

## SECOND DIVISION

[ G.R. No. 223751, March 15, 2017 ]

**MIGUEL "LUCKY" GUILLERMO AND AV MANILA CREATIVE  
PRODUCTION CO., PETITIONERS, VS. PHILIPPINE  
INFORMATION AGENCY AND DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

In determining the sufficiency of a cause of action for resolving a motion to dismiss, a court must determine, hypothetically admitting the factual allegations in a complaint, whether it can grant the prayer in the complaint.<sup>[1]</sup>

This resolves the Petition for Review on Certiorari<sup>[2]</sup> praying that respondents Philippine Information Agency and Department of Public Works and Highways be ordered to pay the money claims of petitioners Miguel "Lucky" Guillermo and AV Manila Creative Production, Co.

On December 10, 2010, Miguel "Lucky" Guillermo (Guillermo) and AV Manila Creative Production, Co. (AV Manila) filed a Complaint<sup>[3]</sup> for a sum of money and damages before the Regional Trial Court of Marikina City, Branch 263.

Guillermo and AV Manila alleged that in the last few months of the Administration of Former President Gloria Macapagal-Arroyo (Arroyo Administration), then Acting Secretary of the Department of Public Works and Highways Victor Domingo (Acting Secretary Domingo), consulted and discussed with Guillermo and AV Manila the urgent need for an advocacy campaign (Campaign).<sup>[4]</sup> The purpose of the Campaign was to counteract the public's negative perception of the performance of the outgoing Arroyo Administration.<sup>[5]</sup> After meetings with Acting Secretary Domingo and some preliminary work, Guillermo and AV Manila formally submitted in a letter-proposal dated February 26, 2010 the concept of "Joyride," a documentary film showcasing milestones of the Arroyo Administration.<sup>[6]</sup> Acting Secretary Domingo signed a marginal note on the letter-proposal, which read, "OK, proceed!"<sup>[7]</sup> Guillermo and AV Manila allegedly worked on "Joyride" on a tight schedule and submitted the finished product on April 4, 2010.<sup>[8]</sup> "Joyride" was aired on NBN-Channel4 on April 5, 2010.<sup>[9]</sup>

Guillermo and AV Manila further claimed that communications and meetings on the Campaign and "Joyride" ensued between them and various government agencies.<sup>[10]</sup> These covered instructions from government agencies, emphasis on the proprietary nature of "Joyride," and discussions on the terms of reference, deliverables, and submissions.<sup>[11]</sup> Among the government agencies alleged by

Guillermo and AV Manila to have been involved in the communications and meetings were: the National Economic and Development Authority and National Anti-Poverty Commission,<sup>[12]</sup> Former Cabinet Secretary Corazon K. Imperial,<sup>[13]</sup> Department of Public Works and Highways Senior Undersecretary Manuel M. Bonoan,<sup>[14]</sup> the Pro Performance System-Steering Committee (PPS-SC),<sup>[15]</sup> and respondent Philippine Information Agency.<sup>[16]</sup>

Petitioners alleged that under the foregoing exchanges, they, working with the Department of Public Works and Highways' production team, committed to the following deliverables: (a) reproduction and distribution of a revised, expanded, and more comprehensive "Joyride" documentary, for distribution to the Department of Foreign Affairs, the Department of Transportation and Communication, Philippine consulates and embassies, and for showing to various transport sectors, as well as to the audience of the Independence Day rites on June 12, 2010 at the Quirino Grandstand in Rizal Park;<sup>[17]</sup> (b) production and distribution of a "Joyride" coffee table book;<sup>[18]</sup> (c) production of "Joyride" comics;<sup>[19]</sup> (d) production of a "Joyride" infomercial entitled "Sa Totoo Lang!" in the form of a 45-second advertisement, which captured the essence of the full length film;<sup>[20]</sup> and (e) production of a "Joyride" infomercial entitled "Sa Totoo Lang-GFX", which was a representation of improved government services, presented in a 45-second advertisement.<sup>[21]</sup> On April 20, 2010, petitioners submitted samples and storyboards of the foregoing to respondent Department of Public Works and Highways.<sup>[22]</sup> Petitioner also presented to respondent Department of Public Works and Highways the total consideration for the services to be rendered and for the deliverable items committed to be delivered:

a) Production of Documentary Film "Joyride" including 5,000 copies of DVD Reproduction	P5,500,000.00
b) Production of 45secs Infomercials "Sa Totoo Lang" including Reproduction in Prints, Betacam Tapes and Film Rolls	P4,500,000.00
c) Creatives and Concept Design of "Joyride" Coffee Table Book and Comics	P4,600,000.00
d) Pre-Production Lay-out and Proofings	P500,000.00
e) Reproduction of Video	P1,200,000.00
f) Production of Coffee Table Book	P7,500,000.00
g) Production of Comics	P1,000,000.00
h) Freight and Handling	P200,000.00
TOTAL	P25,000,000.00 <sup>[23]</sup>

Petitioners further alleged that Acting Secretary Domingo informed them that the total consideration of P25,000,000.00 for their services and deliverable items was acceptable and approved.<sup>[24]</sup> A Memorandum dated May 6, 2010<sup>[25]</sup> addressed to Former President Gloria Macapagal-Arroyo pertaining to the "Joyride" materials was issued by Acting Secretary Domingo.<sup>[26]</sup> It stated that petitioners were asked to produce the "Joyride" materials. A Memorandum of Agreement dated April 30, 2010<sup>[27]</sup> was entered into by the Road Board and respondent Philippine Information Agency. In the agreement, the Road Board was to provide P15,000,000.00 to be released to the Philippine Information Agency for the "Joyride" materials, and AV Manila was the preferred production agency.<sup>[28]</sup> Thereafter, Joan Marzan, Philippine

Information Agency's representative to PPS-SC, and Executive Assistant of Philippine Information Agency Secretary Conrado Limcauco, advised that, in light of the foregoing agreement, a separate written contract was no longer necessary.<sup>[29]</sup> Thus, the Philippine Information Agency instructed Guillermo to send billings directly to the Philippine Information Agency.<sup>[30]</sup>

Petitioners averred to have delivered a total of 10,000 copies of the "Joyride" documentary to respondent Department of Public Works and Highways,<sup>[31]</sup> and billed respondent Philippine Information Agency the amount of P10,000,000.00. Thereafter, petitioners delivered 10,000 "Joyride" comics to the Department of Public Works and Highways, and subsequently billed the Philippine Information Agency P15,000,000.00.<sup>[32]</sup> No funds were released by the Philippine Information Agency.<sup>[33]</sup>

Petitioners alleged in the Complaint that because of lack of funds, petitioner Guillermo had to secure financial assistance to deliver the subsequent deliverable items to defendants.<sup>[34]</sup> Thus, on June 23, 25, and 28, 2010, petitioners delivered copies of the "Joyride" coffee table book with DVD inserts, and comics, to the Department of Public Works and Highways.<sup>[35]</sup>

After all the deliverables had been delivered, petitioners followed up on the payment from the Philippine Information Agency. Despite several demands, no payments were made.<sup>[36]</sup>

Petitioners said that they made demands through letters dated August 19, September 20, and October 12, 2010, to various officials of the Philippine Information Agency, under the Administration of Former President Benigno Aquino III.<sup>[37]</sup> However, respondents refused and failed to pay the amount of P25,000,000.00.<sup>[38]</sup>

The Office of the Solicitor General moved to dismiss the Complaint for failure to state a cause of action and for failure to exhaust administrative remedies.<sup>[39]</sup>

In the Order<sup>[40]</sup> dated August 14, 2012, the Regional Trial Court of Marikina granted the Office of the Solicitor General's Motion to Dismiss, finding that, although a contract existed between petitioners and Acting Secretary Domingo, this contract was not binding on the government of the Philippines.<sup>[41]</sup> Because of absence of legal requirements for entering into a contract with the government, petitioners could not file a complaint for specific performance against the government.<sup>[42]</sup>

Petitioners moved for reconsideration,<sup>[43]</sup> which the Regional Trial Court of Marikina denied in the Order<sup>[44]</sup> dated February 7, 2013.

Petitioners appealed to the Court of Appeals. In the Decision<sup>[45]</sup> dated December 18, 2015, the Court of Appeals affirmed the Regional Trial Court Order dismissing petitioners' Complaint. The Court of Appeals found that the Complaint sought to enforce a legal right based on a contract.<sup>[46]</sup> However, petitioners failed to prove the existence of a contract,<sup>[47]</sup> considering that the elements of a contract were absent.

[48] The Court of Appeals also found the doctrine of *quantum meruit* inapplicable because of absence of any contract or legal right in favor of petitioners, and lack of evidence of public benefit derived from the "Joyride" project.[49] Thus, the Court of Appeals held:

Having resolved that the Complaint failed to state a cause of action, we deem it unnecessary to address the other issue presented by plaintiffs-appellants pertaining to non-exhaustion of administrative remedies.

We **DISMISS** this appeal, and **AFFIRM** the Order dated 14 August 2012 issued by the Regional Trial Court, Branch 263, Marikina City.

**IT IS SO ORDERED.**[50]

The Court of Appeals denied petitioners' Motion for Reconsideration in the Resolution[51] dated February 29, 2016.

Thus, on April 20, 2016, petitioners filed this Petition.[52]

Petitioners argue that the Court of Appeals erred when it found that petitioners had failed to prove the existence of a contract, and dismissed their appeal on that ground.[53] Proof of the existence of a contract is evidentiary in nature.[54] Moreover, in instances where there is no written contract, a perfected contract may be found to exist by examining prior, subsequent, and contemporaneous actions of the parties.[55] In this case, existence of a contract was shown by petitioners' submission of "Joyride" materials, and the various meetings and memoranda issued by respondents.[56] These official memoranda showed that the "Joyride" project was approved, adopted, and pushed by the Office of the President.[57]

Petitioners also insist that the Court of Appeals should have found respondents liable for damages under the principle of *quantum meruit*. [58] Petitioners point out that this Court has directed the government to pay a project contractor despite the absence of public bidding, and, in case of failure to meet certain technicalities, on the basis of *quantum meruit*. [59] Petitioners claim that the principle of *quantum meruit* does not only apply to tangible things[60] and that there were countless intangible benefits reaped by the public from the "Joyride" project.[61] It informed people about public concerns,[62] gave them hope, and encouraged tourism and employment through information dissemination.[63]

Respondents assert that petitioners have failed to exhaust administrative remedies. [64] Under Section 26 of Presidential Decree No. 1445, [65] all claims from or owing to the government or any of its subdivisions, agencies, or instrumentalities should be filed before the Commission on Audit.[66]

Respondents also argue that the Complaint was properly dismissed for failure to state a cause of action.[67] The Complaint prayed for disbursement of public funds and was a suit against the State.[68] However, the State was immune from suit, and thus, petitioners had no cause of action against respondents.[69] Further,

respondents noted that petitioners claimed "a separate contract between [them] and respondent Public (sic) Information Agency (PIA) is no longer necessary as they were instructed by respondent PIA to just send and direct the billings to them"[70] Consequently, there was no contract on which to base petitioners' cause of action, and the Complaint was properly dismissed.[71] Additionally, the absence of public bidding for the "Joyride" project renders it null and void *ab initio*. [72] Sections 46, 47, and 48 of Book V, Title I, Subtitle B, Chapter 8 of the Administrative Code requires appropriation before entering into a contract, as well as a certificate showing said appropriation.[73] Contracts entered into without these requirements are void.[74] Finally, the principle of *quantum meruit* is not applicable here because there is no showing that the public reaped benefits from petitioners' alleged media services.[75]

The primordial issue is whether the Complaint was properly dismissed for failure to state a cause of action.

In *Zuñiga-Santos v. Santos-Gran*: [76]

A complaint states a cause of action if it sufficiently avers the existence of the three (3) essential elements of a cause of action, namely: (a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (b) an obligation on the part of the named defendant to respect or not to violate such right; and (c) an act or omission on the part of the named defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages. If the allegations of the complaint do not state the concurrence of these elements, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action.

It is well to point out that the plaintiff's cause of action should not merely be "stated" but, importantly, the statement thereof should be "sufficient." This is why the elementary test in a motion to dismiss on such ground is whether or not the complaint alleges facts which if true would justify the relief demanded. As a corollary, it has been held that only ultimate facts and not legal conclusions or evidentiary facts are considered for purposes of applying the test. This is consistent with Section 1, Rule 8 of the Rules of Court which states that the complaint need only allege the ultimate facts or the essential facts constituting the plaintiffs cause of action. A fact is essential if they cannot be stricken out without leaving the statement of the cause of action inadequate. Since the inquiry is into the sufficiency, not the veracity, of the material allegations, it follows that the analysis should be confined to the four corners of the complaint, and no other.[77]

Thus, to determine the sufficiency of a cause of action in a motion to dismiss, only the facts alleged in the complaint should be considered, in relation to whether its prayer may be granted. In *Heirs of Maramag v. Maramag*: [78]

When a motion to dismiss is premised on this ground, the ruling thereon should be based only on the facts alleged in the complaint. The court