

## FIRST DIVISION

[ G.R. No. 126848, March 12, 1998 ]

**GUILLERMO D. OLAN, PETITIONER, VS. HON. COURT OF APPEALS, DIGNA ROSALES ENTERPRISES, INC., AND DIGNA ROSALES, RESPONDENTS.**

### DECISION

**VITUG J.:**

Petitioner Guillermo D. Olan, while still an employee of the Philippine Long Distance Telephone Company ("PLDT") in its Operations and Dispatch Section in Intramuros, Manila, entered into an undated agreement with respondent Digna Rosales Enterprises, Incorporated, a corporation engaged in designing, manufacturing and retailing office uniforms, represented by its President, Digna Rosales, its co-respondent. The document was entitled, "Contract of Agreement," and it expressed the following stipulations; viz:

"WHEREAS, the FIRST PARTY [Digna Rosales Enterprises, Inc.] will supply the labor and materials for the uniforms of male and female employees of Philippine Long Distance Telephone Company (PLDT).

"WHEREAS, the SECOND PARTY {Guillermo D. Olan} will facilitate the necessary recommendations of the FIRST PARTY to PLDT.

"WHEREAS, for the effort and services rendered by the SECOND PARTY to facilitate the contract, the latter is entitled to a fixed commission amounting to 35% of 5% or 1.75% of the total contract price.

"WHEREAS, the FIRST PARTY will pay the SECOND PARTY only and when there is a receipt of payment from PLDT in the following manner:

"a) Immediately upon clearance of PLDT check, 50% representing downpayment commission

"b) Immediately upon clearance of PLDT check, 25% representing payment on first fitting commission

"c) Immediately upon clearance of PLDT check, 15% representing payment on final delivery commission

"d) Immediately upon clearance of PLDT check, 10% representing payment on delivery of repaired uniforms commission

"WHEREAS, payments to the SECOND PARTY by the FIRST PARTY shall be made without need of demand by the latter.

"WHEREAS, both parties herein agree to work jointly and properly coordinate with each other in accordance with the agreed responsibilities, with mutual cooperation to attain success of this project.

“WHEREAS, this Agreement is valid as long as DIGNA ROSALES is the authorized uniform contractor of PLDT.

“WHEREAS, in case of legal suit may arise out of this contract, the parties hereto agree that the proper courts of Makati shall have jurisdiction over the case; furthermore that the Attorney’s fees equivalent to Twenty Percent (20%) of the amount mentioned shall be added to all cost of the suit as may be deemed proper by court.

“IN WITNESS WHEREOF, the parties hereunto set their hands x x x.”<sup>1</sup>

Petitioner claimed that he had complied with the agreement and that private respondents had collected a total amount of P39 million from PLDT for the supply of uniforms but that private respondents refused to pay him the agreed 1.75% of the total amount collected or P682,500.00; hence, the action for specific performance and damages.

Private respondents denied that petitioner had performed his contractual covenant, alleging that petitioner did not extend any assistance to respondent corporation; that it was private respondent Digna Rosales who did all the work which resulted in the award of the contract to respondent corporation; and that, in any case, the total contract price under the supply agreement obtained by it from PLDT amounted to only P1,848,225.00. Private respondents’ answer included a compulsory counterclaim for damages.

The Regional Trial Court of Makati, after trial, dismissed the complaint and granted the counterclaim, it held:

“IN VIEW OF ALL THE FOREGOING, this Court finds the preponderance of evidence to be in favor of the defendants and therefore hereby renders judgment DISMISSING the plaintiff’s COMPLAINT. The plaintiff is further ordered to pay defendants P200,000.00 as reimbursement for attorney’s fees, P45,000.00\* as reimbursement for litigation expenses and costs of this suit.”<sup>2</sup>

On appeal, the Court of Appeals in its decision of 22 February 1996, penned by Justice Minerva P. Gonzaga-Reyes, affirmed the judgment of the trial court.

In the instant petition for review, petitioner poses the following issues: viz:

“Whether or not the private respondents have the right to unilaterally rescind the parties’ agreement?”

“Whether or not the private respondents are entitled to the reimbursement for attorney’s fees as well as reimbursement for litigation expenses and costs of the suit?”<sup>3</sup>

The first issue basically boils down to whether or not petitioner has actually done his part of the bargain with private respondents. Although petitioner has attempted to structure the problem so as to show, on its surface, a question of law, it still remains to be, verily and essentially, a factual matter.

The trial court and the appellate court both responded negatively to the above question. The trial court concluded: “It is therefore the finding of this Court that on the basis of the recorded evidence the plaintiff Guillermo Olan failed to comply with his undertaking ‘to facilitate (defendants) to PLDT’ as required of him in his CONTRACT