



Republic of the Philippines
Supreme Court
 Manila

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 JAN 21 2020
 BY: YCA
 TIME: 3:14 pm

SECOND DIVISION

BDO STRATEGIC HOLDINGS, INC. (Formerly **EBC STRATEGIC HOLDINGS, INC.**)
and BANCO DE ORO UNIBANK, INC. (Formerly **EQUITABLE PCI BANK, INC.**),

Petitioners,

- versus -

ASIA AMALGAMATED HOLDINGS CORPORATION,
 Respondent.

G.R. No. 217360

Present:

PERLAS-BERNABE, J.,
Chairperson,
REYES, A., JR.,
HERNANDO,
INTING,* and
ZALAMEDA, JJ.**

Promulgated: **13 NOV 2019**

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DECISION

REYES, A., JR., J.:

Before this Court is a Petition for Review on *Certiorari*¹ taken under Rule 45 of the Rules of Court seeking to nullify the Decision² dated September 30, 2014 and the Resolution³ dated March 10, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 132785.

Factual Antecedents

BDO Strategic Holdings, Inc. (formerly EBC Strategic Holdings, Inc.) and Banco De Oro Unibank, Inc. (formerly Equitable PCI Bank, Inc.) (petitioners) are corporations duly organized under the laws of the Philippines.⁴ Asia Amalgamated Holdings Corporation (respondent) is a holding company whose shares are listed in the Philippine Stock Exchange, and whose the majority shares are owned by Mr. Jimmy Gow (Mr. Gow).⁵

* On official leave.

** Additional Member per Special Order No. 2727 dated October 25, 2019.

¹ *Rollo*, pp. 3-38.

² Penned by Associate Justice Danton Q. Bueser, and concurred in by Associate Justices Remedios

A. Salazar-Fernando and Ramon R. Garcia; id. at 40-52.

³ Id. at 54-55.

⁴ Id. at 127-128.

⁵ Id. at 128.

On November 6, 2007, respondent filed a complaint for declaration of nullity of contract and damages against petitioners.⁶

The trial for the case started on June 1, 2010 in which Mr. Gow was presented as the first witness. The cross-examination on Mr. Gow started on January 24, 2012 and continued on April 17, 2012.⁷ The cross-examination continued on the third and fourth hearing dates, September 12, 2012 and November 19, 2012, respectively.⁸ However, on December 10, 2012, his cross-examination was suspended since petitioners filed a request for issuance of subpoena *duces tecum*, which was granted by the Regional Trial Court (RTC) on the same day.⁹

On December 10, 2012, petitioners insisted that respondent comply with the subpoena *duces tecum* before the cross-examination of Mr. Gow could be continued.¹⁰ However, respondent manifested that it would file an opposition and motion to quash the subpoena.¹¹

On February 1, 2013, pending petitioners' opposition to respondent's motion to quash, BDO Strategic Holdings, Inc. filed its written interrogatories addressed to respondent.¹²

Ruling of the RTC

On April 29, 2013, the RTC issued an Order¹³ resolving the motion to quash the subpoena *duces tecum* of respondent and the written interrogatories served on them. The RTC set aside the issued subpoena *duces tecum* and *ad testificandum* on the belief that it in effect would make Mr. Gow a witness for the adverse party, to wit:

ACCORDINGLY, therefore, for the foregoing reasons, the motion having merit, the same is GRANTED. The issued *Subpoena Duces Tecum* and *Ad Testificandum* is hereby ordered quashed [and/or] set aside.¹⁴ (Emphasis in the original)

Also, the RTC denied the taking of Written Interrogatories because it would not facilitate the disposition of the case. The dispositive portion reads:

⁶ Id. at 41.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id. at 43.

¹¹ Id.

¹² Id.

¹³ Penned by Presiding Judge Fortunito L. Madrona; id. at 93-101.

¹⁴ Id. at 97.

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WHEREFORE, the foregoing considered, the taking of the Written Interrogatories of [petitioner BDO Strategic Holdings, Inc.] served on the plaintiff is accordingly x x x DENIED and not allowed.

SO ORDERED.¹⁵ (Emphasis in the original)

On May 24, 2013, petitioners filed two Motions for Reconsideration regarding the quashal of the subpoena *duces tecum* and *ad testificandum*, and the disallowance of the written interrogatories.¹⁶ However, both were denied for being without merit in an Order dated August 22, 2013.¹⁷

Feeling aggrieved, petitioners filed a petition for *certiorari* with an application for the issuance of a temporary restraining order and/or writ of preliminary injunction before the CA.

Ruling of the CA

In a Decision¹⁸ dated September 30, 2014, the CA reversed the quashal of the subpoena *duces tecum* and *ad testificandum* but upheld the disallowance of the written interrogatories. The dispositive portion reads:

WHEREFORE, premises considered, this Court hereby resolves that the Orders of RTC, Branch 274 of Parañaque City dated April 29, 2013 and August 22, 2013 as to the quashal of the *subpoena duces tecum* and *ad testificandum* so issued are **REVERSED** and **SET ASIDE**. Accordingly, the respondent Court is **ORDERED** to issue anew a *subpoena duces tecum* and *ad testificandum* with respect to the documents specified in the request for issuance of *subpoena duces tecum* dated December 5, 2012 of petitioners BDO and ESHI. And, as to the disallowance of the written interrogatories, the same is **AFFIRMED**. The application for preliminary injunction and/or temporary restraining order is **DENIED**.

SO ORDERED.¹⁹ (Emphasis in the original)

Still dissatisfied with the decision, petitioners filed a Motion for Partial Reconsideration²⁰ of the appealed decision insofar as it denied the request for written interrogatories. However, on March 10, 2015, the CA likewise denied the said motion.²¹

¹⁵ Id. at 101.

¹⁶ Id. at 44.

¹⁷ Id. at 102-103.

¹⁸ Id. at 40-52.

¹⁹ Id. at 51.

²⁰ Id. at 381-396.

²¹ Id. at 54-55.

Meyer

Hence, the instant Petition.

Issue

The sole issue to be resolved is whether the CA committed a reversible error in affirming the disallowance of the written interrogatories addressed to respondent.

The Ruling of this Court

The Petition is bereft of merit.

It is true that depositions are legal instruments consistent with the principle of promoting the just, speedy and inexpensive disposition of every action or proceeding.²² They are designed to facilitate the early disposition of cases and expedite the wheel of justice. Hence, the use of discovery is highly encouraged.

However, while the petitioners are correct in contending that modes of discovery are important and encouraged, this is not absolute. It is important to be reminded that the right to take deposition, whether in a form of oral or written interrogatories, has limitations. The Rules of Court expressly provides for limitations to deposition when the examination is being conducted in bad faith or in such a manner as to annoy, embarrass, or oppress the person subject to the inquiry.²³ Depositions are also limited when the inquiry touches upon the irrelevant or encroaches upon the recognized domains of privilege.²⁴

Under statutes and procedural rules, the court enjoys considerable leeway in matters pertaining to discovery.²⁵ To be specific, Section 16 of Rule 23 of the Rules of Court clearly states that, upon notice and for good cause, the court may order for a deposition not to be taken. Clearly, the court shall exercise its judicial discretion to determine the matter of good cause.²⁶ Good cause means a substantial reason — one that affords a legal excuse.²⁷ In other words, it is for the court to determine whether there is a substantial reason to disallow a deposition, as in this case. Thus, the grounds for disallowing a written interrogatory are not restricted to those expressly mentioned under the Rules of Court and existing jurisprudence.

²² *San Luis v. Hon. Judge Rojas, et al.*, 571 Phil. 51, 72 (2008).

²³ RULES OF COURT, Rule 23, Section 18.

²⁴ *San Luis v. Hon. Judge Rojas, et al.*, supra at 70.

²⁵ *Producers Bank v. CA*, 349 Phil. 310, 317 (1998).

²⁶ *Fortune Corporation v. Court of Appeals*, 299 Phil. 356, 383 (1994).

²⁷ *Id.*

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It must also be emphasized that the court's exercise of such discretion will not be set aside in the absence of abuse, or unless the court's disposition of matters of discovery was improvident and affected the substantial rights of the parties.²⁸

Considering the foregoing, this Court finds no reason to reverse the ruling of the CA, affirming the RTC's decision to disallow the written interrogatories addressed to respondent. Petitioners failed to establish that the disallowance by the lower court was made arbitrarily, capriciously or oppressively to warrant a reversal.

On the contrary, respondent showed good cause for the disallowance. As correctly ruled by the CA, considering that the case is in the cross-examination stage already, the use of written interrogatories will not serve its purpose anymore. It cannot aid in the preparation and speedy disposition of the pending case. Instead, it will only cause further delay in the proceedings. It is worthy to note that petitioners' written interrogatories have a total of 561 questions, which composed the 16 sets of interrogatories from A to Q. The facts which the written interrogatories want to elicit can be extracted from the continuation of the cross-examination.

Petitioners also challenge the findings of the RTC and CA that the written interrogatories were framed to "annoy, embarrass or oppress" the deponent. They, however, must be reminded that this Court is not a trier of facts. It is a fundamental and settled dictum that conclusions and findings of fact by the trial court are entitled to great weight and should not be disturbed on appeal, unless strong and cogent reasons dictate otherwise.²⁹ This is because the trial court is in a better position to examine the real evidence, as well as to observe the demeanor of the witnesses while testifying in the case.

In this case, the mere allegations of petitioners that the subjects of the written interrogatories are relevant to the case and not made in bad faith, or in a manner intended to annoy, embarrass or oppress, are not sufficient bases to revisit the factual evidence involved. It is also important to remember that inquiry in written interrogatories should not only be relevant to the case, but also made in good faith and within the bounds of the law.³⁰ Thus, this Court finds no reason to reverse the finding of the CA.

²⁸ *Producers Bank v. CA*, supra note 25, at 317.

²⁹ *Id.* at 318.

³⁰ *San Luis v. Hon. Judge Rojas, et al.*, supra note 22, at 70.

Meyer

WHEREFORE, premises considered, the instant Petition for Review on *Certiorari* is **DENIED**. The Decision dated September 30, 2014 and Resolution dated March 10, 2015 of the Court of Appeals in CA-G.R. SP No. 132785 are hereby **AFFIRMED**.

SO ORDERED.


ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
HENRI JEAN PAUL B. INTING
Associate Justice


RODIL W. ZALAMEDA
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice

