre-Trial,[34] the parties are bound by the contents of the Pre-Trial Order. Records do not disclose that the respondents endeavored to amend the Pre-Trial Order to withdraw their assent to their reservation. Consequently, they cannot now dispute the contents of the Pre-Trial Order. The evidence sought to be presented are likewise undeniably relevant to the issues raised during the pre-trial, which mainly question petitioner's entitlement to claim the amount of its insurance policy from the respondents and if it has proved the amount of its loss by substantial evidence.

Finally, no less than UCPB, in its Motion to Correct/Amend Pre-Trial Order, moved that the Pre-Trial Order be amended to explicitly include the trial court's ruling that it will allow additional direct testimony of the parties' witnesses to be given in open court so long as they have already submitted their Judicial Affidavits within the reglementary period required by the JA Rule. It appears that the motion was made in connection with UCPB's motion to allow its own witness to give additional direct testimony in open court. Herein, respondents do not dispute that petitioner was able to submit the Judicial Affidavit and 1[st] Supplemental Judicial Affidavit of Mrs. Villafuerte within the period prescribed by the JA Rule. Respondents, therefore, cannot be made to selectively apply the provisions of the rules to the petitioner and then request to be exempted therefrom.

In view of the peculiar factual milieu surrounding the instant case, We rule, pro hac vice, that the trial court did not gravely abuse its discretion in allowing the Questioned Documents to be presented in court and in admitting the 2[nd] Supplemental Judicial Affidavit of petitioner's witness. This notwithstanding, litigants are strictly enjoined to adhere to the provisions of the JA Rule, and to be circumspect in the contents of court documents and

pleadings.

WHEREFORE, the petition is GRANTED. The assailed Amended Decision of the Court of Appeals in CA-G.R. SP Nos. 138321 and 138774 is hereby REVERSED and SET ASIDE. The Court of Appeals' December 21, 2015 Decision is REINSTATED.

SO ORDERED.

Bersamin, Leonen, and Gesmundo, JJ., concur.

Martires, J., on leave.

[1] Penned by Associate Justice Myra V. Garcia-Fernandez, with the concurrence of Associate Justices Japar B. Dimaampao and Mario V. Lopez; rollo, pp. 54-77.

[2] Penned by Associate Justice Noel G. Tijam (now a member of this Court), with the concurrence of Associate Justices Mario V. Lopez and Myra V. Garcia-Fernandez; id. at 78-98.

[3] Id. at 57.

[4] Id. at 115.

[5] Id. at 2590-2609.

[6] Id. at 59, 3227.

[7] Id. During cross-examination.

[8] Id. at 187-205.

[9] Id. at 267-273.

[10] Promulgated on August 16, 2004.

[11] Rollo, pp. 274-277.

[12] Id. at 64-65.

[13] Id. at 66-67.

[14] Id. at 101.

[15] Id. at 426 481.

[16] Section 7. Re-direct examination; its purpose and extent. — After the cross-examination of the witness has been concluded, he may be re-examined by the party calling him, to explain or supplement his answers given during the cross-examination. On re-direct-examination, questions on matters not dealt with during the cross-examination, may be allowed by the court in its discretion.

[17] Promulgated on August 16, 2004.

[18] *Chan v. Court of Appeals*, G.R. No. 159922, April 28, 2005.

[19] *Arnold James Ysidoro v. Hon. Teresita J. Leonardo-De Castro, Hon. Diosdado M. Peralta and Hon. Efren N. De La Cruz*, in their official capacities as Presiding Justice and Associate Justices, respectively of the First Division of the Sandiganbayan, G.R. No. 171513, February 6, 2012, and *People of the Philippines v. First*

Division of the Sandiganbayan, G.R. No. 190963, February 6, 2012.

[20] Julie's Franchise Corporation v. Hon. Ruiz, G.R. No. 180988, August 28, 2009, citing People v. Court of Appeals, G.R. No. 144332, June 10, 2004, 431 SCRA 610.

[21] Ng Meng Tam v. China Banking Corporation, G.R. No. 214054, August 5, 2015.

[22] Bank of the Philippine Islands v. Spouses Genuino, G.R. No. 208792, July 22, 2015.

[23] Rollo, p. 293.

[24] Cross-examination of Luis Villafuerte; TSN, July 10, 2014, as reproduced in the CA Decision dated December 21, 2015; id. at 90.

[25] Id. at 90-91.

[26] TSN, May 8, 2014; id. at 3514-3572.

[27] Section 20. Proof of private document. – Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be. (21a)

[28] Section 19. Classes of Documents. - For the purpose of their presentation evidence, documents are either public or private.

Public documents are:

- (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
- (b) Documents acknowledge before a notary public except last wills and testaments; and
- (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

[29] Salas v. Sta. Mesa Market Corporation, G.R. No. 157766, July 12, 2007.

[30] Section 35. When to make offer. - As regards the testimony of a witness, the offer must be made at the time the witness is called to testify.

Documentary and object evidence shall be offered after the presentation of a party's testimonial evidence. Such offer shall be done orally unless allowed by the court to be done in writing.

[31] Rollo, p. 170.

[32] TSN, November 21, 2013, as reproduced in the CA Decision dated December 21, 2015; id. at 93.

[33] Id. at 956.

[34] I. Pre-Trial

A. Civil Cases
x x x x

8. The judge shall issue the required Pre-Trial Order within ten (10) days after the termination of the pre-trial.

Said Order shall bind the parties, limit the trial to matters not disposed of and control the course of the action during the trial. x x x

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