821 Phil. 468

SECOND DIVISION

[G.R. No. 209906, November 22, 2017]

COCA-COLA BOTTLERS PHILS., INC., PETITIONER, VS. ERNANI GUINGONA MEÑEZ, RESPONDENT.

DECISION

CAGUIOA, J:

This is a Petition for Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] of the Court of Appeals[3] (CA) dated April 22, 2013 in CA-G.R. CV No. 02361 and the Resolution[4] dated October 11, 2013 denying the motion for reconsideration filed by petitioner, Coca-Cola Bottlers Phils., Inc. (CCBPI). The CA Decision granted the appeal and reversed the Decision[5] dated October 29, 2007 of the Regional Trial Court, 7th Judicial Region, Branch 39, Dumaguete City (RTC) in Civil Case No. 11316.

Facts and Antecedent Proceedings

The Decision of the CA dated April 22, 2013 states the facts as follows:

> Research [s]cientist Ernani Guingona Meñez [Meñez] was a frequent customer of Rosante Bar and Restaurant [Rosante] of Dumaguete City. On March 28, 1995, at about 3:00 o'clock in the afternoon, Me[ñ]ez went to Rosante and ordered two (2) bottles of beer. Thereafter, he ordered pizza and a bottle of "Sprite". His additional order arrived consisting of one whole pizza and a bottled softdrink Sprite with a drinking straw, one end and about three-fourths of which was submerged in the contents of the bottle, with the other and the remaining third of the straw outside the bottle, as is the usual practice in eateries when one orders a bottled softdrink.
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> Meñez then took a bite of pizza and drank from the straw the contents of the Sprite [b]ottle. He noticed that the taste of the softdrink was not one of Sprite but of a different substance repulsive to taste. The substance smelled of kerosene. He then felt a burning sensation in his throat and stomach and could not control the urge to vomit. He left his table for the toilet to vomit but was unable to reach the toilet room. Instead, he vomited on the lavatory found immediately outside the said toilet.
>
> Upon returning to the table, he picked up the bottle of Sprite and brought it to the place where the waitresses were and angrily told them that he was served kerosene. [Meñez] even handed the bottle to the waitresses who passed it among themselves to smell it. All of the waitresses

confirmed that the bottle smelled of kerosene and not of Sprite.

Meñez then went out of the restaurant taking with him the bottle. He found a person manning the traffic immediately outside the restaurant, whom he later came to know as Gerardo Ovas, Jr. of the Traffic Assistant Unit. He reported the incident and requested the latter to accompany him to the Silliman [University] Medical Center (SUMC). Heading to SUMC for medical attention, Ovas brought the bottle of Sprite with him.

While at the Emergency Room, [Meñez] again vomited before the hospital staff could examine him. [Meñez] had to be confined in the hospital for three (3) days.

Later, [Meñez] came to know that a representative from [Rosante] came to the hospital and informed the hospital staff that Rosante [would] take care of the hospital and medical bills.

The incident was reported to the police and recorded in the Police Blotter. The bottle of Sprite was examined by Prof. Chester Dumancas, a licensed chemist of Silliman University. The analysis identified the contents of the liquid inside the bottle as pure kerosene.

As a result of the incident, [Meñez] filed a complaint against [CCBPI and Rosante] and prayed for the following damages:

> (a) Three Million Pesos (P3,000,000.00) as actual damages;
> (b) Four Million Pesos (P4,000,000.00) as moral damages;
> (c) Five Hundred Thousand Pesos (P500,000.00) as exemplary damages;
> (d) One Hundred Thousand Pesos (P100,000[.00]) as attorney's fees;
> (e)Cost of Suit.

In answer to the complaint filed, [CCBPI and Rosante] set out their own version of facts. Rosante x x x alleged that [Meñez] was heard to have only felt nausea but did not vomit when he went to the comfort room. Rosante further denied that the waitresses confirmed the content of the bottle to be kerosene. In fact, [Meñez] refused to have the waitresses smell it.

As an affirmative defense, [Rosante] argued that [Meñez] has no cause of action against it as it merely received said bottle of Sprite allegedly containing kerosene from [CCBPI], as a matter of routinary procedure. It argued that Rosante is not expected to open and taste each and every [content] in order to make sure it is safe for every customer.

It further alleged that Robert Sy was made as representative of [Rosante] when in fact he is not the registered owner of the establishment but merely involved in the management.

CCBPI for its part filed a motion to dismiss the complaint. The motion

was founded on the grounds that:

> 1) [Meñez] failed to allege all the requisites of liability under Article 2187 of the Civil Code, not even for the law on torts and quasi-delict to apply against [CCBPI].
>
> 2) [Meñez] failed to exhaust administrative remedies and/or comply with the Doctrine of the Prior Resort.

CCBPI interposed that a perusal of the complaint revealed that there is no allegation therein which states that CCBPI uses noxious or harmful substance in the manufacture of its products. What the complaint repeatedly stated is that the bottle with the name SPRITE on it contained a substance which was later identified as pure kerosene.

As to the second ground, [CCBPI] cited Republic Act No. 3720, as amended x x x *"An Act to Ensure the Safety and Purity of Foods and Cosmetics, and the Purity, Safety, Efficacy and Quality of Drugs and Devices Being Made Available to the Public, Vesting the Bureau of Food and Drugs with Authority to Administer and Enforce the Laws pertaining thereto, and for other Purposes*[.]" CCBPI argued that pursuant to the law, [Meñez] failed to avail of and exhaust an administrative remedy provided for prior to a filing of a suit in court. It quoted,

> (d) When it appears to the Director xxx that any article of food xxx is adulterated or misbranded, he shall cause notice thereof to be given to the person or persons concerned and such person or persons shall be given an opportunity to be heard before the Board of Food and Drug Inspection and to submit evidence impeaching the correctness of the finding or charge in question.

From this provision, CCBPI concluded that an administrative remedy was existing and that [Meñez] failed to avail thereof.

CCBPI further argued that the doctrine of strict liability tort on product liability is but a creation of American Jurisprudence, as clearly shown by the cases cited in support thereof, and never before adopted as a doctrine of the Supreme Court. Hence, it submits that at most it only has a persuasive effect and should not be used as a precedent in fixing the liability of CCBPI.

Pre-[t]rial and [t]rial ensued. [Meñez] introduced several exhibits to substantiate the damages he prayed for. Among others were Explanation of Benefits and Statements of Account from healthcare providers to show that he had to undergo a series of examinations in the United States as consequence of the incident. [Meñez] also included in his exhibits his profile as a scientist in attempt to prove that damages were also incurred

with the delay of his work; still as a consequence of the kerosene poisoning.

With the termination of the trial, and the directive to parties to file their respective memoranda, the case was finally submitted for decision.[6]

The RTC Ruling

The CA Decision further states:

> The Regional Trial Court (RTC) dismissed the complaint for insufficiency of evidence. The [RTC] found the evidence for [Meñez] to be ridden with gaps. It declared that there was failure of [Meñez] to categorically establish the chain of custody of the "Sprite" bottle which was the very core of the evidence in his complaint for damages. The Court noted that from the time of the incident, thirty-six (36) hours have lapsed before the "Sprite" bottle was submitted for laboratory examination. During such time, the "Sprite" bottle changed hands several times. The RTC then ruled that the scanty evidence presented by [Meñez] concerning the chain of custody of the said "Sprite" bottle and [his] unexplained failure x x x to present several vital witnesses to prove such fact indeed casts a serious doubt on the veracity of his allegations.
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> The [RTC] observed,
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> > "In this case, the results of the laboratory examination conducted on the "Sprite" bottle show that the same contained PURE KEROSENE, and not "Sprite" containing traces of kerosene or "Sprite" adulterated with kerosene. [x]xx A test result showing that the said "Sprite" bottle contained traces of kerosene would have been more in consonance with [Meñez]'s claim of negligence[.]"
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> The RTC further noted that since kerosene had a characteristic smell, and considering that the "Sprite" bottle allegedly contained pure kerosene, it was quite surprising why the employees of [Rosante] did not notice its distinct smell.
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> Finally, the RTC held that the complaint was devoid of merit as it should have first ventilated [Meñez's] grievance with the Bureau of Food and Drugs pursuant to R.A. 3720 as amended by Executive Order No. 175.
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> Thus, the [RTC] disposed,
>
> > "WHEREFORE, the complaint is hereby DISMISSED for insufficiency of evidence, with costs against the plaintiff.

> Likewise, the counterclaims of defendants are hereby DISMISSED.
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> SO ORDERED."

Aggrieved, [Meñez went to the CA] on appeal.[7]

The CA Ruling

In its Decision[8] dated April 22, 2013, the CA granted the appeal and reversed the Decision of the RTC. The CA ruled that the RTC erred in dismissing the case for failing to comply with an administrative remedy because it is not a condition precedent in pursuing a case for damages under Article 2187 of the Civil Code which is the basis of Meñez's complaint for damages.[9] The CA also ruled that Meñez was not entitled to actual damages given the observation of his attending physician, Dr. Juanito Magbanua, Jr. (Dr. Magbanua, Jr.), that "his hospital stay was uneventful" and "to [his] mind, he had taken in x x x only a small amount [of kerosene] because the degree of adverse effect on his body [was] very minimal knowing that if he had taken in a large amount he would have been in x x x very serious trouble and we would have seen this when we examine him."[10] The CA, however, awarded moral and exemplary damages in favor of Meñez.[11]

The dispositive portion of the CA Decision states:

> **WHEREFORE,** the appeal is hereby **GRANTED.** The decision in Civil Case No. 11316 is **REVERSED.** Defendant-Appellee Coca-Cola Bottlers Philippines Inc. is ORDERED to pay the following with six [per cent] (6%) interest per annum reckoned from May 5, 1995:
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> 1. Moral damages in the amount of two hundred thousand pesos (P200,000.00);
> 2. Exemplary [d]amages in the amount of two hundred thousand pesos (P200,000.00);
> 3. Fifty thousand pesos (P50,000.00) as attorney's fees and cost of suit.
>
> The total aggregate monetary award shall in turn earn 12% per annum from the time of finality of this Decision until fully paid.
>
> **SO ORDERED.**[12]

CCBPI filed a motion for reconsideration, which was denied in the CA Resolution[13] dated October 11, 2013.