

THIRD DIVISION

[G.R. No. 253716. July 10, 2023]

PLATINUM GROUP METALS CORPORATION, PETITIONER, VS. THE MERCANTILE INSURANCE CO., INC., RESPONDENT.

D E C I S I O N

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*^[1] assailing the Decision^[2] dated December 4, 2019, and the Resolution^[3] dated September 25, 2020, of the Court of Appeals (CA) in CA-G.R. CV No. 111021. The CA set aside the Decision^[4] dated November 6, 2017, of Branch 147, Regional Trial Court (RTC), Makati City in Civil Case No. 13-1047 and dismissed the Complaint^[5] filed by petitioner Platinum Group Metals Corporation (PGMC) against respondent The Mercantile Insurance Co., Inc. (Mercantile) for breach of obligation and recovery under Special Risks Policy No. EF-04010/11^[6] (Insurance Policy).^[7]

The Antecedents

The case stemmed from PGMC's complaint before the RTC against Mercantile dated August 29, 2013, alleging that it is a mining company engaged in mine exploration and development as well as processing and marketing of nickel ore and value-added products for the international market.^[8] PGMC narrated that sometime in August 2011, it obtained the Insurance Policy from Mercantile in the amount of P208,410,988.00 covering 100 brand new units of Sinotruck Howo 6×4 Tipper LHD Model No. ZZ3257M3241 (the insured trucks). According to PGMC, the Insurance Policy was effective from 12 noon of August 8, 2011, until 12 noon of August 8, 2012, and that it covered "all risk[s] of physical loss or damage due to external causes x x x not limited to earthquake, explosion, fire and lightning, flood, landslide and subsidence, tidal wave, tornado, tsunami, typhoon, and volcanic eruption."^[9]

The complaint further averred that on October 3, 2011, at least 300^[10] armed persons who identified themselves as members of the Communist Party of the Philippines/ New People's

Army/ Nationalist Democratic Front (CNN) simultaneously raided and seized control of three mining companies in the Municipality of Claver, Surigao del Norte. One of the areas targeted by the attack was PGMC's plant site in Sitio Kinalablaban, Brgy. Cagdianao, Claver, where PGMC employees and security personnel were held hostage for several hours as CNN members denounced PGMC's purported destruction of the environment and its refusal to pay revolutionary taxes while airing other grievances. Further, the CNN members blamed the officials of the Philippine government for supposedly allowing foreign investors to operate large-scale mining industries in the Province of Surigao del Norte, and the PGMC employees for the progress of the mining operations. Thereafter, PGMC recounted that CNN members fired shots at and burned PGMC's facilities, equipment, and vehicles; among those destroyed and deemed totally lost were 89 of the insured trucks (damaged trucks).^[11]

In a Letter^[12] dated October 5, 2011, addressed to Reynaldo E. Basuel, President of Penta Insurance Broker Services, Inc. (Penta), PGMC, through its Executive Vice President (EVP), Atty. Dante R. Bravo (Atty. Bravo), requested Penta, as its insurance broker, to "send an insurance adjuster to [their] mine site at Claver, Surigao del Norte to assess, verify and validate the damage incurred on the [damaged trucks] as caused by the October 3 incident"^[13] and to assist PGMC on its claim against Mercantile under the Insurance Policy.^[14] This was followed by another Letter^[15] to Penta dated August 24, 2012, wherein PGMC asserted that more than nine months had already lapsed since the October 2011 incident, yet, it had not received any report or status on its pending claim. Thus, in the same letter, which was also addressed to Mercantile, PGMC made a final demand upon Penta and Mercantile to remit the proceeds of the insurance claim amounting to P208,410,988.00 within five days from receipt thereof.^[16]

In its letter-reply^[17] to PGMC dated August 29, 2012, Mercantile, through its EVP, Atty. Honoria J. Ramajo, denied PGMC's claim under the Insurance Policy. It stated, among others, that "the destruction or damage of the [insured trucks] was caused by riot and civil commotion, both of which are excluded risks."^[18] In the alternative, Mercantile expressed that insurrection and rebellion, which are also excluded risks, may also qualify as the proximate cause of the losses sustained by PGMC because members of the CNN were known to be advocates of open and armed defiance of, or resistance to, the Philippine government.^[19]

The foregoing antecedents prompted PGMC to file the complaint against Mercantile in the RTC praying that the latter be (1) declared in breach of its obligation to PGMC under the Insurance Policy; (2) ordered to pay PGMC the amount of P208,410,988.00 under the

Insurance Policy plus six percent (6%) legal interest; and (3) ordered to pay attorney's fees of at least P500,000.00, and costs and expenses of litigation.^[20]

In its Answer,^[21] Mercantile countered that PGMC failed to show in the complaint that it is entitled to its claim of P208,410,988.00 under the Insurance Policy; and granting that the insured trucks were damaged, the cause was an excepted peril or risk under paragraph 21(g) and (h) thereof:

21. THIS POLICY DOES NOT INSURE AGAINST:

x x x

(g) Loss or [damage] caused by or resulting from strikes, lockouts, labor disturbances, riots, civil commotions or the acts of any person or persons taking part in any such occurrence or disorder;

(h) Loss or [damage] caused directly or indirectly, by: (a) enemy attacked by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; or (b) invasion, insurrection, rebellion, revolution, civil war, usurped (not usurped) power; or (c) seizure or destruction under quarantine or Customs regulations, confiscation by order of any government of Public Authority, or risks of contraband or illegal transportation or trade.^[22]

Moreover, by way of special and affirmative defenses, Mercantile argued that the RTC had not acquired jurisdiction over the case; that the venue was improperly laid; that PGMC was not the real party-in-interest; that PGMC failed to comply with the conditions precedent before it filed its complaint; that the complaint stated no cause of action; that PGMC had no valid and enforceable cause of action against Mercantile; that the latter's certificate of non-forum shopping and verification attached to the complaint was invalid; and that the RTC had no authority to render a valid judgment on the complaint.^[23]

In its Reply with Answer to Counterclaim,^[24] PGMC insisted that Atty. Bravo was authorized to execute the verification and certification against forum-shopping as the EVP of PGMC; that its complaint contained the essential elements of a cause of action, *i.e.*, PGMC's legal

right arising from the insurance contract and Mercantile's denial of its insurance claim; and that the cause of the insured trucks' destruction was not an excepted risk under the Insurance Policy.^[25]

Pre-trial^[26] and trial ensued where PGMC presented nine witnesses:^[27] (1) Atty. Bravo,^[28] (2) then Senior Police Officer 1 Jelson D. Bangoy,^[29] (3) Rosendo P. Ebo,^[30] (4) Jerome I. Bano,^[31] (5) Fely D. Malinao,^[32] (6) Jenelyn Bolbera,^[33] (7) Rogelio D. Logronio, Jr.,^[34] (8) Rodel Samontina,^[35] and (9) Loreto E. Pesito.^[36]

PGMC thereafter filed its Formal Offer of Evidence^[37] (PGMC's FOE). In an Order^[38] dated February 8, 2017, the RTC admitted Exhibits "A" to "L" for the purposes for which they were offered; however, it denied the admission of Exhibits "M" to "S" for not having been marked during the pre-trial and in the course of the trial. PGMC sought a reconsideration, but the RTC denied it in its Order^[39] dated June 5, 2017.

The case was submitted for decision in the RTC Order^[40] dated June 7, 2017. However, on June 21, 2017, Mercantile filed a Motion for Reconsideration with Motion to Admit Formal Offer of Evidence for the Defendant^[41] and its Formal Offer of Evidence^[42] (Mercantile's FOE). In an Order^[43] dated August 31, 2017, the RTC lifted and set aside its Order submitting the case for decision; however, it did not rule on the Motion to Admit Mercantile's FOE.

On the other hand, PGMC filed a Motion to Mark and Admit PGMC's Exhibits "M" to "S" into Evidence.^[44] The RTC subsequently denied the motion in an Order^[45] dated September 22, 2017.

The RTC Ruling

The RTC ruled in favor of PGMC in its Decision^[46] dated November 6, 2017, the dispositive portion of which provides:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the Plaintiff and against the Defendant ordering the latter to pay the amount of [P]183,260,779.32. All other claims are hereby denied for lack of legal and factual basis.

SO ORDERED.^[47] (Emphasis omitted)

The RTC did not give credence to Mercantile's assertion that the damages to the insured trucks were the result of a riot, a civil commotion, an insurrection, or a rebellion, all of which were excluded from the Insurance Policy. It also pointed out that the Insurance Policy did not define the meaning of *riot* and *civil commotion*; neither was it clear as to the meaning of *insurrection* and *rebellion*. Citing the case of *Alpha Insurance and Surety Co v. Arsenia Sonia Castor*,^[48] the RTC ruled that when the terms of the insurance policy are ambiguous such that the parties themselves disagree on the meaning of its provisions, it will be liberally construed in favor of the assured and strictly against the insurer.^[49]

Consequently, having sufficiently established the fact of loss and damage to 89 insured trucks, the RTC arrived at the award of P183,260,779.32 representing the insurance proceeds payable to PGMC.^[50]

On November 21, 2017, PGMC filed a Tender of Excluded Evidence and Proffer of Proof^[51] as to Exhibits "M" to "S" which were not admitted in evidence earlier by the RTC. This was followed by the filing of another Tender of Excluded Evidence and Proffer of Proof^[52] on November 24, 2017, pertaining to the evidence on attorney's fees incurred by PGMC after the pre-trial of the case.

Mercantile prayed for a reconsideration,^[53] while PGMC sought a partial reconsideration,^[54] of the RTC Decision. Meanwhile, Mercantile filed a Motion to Inhibit^[55] the Presiding Judge of the RTC for the alleged premature judgment on the case; the latter granted it in an Order^[56] dated January 11, 2018.

The case was then re-raffled to RTC Branch 132 which, in a Resolution^[57] dated May 9, 2018, denied Mercantile's motion for reconsideration and granted PGMC's motion for partial reconsideration. Thus:

WHEREFORE, premises considered, the Motion for Reconsideration (to the Decision dated November 06, 2017 of this Honorable Court) filed by defendant last 13 December 2017, is hereby ordered DENIED.

On the [o]ther hand, the Motion for Partial Reconsideration filed by plaintiff last 14 December 2017 is hereby GRANTED. Defendant Mercantile Insurance Co., Inc. is further ordered to pay interest at the rate of 6% per annum from the date of filing of this case on 30 August 2013 until the obligation is fully paid, and Php18,000,000.00 by way of attorney's fees, and Php4,470,766.05 as costs of

suit.

SO ORDERED.^[58] (Emphasis omitted)

Mercantile appealed to the CA.^[59]

The CA Ruling

The CA reversed the RTC ruling in the Decision^[60] dated December 4, 2019, the decretal portion of which reads:

ACCORDINGLY, the appeal of defendant-appellant The Mercantile Insurance Co., Inc. is GRANTED. The Decision dated 6 November 2017 of the Regional Trial Court, National Capital Judicial Region, Branch 147, Makati City, in Civil Case No. 13-1047 and the Resolution dated 9 May 2018 of the RTC, NCJR, Branch 132, Makati City, are SET ASIDE. The Complaint dated 29 August 2013 is DISMISSED.

SO ORDERED.^[61] (Emphasis omitted)

First, the CA pointed out that the RTC, in its Decision dated November 6, 2017, did not rule on Mercantile's Motion to Admit Formal Offer of Evidence. On the other hand, it also noted that the pieces of evidence formally offered by Mercantile were common exhibits of both parties which the RTC admitted. Thus, the CA was of the view that the RTC would have taken a different position "[had it] considered the purposes [for] which the documentary exhibits were offered by Mercantile."^[62]

Second, the CA held that PGMC failed to prove that it had an insurable interest in the trucks which were the subject of the Insurance Policy. Citing the rule that the burden of proof lies with the party who makes the allegations, it explained that PGMC failed to prove its insurable interest therein because the contracts of sale presented in the RTC were all mere photocopies.^[63] According to the CA, the best evidence rule requires that the highest available degree of proof must be produced; for documentary evidence, the contents of a document are best proved by the production of the document itself to the exclusion of secondary or substitutionary evidence pursuant to Section 3, Rule 130 of the Rules of

Court.^[64]

Finally, the CA ruled as follows:

Moreover, Mercantile maintains that PGMC still had no right to claim against the insurance policy due to Policy Conditions paragraph no. 21 (g) and (h) of the subject insurance policy because the alleged proximate cause of the loss of PGMC falls as an excepted risk:

x x x x

Mercantile avers that the attacks of the CNN on PGMC's property clearly falls within the purview of Policy Conditions 21 (g) under the terms "riot", "civil commotion", or "any such occurrence or disorder". Further, the attacks, being political in nature, likewise fall within the purview of Policy Condition 21 (h) under the terms "insurrection" and "rebellion".

Having thus concluded and found that PGMC has no insurable interest over the subject trucks, this Court sees no need to discuss whether the proximate cause of PGMC's loss is an excepted risk.^[65]

PGMC filed a motion for reconsideration,^[66] but the CA denied it in the Resolution^[67] dated September 25, 2020.

Hence, the petition before the Court.

The Petition for Review on Certiorari

In the present petition, PGMC avers that the CA erred when it reversed the RTC Decision and Resolution based on the mistaken inference that the RTC did not consider Mercantile's documentary exhibits and the purposes for which they were offered. It maintains that: (1) the RTC admitted all the documentary pieces of evidence offered by Mercantile, duly considered them, and rendered judgment on the case based, in part, on Mercantile's evidence; and (2) the CA made wrong inferences from a minor procedural deficiency, *i.e.*, the RTC's failure to issue a separate order on Mercantile's Motion to Admit FOE.^[68]

Further, PGMC contends that the CA gravely erred in finding that it failed to prove that it

has an insurable interest over the insured trucks. It submits that: (1) the CA erred when it failed to consider that the burden of proof on the absence of insurable interest is with Mercantile, as the latter did not assail the validity of the Insurance Policy in its Answer and during the proceedings before the RTC; and (2) the CA made findings premised on the supposed absence of evidence on PGMC's insurable interest, but the findings are contradicted by the evidence on record.^[69]

In its Comment^[70] to the petition, Mercantile argues that the CA correctly ruled that PGMC has no insurable interest over the damaged trucks^[71] and that the latter has the burden to prove that it had the right to claim against the Insurance Policy.^[72] In the case, the contracts of sale that would prove PGMC's ownership over the damaged trucks were, apart from being mere photocopies, not properly identified and authenticated.^[73] Moreover, Mercantile maintains that PGMC failed to show that the subject trucks were totally destroyed;^[74] and, assuming that they were destroyed, PGMC failed to dispute that the cause was due to excepted risks under the Insurance Policy.^[75]

As to the alleged wrong inference of the CA when it held that Mercantile's pieces of evidence were not duly considered as it did not rule on its FOE, Mercantile submits that it was in due accord with existing laws and jurisprudence.^[76] It added that the rule on formal offer is not a trivial matter;^[77] a formal offer of evidence is necessary because judges are required to base their findings of fact and their judgment solely upon the evidence offered by the parties during the trial. Thus, without any formal offer of evidence, the RTC had no evidence to consider.^[78] Corollary thereto, a judicious consideration of the facts on which a decision should be based does not only entail the examination of the document itself, but also the purposes for which they were offered.^[79]

Lastly, Mercantile insists that the CA correctly deleted the award of damages, interests, attorney's fees, and costs of suit in favor of PGMC for having no basis in fact and in law.^[80]

In its Reply,^[81] PGMC stresses that in the absence of strong and valid reasons, the findings of fact of the trial court must be accorded great weight and respect on appeal. In the case, the CA reversed the uniform factual findings of not one, but two trial courts.^[82]

PGMC states that in rendering their decision and resolution, the RTCs considered Mercantile's pieces of evidence for the purposes for which the latter intended to offer them.^[83] For instance, as set forth in the RTC Decision, the existence of the Insurance Policy with the list of the insured trucks was based on Mercantile's Exhibits 1 and 1-A to 1-K; while

the policy's coverage and the excepted perils were shown as Exhibit 1-J-1. Simply put, the RTC considered Mercantile's pieces of evidence for their intended purposes despite the non-resolution of its FOE.^[84]

Further, PGMC posits that (1) Mercantile's list of evidence purportedly ignored by the RTC reveals that no evidence was disregarded; in truth, it only disagrees with the RTCs' appreciation of the evidence and legal conclusions;^[85] (2) the CA erroneously held that it did not have any insurable interest in the trucks — an issue which was admitted in Mercantile's Answer, never raised nor litigated in the RTCs, and should not have been raised on appeal before the CA;^[86] (3) it presented secondary evidence of the contracts of sale to prove its ownership over the trucks, consisting of the testimony of its EVP, Atty. Bravo, as to the contracts' existence and execution, loss, and the contents of their originals;^[87] (4) it established, with a preponderance of evidence, that it is entitled to claim under the Insurance Policy;^[88] (5) it conclusively established the fact of loss of the trucks and the non-application of the excepted perils clause under the Insurance Policy;^[89] and (6) it is entitled to damages, interests, attorney's fees, and costs of suit given that it validly established its right over the insurance proceeds, while Mercantile baselessly refused to honor its insurance claim.^[90]

The Issue

The issue in the case is whether the CA erred when it reversed the RTC Decision and Resolution based on the following: (1) the inference that the RTC did not consider Mercantile's documentary exhibits and the purposes for which they were offered; and (2) the finding that PGMC failed to prove its insurable interest over the damaged trucks.^[91]

The Courts Ruling

The petition is bereft of merit.

As a rule, petitions for review on *certiorari* should cover only questions of law as the Court is not a trier of facts.^[92] However, this rule admits of certain exceptions,^[93] such as when the CA's findings differ from the findings of the RTC. The incongruent factual findings of the RTC on the one hand, and the CA on the other, compel the Court to revisit the factual circumstances of the present case.^[94]

The RTC considered the documentary exhibits for both parties in the resolution of the case.

There is no question that when it rendered its decision, the RTC had yet to rule on Mercantile's motion to admit its formal offer of evidence. Thus, on its appeal to the CA, Mercantile alleged that the RTC decision was erroneously rendered and patently flawed for being issued without first admitting its evidence.^[95] In resolving the issue, the CA enunciated:

Now, Mercantile questions the RTC's simplistic disposition that the assailed Decision considered the documentary exhibits of Mercantile, and hence, were deemed admitted as a closer scrutiny of said Decision allegedly reveals that there is nothing therein which indicates that indeed due consideration of the purposes of Mercantile's evidence was made. Thus, Mercantile's evidence were duly incorporated and made part of the records of this case as common exhibits of the parties. It was even ruled by the Honorable Supreme Court that if only plaintiffs were able to formally offer the said motion as exhibit, it most certainly does not mean that it can only be considered by the courts for the evidentiary purpose offered by plaintiffs. It is well within the discretion of the courts to determine whether an exhibit indeed serves the probative purpose for which it is offered.

This Court is of the view that should the RTC have considered the purposes to which the documentary exhibits were offered by Mercantile, it would have taken a different position.^[96]

As a rule, evidence not formally offered during the trial cannot be used for or against a party litigant. Even the failure to make a formal offer within a considerable period shall be deemed a waiver to submit it. Otherwise, it will deny the other parties their right to rebut the evidence not formally offered.^[97]

Corollary thereto, the purpose for which evidence is offered must likewise be specified. A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only upon the evidence offered by the parties during the trial. It enables the

trial judge to know the purpose for which the party is presenting the evidence; on the other hand, it also allows opposing parties to examine the evidence and object to its admissibility.^[98]

Nonetheless, citing the case of *Peñoso v. Dona*,^[99] the Court reminds us in *Spouses Bautista v. Del Valle*^[100] that litigation is not a game of technicalities, and the discretion to apply procedural rules strictly or liberally must be exercised in accordance with the tenets of justice and fair play, taking into consideration the circumstances of each case. Thus, even evidence not formally offered may still be admitted in evidence as long as (a) the evidence was duly identified by testimony duly recorded; and (b) the evidence was incorporated in the records of the case.^[101] The Court had, in several instances, relaxed the rule on formal offer of evidence with the presence of the aforesaid two requirements.^[102]

It is with more reason that the Court should apply such liberality in the present case. *First*, Mercantile filed a formal offer of evidence, and it is without its fault that the RTC failed to rule thereon. *Second*, a reading of the body of the RTC decision would show that it repeatedly referred to Mercantile's exhibits on its findings of fact - proof that in resolving the case, the RTC took into consideration the pieces of evidence offered by Mercantile. *Third*, Mercantile adopted some of the documentary exhibits of PGMC which became their common exhibits albeit for different purposes. *Fourth* and *last*, to rule that the RTC should have first acted on Mercantile's formal offer of evidence would mean that either the case will be remanded to the trial court for the consideration of Mercantile's offer of evidence or Mercantile's offered exhibits will be disregarded altogether. Surely, the remand of the case to the trial court, on the one hand, will only cause undue delay in the proceedings; the complete exclusion of Mercantile's evidence, on the other hand, will ultimately prove to be unfair to all the parties concerned.

Thus, while the Court recognizes Mercantile's argument that the rule on formal offer of evidence is not a trivial matter, equally important is the rule that litigation is not a game of technicalities.^[103] The Rules of Court, like any other rules of procedure, are mere tools designed to facilitate the attainment of justice;^[104] their liberal construction is mandated "in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding."^[105]

Considering the circumstances availing in the case, the Court is constrained to apply liberality to better serve the ends of justice. On this score, the Court shall proceed with the resolution of the substantive issues raised by PGMC.

PGMC has insurable interest in the trucks which were the subject matter of the Insurance Policy.

PGMC contends that its insurable interest in the damaged trucks was not raised as an issue before the RTC; it was not a disputed matter.^[106] In connection thereto, it was Mercantile 's burden to prove that PGMC had no insurable interest over the trucks, especially that Mercantile did not assail the validity of the Insurance Policy covering them.^[107]

Meanwhile, Mercantile argues that in its Answer filed before the RTC, it categorically stated that PGMC had not shown in its complaint that it is entitled to its claim under the Insurance Policy. Moreover, granting that the trucks were destroyed by the members of the CNN, it is still not entitled to its claim for being an excepted peril or risk under the Insurance Policy.^[108]

Furthermore, Mercantile points out that the contracts of sale that would show PGMC's ownership of or interest in the damaged trucks were mere photocopies; thus, they had no probative value.^[109]

Countering Mercantile's submission, PGMC asserts that it submitted secondary evidence of the contracts of sale to prove its ownership of the trucks.^[110] In particular, it presented the testimony of its EVP for Legal and Finance and Corporate Secretary, Atty. Bravo, proving the existence and execution, loss, and contents of the originals of the contracts of sale.^[111]

Section 13 of Presidential Decree No. 612,^[112] otherwise known as "The Insurance Code," defines insurable interest as "[e]very interest in property, whether real or personal, or any relation thereto, or liability in respect thereof, of such nature that a contemplated peril might directly damnify the insured." In principle, anyone has an insurable interest in a property if he or she derives a benefit from its existence or would suffer a loss from its destruction, regardless of whether he or she has or has not any title to, lien upon, or possession of the property. Hence, pursuant to Section 14 of the Insurance Code, insurable interest in a property may consist in (a) an existing interest; (b) an inchoate interest founded on an existing interest; or (c) an expectancy, coupled with an existing interest in that out of which the expectancy arises.^[113]

It is established that PGMC is named as the insured under the Insurance Policy. A perusal of

the policy would show that it was issued to “Platinum Group Metals Corp. &/or subsidiary, affiliated, controlled companies now or hereafter formed or acquired or constituted or for which the insured has responsibility for securing insurance” to insure 100 units of brand new Sinotruck Howo 6×4 Tipper LHD at P2,084,109.88 per unit, covering the period August 8, 2011, at 12 noon, until August 8, 2012, at 12 noon.^[114]

The Court notes that the Insurance Policy, issued by no less than Mercantile, was a common documentary exhibit of both PGMC and Mercantile in the proceedings before the RTC. Mercantile cannot take an inconsistent stand that PGMC had no insurable interest over the damaged trucks on the premise that the contracts of sale evidencing PGMC’s ownership thereof were mere photocopies. At any rate, assuming that PGMC’s ownership of the trucks was not proved before the RTC, suffice it to state that one’s insurable interest in a property is not limited to ownership of the property subject of the insurance. Where the interest of the insured in, or his or her relation to, the property is such that he or she will be benefitted by its continued existence or will suffer a direct pecuniary loss by its destruction, his or her contract of insurance will be upheld, although he or she has no legal or equitable title thereto.^[115]

In other words, in property insurance, one’s interest is determined not by concept of title but by possession of a substantial economic interest in the property.^[116] As in the case, PGMC had an actual and substantial economic interest in the damaged trucks. In fact, it is undisputed that PGMC was in physical possession of the damaged trucks when the attack took place as they were being used in its day-to-day business. Consequently, PGMC stood to benefit from their continued existence, and its business stood to suffer loss from their destruction.

*Mercantile is not liable
under the Insurance Policy;
excepted peril.*

At the core of the controversy is whether the destruction, damage to, or loss of the insured trucks due to the simultaneous attacks on three mining sites in the Municipality of Claver, Surigao Del Norte by at least 300 armed persons who identified themselves as CNN members, was covered by the Insurance Policy. In denying the claim, Mercantile avers that the cause of the destruction of the trucks was due to excepted risks under the Insurance Policy, *i.e.*, insurrection or rebellion and/or riot or commotion.^[117]

For proper perspective, Sections 20 and 21 of the Insurance Policy set forth its coverage and exceptions, respectively:

20. THIS POLICY INSURES AGAINST:

ALL RISK OF DIRECT PHYSICAL LOSS OR DAMAGE FROM ANY EXTERNAL CAUSE TO THE INSURED PROPERTY (INCLUDING GENERAL AVERAGE AND SALVAGE CHARGES [FOR] WHICH THE ASSURED BECOMES LEGALLY LIABLE) EXCEPT HEREINAFTER PROVIDED.

21. THIS POLICY DOES NOT INSURE AGAINST:

- (a) Loss or damage to the property insured caused by or resulting from wear and tear, gradual deterioration, inherent vice, latent defect, mechanical breakdown, corrosion, rust, dampness of the atmosphere or freezing unless such damage is the direct result of other loss covered by this policy;
- (b) Loss or damage to electrical appliances or devices of any kind, including wiring caused by electrical currents, artificially generated unless fire ensues, and then only for this Company's proportion of loss caused by such ensuing fire;
- (c) Loss or damage caused by repairing, adjusting, servicing or maintenance operation, unless fire or explosion ensues and then only for the loss or damage by such ensuing fire or explosion;
- (d) Theft, wrongful conversion or embezzlement by Assured's employees or by any person to whom the insured property is entrusted;
- (e) Loss or damage to tires or tubes and confined to blowout bruises, cuts or other causes inherent in the use of the equipment, unless such damage is the direct result of other loss covered by this policy;
- (f) Loss or [damage] occasioned by weight of a load exceeding the registered lifting or supporting capacity of any machine;
- (g) Loss or [damage] caused by or resulting from strikes, lockouts, labor disturbances, riots, civil commotions or the acts of any person or persons taking part in any such occurrence or disorder;
- (h) Loss or [damage] caused directly or indirectly, by: (a) enemy attacked by armed forces, including action taken by the military, naval or air forces in resisting an actual or an immediately impending enemy attack; or (b) invasion, insurrection, rebellion, revolution, civil war, [usurped] power; or (c) seizure or destruction under quarantine or Customs regulations, confiscation by order of any government or Public Authority, or risks of contraband or illegal transportation or trade[.]^[118]

In *DBP Pool of Accredited Insurance Companies v. Radio Mindanao Network, Inc.*,^[119] the Court explained that being a contract of adhesion, an insurance contract should be so

interpreted as to carry out the purpose for which the parties entered into the contract, which is to insure against risks of loss or damage to the goods. Consequently, limitations of liability must be construed in such a way as to preclude the insurer from noncompliance with its obligations;^[120] if there is proof of loss, the burden is upon the insurer to prove that the loss arose from a cause which is excepted, or for which it is not liable, or from a cause which limits its liability. Thus:

The “burden of proof” contemplated by the aforesaid provision actually refers to the “burden of evidence” (burden of going forward). As applied in this case, it refers to the duty of the insured to show that the loss or damage is covered by the policy. The foregoing clause notwithstanding, the burden of proof still rests upon petitioner to prove that the damage or loss was caused by an excepted risk in order to escape any liability under the contract.

Burden of proof is the duty of *any* party to present evidence to establish his claim or defense by the amount of evidence required by law, which is preponderance of evidence in civil cases. The party, whether plaintiff or defendant, who asserts the affirmative of the issue has the burden of proof to obtain a favorable judgment. For the plaintiff, the burden of proof never parts. For the defendant, an affirmative defense is one which is not a denial of an essential ingredient in the plaintiff's cause of action, but one which, if established, will be a good defense — *i.e.* an “avoidance” of the claim.

Particularly, in insurance cases, where a risk is excepted by the terms of a policy which insures against other perils or hazards, loss from such a risk constitutes a defense which the insurer may urge, since it has not assumed that risk, and from his it follows that an insurer seeking to defeat a claim because of an exception or limitation in the policy has the burden of proving that the loss comes within the purview of the exception or limitation set up. If a proof is made of a loss apparently within a contract of insurance, the burden is upon the insurer to prove that the loss arose from a cause of loss which is excepted or for which it is not liable, or from a cause which limits its liability.

Consequently, it is sufficient for private respondent to prove the fact of damage or loss. Once respondent makes out a *prima facie* case in its favor, the duty or the burden of evidence shifts to petitioner to controvert respondent's *prima facie*

case. In this case, since petitioner alleged an excepted risk, then the burden of evidence shifted to petitioner to prove such exception. It is only when petitioner has sufficiently proven that the damage or loss was caused by an excepted risk does the burden of evidence shift back to respondent who is then under a duty of producing evidence to show why such excepted risk does not release petitioner from any liability. Unfortunately for petitioner, it failed to discharge its primordial burden of proving that the damage or loss was caused by an excepted risk.^[121]

Ergo, in an all-risk policy insurance, the insurer has the duty to establish that the loss or damage falls within the excluded risk or perils.^[122] This is because by its very nature, an all-risk policy insurance is one which insures against all causes of conceivable loss or damage, except as otherwise excluded in the policy or due to fraud or intentional misconduct on the part of the insured.^[123] Thus, so long as the fact of loss has been proved, the burden would then lie upon the insurer to prove that the cause of loss falls within the excepted perils stated in the policy.

As applied here, while the Insurance Policy was denominated as “Special Risks Policy,”^[124] its provisions would reveal that it is an all-risk policy in that it covers “[a]ll [r]isk of physical loss or damage due to external causes”^[125] or “all risk of direct physical loss or damage from any external cause to the insured property x x x except hereinafter provided.”^[126] Consequently, the fact of damage to the insured trucks having been proved, it is now incumbent upon Mercantile to prove that the loss of, or damage to, the trucks fall under the excepted perils enumerated in Section 21 of the Insurance Policy.

The next question is whether the CNN attacks fall under any of the enumerated excepted perils.

In denying PGMC’s claim, Mercantile insists that the damages to the insured trucks were the result of a riot, a civil commotion, an insurrection, or a rebellion, all of which are excepted risks under the Insurance Policy. Inevitably, there should be a determination as to whether the CNN attacks can be classified as any of the aforementioned excepted risks.

Contracts of insurance are contracts of indemnity upon the terms and conditions specified in the policy which, in turn, constitute the measure of the insurer’s liability. Settled is the rule that if such terms are clear and unambiguous, they must be taken and understood in their plain, ordinary, and popular sense.^[127] At this point, the Court deems it relevant to look

into the plain meaning of the terms “riot,” “civil commotion,” “insurrection,” and “rebellion.”

Black’s Law Dictionary defines riot as “[a]n assemblage of three or more persons in a public place taking concerted action in a turbulent and disorderly manner for a common purpose (regardless of the lawfulness of that purpose)” or “[a]n unlawful disturbance of the peace by an assemblage of [usually] three or more persons acting with a common purpose in a violent or tumultuous manner that threatens or terrorizes the public or an institution.”^[128] Civil commotion, on the other hand, is “[a] public uprising by a large number of people who, acting together, cause harm to people or property.”^[129]

Meanwhile, insurrection refers to “[a] violent revolt against an oppressive authority, [usually] a government”;^[130] while rebellion is an “[o]pen, organized, and armed resistance to an established government or ruler; [especially] an organized attempt to change the government or leader of a country, [usually] through violence” or “[o]pen resistance or opposition to an authority or tradition.”^[131]

While at first glance, it may appear that the PGMC attack falls under the excepted perils of riot or civil commotion, but a closer look at the facts surrounding the attack convinces the Court that it falls under the excepted risks of insurrection or rebellion.

As borne by the records, on October 3, 2011, at least 300 armed persons who identified themselves as members of the CNN simultaneously raided and seized control of three mining companies in the Municipality of Claver, Surigao del Norte, one of which was PGMC’s plant site. During the attack, PGMC employees were held hostage for several hours as the attackers denounced PGMC’s purported destruction of the environment and its refusal to pay revolutionary taxes while airing other grievances. On this score, they blamed the officials of the Philippine government for purportedly allowing investors to operate large-scale mining industries in the Province of Surigao Del Norte, and the PGMC employees for the progress in the mining operations. Thereafter, the attackers fired shots at and burned PGMC’s facilities, equipment, and vehicles; among those destroyed and deemed totally lost were 89 of the insured trucks.^[132]

Based from the above-discussion that if the terms used in a contract of insurance are clear and unambiguous, they must be taken and understood in their *plain, ordinary, and popular sense*,^[133] the foregoing acts and circumstances, taken in their totality, constitute insurrection or rebellion that falls under the excepted risks in the Insurance Policy.

First, three mining companies in the Municipality of Claver, Surigao del Norte, including the PGMC, were simultaneously raided and eventually controlled by armed individuals who identified themselves as CNN members. *Second*, it was established that the attack on the PGMC mining site was for a political purpose or impelled by a political motive in that while its employees were held hostage, the attackers denounced PGMC's purported destruction of the environment, its refusal to pay revolutionary taxes, and the employees' participation in the progress in the mining operations. Moreover, they blamed the officials of the Philippine government for purportedly allowing investors to operate large-scale mining industries in the Province. *Lastly*, the attack was violent in that the attackers fired shots at and burned PGMC's facilities, equipment, and vehicles.

As earlier intimated, if a proof is made of a loss apparently within a contract of insurance, the burden is upon the insurer to prove that the loss arose from a cause of loss which is excepted or for which it is not liable, or from a cause which limits its liability.^[134] Here, Mercantile has discharged its burden by proving that the destruction of the insured trucks was caused by an excepted peril under the Insurance Policy.

In sum, contrary to the CA disquisition, the Court finds that PGMC has insurable interest over the lost or damaged trucks. Be that as it may, the cause of their loss or damage fell under one of the excepted perils under the Insurance Policy. Thus, ultimately, the CA did not err in dismissing PGMC's complaint for breach of obligation and recovery.

WHEREFORE, the petition is **DENIED**. The Decision dated December 4, 2019, and the Resolution dated September 25, 2020, of the Court of Appeals in CA-G.R. CV No. 111021 are **AFFIRMED WITH MODIFICATION** in that the Complaint for breach of obligation and recovery under Special Risks Policy No. EF-04010/11, dated August 29, 2013, filed by petitioner Platinum Group Metals Corporation against respondent The Mercantile Insurance Co., Inc. is dismissed on the ground that the loss of or damage to the insured trucks was caused by an excepted peril.

SO ORDERED.

Caguioa, (Chairperson), Gaerlan, Dimaampao, and Singh, JJ., concur.

^[1] *Rollo*, Volume I, pp. 28-68.

^[2] *Id.* at 72-84. Penned by Associate Justice Tita Marilyn Payoyo-Villordon and concurred in

by Associate Justices Ramon R. Garcia and Victoria Isabel A. Paredes.

^[3] *Id.* at 86-87.

^[4] *Id.* at 88-96. Penned by Presiding Judge Ronald B. Moreno.

^[5] *Id.* at 122-133.

^[6] *Id.* at 134-135.

^[7] *Id.* at 123, 126.

^[8] *Id.* at 122-123.

^[9] *Id.* at 123.

^[10] *Id.* at 123, 156. Initial reports stated more or less 200 members, including Spot Report of Philippine National Police (PNP) Claver Municipal Police Station dated October 3, 2011, *id.* at 146; Progress Report of PNP Surigao Del Norte Police Provincial Office dated October 5, 2011, *id.* at 147; 3rd Progress Report of PNP Surigao Del Norte Police Provincial Office dated October 15, 2011, *id.* at 150; and 4th Progress Report of PNP Surigao Del Norte Police Provincial Office dated October 28, 2011, *id.* at 154.

^[11] *Id.* at 123.

^[12] *Id.* at 163.

^[13] *Id.*

^[14] *Id.*

^[15] *Id.* at 164.

^[16] *Id.* at 164.

^[17] *Id.* at 165-168.

^[18] *Id.* at 166.

^[19] *Id.* at 167.

^[20] *Id.* at 126.

^[21] *Id.* at 169-172.

^[22] *Id.* at 170.

^[23] *Id.* at 171.

^[24] *Id.* at 228-239.

^[25] See Amended Reply with Answer to Counterclaim, Records, Volume I at 404-423.

^[26] Records, Volume III, pp. 1-8.

^[27] *Rollo*, Volume I, pp. 89-90.

^[28] Records, Volume I, pp. 150-157.

^[29] *Id.* at 118-127.

^[30] *Id.* at 178-194.

^[31] *Id.* at 135-142.

^[32] *Id.* at 248-254.

^[33] *Id.* at 143-149.

^[34] *Id.* at 207-221.

^[35] *Id.* at 262-268.

^[36] *Id.* at 255-261.

^[37] Records, Volume IV, pp. 1-13.

^[38] Records, Volume V, p. 20.

^[39] *Id.* at 264-265.

^[40] *Id.* at 272.

[41] *Id.* at 274-275.

[42] *Id.* at 276-280.

[43] *Id.* at 347.

[44] *Id.* at 321-330.

[45] *Id.* at 349.

[46] *Rollo*, Volume I, pp. 88-96.

[47] *Id.* at 96.

[48] 717 Phil. 131 (2013).

[49] *Rollo*, Volume I, pp. 94-95

[50] *Id.* at 95.

[51] *Records*, Volume V, pp. 369-372.

[52] *Id.* at 573-576.

[53] *Records*, Volume VI, pp. 14-19.

[54] See Motion for Partial Reconsideration, records, Volume VI, pp. 3-13.

[55] *Id.* at 35-37.

[56] *Id.* at 83-84.

[57] *Rollo*, Volume I, pp. 97-104. Penned by Judge Rommel O. Baybay.

[58] *Id.* at 104.

[59] See Notice of Appeal dated May 28, 2018. *Records*, Volume VI, pp. 202-203.

[60] *Rollo*, Volume I, pp. 72-84.

[61] *Id.* at 84.

[62] *Id.* at 80.

[63] *Id.* at 80-82.

[64] *Id.* at 82.

[65] *Id.* at 83.

[66] *CA Rollo*, pp. 263-278.

[67] *Rollo*, Volume I, pp. 86-87.

[68] *Id.* at 44-45.

[69] *Id.* at 45.

[70] *Rollo*, Volume 11, pp. 881-927.

[71] *Id.* at 895.

[72] *Id.* at 905.

[73] *Id.* at 907-910.

[74] *Id.* at 910.

[75] *Id.* at 912.

[76] *Id.* at 896.

[77] *Id.* at 902.

[78] *Id.* at 896.

[79] *Id.* at 901.

[80] *Id.* at 895.

[81] *Id.* at 1230-1281.

[82] *Id.* at 1230.

[83] *Id.* at 1232.

[84] *Id.* at 1233-1234.

[85] *Id.* at 1237.

[86] *Id.* at 1247-1251.

[87] *Id.* at 1253-1254.

[88] *Id.* at 1263.

[89] *Id.* at 1264-1265.

[90] *Id.* at 1275-1277.

[91] *Rollo*, Volume I, pp. 44-45.

[92] **Heirs of Spouses Mariano v. City of Naga**, 827 Phil. 531, 550 (2018).

[93] As provided in *Medina v. Mayor Asistio, Jr.* (269 Phil. 225, 232 [1990]), the following are the exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

[94] **Heirs of Spouses Mariano v. City of Naga**, *supra*.

[95] *Rollo*, Volume I, p. 80.

[96] *Id.*

[97] **Spouses Bautista v. Del Valle**, G.R. No. 209621 (Notice), March 12, 2018, citing

Republic of the Philippines v. Sps. Gimenez, 776 Phil. 233, 255-257 (2016).

^[98] **Heirs of Romana Saves v. Heirs of Escolastico Saves**, 646 Phil. 536, 544 (2010).

^[99] 549 Phil. 39 (2007).

^[100] *Supra* note 97.

^[101] *Id.*, citing **Sabay v. People**, 744 Phil 760, 771 (2014).

^[102] **Sabay v. People**, *supra*.

^[103] **Barra v. Civil Service Commission**, 706 Phil. 523, 527 (2013).

^[104] *Id.*

^[105] Section 6, Rule 1 of the Rules of Court.

^[106] *Rollo*, Volume I, p. 52.

^[107] *Id.* at 54.

^[108] *Rollo*, Volume II, 906-907.

^[109] *Id.* at 908-909.

^[110] *Id.* at 1253.

^[111] *Id.* at 1254.

^[112] Approved on December 18, 1974.

^[113] **Filipino Merchants Insurance Co., Inc. v. Court of Appeals**, 259 Phil. 262, 270 (1989).

^[114] *Rollo*, Volume I, p. 135.

^[115] **UCPB General Insurance Co., Inc. v. Asgard Ccrrugated Box Manufacturing Corp.**, G.R. No. 244407, January 26, 2021.

^[116] See **Gaisano Cagayan, Inc. v. Insurance Company of North America**, 523 Phil 677, 690 (2006).

[117] *Rollo*, Volume II, p. 912.

[118] *Rollo*, Volume I, p. 144.

[119] 516 Phil. 110 (2006).

[120] *Id.* at 118.

[121] *Id.* at 118-120.

[122] **Choa Tiek Seng v. Court of Appeals**, 262 Phil. 245, 256 (1990).

[123] *Id.* at 255.

[124] *Rollo*, Volume I, p. 135.

[125] *Id.* at 137.

[126] *Id.* at 144.

[127] **Filipino Merchants Insurance Co., Inc. v. Court of Appeals**, *supra* note 113, at 270.

[128] Black's Law Dictionary, p. 1588 (11th ed. 2019)

[129] *Id.* at 309.

[130] *Id.* at 962.

[131] *Id.* at 1520.

[132] *Rollo*, Volume I, p. 123.

[133] **Filipino Merchants Insurance Co., Inc. v. Court of Appeals**, *supra* note 113, at 270.

[134] **Country Bankers Insurance Corp. v. Llanga Bay**, 425 Phil. 511, 519 (2002).

