

THIRD DIVISION

[G.R. No. 219491, October 17, 2018]

**STEPHEN Y. KU, PETITIONER, V. RCBC SECURITIES, INC.,
RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision^[1] and Resolution^[2] of the Court of Appeals (CA), promulgated on October 9, 2014 and July 14, 2015, respectively, in CA-G.R. SP No. 132816. The assailed CA Decision reversed and set aside the: (1) September 12, 2013 Order^[3] of the Regional Trial Court (RTC) of Makati City, Branch 63 which directed the re-raffle of the Complaint filed by petitioner Stephen Y. Ku; and (2) October 25, 2013 Order^[4] of the RTC of Makati City, Branch 149, which denied respondent RCBC Securities, Inc.'s Motion to Dismiss and ordered petitioner to pay the docket fees based on the value of the shares of stocks which he prays to be returned to him.

The facts are as follows:

Respondent RCBC Securities, Inc. is a corporation duly organized and existing under the laws of the Philippines. It is primarily engaged in the brokerage business, specifically for the purpose of buying and selling any and all kinds of shares, bonds, debentures, securities, products, commodities, gold bullion, monetary exchange, and any and all other kinds of properties in the Philippines or in any foreign country. Petitioner Stephen Y. Ku, on the other hand, opened an account with respondent on June 5, 2007, for the purchase and sale of securities.

On February 22, 2013, petitioner filed with the RTC of Makati a Complaint for Sum of Money and Specific Performance with Damages against respondent. Pertinent portions of his allegations read as follows:

x x x x

3. Sometime in June 2007, plaintiff [herein petitioner] opened a trade account with RSEC [herein respondent] for the purpose of buying and selling securities as evidenced by the Customer Account Information Form and Agreement dated 05 June 2007.

x x x x

4. Unknown to plaintiff, the name of M.G. Valbuena ("MGV") was deliberately inserted beside the name of Ivan L. Zalameda as one of the agents **after** plaintiff completed and signed the Agreement.

5. As to when the fraudulent insertion was made, plaintiff has no idea. Plaintiff only discovered this anomaly when plaintiff recently requested for a copy of his Account Information.

6. In the course of plaintiff's trading transactions with RSEC, MGW represented herself as a Sales Director of RSEC, duly authorized to transact business on behalf of the latter.

x x x x

7. With this representation, plaintiff continued to transact business with RSEC through MGW, on the honest belief that the latter **was acting for and in behalf of RSEC.**

8. In the beginning, plaintiff's dealings with RSEC through MGW went on smoothly.

9. Every time plaintiff authorized a trade, plaintiff would be furnished with a Trade Confirmation by RSEC. Having successfully and profitably managed plaintiff's account, or as so represented to plaintiff, MGW was able to gain the trust and confidence of plaintiff.

10. In addition to acting as broker for plaintiff's trading account, investment in ARPO was also successfully solicited by plaintiff.

11. ARPO, as represented to plaintiff, is an investment arm of RSEC that offers considerably higher interest rate of return as compared to any other financing company.

12. Thus, sometime in November 2007, plaintiff agreed to invest in ARPO funds, which continued to run for more than two (2) years, the total of which amounted to Php38,300,205.00. x x x.

13. Sometime in January 2012, it came to the knowledge of plaintiff that his account with RSEC was subject of mismanagement. MGW was blacklisted by RSEC due to numerous fraudulent and unauthorized transactions committed by the former. Worse, MGW allegedly was able to divert investments made by "high network" clients of RSEC into some other accounts.

14. On 17 January 2012, plaintiff was furnished by RSEC of a copy of an undated audit report (sometimes referred to as "ledger") principally showing that the total claim of plaintiff with RSEC amounts to Php77,561,602.75

x x x x

15. On 18 January 2012, plaintiff wrote RSEC informing the latter that simultaneous to RSEC's audit, plaintiff likewise is in the process of conducting an independent audit of his own account in order to validate the amount claimed by RSEC.

16. In the same letter, plaintiff made clear to RSEC that it has never authorized a discretionary account with MGW and requested for all documents relative to plaintiff's audit.

x x x x

17. After audit, plaintiff has conclusively determined that there were FOUR HUNDRED SIXTY-SEVEN (467) unauthorized transactions in his account. A review of the said transactions would show that multiple buying and selling transactions on the same day were repeatedly done over a period of four (4) years.

18. Being unauthorized, plaintiff also never received any document confirming any of the said transactions. Worse, plaintiff was given and is in the possession of fabricated confirmation statements for trades he actually authorized, but were not, in reality executed.

19. After evaluation and audit, and after exclusion of all the unauthorized trades, plaintiff should have remaining cash in his trade account in the amount of Php992,970.78 and the following stock position under his trade account to date:

Stock Symbol	Qty
AGI	500,000
COL	50,000
EG	57,940
GERI	400,000
IP	50,000
KPP	400,000
LC	3,000,000
LR	100,000
MA	50,000,000
MEG	2,215,000
PA	3,100,000
SHNG	143
SLI	1,000,000

x x x x

38. In summary, plaintiff's audit report would show that RSEC owes plaintiff the total amount of Php70,064,426.88 as of 31 October 2012, broken down as follows:

- a. Php992,970.78, representing remaining cash in plaintiff's trade account;
- b. Php15,166,251.10, representing unaccounted for and/or wrongfully credited payments to plaintiff's trade account;
- c. Php38,300,205.00 representing total principal investment in ARPO; and
- d. Php15,605,000.00 as unpaid ARPO interests as of 31 October 2012.

x x x x

39. Deeply bothered by the turn of events, plaintiff wrote RSEC on 10 May 2012 and demanded payment for the said amounts. Plaintiff also

demanded return of the shares of stocks identified in Paragraph 16 hereof.

x x x x

40. However, despite the detailed presentation of plaintiff's payments to RSEC, RSEC, in its letter-reply dated 29 May 2012, only made categorical denials of its relationship with ARPO and failed to sufficiently explain what happened to plaintiff's account or where did all of plaintiff's money intended for ARPO go.

x x x x

41. Not satisfied, plaintiff again wrote RSEC to reiterate its (sic) request for documents in support of RSEC's defense. Plaintiff also made it clear to RSEC that dealings of plaintiff with MGCV were all made in trust and confidence and on honest belief that MGCV was vested with apparent authority from RSEC to transact business on the latter's behalf.

x x x x

42. After completing the audit report x x x, plaintiff sent a demand letter dated 11 January 2013 to RSEC, x x x.

43. Without any valid and justifiable reason, however, RSEC refused and still continues to refuse to heed plaintiff's demand.

x x x.^[5]

Petitioner prayed for the payment of the amounts mentioned in Paragraph 38 of the Complaint as well as the shares of stocks enumerated in Paragraph 19 of the said Complaint. Petitioner also sought the recovery of treble damages, exemplary damages and attorney's fees.

The Complaint, docketed as Civil Case No. 13-171, was raffled-off to Branch 63, RTC of Makati.

On May 29, 2013, respondent filed a Motion to Dismiss^[6] contending that: (1) the RTC of Makati did not acquire jurisdiction over the subject matter of the case because petitioner deliberately evaded the payment of the correct docket fees; (2) the Complaint stated no cause of action for its failure to state with particularity the circumstances constituting fraud, in violation of the Rules of Court, as well as for failing to allege the basis of petitioner's cause of action for the amounts claimed as principal investment and unpaid interest in ARPO, an investment arm owned and managed by respondent; and (3) petitioner has waived, abandoned or otherwise extinguished his claims after he failed to raise any objection, with respect to his statements of account, within the prescriptive period to do so under the parties' agreement.

Petitioner filed his Comment/Opposition to the Motion to Dismiss.^[7] Subsequently, respondent filed its Reply.^[8]

After conducting several hearings on the Motion to Dismiss, the RTC of Makati, Branch 63, issued its questioned Order dated September 12, 2013, to wit:

x x x x

After going over plaintiff's [herein petitioner's] Complaint and defendant's [herein respondent's] Motion to Dismiss and the Reply that followed, the Court is of the considered view that this case involves trading of securities. Consequently, the case should be heard and tried before a Special Commercial Court.

Accordingly, the Court's Branch Clerk of Court is forthwith directed to forward the entire record of the case to the Office of the Clerk of Court for re-raffle.

SO ORDERED.

x x x.^[9]

The case was, subsequently, re-raffled to Branch 149 of the RTC of Makati.

Thereafter, in its Order^[10] dated October 25, 2013, the RTC of Makati, Branch 149, denied the Motion to Dismiss for lack of merit. It held that petitioner's payment of insufficient docket fees does not warrant the dismissal of the Complaint and that the trial court still acquires jurisdiction over the case subject to the payment of the deficiency assessment. The RTC, thus, ordered petitioner "to pay the docket fees on the value of the shares of stocks being prayed to be returned to him, within thirty (30) days from receipt" of the said Order. As to petitioner's alleged failure to state a cause of action, Branch 149 ruled that an examination of the Complaint would show that "certain allegations of fraud therein [are] sufficiently pleaded x x x." With respect to the alleged waiver, abandonment or extinguishment of petitioner's claims, Branch 149 held that the parties presented conflicting assertions, the resolution of which should be properly made in a full-blown trial.

Aggrieved, respondent filed with the CA a petition for *certiorari* under Rule 65 of the Rules of Court, imputing grave abuse of discretion upon Judges Tranquil P. Salvador, Jr. and Cesar O. Untalan by reason of their issuance of the said Orders in their respective capacities as Presiding Judges of the RTC of Makati City, Branches 63 and 149.

On October 9, 2014, the CA promulgated its assailed Decision by disposing as follows:

WHEREFORE, premises considered, the instant Petition for *Certiorari* is **GRANTED** and the assailed Orders dated 12 September 2013 and 25 October 2013 issued by the Regional Trial Court of Makati City, Branches 63 and 149, respectively, are hereby **REVERSED** and **SET ASIDE**. Concomitantly, Civil Case No. 13-171, entitled *Stephen K. Yu (sic) v. RCBC Securities, Inc.* is **DISMISSED** for lack of jurisdiction. Finally, the Urgent Verified Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction is **DENIED** for being moot and academic.

SO ORDERED.^[11]

The CA held that, based on the language of the Order of September 12, 2013, the RTC of Makati, Branch 63, has acknowledged that it has no jurisdiction over the