

## SECOND DIVISION

[ G.R. No. 199354, June 26, 2013 ]

**WILSON T. GO, PETITIONER, VS. BPI FINANCE CORPORATION,  
RESPONDENT.**

### **D E C I S I O N**

**BRION, J.:**

Before us is the petition for review on *certiorari*,<sup>[1]</sup> filed by Wilson Go under Rule 45 of the Rules of Court, assailing the resolutions dated May 4, 2010<sup>[2]</sup> and October 12, 2011<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 111800. The CA denied Go's petition for review for having been filed out of time.

#### **The Antecedent Facts**

BPI Finance Corporation (*BPI*), operating under the name BPI Express Credit Card, has been engaged in the business of extending credit accommodations through the use of credit cards. Under the system, BPI agrees to extend credit accommodations to its cardholders for the purchase of goods and services from BPI's member establishments on the condition that the charges incurred shall be reimbursed by the cardholders to BPI upon proper billing.<sup>[4]</sup>

BPI filed a complaint for collection of sum of money before the Metropolitan Trial Court (*MeTC*), Branch 67, Makati City, against Go. The complaint alleged that Go was among the cardholders of BPI when he was the Executive Vice-President of Noah's Ark Merchandising and that Go incurred credit charges amounting to P77,970.91.<sup>[5]</sup>

Go denied the allegations, arguing that the BPI credit card was a company account and was issued to him because of his position as Executive Vice-President. He also stated that he had actually requested from BPI an updated statement of account, as well as supporting documents for purposes of accounting and verification, but BPI failed to comply.<sup>[6]</sup>

At the pre-trial, the parties agreed to the truth of the contents of the following:

1. Credit Card Application;
2. Letter dated February 16, 2000 [which was sent to Go at his] office address at Noah's Ark Merchandising;
3. Statements of Account dated February 20, 2000, May 20, 2000, April 20, 2000 and March 20, 2000.<sup>[7]</sup>

BPI also presented a witness who testified during trial that the BPI credit card belongs to Go. However, Go insisted that he cannot be held liable since he was only acting in behalf of the company. In his comment, he argued that the credit card application was a mere "pro forma" document unilaterally prepared by BPI; that the letter sent to his office address would prove that it was a company account; and that although the statements of account were not disputed, he alleged that he did not receive any demand letter from BPI.<sup>[8]</sup>

Go failed to present any evidence during the hearing. As a result, the MeTC declared that he had waived his right to present evidence. For this reason, the court deemed the case submitted for decision.<sup>[9]</sup>

On April 23, 2008, the MeTC rendered a decision<sup>[10]</sup> whose dispositive portion reads:

WHEREFORE, the Court RENDERS judgment holding the defendant Wilson T. Go liable to pay plaintiff BPI Card Finance Corporation the following amounts:

1. P77,970.91 plus interest of 1% per month and penalty of 1% per month to be computed from May 23, 2000 until full payment;
2. 10% of the total amount due as attorney's fees; and
3. Cost of suit.<sup>[11]</sup>

The MeTC ruled that nothing in the credit card application states that the credit card was for the account of the company. The statement of account was addressed to Noah's Ark Merchandising simply because Go requested it. By preponderance of evidence, the MeTC found that BPI proved the existence of Go's debt.<sup>[12]</sup>

Go appealed the MeTC decision to the Regional Trial Court (RTC). In a decision dated September 4, 2009, the RTC fully affirmed the MeTC decision. Go filed a motion for reconsideration, which the RTC denied in an order dated November 16, 2009. Go's counsel received the denial of the motion for reconsideration on November 26, 2009.<sup>[13]</sup>

On December 10, 2009, Go filed before the CA a motion for extension of time for thirty (30) days, or up to January 10, 2009, within which to appeal. However, since January 10, 2010 was a Sunday, Go instead filed his petition for review on January 11, 2010.

On May 20, 2010, four months after the motion for extension of time was filed, the CA issued the disputed May 4, 2010 resolution, denying the petition for review:

Petitioner's motion for extension of thirty (30) days is **PARTLY GRANTED**. Petitioner is granted "an additional period of 15 days only within which to file the petition for review." Considering that the Petition for Review was filed beyond the granted extension, the same is hereby **DENIED ADMISSION**.<sup>[14]</sup>

Go filed a motion for reconsideration which the CA also denied in a Resolution dated October 12, 2011. The CA explained that while the motion for extension of time was granted, only a period of fifteen (15) days was given, not the requested thirty (30) days. Hence, the last period to file the petition for review should have been on December 25, 2009, not on January 10, 2010 as Go had assumed. Since Go filed his petition for review after December 25, 2009, his filing was out of time.

### **The Petition**

Go now questions the CA rulings before us. He posits that it was only on May 20, 2010, or four months after he filed his motion for extension of time, when he became aware that he had only been given an extension of 15 days. He also claims that he was denied due process on mere technicality, without resolving the petition based on the merits or the evidence presented.

### **The Court's Ruling**

**We deny the petition for lack of merit.**

Section 1, Rule 42 of the Rules of Court provides that:

Section 1. *How appeal taken; time for filing.* — A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, **the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.** [emphasis, italics and underscore ours]

The rule is clear that an appeal to the CA must be filed within a period of fifteen (15) days. While a further extension of fifteen (15) days may be requested, a specific request must be made with specifically cited reason for the request. The CA may grant the request only at its discretion and, by jurisprudence, only on the basis of reasons it finds meritorious.

Under the requirements, it is clear that only fifteen (15) days may initially be requested, not the thirty (30) days Go requested. The petitioner cannot also assume that his motion has been granted if the CA did not immediately act. In fact, faced with the failure to act, the conclusion is that no favorable action had taken place and