THIRD DIVISION

[G.R. No. 203697, March 20, 2019]

INTERPHIL LABORATORIES, INC., PETITIONER, VS. OEP PHILIPPINES, INC., RESPONDENT.

DECISION

REYES, A., JR., J.:

Challenged before this Court *via* this petition for review on *certiorari*[1] under Rule 45 of the Rules of Court are the Decision[2] dated October 21, 2011 of the Court of Appeals (CA) and the Resolution[3] dated September 26, 2012, in CA-G.R. CV No. 92550, which affirmed the Decision[4] dated January 24, 2008 of the Regional Trial Court (RTC) of Makati City, Branch 62, in Civil Case No. 03-907.

The Antecedent Facts

Petitioner Interphil Laboratories, Inc. (Interphil) is engaged in the business of processing and packaging of pharmaceutical and other projects. Respondent OEP Philippines, Inc. (OEP) is a corporation in the business of trading, among others, 60-, 90-, 120-, and 180-milligram Diltelan capsules.[5]

Sometime in 1998, OEP and Interphil entered into a Manufacturing Agreement (Agreement)[6] whereby Interphil undertook to process and package 90- and 120-mg Diltelan capsules for OEP under the terms and conditions stated in the Agreement.[7] The pertinent provisions of the Agreement state:

> III. **INFORMATION:**
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> **[OEP]**[8] shall furnish to **INTERPHIL** at **[OEP]**'s expense, descriptions and instructions concerning the methods, formulae, and standards to be employed by **INTERPHIL** in the processing and packaging of the **Products**, including such written descriptions, flow sheets, work forms, testing methods and specifications and other process data as **INTERPHIL** determines to be necessary or desirable for the proper performance of this **Agreement**. x x x.
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> IV. **PROCESSING AND PACKAGING:**
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> All **Products** processed by **INTERPHIL** under this **Agreement** shall be prepared and packed strictly in accordance with the formulae, processes, standards, techniques, and designs furnished by **[OEP]** to **INTERPHIL** from time to time. All materials Repackaging such products shall first be approved by **[OEP]** and no change in any packaging materials shall be made by **INTERPHIL** without the previous approval in writing of **[OEP]**.

V. **TESTING AND INSPECTION:**

x x x x

INTERPHIL shall conduct quality control and other tests as **[OEP]** shall specify for each of the products at **[OEP]**'s cost and expense. Costs of these tests and of any special analytical equipment required shall be charged separately to **[OEP]**.

x x x x

VI. **SUBSTANDARD PROCESSING OR PACKAGING:**

Should a batch or any of the **Products** fail to meet the processing or packaging standards specified by **[OEP]**, **INTERPHIL** shall either correct the deficiency in such batch or destroy the batch on **[OEP]**'s instructions. The expenses incurred in the correction of a deficient batch or the loss and damages resulting from the destruction of the batch shall be for the account of **[OEP]** unless the failure of the batch to meet **[OEP]**'s specifications can be attributed to **INTERPHIL**'s failure to observe written instructions of **[OEP]** or negligence or fault of **INTERPHIL**'s personnel.

INTERPHIL agrees that it will, at all times, maintain and cause to be maintained, the highest standards of workmanship and care in its processing operations hereunder, to the end that **INTERPHIL** shall produce pure **Products** which meet the standards established by **[OEP]** or such **Products**. **INTERPHIL** shall not be responsible for **Product** defects arising from the use of ingredients which have been supplied by **[OEP]**.[9] (Emphases and underlining in the original)

Likewise, in order to comply with Section 2.2.2.1 of the Department of Health's (DOH) Administrative Order (A.O.) No. 56, Series of 1989,[10] the parties issued a letter to the Bureau of Food and Drugs (BFD), stating:

[P]arties hereby agree to be jointly responsible for the quality of the **Product** without prejudice to the liability after the determination of the cause in case of defect in quality.

x x x [I]f the cause of the defect be the manufacturing process or packaging, **INTERPHIL** should assume the liability and if the cause be the formulae, process, methods, instructions or raw materials provided by **[OEP]**, then the latter shall x x x assume the liability arising out of the defect.[11] (Emphases in the original)

After the execution of the Agreement, Interphil agreed to inspect the type and quality of the packaging supplies delivered to its plant, for which it charged OEP a "packaging materials inspection fee." From January 1999 to May 2000, Interphil accepted the delivery of several 90- and 120-mg Diltelan capsules, as well as printed foils and boxes for these capsules, for purposes of processing and packaging pursuant to the Agreement, while charging OEP for a packaging fee and the

aforementioned packaging materials inspection fee, in consideration of Interphil's commitment to inspect the materials delivered. Thereafter, Interphil sorted, wrapped and boxed the capsules, and subsequently delivered the same to OEP. OEP, subsequently, delivered the capsules to its client, Orient Eropharma Co., Ltd./Elan Pharma Ltd. of Taiwan (Elan Taiwan).[12]

The conflict between the parties arose on August 8, 2000, when OEP received a facsimile from Elan Taiwan informing the former that Elan Taiwan had received several urgent phone calls from certain hospitals in Taiwan regarding a defect in the packaging of several 90-mg Diltelan capsules which had been sold and delivered by Interphil. Elan Taiwan further reported that several 90-mg Diltelan capsules were inadvertently wrapped in foils meant and labeled for 120-mg Diltelan capsules and then placed in boxes meant and labeled for 90-mg Diltelan capsules.[13]

OEP immediately informed Interphil of the packaging defect. Investigations conducted by both OEP and Interphil revealed that the defectively packaged capsules belonged to a single batch, Lot No. 001369, which Interphil processed and packaged in April 2000.[14]

As a result of the defectively packaged capsules and the necessary reworking of the same to the public due to the danger and health risks, OEP alleges that it had no choice but to recall and destroy all capsules belonging to the aforementioned Lot No. 001369. As a consequence, this resulted in the incurring of numerous costs and expenses on the part of OEP.[15]

Due to the foregoing, OEP demanded that Interphil reimburse it the total of P5,183,525.05 for the expenses that it had incurred for and in connection with the recall and destruction of these capsules, including the costs of the materials destroyed.[16] However, Interphil refused and did not pay the amount demanded.

Due to Interphil's refusal to pay the same, OEP filed a complaint with the RTC of Makati City. After trial, the RTC rendered a Decision[17] in favor of OEP, finding that on the basis of the doctrine of *res ipsa loquitor*, Interphil was negligent in the performance of its obligations under the Agreement, and that there was no merit in Interphil's defense that OEP, likewise, breached the Agreement in unilaterally destroying the complained-of products without observing the agreed procedure for the recall and destruction in case a defect in a certain batch of capsules is found.

The dispositive portion of said decision reads, to wit:

> **WHEREFORE**, by preponderance of evidence, judgment is hereby rendered in favor of [OEP], ordering [INTERPHIL] to pay the former the following:
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> 1. Five million one hundred eighty[-]three thousand five hundred twenty[-]five & 5/100 (P5,183,525[.]05) Pesos as actual damages;
>
> 2. Three hundred six thousand six hundred forty-eight & 81/100 (P306.648.81) Pesos as compensatory damages;
>
> 3. One Hundred thousand (P100.000.00) Pesos as exemplary damages;

and

4. Fifty thousand (P50,000.00) Pesos as attorney's fees, costs and expenses.[18]

Interphil's Motion for Reconsideration was denied in an Order[19] issued by the RTC on August 20, 2008. On appeal to the CA, Interphil interposed the arguments that the RTC erred in both applying the *res ipsa loquitor* rule to find Interphil liable for the product conundrum, and in finding that OEP's action of unilaterally destroying the products was valid and was not imbued with any bad faith.[20]

On the issue of whether or not Interphil was liable to OEP in the recall and destruction of the defectively packaged Diltelan capsules, the CA ruled in favor of OEP and affirmed the decision of the RTC.[21] The CA found that the proximate cause for the damage incurred by OEP was the fact that Interphil erroneously packed the 90-mg Diltelan capsules in the 120-mg labeled foils, an action which was in the exclusive hands and control of Interphil.[22]

The CA found that since Interphil failed to detect or rectify the erroneous packaging despite multiple opportunities to do so, it was unnecessary to delve into Interphil's allegation as to OEP's faults, since the former failed to overcome its negligence as the immediate and proximate cause of the damage.[23] Even if OEP's possible fault would be considered, the CA held that Interphil was unable to offer substantial proof that OEP Was in bad faith with its actions, and as such, the presumption of good faith will continue to stand unless proven otherwise.[24]

For the CA, OEP's act of unilaterally recalling and destroying the products, far from being a breach of the contract, was a prudent move in order to prevent any further injury to the public, considering that in the event that the products were reworked, the risk of contamination would still be present, compromising, thus, the safety of the consumers or the end-users.[25]

Interphil's Motion for Reconsideration was denied in a Resolution[26] dated September 26, 2012, as the CA found that no matter of substance was adduced by Interphil that would warrant the modification, much less the reversal, of the assailed decision.

Hence, this Petition, to which OEP filed a Comment/Opposition[27] on April 5, 2013, assailing not only the substantive issues brought up by Interphil, but also decrying the alleged fact that the Petition was fatally defective for failure of Interphil to serve the CA with a copy of the Petition. Interphil responded via Reply[28] on October 4, 2013.

The Issues of the Case

A perusal of the parties' pleadings will show the following issues and points of contention:

First, whether or not the Petition must be dismissed outright due to Interphil's failure to timely serve the CA with a copy of the Petition, as required under Rule 45

of the Rules of Court;

Second, whether or not Interphil was negligent based on the doctrine of *res ipsa loquitor*; and

Third, whether or not OEP can, likewise, be held liable for breach of the Agreement due to its unilateral destruction of the products.

The Parties' Arguments

On the procedural aspect, OEP contends that Interphil failed to provide proof of service of the Petition on the CA, prior to its filing to the Court. This was admitted to by Interphil in a Manifestation *Ad Cautelam* dated March 27, 2013 that it filed with the CA, stating that a copy of the Petition was served only on the undersigned counsel but not on the CA prior, or simultaneous, to its filing with the Court. OEP also adds that, as a result, Interphil's failure to serve the CA with a copy of the Petition prompted the CA to issue an Entry of Judgment on March 8, 2013.[29]

Based on the foregoing, OEP submits that the Court should dismiss the Petition outright for being fatally defective and for failing to comply with the mandatory requirements of an appeal by certiorari to the Court. OEP also points out that, despite Interphil attempting to excuse the omission by reason of supposed time constraints, it served a copy of the Petition to the CA almost five (5) months after the time that it should have served the same, or only on March 25, 2013.[30]

In answer to OEP's contentions, Interphil submits that the Petition should not be dismissed on the basis of a technicality, considering that the same had been rectified through its furnishing of a copy to the CA on March 25, 2013.

On the substantial merits, OEP argues first that this Petition improperly raises pure questions of facts, which are beyond the ambit of the Court's jurisdiction. OEP asserts the time-honored doctrine that the Court is restricted to reviewing only pure questions of law, and that the CA's, as vf/ell as the trial court's, findings of feet, evaluation and assessment of the evidence, which concur in this case, are binding and conclusive upon the Court.[31]

Assuming, however, that the Court may resolve the factual questions in Interphil's petition, OEP asserts that the arguments therein are, nevertheless, erroneous, and have already been exhaustively addressed by both the trial court and the CA.[32] Both courts found that, under the doctrine of *res ipsa loquitor*, Interphil was indeed negligent and, thus, liable for damages. Likewise, both lower courts found that Interphil's mispackaging was the proximate cause of the injury sustained by OEP,[33] and that OEP did not violate the Agreement when it unilaterally destroyed the defectively packaged capsules.[34]

Interphil, on the other hand, asserts that it raises questions of law. However, even if questions of fact were raised, the same would be within the exception pronounced by the Court in the case of *Spouses Alcaraz v. Arante*,[35] the same applying when "the CA fails to notice certain relevant facts, which, if properly considered, will justify a different conclusion."[36]