

THIRD DIVISION

[G.R. No. 193494, March 07, 2014]

LUI ENTERPRISES, INC. PETITIONER, VS. ZUELLIG PHARMA CORPORATION AND THE PHILIPPINE BANK OF COMMUNICATIONS, RESPONDENTS.

D E C I S I O N

LEONEN, J.:

There should be no inexplicable delay in the filing of a motion to set aside order of default. Even when a motion is filed within the required period, excusable negligence must be properly alleged and proven.

This is a petition for review on certiorari of the Court of Appeals' decision^[1] dated May 24, 2010 and resolution^[2] dated August 13, 2010 in CA-G.R. CV No. 88023. The Court of Appeals affirmed *in toto* the Regional Trial Court of Makati's decision^[3] dated July 4, 2006.

The facts as established from the pleadings of the parties are as follows:

On March 9, 1995, Lui Enterprises, Inc. and Zuellig Pharma Corporation entered into a 10-year contract of lease^[4] over a parcel of land located in Barrio Tigatto, Buhangin, Davao City. The parcel of land was covered by Transfer Certificate of Title No. T-166476 and was registered under Eli L. Lui.^[5]

On January 10, 2003, Zuellig Pharma received a letter^[6] from the Philippine Bank of Communications. Claiming to be the new owner of the leased property, the bank asked Zuellig Pharma to pay rent directly to it. Attached to the letter was a copy of Transfer Certificate of Title No. 336962 under the name of the Philippine Bank of Communications.^[7] Transfer Certificate of Title No. 336962 was derived from Transfer Certificate of Title No. T-166476.^[8]

Zuellig Pharma promptly informed Lui Enterprises of the Philippine Bank of Communications' claim. On January 28, 2003, Lui Enterprises wrote to Zuellig Pharma and insisted on its right to collect the leased property's rent.^[9]

Due to the conflicting claims of Lui Enterprises and the Philippine Bank of Communications over the rental payments, Zuellig Pharma filed a complaint^[10] for interpleader with the Regional Trial Court of Makati. In its complaint, Zuellig Pharma alleged that it already consigned in court P604,024.35 as rental payments. Zuellig Pharma prayed that it be allowed to consign in court its succeeding monthly rental payments and that Lui Enterprises and the Philippine Bank of Communications be

ordered to litigate their conflicting claims.^[11]

The Philippine Bank of Communications filed its answer^[12] to the complaint. On the other hand, Lui Enterprises filed a motion to dismiss^[13] on the ground that Zuellig Pharma's alleged representative did not have authority to file the complaint for interpleader on behalf of the corporation. Under the secretary's certificate^[14] dated May 6, 2003 attached to the complaint, Atty. Ana L.A. Peralta was only authorized to "initiate and represent [Zuellig Pharma] in the civil proceedings for consignment of rental payments to be filed against Lui Enterprises, Inc. and/or [the Philippine Bank of Communications]."^[15]

According to Lui Enterprises, an earlier filed nullification of deed of dation in payment case pending with the Regional Trial Court of Davao barred the filing of the interpleader case.^[16] Lui Enterprises filed this nullification case against the Philippine Bank of Communications with respect to several properties it dated to the bank in payment of its obligations. The property leased by Zuellig Pharma was among those allegedly dated to the Philippine Bank of Communications.^[17]

In the nullification of deed of dation in payment case, Lui Enterprises raised the issue of which corporation had the better right over the rental payments.^[18] Lui Enterprises argued that the same issue was involved in the interpleader case. To avoid possible conflicting decisions of the Davao trial court and the Makati trial court on the same issue, Lui Enterprises argued that the subsequently filed interpleader case be dismissed.

To support its argument, Lui Enterprises cited a writ of preliminary injunction^[19] dated July 2, 2003 issued by the Regional Trial Court of Davao, ordering Lui Enterprises and the Philippine Bank of Communications "[to maintain] status quo"^[20] with respect to the rent. By virtue of the writ of preliminary injunction, Lui Enterprises argued that it should continue collecting the rental payments from its lessees until the nullification of deed of dation in payment case was resolved. The writ of preliminary injunction dated July 2, 2003 reads:

WHEREAS, on June 30, 2003, the Court issued an Order, a portion of which is quoted:

WHEREFORE, PREMISES CONSIDERED, let a Writ of Preliminary Injunction issue, restraining and enjoining [the Philippine Bank of Communications], its agents or [representative], the Office of the Clerk of Court-Sheriff and all persons acting on their behalf, from conducting auction sale on the properties of [Lui Enterprises] in EJP-REM Case No. 6272-03 scheduled on July 3, 2003 at 10:00 a.m. at the Hall of Justice, Ecoland, Davao City, until the final termination of the case, upon plaintiff [sic] filing of a bond in the amount of P1,000,000.00 to answer for damages that the enjoined parties may sustain by reason of the injunction if the Court should finally decide that applicant is not entitled thereto.

WHEREAS, that plaintiff posted a bond of P1,000,000.00 duly approved by this Court.

IT IS HEREBY ORDERED by the undersigned Judge that, until further orders, [the Philippine Bank of Communications] and all [its] attorneys, representatives, agents and any other persons assisting [the bank], are directed to restrain from conducting auction sale on the Properties of [Lui Enterprises] in EJP-REM Case No. 6272-03 scheduled on July 3, 2003 at 10:00 a.m. at the Hall of Justice, Ecoland, Davao City, until the final termination of the case.^[21]

Zuellig Pharma filed its opposition^[22] to the motion to dismiss. It argued that the motion to dismiss should be denied for having been filed late. Under Rule 16, Section 1 of the 1997 Rules of Civil Procedure, a motion to dismiss should be filed within the required time given to file an answer to the complaint, which is 15 days from service of summons on the defendant.^[23] Summons was served on Lui Enterprises on July 4, 2003. It had until July 19, 2003 to file a motion to dismiss, but Lui Enterprises filed the motion only on July 23, 2003.^[24]

As to Lui Enterprises' claim that the interpleader case was filed without authority, Zuellig Pharma argued that an action interpleader "is a necessary consequence of the action for consignment."^[25] Zuellig Pharma consigned its rental payments because of "the clearly conflicting claims of [Lui Enterprises] and [the Philippine Bank of Communications]."^[26] Since Atty. Ana L.A. Peralta was authorized to file a consignment case, this authority necessarily included an authority to file the interpleader case.

Nevertheless, Zuellig Pharma filed in court the secretary's certificate dated August 28, 2003,^[27] which expressly stated that Atty. Ana L.A. Peralta was authorized to file a consignment and interpleader case on behalf of Zuellig Pharma.^[28]

With respect to the nullification of deed of dation in payment case, Zuellig Pharma argued that its pendency did not bar the filing of the interpleader case. It was not a party to the nullification case.^[29]

As to the writ of preliminary injunction issued by the Regional Trial Court of Davao, Zuellig Pharma argued that the writ only pertained to properties owned by Lui Enterprises. Under the writ of preliminary injunction, the Regional Trial Court of Davao enjoined the July 3, 2003 auction sale of Lui Enterprises' properties, the proceeds of which were supposed to satisfy its obligations to the Philippine Bank of Communications. As early as April 21, 2001, however, the Philippine Bank of Communications already owned the leased property as evidenced by Transfer Certificate of Title No. 336962. Thus, the writ of preliminary injunction did not apply to the leased property.^[30]

Considering that Lui Enterprises filed its motion to dismiss beyond the 15-day period to file an answer, Zuellig Pharma moved that Lui Enterprises be declared in default.^[31]

In its compliance^[32] dated September 15, 2003, the Philippine Bank of Communications “[joined Zuellig Pharma] in moving to declare [Lui Enterprises] in default, and in [moving for] the denial of [Lui Enterprises’] motion to dismiss.”^[33]

The Regional Trial Court of Makati found that Lui Enterprises failed to file its motion to dismiss within the reglementary period. Thus, in its order^[34] dated October 6, 2003, the trial court denied Lui Enterprises’ motion to dismiss and declared it in default.^[35]

Lui Enterprises did not move for the reconsideration of the order dated October 6, 2003. Thus, the Makati trial court heard the interpleader case without Lui Enterprises’ participation.

Despite having been declared in default, Lui Enterprises filed the manifestation with prayer^[36] dated April 15, 2004. It manifested that the Regional Trial Court of Davao allegedly issued the order^[37] dated April 1, 2004, ordering all of Lui Enterprises’ lessees to “observe status quo with regard to the rental payments”^[38] and continue remitting their rental payments to Lui Enterprises while the nullification of deed of dation in payment case was being resolved. The order dated April 1, 2004 of the Regional Trial Court of Davao reads:

ORDER

Posed for Resolution is the Motion for Amendment of Order filed by [Lui Enterprises] on September 23, 2003 seeking for the preservation of status quo on the payment/remittance of rentals to [it] and the disposal/construction of the properties subject matter of this case.

x x x x

As elsewhere stated, [the Philippine Bank of Communications] did not oppose the instant motion up to the present. In fact, during the hearing held on March 15, 2004, [the bank’s] counsel manifested in open court that except for the rentals due from [Zuellig Pharma] which are the subject of a consignment suit before a Makati Court, the other rental payments are continuously received by [Lui Enterprises].

There being no objection from [the Philippine Bank of Communications], and in order to protect the right of [Lui Enterprises] respecting the subject of the action during the pendency of this case, this Court, in the exercise of its discretion hereby grants the motion.

Accordingly, consistent with the order of this Court dated June 30, 2003, the parties are hereby directed to further observe status quo with regard to the rental payments owing or due from the lessees of the properties subject of the first set of deeds of dacion and that the defendants are enjoined from disposing of the properties located at Green Heights Village, Davao City until the case is finally resolved.

With the order dated April 1, 2004 issued by the Regional Trial Court of Davao as basis, Lui Enterprises argued that Zuellig Pharma must remit its rental payments to it and prayed that the interpleader case be dismissed.

The Regional Trial Court of Makati only noted the manifestation with prayer dated April 15, 2004.^[39]

It was only on October 21, 2004, or one year after the issuance of the order of default, that Lui Enterprises filed a motion to set aside order of default^[40] in the Makati trial court on the ground of excusable negligence. Lui Enterprises argued that its failure to file a motion to dismiss on time “was caused by the negligence of [Lui Enterprises] former counsel.”^[41] This negligence was allegedly excusable because “[Lui Enterprises] was prejudiced and prevented from fairly presenting [its] case.”^[42]

For its allegedly meritorious defense, Lui Enterprises argued that the earlier filed nullification of deed of dation in payment case barred the filing of the interpleader case. The two actions allegedly involved the same parties and the same issue of which corporation had the better right over the rental payments. To prevent “the possibility of two courts x x x rendering conflicting rulings [on the same issue],”^[43] Lui Enterprises argued that the subsequently filed interpleader case be dismissed.

Zuellig Pharma filed its opposition^[44] to the motion to set aside order of default. It argued that a counsel’s failure to file a timely answer was inexcusable negligence which bound his client.

Further, Zuellig Pharma argued that the pending case for nullification of deed of dation in payment “[did] not preclude [Zuellig Pharma] from seeking the relief prayed for in the [interpleader case].”^[45]

While the motion to set aside order of default was still pending for resolution, Lui Enterprises filed the manifestation and motion to dismiss^[46] dated April 21, 2005 in the Makati trial court. It manifested that the Davao trial court issued another order^[47] dated April 18, 2005 in the nullification of deed of dation in payment case. In this order, the Davao trial court directed the Philippine Bank of Communications to inform Zuellig Pharma to pay rent to Lui Enterprises while the Davao trial court’s order dated April 1, 2004 was subsisting. The order dated April 18, 2005 of the Davao trial court reads:

ORDER

Plaintiffs move for execution or implementation of the Order dated September 14, 2004. In substance, [Lui Enterprises] seek[s] to compel the remittance in their favor of the rentals from [Zuellig Pharma], one of the lessees alluded to in the September 14, 2004 Order whose rental payments “must be remitted to and collected by [Lui Enterprises].” [The Philippine Bank of Communications] did not submit any opposition.