

FOURTH DIVISION

[CA-G.R. CV No. 100555, October 14, 2014]

SELWYN LAO, PLAINTIFF-APPELLEE, VS. SKRENE PROPERTIES, INC., AND NORMAN M. ESPINA, DEFENDANTS-APPELLANTS.

DECISION

CARANDANG, J.:

This is an appeal^[1] to review the Decision^[2] dated January 20, 2012 of the Regional Trial Court of Manila, Branch 50 finding appellants jointly and severally liable to pay appellee the amount of One Million Three Hundred Eleven Thousand Five Hundred Fifty Eight Pesos (P1,311,558.00) with legal interest reckoned from date of the said Decision.

Appellants likewise assail the trial court's Order^[3] dated December 21, 2012 denying their motion for reconsideration.

The facts are as follows:

Defendant-appellant Skrene Properties, Inc. [*or* Skrene] is a corporation duly organized and existing under Philippine laws while defendant-appellant Norman M. Espina [*or* Mr. Espina] is the corporation's Chairman of the Board. Plaintiff-appellee Selwyn Lao [*or* Mr. Lao] is a civil and sanitary engineer and owner-proprietor of a construction firm.

Sometime in January 2004, Mr. Lao was approached by Mr. Espina for construction of a six (6) storey building intended for Skrene at a contract price of Eleven Million Nine Hundred Thousand Pesos (P11,900,000.00). However, before the execution of a written contract, Mr. Espina convinced Mr. Lao to divide the whole project into two phases to reduce the amount of advance payments. Each phase of the construction project shall cost Five Million Nine Hundred Fifty Thousand Pesos (P5,950,000.00). Mr. Espina represented that both phases of the project will be given to Mr. Lao. On February 24, 2004, they entered into a Construction Contract^[4] involving the first phase at a contract price of Five Million Nine Hundred Fifty Thousand pesos (P5,950,000.00). It was stipulated therein that Lao shall build the Skrene's building in Emilia Street corner Cuenca Street, Makati City within a period of two hundred ten (210) days.

On July 24, 1995, which is within the 210-day period stipulated in the contract, the building was completed and accepted by Mr. Espina's architect. It was also accepted and approved by Mr. Espina himself. A Certificate of Completion and Acceptance^[5] was executed by the parties. Thereafter, plaintiff made several written demands^[6] to defendants to pay the unpaid bills. As his demand remained unheeded, Mr. Lao and his driver went to the office of defendants sometime in November 2005 to

personally demand the payment of the unpaid bills. Mr. Espina threw invectives and pushed him outside the office.

In order to collect the unpaid balance, Mr. Lao engaged the services of a counsel who sent a demand letter to defendants dated February 15, 1996 to pay plaintiff Seven Hundred Sixty Six Thousand One Hundred Ninety Nine Pesos and Twenty One Centavos (P766,199.21) representing the unpaid balance of the contract price. On March 06, 1996, defendants through their counsel acknowledged their unpaid obligation but only for P120,000.00. In a Letter^[7] dated March 07, 1996, Mr. Espina requested Mr. Lao for the breakdown of the amount being collected from him. In a letter dated March 11, 1996, the counsel of Mr. Lao furnished Mr. Espina the breakdown of the unpaid obligation. Despite the exchange of correspondence and final written demand^[8] for the settlement of the sum of P766, 199.21, Mr. Espina still refused to pay. Mr. Lao instituted this Complaint^[9] for *Sum of Money and Damages* against Skrene Properties, Inc. and Mr. Espina, docketed as Civil Case No. 98-90824 before the Regional Trial Court of Manila, Branch 50.

On October 30, 1998, defendants filed their Answer with Counterclaim^[10] alleging that the complaint states no cause of action against them. Initially, the case was dismissed for failure of the parties to appear at the pre-trial conference but upon plaintiff's motion, the case was reinstated and was set anew for pre-trial conference on April 16, 1999. The pre-trial was terminated on May 12, 1999. Due to the retirement of the presiding judge of RTC, Branch 50 and upon the motion of the plaintiff's new counsel, the case was referred to the pairing judge (RTC, Branch 49). On December 11, 2000, Atty. Teresito A. Andoy, Branch Clerk of Court of RTC, Branch 49 was appointed to act as commissioner to assist the parties in arriving at the correct amount due to plaintiff.

On September 25, 2001, the newly appointed judge of RTC, Branch 50 issued an Order directing Atty. Andoy to submit his report. Atty. Andoy submitted his Commissioner's Report^[11] dated November 26, 2001 finding Three Hundred Ninety One thousand Six Hundred Seventy Two Pesos and Thirty Eight Centavos (P391,672,38) as the total liability of defendants to plaintiff. Due to the disagreement of the parties on the commissioner's report, the trial court set anew the pre-trial conference. The case was also referred to the Mediation Center for possible conciliation and mediation but the parties did not reach a settlement. Thereafter, trial was reset several times for varied reasons.

On May 18, 2009, in order to abbreviate the proceedings and as manifested and agreed upon by counsel for both parties, the trial court issued an Order^[12] that would govern the presentation of evidence, *to wit*:

1. Counsel for plaintiff will present his evidence only in so far as he vehemently takes exception from the commissioner's report item number 4 thereof (page 17 to 18 of report) – cost of pump, labor cost of pump and installation; item number 10 (page 25 to 26 of report) – cistern tank; the 5% remaining retention fee in the amount of P295,500.00 which was allegedly not released in favor of the plaintiff and was not tackled in the report; and the matter pertaining to damages and attorney's fees.