

FIRST DIVISION

[G.R. No. 193966, February 19, 2014]

**DESIGN SOURCES INTERNATIONAL INC. AND KENNETH SY,
PETITIONERS, VS. LOURDES L. ERISTINGCOL, RESPONDENT.**

R E S O L U T I O N

SERENO, C.J.:

This is a Petition for Review on *Certiorari*^[1] filed by Design Sources International, Inc. and Kenneth Sy (petitioners) under Rule 45 of the 1997 Rules of Civil Procedure. The Petition assails the Court of Appeals (CA) Decision^[2] dated 1 June 2010 and Resolution^[3] dated 30 September 2010 in CA G.R. SP No. 98763. The assailed Decision and Resolution sustained the Orders dated 8 February 2006, 1 June 2006 and 26 February 2007 issued by the Regional Trial Court (RTC) of Makati City in Civil Case No. 00-850.

Considering that there are no factual issues in this case, we adopt the findings of fact of the CA, as follows:

Design Sources International, Inc. ("Petitioner Corporation") is a distributor of Pergo flooring. Sometime in 1998, the Private Respondent bought the said brand of flooring of the "Cherry Blocked" type from the Petitioner Corporation. The flooring was installed in her house.

On February 24, 2000, the Private Respondent discovered that the Pergo flooring installed had unsightly bulges at the joints and seams. The Private Respondent informed the Petitioners of these defects and the former insisted on the repair or replacement of the flooring at the expense of the latter.

After several inspections of the alleged defective flooring, meetings between the parties and exchanges of correspondence, the Petitioner Corporation was given until May 31, 2000 to replace the installed flooring. Nevertheless, on the deadline, the Petitioner Corporation did not comply with the demand of the Private Respondent. A complaint for damages, docketed as Civil Case No.00-850, was thus filed by the Private Respondent before the RTC on July 13, 2000.

On February 8, 2006, Kenneth Sy, one of the Petitioners' witnesses, testified in open court. Immediately after his testimony, the following occurred as evidenced by the transcript of stenographic notes ("TSN"):

COURT : (To Atty. Posadas) Who will be your next witness?

ATTY. Your honor, my next witness will be Stephen

POSADASSy, also of Design Source.

:

ATTY. Your honor, may I know if Mr. Stephen Sy
FORTUN :around [sic] the courtroom?

ATTY. (Pointing to the said witness) He is here.

POSADAS

:

ATTY. So the witness is actually inside the
FORTUN :Courtroom.

ATTY. But, your honor, please, I was asking about it,
POSADASnahiya lang ako kay Atty. Fortun.

:

ATTY. But I was [sic] asked of the exclusion of the
FORTUN :witness.

COURT : (To Atty. Posadas) You shall [sic] have to tell
the Court of your ready witness.

ATTY. He already heard the whole testimony of his
FORTUN :colleague.

ATTY. I'm sorry, your honor.

POSADAS

:

COURT : All right. When were [sic] you present him,
today or next time.

ATTY. Next time, your honor.

POSADAS

:

COURT : All right. Next time, Atty. Posadas, if you have
other witnesses present in Court inform us.

ATTY. No, your honor, in fact I will object to the
FORTUN :presentation of Mr. Stephen Sy, because his
[sic] here all the time when the witness was in
[sic] cross-examined.

ATTY. Your honor, I will just preserve [sic] my right
POSADAS to present another witness on the technical
: aspect of this case.

COURT : Okay. All right. Order. After the completion of
the testimony of defendant's second witness
in the person of Mr. Kenneth Sy, [A]tty.
Benjamin Posadas, counsel for the
defendants, moved for continuance
considering that he is not feeling well and that
he needs time to secure another witness to
testify on the technical aspect, because of the
objection on the part of plaintiff's counsel Atty.
Philip Sigfrid Fortun on his plan of presenting
of Mr. Stephen Sy as their next witness due to
his failure to inform the Court and the said
counsel of the presence of the said intended
witness while Mr. Kenneth Sy was testifying.
There being no objection thereto on the part
of Atty. Fortun, reset the continuation of the
presentation of defendant's evidence to April
5, 2006 at 8:30 o'clock in the morning.

SO ORDERED.^[4]

On 22 March 2006, petitioners moved for a reconsideration of the Order, but their motion was denied by the RTC on 1 June 2006 on the ground that “the Court deems it no longer necessary to allow Stephen Sy from testifying [sic] when a different witness could testify on matters similar to the intended testimony of the former.”^[5] The Order also stated that “to allow Stephen Sy from testifying [sic] would work to the disadvantage of the plaintiff as he already heard the testimony of witness Kenneth Sy.”^[6]

Petitioners filed a Second Motion for Reconsideration (with Leave of Court) dated 19 June 2006, which was likewise denied by the RTC in the assailed Order dated 26 February 2007.^[7]

Petitioners sought recourse before the CA by way of a Petition for Certiorari under Rule 65 of the Rules of Court. They raised the sole issue of whether the RTC committed grave abuse of discretion when it refused to allow architect Stephen Sy (Stephen) to testify as to material matters.^[8]

At the outset, the CA found no sufficient basis that herein respondent previously asked for the exclusion of other witnesses. It was the duty of respondent’s counsel to ask for the exclusion of other witnesses, without which, there was nothing to prevent Stephen from hearing the testimony of petitioners’ other witnesses. Nevertheless, following the doctrine laid down in *People v. Sandal* (*Sandal*),^[9] the appellate court ruled that the RTC did not commit grave abuse of discretion in issuing the assailed Orders considering that petitioners failed to show that Stephen’s testimony would bolster their position. Moreover, from the Manifestation of petitioners’ counsel, it appears that petitioners had another witness who could give a testimony similar to Stephen’s.

Petitioners elevated the case before us assailing the Decision of the CA. In the meantime, trial proceeded in the lower court. On 11 February 2014, they filed a Motion for Issuance of a Writ of Preliminary Mandatory Injunction or Temporary Restraining Order either to allow the presentation of Stephen as a witness or to suspend the trial proceedings pending the ruling in the instant Petition.

Assignment of Errors

Petitioners raise the following errors allegedly committed by the CA:

Finding that the preclusion of Stephen Sy from testifying as a witness in the trial of the case did not amount to grave abuse of discretion on the part of Judge Pozon.

Applying the case of *People vs. Sandal* in justifying the order of exclusion issued by Judge Pozon, precluding Stephen Sy from testifying as witness.

Concluding that the petitioners had another witness that could have given a similar testimony as that of Stephen Sy.^[10]