

THIRD DIVISION

[G.R. No. 201001, November 10, 2014]

MCMP CONSTRUCTION CORP., PETITIONER, VS. MONARK EQUIPMENT CORP., RESPONDENT.

R E S O L U T I O N

VELASCO JR., J.:

For consideration of the Court is a Petition for Review on Certiorari dated April 20, 2012^[1] filed by MCMP Construction Corp. under Rule 45 of the Rules of Court. The petition seeks the reversal of the Decision dated October 14, 2011^[2] and Resolution dated March 9, 2012^[3] issued by the Court of Appeals (CA) in CA G.R. CV No. 91860 entitled *Monark Equipment Corporation v. MCMP Construction Corporation*. The CA Decision affirmed the Decision dated November 20, 2007^[4] and Order dated April 28, 2008^[5] issued by the Regional Trial Court, Branch 96 in Quezon City (RTC) in Civil Case No. Q-02-47092 entitled *Monark Equipment Corporation v. MCMP Construction Corporation*.

The facts of the case are as follows:

MCMP Construction Corporation (MCMP) leased heavy equipment from Monark Equipment Corporation (Monark) for various periods in 2000, the lease covered by a Rental Equipment Contract (Contract). Thus, Monark delivered five (5) pieces of heavy equipment to the project site of MCMP in Tanay, Rizal and Llavac, Quezon, the delivery evidenced by invoices as well as Documents Acknowledgment Receipt Nos. 04667 and 5706, received and signed by representatives of MCMP, namely, Jorge Samonte on December 5, 2000 and Rose Takahashi on January 29, 2001, respectively. Notably, the invoices state:

"Credit sales are payable within 30 days from the date of invoice. Customer agrees to pay interest at 24% p.a. on all amounts. In addition, customer agrees to pay a collection fee of 1% compounded monthly and 2% per month penalty charge for late payment on amounts overdue. Customer agrees to pay a sum equal to 25% of any amount due as attorney's fees in case of suit, and expressly submit to the jurisdiction of the courts of Quezon City, Makati, Pasig or Manila, Metro Manila, for any legal action arising from, this transactions."

Despite the lapse of the thirty (30)-day period indicated in the invoices, MCMP failed to pay the rental fees. Upon demands made upon MCMP to pay the amount due, partial payments were made in the amount of PhP100,000.00 on April 15, 2001 and PhP100,000.00 on August 15, 2001. Further demands went unheeded. As of April 30, 2002, MCMP owed Monark the amount of PhP1,282,481.83, broken down as

follows:

Principal Accumulated	PhP 765,380.33
Interest (2%)	253,226.17
2% Monthly Penalty Charge	253,226.17
Collection Fee (1%)	10,649.16
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	PhPl,282,481.83 ^[6]

Thus, on June 18, 2002, Monark filed a suit for a Sum of Money with the RTC docketed as Civil Case No. Q-02-47092.^[7] In its Answer filed on July 5, 2002,^[8] MCMP alleged in defense that the complaint was premature as Monark has refused to give a detailed breakdown of its claims. MCMP further averred that it had an agreement with Monark that it would not be charged for the whole time that the leased equipment was in its possession but rather only for the actual time that the equipment was used although still on the project site. MCMP, however, admitted that this agreement was not contained in the Contract.

During trial, Monark presented as one of its witnesses, Reynaldo Peregrino (Peregrino), its Senior Account Manager. Peregrino testified that there were two (2) original copies of the Contract, one retained by Monark, while the other was given to MCMP. He further testified that Monark's copy had been lost and that diligent efforts to recover the copy proved futile. Instead, Peregrino presented a photocopy of the Contract which he personally had on file. MCMP objected to the presentation of secondary evidence to prove the contents of the Contract arguing that there were no diligent efforts to search for the original copy. Notably, MCMP did not present its copy of the Contract notwithstanding the directive of the trial court to produce the same.^[9]

On November 20, 2007, the RTC issued its Decision finding for Monark as plaintiff, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing findings and legal premises, judgment is hereby rendered in favor of the plaintiff, and ordering the defendant to pay the former:

1. PhP 1,282,481.83 as balance for the rental fees of the subject heavy equipments (sic) as of April 30, 2002, inclusive of the interests thereof;
2. Twenty-Five percent (25%) of the total amount to be recovered as payment for the attorney's fees; and,
3. The costs of suit.

SO ORDERED."

From this Decision of the RTC, MCMP filed a Motion for Reconsideration dated January 31, 2008 while Monark interposed a Motion for Clarification and/or Partial Reconsideration.^[10] On April 28, 2008, the RTC issued an Order, disposing as

follows:

"WHEREFORE, in light of the foregoing, the Court finds no reversible error in the assailed decision henceforth, the Motion for Reconsideration of defendant is hereby DENIED for lack of merit. On the other hand, the plaintiffs Motion for Clarification and/or Partial Reconsideration is hereby GRANTED for being meritorious. Therefore, in the dispositive portion of the assailed decision dated 20 November 2007, the following should be included:

'The payment of interests, charges and fees due after April 30, 2002 and up to the time when all the obligations of the defendant to the plaintiff shall have been fully paid, computed in accordance with the stipulations entered into between the parties under Exhibits "A" to "G", and uniformly stated in the following wise:

Credit sales are payable within 30 days from the date of invoice. Customer agrees to pay interest at 24% p.a. on all amounts. In addition, customer agrees to pay a collection fee of 1% compounded monthly and 2% per month penalty charge for late payment on amounts overdue. Customer agrees to pay a sum equal to 25% of any amount due as attorney's fees in case of suit, and expressly submit to the jurisdiction of the courts of Quezon City, Makati, Pasig or Manila, Metro Manila, for any legal action arising from, this transactions.'

SO ORDERED."

Unsatisfied, MCMP appealed the RTC's Decision and Order to the Court of Appeals (CA). Eventually, the appellate court, by a Decision dated October 14, 2011, affirmed *in toto* the Decision and Order of the RTC. MCMP's motion for reconsideration of the CA Decision was denied by the CA in its Resolution dated March 9, 2012.

Hence, the instant petition.

MCMP challenges the ruling of the CA arguing that the appellate court should have disallowed the presentation of secondary evidence to prove the existence of the Contract, following the Best Evidence Rule. MCMP specifically argues that based on the testimony of Peregrino, Monark did not diligently search for the original copy of the Contract as evidenced by the fact that: 1) the actual custodian of the document was not presented; 2) the alleged loss was not even reported to management or the police; and 3) Monark only searched for the original copy of the document for the purposes of the instant case.

Petitioner's contention is erroneous.

The Best Evidence Rule, a basic postulate requiring the production of the original

document whenever its contents are the subject of inquiry, is contained in Section 3 of Rule 130 of the Rules of Court which provides:

"Section 3. *Original document must be produced; exceptions.* — When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

(a) **When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;**

(b) **When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;**

(c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and

(d) When the original is a public record in the custody of a public officer or is recorded in a public office. (Emphasis supplied)"

Relative thereto, Sections 5 and 6 of Rule 130 provide the relevant rules on the presentation of secondary evidence to prove the contents of a lost document:

"Section 5. *When original document is unavailable.* — When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated. (4a)

Section 6. *When original document is in adverse party's custody or control.* — If the document is in the custody or under the control of adverse party, he must have reasonable notice to produce it. If after such notice and after satisfactory proof of its existence, he fails to produce the document, secondary evidence may be presented as in the case of its loss."

In *Country Bankers Insurance Corporation v. Lagman*,^[11] the Court set down the requirements before a party may present secondary evidence to prove the contents of the original document whenever the original copy has been lost:

Before a party is allowed to adduce secondary evidence to prove the contents of the original, the offeror must prove the following: (1) the existence or due execution of the original; (2) the loss and destruction of the original or the reason for its non-production in court; and (3) on the