

SECOND DIVISION

[G.R. No. 216566, February 24, 2016]

**MAGELLAN AEROSPACE CORPORATION, PETITIONER, VS.
PHILIPPINE AIR FORCE, RESPONDENT.**

DECISION

MENDOZA, J.:

In this petition^[1] for review on *certiorari* under Rule 45 of the Rules of Court, petitioner Magellan Aerospace Corporation (MAC) seeks the review of the November 18, 2013 Decision^[2] and January 26, 2015 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 96589, insofar as they sustained the February 14, 2011 Order^[4] of the Regional Trial Court, Branch 211, Mandaluyong City (RTC), in dismissing the complaint^[5] filed by MAC against the respondent, Philippine Air Force (PAF).

The Antecedents

On September 18, 2008, PAF contracted Chervin Enterprises, Inc. (*Chervin*) for the overhaul of two T76 aircraft engines in an agreement denominated as "Contract for the Procurement of Services and Overhaul of Two (2) OV10 Engines."^[6] Due to its lack of technical capability to effect the repair and overhaul required by PAF, Chervin commissioned MAC to do the work for US\$364,577.00. MAC, in turn, outsourced the overhaul service from another subcontractor, National Flight Services, Inc. (NFSI). Eventually, the engines were overhauled and delivered to the PAF. Satisfied with the service, PAF accepted the overhauled engines.^[7]

On December 15, 2008, MAC demanded from Chervin the payment of US\$264,577.00 representing the balance of the contract price. In a letter to the Trade Commission of the Canadian Embassy, dated December 21, 2009, PAF confirmed that it had already released to Chervin the amount of P23,760,000.00, on November 7, 2008, as partial payment for the overhaul service, and that it withheld the amount of P2,376,000.00 as retention fund.^[8]

Notwithstanding the release of funds to Chervin, MAC was not paid for the services rendered despite several demands. Unpaid, MAC demanded from PAF the release of the retained amount. In a letter, dated March 3, 2010, however, PAF rejected the demand and informed MAC that the amount could not be released as it was being held in trust for Chervin.^[9]

On July 6, 2010, MAC filed a complaint^[10] for sum of money before the RTC against Chervin together with its Managing Director, Elvi T. Sosing (*Sosing*), and the PAF. It prayed that Chervin be ordered to pay the amount of US\$264,577.00, plus 12% legal interest from January 15, 2009 until full payment; that in the event of failure

of Chervin to pay the amount claimed, PAF be ordered to pay the said amount with interest and to release the retained amount of P2,376,000.00 plus attorneys fees and litigation expenses amounting to P500,000.00; and that the defendants pay the costs of suit. MAC alleged that Chervin merely acted as an agent of PAF.

On August 24, 2010, PAF moved to dismiss the complaint averring that its contract with Chervin was one for repair and overhaul and not for agency; that it was never privy to any contract between Chervin and MAC; and that it already paid Chervin on January 22, 2009, and on July 13, 2010 in full settlement of its obligations.^[11]

Chervin also asked the RTC to dismiss the complaint against them asserting that MAC had no capacity to sue because of its status as a nonresident doing business in the Philippines without the required license, and that no disclosure was made that it was suing on an isolated transaction which would mean that the real party-in-interest was not MAC, but NFSI.^[12]

On February 14, 2011, the RTC granted both motions to dismiss and ordered the dismissal of the complaint filed by MAC. The decretal portion of the said order reads:

WHEREFORE, finding defendants **CHERVIN ENTERPRISES, INC. AND ELVI T. SOSING**, and public defendant **PHILIPPINE AIR FORCE'S** motions to be impressed with merit, the same are hereby **GRANTED**.

SO ORDERED.^[13]

Aggrieved, MAC appealed before the CA.

On November 18, 2013, the CA partly granted MAC's appeal by reversing the RTC order of dismissal of the complaint against Chervin and Sosing. It, however, affirmed the dismissal of the complaint against PAF. The CA explained that MAC failed to show that PAF had a correlative duty of paying under the overhauling contract as it was obvious that the contract was executed only between MAC and Chervin. Thus, the CA disposed:

We **PARTIALLY GRANT** the appeal, and **REVERSE** the Order dated 14 February 2011 of the Regional Trial Court, Branch 211, Mandaluyong City, insofar as it dismissed the Complaint against defendants-appellees Chervin Enterprises, Inc., and Elvi T. Sosing. We **REMAND** the case to the RTC for the continuation of proceedings against said defendants-appellees.

IT IS SO ORDERED.^[14]

MAC moved for a partial reconsideration of the decision but its motion was denied by the CA in its January 26, 2015 Resolution.

Persistent, MAC filed this petition citing the following

GROUND IN SUPPORT OF THE PETITION

- I. THE COURT OF APPEALS ERRED IN RULING THAT THE COMPLAINT DOES NOT STATE A CAUSE OF ACTION AGAINST RESPONDENT PAF, WHEN THE COMPLAINT CLEARLY AND**

SUFFICIENTLY ALLEGED ULTIMATE FACTS THAT WILL SHOW AND SUPPORT SUCH CAUSE OF ACTION.

II. THE COURT OF APPEALS DECIDED IN A MANNER CONTRARY TO LEGAL PRECEDENT WHEN IT RULED THAT THERE WAS NO AGENCY RELATIONSHIP BETWEEN RESPONDENT PAF AND CHERVIN/SOSING, AND DISMISSED THE COMPLAINT BASED ON FAILURE TO STATE A CAUSE OF ACTION.

III. THE COURT OF APPEALS DECIDED IN A MANNER CONTRARY TO LAW AND LEGAL PRECEDENT WHEN IT FAILED TO CONSIDER THAT RESPONDENT PAF'S MOTION TO DISMISS VIOLATED THE MANDATORY RULE ON NOTICE FOR MOTIONS AND SHOULD NOT HAVE BEEN TAKEN COGNIZANCE BY THE RTC IN THE FIRST PLACE.^[15]

MAC prays that its complaint against PAF be reinstated and that this Court rule that (1) the CA erred in finding that the complaint against PAF failed to sufficiently state a cause of action; (2) the conclusion of the CA that no agency relationship existed between PAF and Chervin is premature as such conclusion can only be had after the trial on the merits is conducted; and (3) PAF violated the three-day notice rule relative to the motion to dismiss filed before the RTC.

The Court's Ruling

The Court denies the petition.

Cause of action is defined as an act or omission by which a party violates a right of another.^[16] In pursuing that cause, a plaintiff must first plead in the complaint a "concise statement of the ultimate or essential facts constituting the cause of action."^[17] In particular, the plaintiff must show on the face of the complaint that there exists a legal right on his or her part, a correlative obligation of the defendant to respect such right, and an act or omission of such defendant in violation of the plaintiffs rights.^[18]

Such a complaint may, however, be subjected to an immediate challenge. Under Section 1(g), Rule 16 of the Rules of Court (*Rules*), the defendant may file a motion to dismiss "[w]ithin the time for but before filing the answer to the complaint or pleading asserting a claim" anchored on the defense that the pleading asserting the claim stated no cause of action.^[19]

In making such challenge, the defendant's issue is not whether a plaintiff will ultimately prevail, but whether the claimant is entitled to offer evidence to support the claims.^[20] It has nothing to do with the merits of the case. "Whether those allegations are true or not is beside the point, for their truth is hypothetically admitted by the motion."^[21] The inquiry is then limited only into the sufficiency, not the veracity of the material allegations.^[22] Thus, if the allegations in the complaint furnish sufficient basis on which it can be maintained, it should not be dismissed regardless of the defense that may be presented by the defendants.^[23] Conversely, the dismissal of the complaint is permitted if the allegations stated therein fail to

show that plaintiff is entitled to relief.

Accordingly, the survival of the complaint against a Rule 16 challenge depends upon the sufficiency of the averments made. In determining whether an initiatory pleading sufficiently pleads, the test applied is whether the court can render a valid judgment in accordance with the prayer if the truth of the facts alleged is admitted. [24]

In this case, MAC seeks the Court's attention to the following allegations in the complaint as cited in the petition:

5. On or about 18 September 2008, defendant PAF contracted defendant Chervin for the overhaul of two (2) T76 aircraft engines, with serial numbers GE-00307 and GE-00039, respectively.

6. Defendant Chervin did not and does not have the capacity, technical skilled personnel or tools to directly perform the overhaul of aircraft engines. In order to perform the overhaul services, defendant Chervin and its Managing Director/Proprietor, defendant Sosing, acting for and on behalf or for the benefit of defendant PAF, commissioned plaintiff to perform the services and to overhaul the subject aircraft engines for the price of US\$364,577.00.

x x x

10. Meanwhile, on or about 7 November 2008, defendant PAF released the amount of Twenty Three Million Seven Hundred Sixty Thousand Pesos (P23,760,000.00) to its agents, defendants Chervin and Sosing, as payment of 90% of the total price of the overhaul services. Defendant PAF retained a 10% retention fund in the amount of Two Million Three Hundred Seventy Six Thousand Pesos (P2,376,000.00). A copy of defendant PAF's letter dated 21 December 2009 to Trade Commissioner of the Canadian Embassy, affirming the PAF's release and retention of the aforestated sums of money, is attached hereto as Annex "I".

11. However, notwithstanding defendant PAF's release of funds covering 90% payment for the repair of the subject aircraft engines, defendant PAF's agents - defendants Chervin and Sosing - did not pay plaintiff for the services rendered, leaving an indebtedness to plaintiff in the amount of Two Hundred Sixty Four Thousand Five Hundred Seventy Seven US Dollars (US\$264,577.00).

x x x

18. Meanwhile, plaintiff also sent to defendant PAF - as the principal of defendants Chervin and Sosing, and the beneficiary of plaintiffs overhaul and repair services which were commissioned by defendants Chervin and Sosing for and on its behalf - a demand letter dated 26 January 2010, demanding the release of the 10% retention amount of Two Million Three Hundred Seventy Six Thousand Pesos (P2,376,000.00) directly to plaintiff, as partial payment of the amount owed to it. A copy of plaintiffs demand letter to defendant PAF is attached hereto as Annex "M".

19. However, in a reply letter dated 3 March 2010, defendant PAF rejected plaintiffs demand, alleging that 'the amount of retention money (P2,376,000.00) withheld by the PAF is kept in trust for Chervin Enterprises who is the owner thereof. A copy of defendant PAF's reply letter dated 3 March 2010 is attached hereto as Annex "N".

20. As defendants Chervin's and Sosing's principal, defendant PAF must comply with all the obligations which its agents, defendants Chervin and Sosing, may have contracted within the scope of their authority (Article 1910, Civil Code of the Philippines). These obligations include paying plaintiff in full for the overhaul and repair services performed on defendant PAF's aircraft engines, which services were commissioned by defendants Chervin and Sosing for and on behalf of defendant PAF.

21. Hence, as the principal of defendants Chervin and Sosing, and the beneficiary of plaintiffs overhaul and repair services, defendant PAF must be made answerable for defendants Chervin's and Sosing's failure to pay plaintiff. Therefore, as an alternative cause of action in the event that the First Cause of Action is not and/or cannot be fully satisfied by defendants Chervin and Sosing, defendant PAF must be held liable for the outstanding amount of Two Hundred Sixty Four Thousand Five Hundred Seventy Seven US Dollars (US\$264,577.00), plus 12% legal interest thereon from 15 January 2009 until full payment is received.^[25]

In essence, MAC asserts that the allegations stating that Chervin acted for and in behalf of a "principal," PAF, in tapping its services for the overhaul of the aircraft engines, completed with the requirements of sufficiency in stating its cause of action against PAF. MAC claims that its allegation of Chervin being "mere agents" of PAF in the overhaul contract, establishes clearly, under the premise of admitting them as true for purposes of a Rule 16 challenge, its entitlement to recover from PAF, the latter being the "principal" and "beneficiary."

The Court is not persuaded.

The standard used in determining the sufficiency of the allegations is not as comprehensive as MAC would want to impress.

The assumption of truth (commonly known as hypothetical admission of truth), accorded under the test, does not cover all the allegations pleaded in the complaint. Only ultimate facts or those facts which the expected evidence will support^[26] are considered for purposes of the test.^[27] It does not cover legal conclusions or evidentiary facts.

The reason for such a rule is quite simple. The standard requires that "[e]very pleading shall contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts on which the party pleading relies for his claim or defense, as the case may be, omitting the statement of mere evidentiary facts."^[28] Thus, trial courts need not overly stretch its limits in considering all allegations just because they were included in the complaint. Evidently, matters that are required and expected to be sufficiently included in a complaint and, thus, accorded the