

THIRD DIVISION

[G.R. Nos. 230429-30, January 24, 2018]

LARA'S GIFT AND DECORS, INC., PETITIONER, V. PNB GENERAL INSURERS CO., INC. AND UCPB GENERAL INSURANCE CO., INC., RESPONDENTS.

DECISION

VELASCO JR., J.:

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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd Supplemental Judicial Affidavit of Mrs. Villafuerte.