

## SECOND DIVISION

[ G.R. No. 212375, January 25, 2017 ]

**KABISIG REAL WEALTH DEV., INC. AND FERNANDO C. TIO,  
PETITIONERS, VS. YOUNG BUILDERS CORPORATION,  
RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

This is a Petition for Review which petitioners Kabisig Real Wealth Dev., Inc. and Fernando C. Tio filed assailing the Court of Appeals (CA) Decision<sup>[1]</sup> dated June 28, 2013 and Resolution<sup>[2]</sup> dated March 28, 2014 in CA-G.R. CV No. 02945, affirming the Decision of the Regional Trial Court (RTC) of Cebu City, Branch 12, dated July 31, 2008 in Civil Case No. CEB-27950.

The following are the pertinent antecedents of the case, as shown by the records:

Sometime in April 2001, Kabisig Real Wealth Dev., Inc. (*Kabisig*), through Ferdinand Tio (*Tio*), contracted the services of Young Builders Corporation (*Young Builders*) to supply labor, tools, equipment, and materials for the renovation of its building in Cebu City. Young Builders then finished the work in September 2001 and billed Kabisig for P4,123,320.95. However, despite numerous demands, Kabisig failed to pay. It contended that no written contract was ever entered into between the parties and it was never informed of the estimated cost of the renovation. Thus, Young Builders filed an action for Collection of Sum of Money against Kabisig.

On July 31, 2008, the RTC of Cebu City rendered a Decision finding for Young Builders, thus:

WHEREFORE, judgment is hereby rendered ordering the defendants to pay plaintiff P4,123,320.95 representing the value of services rendered and materials used in the renovation of the building of defendant Kabisig Real Wealth Dev., Inc. into a restaurant of defendant Ferdinand Tio, by way of actual damages, plus 12% *per annum* from September 11, 2001 until it is fully paid. Costs against defendants.

SO ORDERED.<sup>[3]</sup>

Therefore, Kabisig elevated the case to the CA. On June 28, 2013, the appellate court affirmed the RTC Decision, with modification, *viz.*:

**WHEREFORE**, foregoing premises considered, the Decision dated July 31, 2008 rendered by the Regional Trial Court of Cebu City, Branch 12 in Civil Case No. CEB-27950 is hereby **AFFIRMED** with **MODIFICATION**, deleting the award for actual damages. As modified, the defendants Kabisig Real Wealth Dev., Inc. and Ferdinand Tio are ordered to jointly pay the plaintiff Young Builders Corporation **Two Million Four Hundred Thousand (P2,400,000.00) Pesos as TEMPERATE DAMAGES** for the value of services, rendered and materials used in the renovation of defendants-appellants building. In addition, the total amount adjudged shall earn interest at the rate of 12% *per annum* from September 11, 2001, until it is fully paid. Costs against defendants.

**SO ORDERED.**<sup>[4]</sup>

Subsequently, Young Builders and Kabisig moved for reconsideration, but both were denied by the CA.<sup>[5]</sup>

Hence, Kabisig filed the instant petition.

The sole issue is whether or not Kabisig is liable to Young Builders for the damages claimed:

Under the Civil Code, a contract is a meeting of minds, with respect to the other, to give something or to render some service. Article 1318 reads:

Art. 1318. There is no contract unless the following requisites concur:

- (1) Consent of the contracting parties;
- (2) Object certain which is the subject matter of the contract;
- and
- (3) Cause of the obligation which is established.

Accordingly, for a contract to be valid, it must have the following essential elements: (1) consent of the contracting parties; (2) object certain, which is the subject matter of the contract; and (3) cause of the obligation which is established. Consent must exist, otherwise, the contract is non-existent. Consent is manifested by the meeting of the offer and the acceptance of the thing and the cause, which are to constitute the contract. By law, a contract of sale, is perfected at the moment there is a meeting of the minds upon the thing that is the object of the contract and upon the price. Indeed, it is a consensual contract which is perfected by mere consent.<sup>[6]</sup>

Through the testimonies of both Young Builders' and Kabisig's witnesses, Tio commissioned the company of his friend, Nelson Yu, to supply labor, tools, equipment, and materials for the renovation of Kabisig's building into a restaurant. While Tio argues that the renovation was actually for the benefit of his partners, Fernando Congmon, Gold En Burst Foods Co., and Sunburst Fried Chicken, Inc., and therefore, they should be the ones who must shoulder the cost of the renovation,

said persons were never impleaded in the instant case. Moreover, all the documents pertaining to the project, such as official receipts of payment for the building permit application, are under the names of Kabisig and Tio.

Further, Kabisig's claim as to the absence of a written contract between it and Young Builders simply does not hold water. It is settled that once perfected, a contract is generally binding in whatever form, whether written or oral, it may have been entered into, provided the aforementioned essential requisites for its validity are present.<sup>[7]</sup> Article 1356 of the Civil Code provides:

Art. 1356. Contracts shall be obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity are present.

x x x                      x x x                      x x x

There is nothing in the law that requires a written contract for the agreement in question to be valid and enforceable. Also, the Court notes that neither Kabisig nor Tio had objected to the renovation work, until it was already time to settle the bill.

Likewise, the appellate court aptly reduced the amount of damages awarded by the RTC. Under Article 2199 of the Civil Code, actual or compensatory damages are those awarded in satisfaction of, or in recompense for, loss or injury sustained. They proceed from a sense of natural justice and are designed to repair the wrong that has been done, to compensate for the injury inflicted. They either refer to the loss of what a person already possesses (*daño emergente*), or the failure to receive as a benefit that which would have pertained to him (*lucro cesante*),<sup>[8]</sup> as in this case.

For an injured party to recover actual damages, however, he is required to prove the actual amount of loss with reasonable degree of certainty premised upon competent proof and on the best evidence available. The burden of proof is on the party who would be defeated if no evidence would be presented on either side. He must establish his case by a preponderance of evidence, which means that the evidence adduced by one side is superior to that of the other. In other words, damages cannot be presumed and courts, in making an award, must point out specific facts that could afford a basis for measuring compensatory damages. A court cannot merely rely on speculations, conjectures, or guesswork as to the fact and amount of damages as well as hearsay or uncorroborated testimony whose truth is suspect. A party is entitled to adequate compensation only for such pecuniary loss actually suffered and duly proved. Indeed, to recover actual damages, the amount of loss must not only be capable of proof but must actually be proven with a reasonable degree of certainty, premised upon competent proof or best evidence obtainable of its actual amount.<sup>[9]</sup> Here, the evidence reveals that Young Builders failed to submit any competent proof of the specific amount of actual damages being claimed. The documents submitted by Young Builders either do not bear the name of Kabisig or Tio, their conformity, or signature, or do not indicate in any way that the amount reflected on its face actually refers to the renovation project.

Notwithstanding the absence of sufficient proof, Young Builders still deserves to be recompensed for actually completing the work. In the absence of competent proof