

SECOND DIVISION

[G.R. No. 192108, November 21, 2012]

**SPOUSES SOCRATES SY AND CELY SY, PETITIONERS, VS.
ANDOK'S LITSON CORPORATION, RESPONDENT.**

DECISION

PEREZ, J.:

Assailed in this Petition for Review on *Certiorari* is the Decision^[1] of the Court of Appeals dated 20 January 2010 in CA-G.R. CV No. 91942, as well as the Resolution^[2] dated 29 April 2010, denying the motion for reconsideration.

This is a case for rescission of contract filed by the lessee, now respondent, against the lessors, now the petitioners.

Petitioner Cely Sy (Sy) is the registered owner of a 316 square-meter lot located at 1940 Felix Huertas Street, Sta. Cruz, Manila. Respondent Andok's Litson Corporation (Andok's) is engaged in the business of selling grilled chicken and pork with outlets all over the Philippines. On 5 July 2005, Sy and Andok's entered into a 5-year lease contract covering the parcel of land owned by Sy. Monthly rental was fixed at P60,000.00, exclusive of taxes, for the first 2 years and P66,000.00 for the third, fourth and fifth year with 10% escalation every year beginning on the fourth year.^[3] Per contract, the lessee shall, upon signing the contract, pay four (4) months of advance deposit amounting to P240,000.00 and a security deposit equivalent to four (4) months of rental in the amount of P240,000.00. Accordingly, Andok's issued a check to Sy for P480,000.00.

Andok's alleged that while in the process of applying for electrical connection on the improvements to be constructed on Sy's land, it was discovered that Sy has an unpaid Manila Electric Company (MERALCO) bill amounting to P400,000.00. Andok's presented a system-generated statement from MERALCO.^[4] Andok's further complained that construction for the improvement it intended for the leased premises could not proceed because another tenant, Mediapool, Inc. incurred delay in the construction of a billboard structure also within the leased premises. In its letter dated 25 August 2005, Andok's first informed Sy about the delay in the construction of the billboard structure on a portion of its leased property. Three more letters of the same tenor were sent to Sy but the demands fell on deaf ears. Consequently, Andok's suffered damages in the total amount of P627,000.00 which comprises the advance rental and deposit, cost of money, mobilization cost for the construction of improvement over leased premises, and unrealized income. The complaint for rescission was filed on 13 February 2008, three years after continued inaction on the request to have the billboard construction expedited.

In her Answer, Sy stated that she has faithfully complied with all the terms and conditions of the lease contract and denied incurring an outstanding electricity bill.

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On 14 April 2008, Andok's filed a motion to set the case for pre-trial.

The Regional Trial Court of Manila (RTC) sent a Notice of Pre-trial Conference to the parties on 28 April 2008 informing them that a pre-trial conference is set on 26 May 2008.

On 23 May 2008, an Urgent Motion to Reset Pre-Trial Conference was filed by Sy's counsel on the allegation that on the pre-trial date, he has to attend a hearing on another branch of the RTC in Manila.

During the pre-trial conference, Sy and her counsel failed to appear. Sy's urgent motion was denied, and the RTC allowed Andok's to present its evidence *ex-parte*.

No motion for reconsideration was filed on the trial court's order allowing *ex-parte* presentation of evidence. Thus, on the 2 June 2008 hearing, Andok's presented *ex-parte* the testimony of its General Manager, Teodoro Calaunan, detailing the breach of contract committed by Sy.

On 24 July 2008, the trial court rendered a decision favoring Andok's, to wit:

WHEREFORE, consistent with Section 5, Rule 18 of the 1997 Rules of Civil Procedure, judgment is hereby rendered in favor of the plaintiff, ordering the defendants to pay to the plaintiff (1) P480,000.00 with legal rate of interest from March 11, 2006, (2) P1,350.00 for the comprehensive insurance on the leased portion of the realty, and (3) P4,873.00 as contractors tax.

For lack of merit, defendants' counterclaim is hereby dismissed.[6]

On appeal, Sy decried deprivation of her right to present evidence resulting in a default judgment against her. Sy denied that there was a breach on the lease contract.

On 20 January 2010, the Court of Appeals dismissed the appeal and affirmed the ruling of the RTC.

The appellate court held that the trial court correctly allowed the presentation of evidence *ex-parte* as there was no valid reason for the urgent motion for postponement of the pre-trial filed by Sy. The appellate court found that Sy repeatedly failed to comply with her obligation under the lease contract despite repeated demands. The appellate court awarded damages for breach of contract.

After the denial of Sy's motion for reconsideration, she filed the instant petition raising the following grounds:

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS IN AFFIRMING THE TRIAL COURT'S JUDGMENT FAILED TO NOTICE THAT THE DEFAULT JUDGMENT STRAYED FROM JUDICIAL PRECEDENT AND POLICY, AND AMOUNTED TO AN INFRINGEMENT OF THE RIGHT TO DUE PROCESS OF THE SPOUSES SY.

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WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS IN AFFIRMING THE TRIAL COURT'S DEFAULT JUDGMENT FAILED TO APPRECIATE THAT THE RESPONDENT ITSELF CONTRACTUALLY ASSUMED THE RISK OF DELAY, AND THUS ANY DELAY COULD NOT BE A GROUND FOR THE RESOLUTION OR ANNULMENT OF THE CONTRACT OF LEASE.

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WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS ALLOWED A DEPARTURE FROM JUDICIAL PRECEDENT WHEN IT SUSTAINED THE TRIAL COURT'S IMPOSITION OF LEGAL INTEREST ON THE MONETARY AWARD IN RESPONDENT'S FAVOR.^[7]

The affirmance by the Court of Appeals of the judgment of the trial court is correct.

Section 4, Rule 18 of the Rules of Court requires the parties and their counsel to appear at pre-trial, thus:

Section 4. Appearance of parties. – It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.

Section 5 of the same rule states the consequences of failure to appear during pre-trial, thus:

Section 5. Effect of failure to appear. — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex-parte* and the court to render judgment on the basis thereof.

What constitutes a valid ground to excuse litigants and their counsels from appearing at the pre-trial under Section 4, Rule 18 of the Rules of Court is subject to the sound discretion of a judge.^[8] Such discretion was shown by the trial court,

which was correct in putting into effect the consequence of petitioners' non-appearance at the pre-trial. While Sy filed an Urgent Motion to Reset Pre-trial, she cannot assume that her motion would be automatically granted. As found by the Court of Appeals, the denial of petitioners' motion for postponement is dictated by the motion itself:

A perusal of the Urgent Motion to Reset Pre-Trial Conference discloses that other than the allegation that counsel will attend a hearing in another branch of the same court in Manila, yet, it failed to substantiate its claim. It did not state the case number nor attach the Calendar of Hearing or such other pertinent proof to appraise the court that indeed counsel was predisposed.^[9]

We cannot allow petitioners to argue that their right to due process has been infringed.

In *The Philippine American Life & General Insurance Company v. Enario*,^[10] we reiterated that the essence of due process is to be found in the reasonable opportunity to be heard and to submit any evidence one may have in support of one's defense. Where the opportunity to be heard, either through verbal arguments or pleadings, is accorded, and the party can present its side or defend its interest in due course, there is no denial of procedural due process.

We next deal with the central issue of rescission.

Article 1191 of the Civil Code provides that the power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

A lease contract is a reciprocal contract. By signing the lease agreement, the lessor grants possession over his/her property to the lessee for a period of time in exchange for rental payment.

Indeed, rescission is statutorily recognized in a contract of lease. Article 1659 of the Civil Code provides:

Art. 1659. If the lessor or the lessee should not comply with the obligations set forth in articles 1654 and 1657, the aggrieved party may ask for the rescission of the contract and indemnification for damages, or only the latter, allowing the contract to remain in force.

Article 1659 outlines the remedies for non-compliance with the reciprocal obligations in a lease contract, which obligations are cited in Articles 1654 and 1657:

Article 1654. The lessor is obliged:

(1) To deliver the thing which is the object of the contract in such a conditions as to render it fit for the use intended;