



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **March 2, 2020** which reads as follows:

“G.R. No. 207852 (Sps. Marciano C. Yerro and Anita Sapla Yerro v. Jimson Sze)

The Case

This assails the following dispositions of the Court of Appeals in CA-G.R. CV No. 96843 entitled “*Jimson Sze v. Spouses Marciano C. Yerro and Anita Sapla Yerro*”:

1. Decision¹ dated April 5, 2013 (a) affirming the trial court’s ruling that petitioner spouses Marciano C. Yerro and Anita Sapla Yerro are liable to respondent Jimson Sze for ₱135,000.00 with one percent (1%) interest a month from May 2000 until fully paid, as well as cost of suit, (b) deleting the award for attorney’s fees, and (c) imposing legal interest of twelve percent (12%) *per annum* from finality of judgment until fully paid; and
2. Resolution² dated June 17, 2013 denying reconsideration.

Antecedents

In his complaint for sum of money, respondent essentially alleged that on June 19, 1997, petitioners obtained a ₱500,000.00 loan from him. The obligation had already become due and demandable as of June 19, 1999, but petitioners refused to pay despite demand. Thus,

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¹ Penned by Associate Justices Franchito N. Diamante and concurred in by Associate Justices Elihu A. Ybañez and Melchor Q. C. Sadang; *rollo*, p. 21.

² *Id.* at 37.

he sued petitioners before the Regional Trial Court – Br. 126, Caloocan City to collect the loan amount of ₱500,000.00, interest of four percent (4%) per month from judicial demand until full payment, and attorney's fees and cost of suit of ₱20,000.00.³

In their answer, petitioners countered that they did not receive the full loan amount and that they had already paid the amount they had actually received.⁴

During the trial, respondent offered in evidence the promissory note dated June 19, 1997, among others, to establish petitioners' indebtedness. Respondent's lone witness was his own account manager Imelda S. Sibal. On the other hand, petitioners were deemed to have waived their right to present evidence after failing to do so despite the multiple opportunities given them by the trial court.⁵

The Trial Court's Rulings

By Decision⁶ dated August 2, 2010, the trial court granted the complaint, *viz*:

WHEREFORE, judgment is hereby rendered in favor of plaintiff Jimson Sze and against Defendants-Spouses Marciano C. Yerro and Anita Sapla Yerro, directing the latter to pay the following:

1. Five Hundred Thousand Pesos (₱500,000.00) with an interest of twelve percent (12%) a year computed from June 19, 1999 until the same is fully satisfied;
2. Attorney's fee of ₱5,000.00;
3. Cost of suit.

SO ORDERED.

The trial court held that respondent sufficiently established that petitioners actually obtained from him a loan of ₱500,000.00. Petitioners therefore were liable to pay this amount. As for the stipulated interest of four percent (4%) a month, however, the same was unconscionable and should be reduced to twelve percent (12%) *per annum*.

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³ *Id.* at 22-23.

⁴ *Id.* at 23

⁵ *Id.*

⁶ *Id.* at 39.

Under Order dated January 10, 2011, the trial court amended its earlier ruling,⁷ thus:

WHEREFORE, premises considered the assailed decision is amended to read:

Defendant Spouses Marciano C. Yerro and Anita Sapla Yerro are directed to pay plaintiff Jimson Sze, the following:

1. Three Hundred Six Thousand and Four Hundred Fifty Pesos (₱306,450.00) as of December 2010 representing principal and interest and one percent (1%) a month of ₱135,000 every month thereafter.
2. Attorney's fees of ₱10,000.00
3. Cost of suit.

SO ORDERED.⁸

The trial court computed petitioners' supposed liability thus:

- Date of loan on June 1997 until date of extrajudicial demand on May 2000

Principal Obligation	₱500,000.00
Plus: Interest due from June 1997 to April 2000 (or 34 months) at ₱5,000.00 a month	₱170,000.00
Projected Obligation	₱670,000.00
Less: Payments made from June 1997 to April 2000 (or 34 months) at ₱15,750.00 a month	₱535,000.00
Remaining Obligation	₱135,000.00

- Extrajudicial demand on May 2000 to December 2010

Remaining Obligation	₱135,000.00
Plus: Interest due from May 2000 to December 2010 (10 years and 7 months or 127 months) at ₱1,350.00 ⁹ a month	₱171,450.00
Obligation as of December 2010	₱306,450.00

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⁷ *Id.* at 26.

⁸ *Id.* at 22.

⁹ Equivalent to 1% of ₱135,000.00 a month.

Based on the trial court's computation, petitioners' liability increases by ₱1,350.00 a month, equivalent of one percent (1%) of ₱135,000.00.

The trial court determined that petitioners had been making monthly payments of ₱15,750.00 from June 1997 until April 2000. It further modified the interest imposed, changing it from twelve percent (12%) *per annum* to one percent (1%) a month. Thus, out of petitioners' monthly payment of ₱15,750.00, ₱5,000.00 was applied to the interest due¹⁰ while the remaining ₱10,750.00 was applied to the principal loan.

Dissatisfied, petitioners appealed to the Court of Appeals. They asserted that their last payment was on April 2001, not April 2000. They also faulted the trial court for not using the "diminishing balance rule." Under their formula, the monthly application of ₱10,750.00 to their principal loan would result in a monthly decrease in their outstanding balance and, consequently, a steady decline of the interest due. Taking into consideration the new interest rate imposed of one percent (1%) a month, they had already paid their entire obligation in full and had, in fact, made overpayments of ₱135,681.90.

The Court of Appeals' Rulings

Under Decision dated April 5, 2013, the Court of Appeals affirmed with modification, *viz*:

WHEREFORE, the present Appeal is hereby **DENIED**. The assailed January 10, 2011 Order of Caloocan City Regional Trial Court, Branch 126, in Civil Case No. C-19990 is hereby **AFFIRMED** with the **MODIFICATION** in that: 1) *an additional interest of 12% per annum is imposed on the total amount due from the time of finality of judgment until the full satisfaction thereof; and 2) the attorney's fees awarded by the lower court in favor of the herein appellee is hereby deleted.* All other aspects of the fallo of the assailed Order stand. Costs against the herein appellants.

SO ORDERED.

It imposed an additional twelve percent (12%) interest *per annum* on the total amount due pursuant to *Eastern Shipping Lines, Inc. v. Court of Appeals*¹¹ which ordained that "interest due shall itself earn legal interest from the time it is actually demanded." As for

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¹⁰ Equivalent to 1% of ₱500,000.00 a month.

¹¹ G.R. No. 97412, July 12, 1994.

the trial court's award of attorney's fees, the Court of Appeals held that the same was devoid of factual and legal basis. Even the trial court did not specify the reason for this award to petitioners.

On June 17, 2013, the Court of Appeals denied petitioners' motion for reconsideration, thus:

The Court resolves to **DENY** outright the herein appellants' "Motion for Reconsideration" which seeks reconsideration of Our April 5, 2013 Decision on the ground that the same was filed seven (7) days late in violation of Section 1, Rule 52 of the 1997 Rules of Civil Procedure.

SO ORDERED.

The Present Petition

Petitioners now invoke the discretionary appellate jurisdiction of this Court and seek a reversal of the assailed dispositions.

They claim they were only notified of the Court of Appeals' Decision on April 23, 2013. As far as they were concerned, they had until May 8, 2013 to file a motion for reconsideration, which they did on the last day. Thus, they were surprised to have received the Resolution dated June 17, 2013 denying their motion for belated filing.¹² They investigated on the matter and discovered that the copy of the Court of Appeals' Decision intended for them was received on April 16, 2013 by Merle Dulog, a worker at a carton factory that had been renting at petitioners' home address. Unfortunately, Dulog forwarded the letter to petitioners only on April 23, 2013. Worse, when he handed petitioners the notice, he lied that he had just received it when in truth he had received it on April 16, 2013. He did not know the significance of the letter so he thought little of the lie; he was more afraid of losing his job had petitioners immediately known of his negligence.¹³ Attached to the petition is copy of Dulog's *Sinumpaang Salaysay*¹⁴ dated July 15, 2013, corroborating petitioners' narration of account.

On the merits, petitioners replead the arguments they raised below. They insist that Sibal admitted in open court that they had been making monthly payments of ₱15,750.00 until April 2001, not April 2000.¹⁵ More, the trial court's computation is contrary to the

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¹² *Rollo*, p. 5.

¹³ *Id.*

¹⁴ *Id.* at 44.

¹⁵ *Id.* at 7-11.

diminishing balance rule which is allegedly the standard used by accountants and financial institutions.¹⁶ Based on their computation, they do not owe respondent any money and have in fact overpaid the loan amount and interest.

In his comment,¹⁷ respondent point to the fact that petitioners belatedly moved for reconsideration before the Court of Appeals. In any event, the Court of Appeals did not err in affirming the computation of the trial court on petitioners' outstanding obligation.

Petitioners bolster their arguments in their Reply.¹⁸ On the Court of Appeals' denial of their motion for reconsideration, they argue: "Dismissing the motion for reconsideration filed by [petitioners] based on the alleged lapse of seven (7) days is a dismissal not on the merits but on mere technicality which will only prolong the proceedings and will not put an end to the issues at hand".¹⁹

By Resolution²⁰ dated January 25, 2016, the Court gave due course to the petition and required the parties to submit their respective memoranda within thirty (30) days from notice. While respondent manifested²¹ that he is adopting his comment on the petition as his memorandum, petitioners have failed to comply with the Court's directive. Petitioners, therefore, are deemed to have waived their right to file a memorandum in support of their case.

Ruling

The Court resolves to deny the petition in view of the finality of the assailed dispositions.

Here, petitioners themselves admit that copy of the Decision dated April 5, 2013 was delivered to their address on record via registered mail. Merle Dulong received it on petitioners' behalf on April 16, 2013. Pursuant to Section 1, Rule 52 of the Rules of Court, petitioners had fifteen (15) days therefrom or until May 1, 2013 to move for reconsideration.²² But since May 1, 2013 was a holiday,

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¹⁶ *Id.* at 11-16.

¹⁷ *Id.* at 60.

¹⁸ *Id.* at 76.

¹⁹ *Id.* at 81.

²⁰ *Id.* at 86.

²¹ *Id.* at 89.

²² Section 1, Rule 52 of the Rules of Court:

Section 1. Period for filing. — A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party.

they had until the next working day or until May 2, 2013 to move for reconsideration. As it was, though, petitioners filed their motion only on May 8, 2013 or six (6) days late. The assailed Decision, therefore, had already lapsed into finality and may no longer be modified in any respect, even if the modification is meant to correct an erroneous conclusion of fact or law.²³

In their bid to have the case revived, however, petitioners allege that Dulog informed them of the notice from the Court of Appeals only on April 23, 2013, whence the fifteen (15)-day reglementary period should supposedly be reckoned. Consequently, they timely filed their motion for reconsideration before the Court of Appeals on May 8, 2013.

We cannot agree.

For one, petitioners failed to establish their claim that they were belatedly informed of the Court of Appeals' adverse ruling. They offered no evidence in support of their claim other than their self-serving statements and Dulog's *Sinumpaang Salaysay*. At any rate, petitioners failed to convince this Court that the reglementary period should be counted from April 23, 2013, not from any other date. As the Court held in *Gatmaytan v. Dolor*:²⁴

We sustain petitioner's position that the service made on her counsel's former address was ineffectual. We find however, that petitioner failed to discharge her burden of proving the specific date - allegedly June 1, 2006 - in which service upon her counsel's updated address was actually made. Having failed to establish the reckoning point of the period for filing her Motion for Reconsideration, we cannot sustain the conclusion that petitioner insists on, and which is merely contingent on this reckoning point: we cannot conclude that her Motion for Reconsideration was timely filed. Having failed to discharge her burden of proof, we are constrained to deny her Petition.

Indeed, a party who alleges a fact has the burden of proving it. A mere allegation will never suffice.²⁵ The party who alleges has the burden of proving the allegation with the requisite quantum of evidence.²⁶ Logically, a party who fails to discharge his or her burden of proof will not be entitled to the relief prayed for.²⁷

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²³ *One Shipping Corp., et al. v. Peñafiel*, 751 Phil. 204, 210 (2015).

²⁴ 806 Phil. 1, 13 (2017).

²⁵ *Dela Liana v. Biong*, G.R. No. 182356, 722 Phil. 743, 757 (2013).

²⁶ *Clado-Reyes v. Limpe*, 579 Phil. 669, 677 (2008).

²⁷ *Supra* note 24.

For another, petitioners failed to observe due diligence in managing their affairs. They should not have simply relied on Dulog's assurance that he had just received it right then and there on April 23, 2013. The import of a court ruling, an adverse one at that, should have alerted petitioners and impelled them to verify with the post office when the notice of judgment had actually been delivered to their home address. Had they handled their transactions with due diligence, petitioners would not have been caught under the circumstances they are in now.

WHEREFORE, premises considered, the petition is **DENIED**.

The respective compliances of petitioners and respondent with the Show Cause Resolution dated April 25, 2017 are **DISPENSED WITH**.

SO ORDERED." *Peralta, C.J., on official business;*
Caguioa, J., Acting Chairperson.

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *ma 2/12*
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