

SECOND DIVISION

[G.R. No. 214046, February 05, 2020]

TOCOMS PHILIPPINES, INC., PETITIONER, VS. PHILIPS ELECTRONICS AND LIGHTING, INC., RESPONDENT.

D E C I S I O N

REYES, A., JR., J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Revised Rules of Court dated October 24, 2014, assailing the Decision^[2] dated March 13, 2014 and the Resolution^[3] dated August 29, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 130873, which reversed the denial of the Motion to Dismiss filed by Philips Electronics and Lighting, Inc. (PELI) in Civil Case No. 73779-TG before the Regional Trial Court of Pasig City, Branch 266.

Civil Case No. 73779-TG is a suit for damages and injunction^[4] filed by Tocoms Philippines, Inc. (Tocoms) on February 4, 2013 against several defendants including PELI. The appellate court explains the factual background of the case, *viz.*:

In its Complaint, [Tocoms] alleged that: Philips Singapore, a foreign corporation, and its agent in the Philippines, [PELI], appointed [Tocoms] as distributor in the country of Philips Domestic Appliance, as shown by a contract entered into between them denominated as the Distribution Agreement which was regularly renewed on a yearly basis; from 2001 to 2008, [Tocoms], with more than 250 stores nationwide and through its goodwill and reputation, had introduced and established Philips Domestic Appliance to the market; [Tocoms] consistently delivered on its commitment and has even surpassed its sales target on a yearly basis; before the end of 2012, [Tocoms] had made disclosures to the representatives of Philips as to its marketing plans for the year 2012 and had complied with all the requirements of Philips in preparation for the renewal of the Distributorship Agreement; however, in a January 2, 2013 meeting called by Oh, [PELI]'s General Manager, [Tocoms] was handed a letter signed by Thurer, [PELI]'s Vice President/Manager Asia Pacific, informing [Tocoms] that the Distributorship Agreement will not be renewed; the sudden termination of the agreement came as a surprise considering that [Tocoms] has been [PELI]'s distributor since 2001 and it has been consistently delivering its commitments to [PELI]; it was not given sufficient notice of the sudden change of the distributorship; [Tocoms] discovered that as early as December 2012, [PELI], with evident malice and bad faith and in collusion with the new distributor, Fabriano, has been selling to Fabriano the products subject of the Distribution Agreement at a much lower price, to the great prejudice of [Tocoms]; as a result, Western Marketing, one of [Tocoms]' strongest clients, is set to return its existing inventory amounting to more or less

Five Million Pesos (P5,000,000.00), accusing [Tocom] of dishonest dealings; Fabriano prodded Western Marketing to return the products to [Tocom] with a promise to deliver the same at a much lower price; [Tocom] is under threat of incurring more losses with the return of stocks from other stores, amounting to more or less Two Million Pesos (P2,000,000.00).

[Tocom] further alleged that: in the meantime, [PELI] has given an unreasonable, unfair and one-sided demand to buy-back all inventory that remain in possession of [Tocom] under the following terms: 1) phased out models at less forty percent [40%] of the actual price, 2) Class B products at less sixty percent [60%] of the actual price, and 3) products to be returned by clients are not included in the buy-back; the buy-back of the inventory under the said terms would result to losses on the part of [Tocom] in the amount of Twelve Million Pesos (P12,000,000.00), more or less; [Tocom] is being coerced into accepting the said terms and conditions when [PELI] recalled the Import Commodity Clearance or ICC stickers that allow the selling of the items to the public; further [Tocom] sent a letter demanding that [PELI] buy-back the inventory still in its possession, subject to the following terms: 1) phased out models at landed cost plus twelve percent [12%] since most of these items are still being sold at the store level and announcement as to the phasing out is yet to be made to the dealers, 2) Class B stocks at less forty percent [40%] only, 3) the parties agree first on the transfer price, which is at landed cost plus twelve percent [12%], 4) all new stocks in the master box and the return of new stocks from the stores shall not be subject to inspection and selection, 5) all Class B stocks to be transferred to the new distributor, and 6) terms of payment shall be fifty percent [50%] downpayment of the agreed value and fifty percent [50%] based on the actual pick up values, and [PELI] failed and refused to heed said demand.

[Tocom] prayed for payment of actual and exemplary damages, and attorney's fees. It also applied for the issuance of a temporary restraining order and/or preliminary mandatory injunction, enjoining [PELI], Philips Singapore and Fabriano from proceeding with the change in distributorship, enjoining Fabriano from selling the subject Philips products in the market, and directing [PELI] and Philips Singapore to release the ICC stickers to allow [Tocom] to sell the products to its clients and the public.

In its Motion to Dismiss, [PELI] alleged that the trial court has not acquired jurisdiction over its person since there was an invalid service of summons; that it is not a real party-in-interest in the case and was improperly impleaded; that venue was improperly laid, and that the complaint failed to state a cause of action.

In the first assailed Order dated May 30, 2013, public respondent judge denied [PELI]'s Motion to Dismiss. Public respondent declared that the allegations in the complaint show a cause of action as [Tocom] is averring that its rights under the Constitution, the Human Relations provisions of the Civil Code and the subject Distribution Agreement have

been violated by [PELI] on account of the latter's acts subject of the complaint, and that [PELI] has committed acts that are clearly tainted with malice and bad faith. As to the service of summons, public respondent held that Philips Singapore is represented in the Philippines by its resident agent, [PELI], and its officers, Oh and Thurer, who all hold office in Bonifacio Global City, Taguig City, and that the summons was served upon a certain Maricel Magallanes who claimed to be [PELI]'s corporate secretary, and hence, service thereof was valid. As to whether Oh, Thurer and [PELI] are real party-in-interest, public respondent ruled in the affirmative, reiterating that they are the agents of Philips Singapore, one of the contracting parties in the Distribution Agreement. As to the issue of venue, public respondent held that it is properly laid since Oh, Thurer and [PELI], agents of Philips Singapore, are holding office in Taguig City, and that the provision in the Distribution Agreement as to the filing of actions in the courts of Singapore does not preclude the parties therein from bringing the case in other venues as the said provision is not shown to be restrictive or exclusive.

[PELI]'s Motion for Partial Reconsideration was denied in the second assailed Resolution dated July 1, 2013.^[5]

PELI thus filed a Petition for *Certiorari* with the CA to assail the denial of its Motion to Dismiss. The appellate court, in granting PELI's petition, held that the trial court committed grave abuse of discretion in denying PELI's motion to dismiss. The CA held that the complaint's essential thrust was a prayer for damages resulting from the non-renewal of the Distributorship Agreement. In determining whether the complaint failed to state a cause of action, the appellate court considered not only the complaint and its annexes but also the evidence presented by PELI in the hearing on Tocoms' application for a Writ of Preliminary Injunction, justifying its decision to do so on the basis of the ruling in *Santiago v. Pioneer Savings and Loan Bank*.^[6] It held that the trial court should have considered all the pleadings and evidence on record in deciding the question of whether or not the complaint states a cause of action. Thus, the appellate court found that Tocoms' complaint failed to state a cause of action because the Distribution Agreement upon which the complaint is based is nonexclusive in character and was already expired at the time the complaint was filed.

Tocom's filed a Motion for Reconsideration dated March 13, 2014, which the CA denied in the herein assailed resolution; hence, this petition, which raises the following errors:

1. THE [CA] SERIOUSLY ERRED IN HOLDING THAT THE [TRIAL COURT] COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DENIED PELI'S MOTION TO DISMISS ON THE GROUND THAT THE COMPLAINT FAILED TO STATE A CAUSE OF ACTION.
2. THE [CA] SERIOUSLY ERRED IN HOLDING THAT [TOCOMS] WAS PRAYING FOR DAMAGES THAT RESULTED FROM THE NON-RENEWAL OF THE DISTRIBUTION AGREEMENT.
3. THE [CA] SERIOUSLY ERRED IN HOLDING THAT [TOCOMS] WAS MERELY CLAIMING DAMAGES ON ACCOUNT OF PELI'S ENGAGEMENT OF

ANOTHER DISTRIBUTOR.

4. THE [CA] SERIOUSLY ERRED IN HOLDING THAT [TOCOMS] WAS CLAIMING DAMAGES ON ACCOUNT OF PELI'S REFUSAL OR FAILURE TO RENEW THE DISTRIBUTION AGREEMENT.^[7]

The pivotal question raised by these errors is whether or not Tocoms' complaint states a cause of action against PELI.

I

Failure to state a cause of action in an initiatory pleading is a ground for the dismissal of a case. Rule 16, Section 1(g) of the Rules of Court states that:

SECTION 1. Grounds. - Within the time for but before filing the answer to the **complaint or pleading asserting a claim**, a motion to dismiss may be made on any of the following grounds:

xxxx

(g) That the **pleading asserting the claim** states no cause of action[.]
(Emphasis supplied)

Though obvious from the text of the provision, it bears emphasis that the non-statement of the cause of action must be apparent from the complaint or other initiatory pleading. For this reason, it has been consistently held that in ruling upon a motion to dismiss grounded upon failure to state a cause of action, courts must only consider the facts alleged in the complaint, without reference to matters outside thereof.^[8] Thus, an early commentary on the Rules of Court describes a motion to dismiss as "the usual, proper, and ordinary method of testing the legal sufficiency of a *complaint*."^[9]

As early as 1949, this Court has held that "*where the ground is that the complaint does state no cause of action, [a motion to dismiss] must be based only on the allegations in the complaint.*"^[10] This has been the consistent pronouncement^[11] of this Court up until 1983, when *Tan v. Dir. of Forestry*^[12] came out. The Tan ruling carved out an exception to the general rule which has since been crystallized in subsequent jurisprudence.^[13] In *Dabuco v. Court of Appeals*,^[14] it was explained that "[t]he theory behind Tan is that the trial court must not rigidly apply the device of hypothetical admission of allegations when, on the basis of evidence already presented, such allegations are found to be false." The crucial factual circumstance relied upon by the Tan court in allowing the consideration of evidence *aliunde* was the fact that:

there was a hearing [on the petition for preliminary injunction] held in the instant case wherein answers were interposed and evidence introduced. In the course of the hearing, petitioner-appellant had the opportunity to introduce evidence in support of the allegations in his petition, which he readily availed of. Consequently, he is stopped from invoking the rule that to determine the sufficiency of a cause of action on a motion to dismiss, only the facts alleged in the complaint must be considered.^[15]

The *Tan* court further relied on the case of *Locals No. 1470. No. 1469, and No. 1512 of International Longshoremen's Ass'n v. Southern Pac. Co.* which held that:

For present purposes, it may be conceded that the complaint stated a valid cause of action; but the court below admitted documentary evidence by stipulation, and considered that evidence. This procedure without objection, enabled the court to go beyond the disclosures of the bill of complaint to the crucial point of law upon which the controversy turned.^[16]

As in *Tan*, a hearing was likewise held on Tocom's prayer for preliminary injunction, where PELI adduced documentary and testimonial evidence, which the appellate court found sufficient to determine that there was a failure to state a cause of action. Tocom did not question the CA's expansion of the inquiry to include the evidence adduced by PELI; and therefore, like the petitioner in *Tan*, it should be deemed estopped from questioning the conclusions made by the CA thereby.

Nevertheless, the Court reiterates that the *Tan* doctrine is an exception and not the rule. A motion to dismiss for failure to state a cause of action must be resolved within the four corners of the complaint and its annexes, given its purpose as a filter for reducing court dockets by eliminating unmeritorious claims at the earliest opportunity.

However, it must be noted that Tocom incorporated the Distribution Agreement into its Complaint as Annex "A"; and it is a settled rule that the attachments of a pleading are an integral part thereof.^[17] It was therefore proper for both courts *a quo* to consider the terms of Distribution Agreement even without resorting to the *Tan* exception.

II

"A cause of action is the act or omission by which a party violates a right of another."^[18] It has three constitutive elements: first, a legal right accruing to the plaintiff; second, a duty on the defendant's part to respect such right; and third, an act or omission by the defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff.^[19]

Tocom bases its cause of action for damages upon Articles 19, 20, and 21 of the Civil Code, and its "constitutionally vested right to property and to peaceful, uninterrupted, and fair conduct of business".^[20] According to Tocom, the acts committed by PELI during and after the effectivity of the agreement are tainted with bad faith and malice in view of the significant investments made by the former during the effectivity of the Distribution Agreement and in the run-up to the expiration thereof in 2012.

The nature and purpose of Article 19 of the Civil Code was discussed in *Globe Mackay Radio and Cable Corp. v. CA*,^[21] viz.:

This article, known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights but also in the