

95 Phil. 160

[G.R. No. L-4633. May 31, 1954]

GREGORIO ARANETA, INC., PLAINTIFF AND APPELLANT, VS. PHILIPPINE NATIONAL BANK, DEFENDANT AND APPELLEE.

D E C I S I O N

PARAS, C.J.:

This is an appeal by the plaintiff from a judgment of the Court of First Instance of Manila dismissing the plaintiff's complaint with costs.

As admitted by the appellant, the following facts contained in the appealed judgment are uncontroverted: "That on October 28, 1948, the plaintiff filed with the defendant an application for a commercial letter of credit in favor of the Allied National Corporation, Ltd., Anco House, Buckingham Gate, London for the sum of £7,440; that the defendant granted said application and the credit was opened on November 2, 1948 to expire on August 31, 1949 under the terms stated in said application; that on August 30, 1949, a draft in the amount of £4,031.13 was negotiated by the defendant's correspondent bank, Barclays Bank, Ltd., London against the plaintiff's credit; that the defendant paid Barclays Bank Ltd. the amount of the draft at the official parity rate then existing of \$4.0325 for every English pound; that on the face of the draft, it matured on December 25, 1949; that on September 23, 1949, the British pound was devaluated from the rate of \$4.0325 to \$2.80124; that on the date of the maturity of the draft on December 25, 1949, the rate of exchange of the British pound was \$2.80 2/16 and the same rate prevailed on December 27, 1949, the first business day after December 25, 1949; that on December 27, 1949 after the maturity of the draft, the defendant sent the plaintiff a bill of

P33,727.92 and on the same date the plaintiff forwarded to said defendant a check in the amount of P23,194.37 in full payment of its indebtedness (Exhibit E), but it was returned by the defendant without any acknowledgment; that on January 14, 1950, the plaintiff retransmitted said check in the amount of P23,194.37 to the defendant for which the latter issued a receipt that it was in 'partial payment' of the account of the plaintiff and there was still a balance of f 10,533.55; and that on January 26, 1950, the defendant demanded of the plaintiff the remittance of P10,533.55."

The defendant, obviously to collect from the plaintiff the amount due as a result of the transaction, debited the latter's overdraft account in the amount of P10,659.80, and this step led the plaintiff to institute the present action in which it was prayed that judgment be rendered ordering the defendant to pay to the plaintiff the sum of P10,659.80, with legal interest from the date of the filing of the complaint, or ordering the defendant to credit plaintiff's overdraft account in said amounts.

The contract between the parties is embodied in the following application for commercial letter of credit filed with the defendant by the plaintiff-appellant:

"PHILIPPINE NATIONAL BANK"
"MANILA, PHILIPPINES

"Official Depository of the Republic
of the Philippines

"Application for Commercial Letter of Credit

"GENTLEMEN:

"Please arrange by air mail for the establishment of
an irrevocable Letter of Credit on in favor of
ALLIED NATIONAL CORPORATION, LTD., ANCO HOUSE, BUCKINGHAM GATE,

LONDON

for account of GREGORIO ARANETA, INC., for the sum of Pounds BRITISH CURRENCY SEVEN THOUSAND FOUR HUNDRED FORTY ONLY (£7,440.00) against

drafts drawn at DOCUMENTARY DRAFTS DRAWN AT NINETY (90) DAYS' SIGHT

UPON GREGORIO ARANETA, INC., covering: shipment of RICE MACHINERY FROM LONDON, ENGLAND TO MANILA, C. I. F. MANILA DURING

THE LIFE OF THIS CREDITMarine)

“War risk insurance to be covered by SHIPPERS Special instructions PARTIAL SHIPMENTS ALLOWED.

“Drafts must be drawn and presented or negotiated, innot later than August 31, 1949.

“IN

CONSIDERATION THEREOF, I/We promise and agree to pay you at maturity in Philippine Currency the equivalent of the above amount or such portion thereof as may be drawn or paid upon the faith of said credit, together with your usual charges, and I/We authorize you and your respective correspondents to pay or to accept drafts under this credit, if the aforesaid documents appears to be correct upon their face or unimpeachable in the discretion of yourselves or your correspondents; and agree to reimburse you in the manner aforesaid, even if such documents should in fact prove to be incorrect, defective or forged.

“And

I/We release you and your correspondents from all responsibility for General Order charges and other expenses if through negligence of the shipper or other causes beyond their control, the shipping documents fails to reach destination in due time; and such and any other expenses incurred by you or your correspondents concerning the above shipment will be born by me/us.

“I/We hereby recognize and admit your

ownership in and qualified right to the possession and disposal of all property shipped under or pursuant to or in connection with this Credit or in any way relative thereto or to the drafts drawn thereunder, whether of not released to us on trust or bailee, receipt and also in and to all shipping documents, warehouse receipts, policies or certificates of the foregoing until such time as all the obligations and liabilities of us or any of us to you at any time existing under or with reference to this Credit or this agreement, or any other credit or any other obligation or liability to you, have been fully paid and discharged, all as security for such obligations and liabilities and that all or any such property and documents and the proceeds of any thereof, coming into the possession of you or any of your correspondents, may be held and disposed of by you as hereinafter provided and the receipt by you or any of your correspondents, as any time of other security, of whatever nature including cash, shall not be deemed & waiver of any of your rights or powers herein recognized.

“I/We

hereby agree to deliver to you upon demand collateral security to your satisfaction should the market value of the merchandise referred to herein suffer any decline, and also give you a lien on ALL property given to or left in possession of or hereafter given or left in your possession by or for my/our account, and also upon any present or future balance of my/our deposit account with you for the amount of any liability hereunder or otherwise to you.

“I/We hereby

covenant and agree to accept all drafts drawn under this credit upon presentation and to pay some on or before maturity irrespective of the fact that the merchandise covered by the corresponding documents may not have arrived in Manila, owing to causes beyond the control of the, bank.

“Yours very truly,

“GREGORIO ARANETA, INC.

By: s/s/ VICENTE A. ARANETA

“Vice President

“Date October 30, 1948,”

The controversy arises from the fact that while the defendant bank contends that appellant should pay the sum of P33,727.92, representing the value of the draft for £4,031.13 negotiated by the defendant’s correspondent bank in London against the plaintiff’s credit on August 30, 1949, when the official parity rate was \$4.0325 for every English pound; the plaintiff contends that it should pay to the defendant only the sum of P23,194.37, the equivalent in Philippine Currency of £4,031.13 on December 25, 1949, the date of maturity of the draft, when the rate of exchange was \$2.80 3/26.

In the light of the plaintiff’s application for a commercial letter of credit which, as granted by the defendant bank, is the contract between the parties, we incline to hold that the defendant’s contention is correct. It is significant that the application provides that the draft must be drawn and presented or negotiated not later than August 31, 1949; that the plaintiff promised and agreed to pay at maturity in Philippine currency, the equivalent of any amount that might be drawn or paid upon the faith of the plaintiff’s credit; and that the plaintiff agreed to reimburse the defendant bank in said manner. From these express stipulations it is clear that the defendant bank was authorized to negotiate on August 30, 1949, a draft in the amount of £4,031.13 and to pay it—as it did pay—at the then rate of exchange. Although the plaintiff’s application provides for payment at maturity of the draft, this refers merely to the time when the plaintiff was bound to pay, and not to the rate of exchange at which the draft should be paid by the plaintiff, since the latter’s obligation is determined by the rate of exchange on the date the draft was drawn and presented or negotiated, which was not to be later than August 31, 1949. The application thus specifically provides that what is to be paid at maturity in Philippine Currency is the equivalent of “the amount or

such portion thereof as may be drawn or paid upon the faith” of the plaintiff’s credit; and it is admitted in this case that the defendant bank actually paid for the draft in question the amount of P33,727.92. The correctness of the appealed decision is, moreover, established by the agreement of the plaintiff to “reimburse” the defendant bank—a term that requires the return of something paid.

Plaintiff-appellant invokes an alleged banking custom or practice whereby a draft should be paid at the rate existing on the date of its maturity. Even assuming the existence of this banking practice, the same is clearly immaterial, as there is an express contract between the parties defining their rights and obligations. By the same token we need not state whether an exchange contract, which fixes the rate of exchange at which the applicant is to pay the bank would have been helpful or more advantageous to either of the parties.

Wherefore, the appealed judgment is affirmed with costs against the appellant. So ordered.

Pablo, Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.

DISSENTING:

BENGZON, J.:

I think the plaintiff’s position is legally sound.

In the very words of the letter of credit Araneta Inc., agreed to pay the National Bank “at maturity, in Philippine currency the equivalent of the above amount” (₱7,440.00) “or such portion thereof as may be drawn or paid” (₱4,031.13) upon the faith of said credit.

The majority decision admits that the date of “maturity” was Dec. 25, 1949, and the amount drawn upon the letter of credit ₱4,031.13. Hence, the Araneta Corporation was duty bound to pay on Dec. 25, 1949, the equivalent in Philippine currency of ₱4,031.13., because that was the “portion drawn” against the commercial letter of credit. It is

undeniable that on Dec. 25, 1949 up to December 27, 1949" the equivalent in Philippine currency of £4,031.13" was P23,194.37 (at the rate then prevailing of \$2.80 per British pound). Therefore, the Araneta corporation had to satisfy P23,194.37 *only*.

The fact that the Philippine National Bank had advanced on August 30, 1949, P33,727.92 for a draft of £4,031.13 chargeable to Araneta Inc. does not alter the juridical situation. Araneta Inc., did not receive credit of P33,727.92 from the Bank. It got £4,031.13; and *that is the same amount* it offered to pay on Dec. 25, 1949 (in Philippine currency, of course). Proof that Araneta Inc., received pounds sterling, *and not pesos*, is its promise to pay "*the equivalent* in Philippine currency". To repeat

Araneta Inc., became liable for £4,031.13; and it offered to deliver the same amount on the date of maturity.

It is plain to see, that if on June 5, 1949, I borrow one hundred pounds sterling from Juan de la Cruz with the promise to repay the same amount one year afterwards, my obligation is to give him one hundred pounds sterling. on June 5, 1950. If on that day a pound costs 10 pesos, I am bound to deliver one hundred pounds, even if Juan had paid in June 1949 eight pesos only per pound. (See Art. 312 Code of Commerce.)

In this kind of contract, fluctuation of the rate of exchange is contemplated by the parties; and they assume the risks connected therewith. If the rate goes up, the creditor benefits from the transaction; if down, he loses. But I understand that, in actual practice, banks do not lose thru rate fluctuations, because they adopt or have means to protect themselves. For instance, "after "lending" £4,031.12 to the Araneta, the Bank had "borrowed" the same amount from another institution, payable also on Dec. 25, 1949, what it receives from Araneta Inc. on that date will also be sufficient to discharge its debt. Result: What it "loses" in the Araneta deal, it "gains" in the other transaction.

My point of view accords with the banking customs invoked by

plaintiff—which the majority decision admits, but refuses to apply on the excuse that there is an express written contract. But that written contract *did no explicitly stipulate* the rate of exchange to be used in computation; whether the rate of August 30, 1949 or the rate of Dec. 25, 1949. In the absence of stipulation, the usages of commerce prevail, because the parties to the commercial letter of credit must be presumed to have contracted in the light of such practice which in this case follows the dictates of law and equity. Note especially that commercial contracts (letter of credit is one) are also governed by customs usually observed in the place (Art. 2 Code of Commerce.)

My vote is to reverse the decision.

Reyes and Concepcion, JJ., concur.