

FIRST DIVISION

[G.R. NO. 148150, July 12, 2006]

R TRANSPORT CORPORATION, PETITIONER, VS. PHILHINO SALES CORPORATION, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

This Petition for Review under Rule 45 of the Rules of Court, filed by petitioner R Transport Corporation, seeks to nullify and set aside the 14 February 2001 Decision^[1] and 9 May 2001 Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 60026 which affirmed the Orders dated 20 March 2000,^[3] 6 April 2000^[4] and 26 June 2000,^[5] of the Honorable Judge Jose R. Hernandez of the Regional Trial Court (RTC), Branch 158, Pasig City. The Order dated 20 March 2000, denied petitioner's Urgent Motion to Transfer Dates of Hearing/Trial. The Order dated 6 April 2000 directed the striking off the records the direct testimony of petitioner's witness Rizalina Lamzon. The Order dated 26 June 2000 denied petitioner's Motion for Reconsideration of the Order dated 6 April 2000.

In September 1994, petitioner, a domestic corporation, through its President, Rizalina Lamzon, allegedly purchased from respondent Pilhino Sales Corporation ten brand new units of Hino RF821 buses for P2,235,000.00 per unit. This transaction was covered by a Sales Proposal Advice wherein respondent approved a payment scheme where the 30% downpayment shall be payable in eight monthly installments covered by a promissory note and post dated checks or in tax credit financing as petitioner's Board of Investments incentives, while the remaining 70% would be paid through financing.

Pursuant to the sale, the buses were delivered to petitioner. Notwithstanding delivery of the units, petitioner allegedly failed to pay the monthly installments of the 30% downpayment. It also did not remit to respondent the supposed proceeds of the bank financing for the remaining 70%.

Respondent made several demands on petitioner to make good its obligation. The latter made an initial payment of P8,900,000.00 on 30 May 1995, out of its outstanding obligation of P22,958,515.77. Despite repeated demands by respondent, no payments were made thereafter by petitioner on its outstanding obligation.

With petitioner's alleged failure to fulfill its obligation, respondent, on 27 March 1996, filed a Complaint for Sum of Money and Damages with Urgent Prayer for a Writ of Preliminary Attachment against petitioner before the RTC, docketed as Civil Case No. 65610.

Petitioner submitted its Answer with counterclaim.

During the preliminary proceedings, respondent's Prayer for a Writ of Preliminary Attachment was granted. Subsequently, upon Motion of the petitioner and filing of a counterbond, the Writ was dissolved.

After numerous delays spanning more than two years, the case was finally set for trial on 1 April 1998.^[6] Respondent presented its evidence. After the termination of the presentation of respondent's evidence, petitioner presented two witnesses, Divina Amurao and Rizalina Lamzon. After the testimony of Divina Amurao was completed, petitioner placed on the witness stand its last witness, Rizalina Lamzon. Said witness completed her direct testimony and was extensively cross-examined by the respondent's counsel. Respondent's counsel thereafter moved for the suspension of the cross-examination. The parties agreed for the continuation of the cross-examination on the following dates: 6 April 2000, 12 April 2000 and 3 May 2000.

On 3 March 2000, petitioner received a letter from Weisenfels & Vaughan Law Office, Rizalina Lamzon's counsel in a case before the United States of America, informing Rizalina Lamzon that she had to represent an off-shore company where she is the managing director in a deposition proceedings on 10-17 April, 2000.^[7]

On 17 March 2000, petitioner filed before the trial court an Urgent Motion to Transfer Dates of Hearing on the ground that the witness had to leave unexpectedly on 5 April 2000, for the United States of America to represent an off-shore company in a deposition proceedings, to wit:

2. That defendant's witness, MS. RIZALINA LAMZON unexpectedly, has to leave on April 5, 2000 to represent an off-shore company, 2000 International Ltd., on deposition proceedings in Kansas City, USA and will be back on May 15, 2000.^[8]

It prayed that the scheduled cross-examinations be cancelled and be transferred to the following dates: 30 May 2000, 7 June 2000 and 15 June 2000.^[9]

In a Resolution dated 20 March 2000, the trial court denied said motion stating that the setting of the hearing was upon the agreement of the parties, thus^[10]:

DENIED settings made by agreement of parties.

On 28 March 2000, petitioner filed a Motion for Reconsideration of the Resolution dated 20 March 2000.^[11]

While the foregoing Motion was pending, the trial court issued an Order^[12] dated 6 April 2000, to strike out from the records witness Rizalina Lamzon's testimony due to the failure of the latter and the petitioner's counsel to appear during the hearing. The court directed petitioner to file its formal offer of evidence within ten days from receipt of said Order, to wit:

For failure of witness Ms. Rizalina Lam[z]on and defendant's counsel to appear in today's hearing despite notice, as prayed for, the direct testimony of this witness is stricken off the record. Consequently, defendant is directed to file its formal offer of evidence within ten (10) days from receipt of this order copy furnished the plaintiff which is given

a similar period of time from receipt of the offer within which to file its comment/objection to it, after which, the incident is submitted for resolution.

After defendant shall have rested its case, parties are given a period of thirty (30) days from receipt of that order to file their simultaneous memorandum, after which, this case shall be submitted for decision.

On 25 April 2000, petitioner filed a Motion for Reconsideration^[13] which was denied on 26 June 2000. The Order reads^[14]:

This resolves defendant's Motion for Reconsideration. Even when plaintiff was given an opportunity to file its opposition to the motion, none was filed.

The motion is denied, there being no cogent reason that it should be reconsidered. The hearings of this case were made by agreement of the parties and whenever there are postponements, it's with the consent of all concerned. Everyone then was given his day in Court.

Consequently, the Order of April 6, 2000 stays.

Aggrieved, petitioner filed before the Court of Appeals a Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court with Preliminary Injunction and Prayer for Temporary Restraining Order.

Convinced that irreparable injury may be suffered by petitioner if trial continues and to forestall the mootness of its judgment on the case, the Court of Appeals issued a Resolution^[15] dated 29 September 2006 granting petitioner's application for a temporary restraining order (TRO) enjoining the trial court from enforcing its Order dated 6 April 2000. Taking cognizance of the TRO issued by the Court of Appeals, the trial court in an Order^[16] dated 20 November 2000, suspended the proceedings of the case until such time that the Court of Appeals shall have resolved the Order dated 6 April 2000.

In its Memorandum before the Court of Appeals, petitioner raised the following issues^[17]: whether or not the trial court gravely abused its discretion amounting to lack of jurisdiction in issuing the Orders dated 6 April 2000 and 26 June 2000; whether or not the trial court denied petitioner substantial justice; whether or not the trial court skewed petitioner's right to due process; and whether or not the trial court violated the principle of impartiality in handling the case.

Petitioner contended that the trial court acted arbitrarily and despotically when it issued the order dated 6 April 2000 as the same denied it due process. According to petitioner the trial court should have looked into the merit of its Urgent Motion to Transfer Dates of Hearing/Trial and its Motion for Reconsideration filed on 28 March 2000, where it set forth a valid and excusable ground for its intention not to appear at the scheduled hearing on 6 April 2000. The petitioner was in a quandary, pondering how the trial court could have issued the 6 April 2000 Order removing from the records Rizalina Lamzon's testimony based on her failure to appear at the said hearing when petitioner had earlier informed the court that its last witness cannot appear on the said date. It was petitioner's postulation that the trial court

should have considered the validity of the ground it proffered in its Motion for Reconsideration and resolved the same before the court issued the contested Order.

Petitioner added that the striking off the record of the testimony of Rizalina Lamzon, which testimony is substantially material to its defense and after she had been extensively cross-examined by respondent's counsel, constitutes a grave and irreparable injury to its defense, thereby denying it substantial justice. In the same vein, petitioner bewailed the trial court's directive in the Order dated 6 April 2000, terminating the proceedings of the case and ordering the parties to submit their respective Memoranda, after which the case shall be submitted for decision. This posture of the court, petitioner accentuated, violated its right to due process since it was deprived of the opportunity to adduce evidence for its defense.

Lastly, petitioner ascribed partiality on the part of the trial court as it purportedly tilted in respondent's favor by granting the latter several postponements, whereas it was too quick to deny petitioner's supplication for the transfer of the scheduled dates for its witness' cross-examination.

In the assailed Decision dated 14 February 2001, the Court of Appeals dismissed the Petition.

In sustaining the trial court's denial of petitioner's Urgent Motion to Transfer Dates of Hearing/Trial, the Court of Appeals ratiocinated that the scheduled hearing on 6 April 2000 was with the conformity of petitioner's counsel as well as witness Rizalina Lamzon, hence, they were bound to attend such hearing. Also, it stressed that the trial court was correct when it denied the Motion since no order from any United States court requiring Rizalina Lamzon to appear before it was submitted to the lower court and that Rizalina Lamzon could have testified before the trial court on 6 April 2000 as her alleged deposition in the United States would be taken a little later on the 10th and 17th of April 2000, as stated in the letter from the law office of Weisenfels & Vaughan.

As to petitioner's assertion that the trial court did not resolve the Motion for Reconsideration of the Order dated 20 March 2000, the Court of Appeals belied the same pointing out that a Resolution^[18] was issued by the trial court resolving the said Motion.

The Courts of Appeals acceded further to the propriety of the trial court's order striking out from the records Rizalina Lamzon's testimony. It held that since the failure of petitioner to present its witness is due to its fault, such incomplete testimony cannot be taken into account by the trial court.

On the alleged partiality of the trial court, the Court of Appeals dismissed said allegation there being no evidence on record to establish the same.

Undeterred, petitioner filed a Motion for Reconsideration of the above Decision. The Court of Appeals did not budge from its stand denying the motion in a Resolution dated 9 May 2001.

Hence, the instant Petition.

Petitioner claims that the arbitrary acts of the trial court resulted in the denial of its