DENNIS U. OLIVAN, PLAINTIFF-APPELLANT, VS. GLOBE COCO PRODUCTS MFG. CORPORATION AND WORLDWIDE COCO PRODUCTS, INC., DEFENDANTS-APPELLEES.

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal from the Decision[1] dated October 24, 2011 issued by the Regional Trial Court of Naga City, Branch 19, in Civil Case No. RTC '99-4285, which dismissed plaintiff-appellant's Complaint for Sum of Money on the ground of compensation or set-off.

The facts are borne out by the records.

On April 19, 1999, plaintiff-appellant Dennis U. Olivan (hereinafter "Dennis Olivan") filed a Complaint[2] dated March 22, 1999, seeking to collect the total sum of P519,870.40 from defendant-appellee Globe Coco Products Manufacturing Corporation (hereinafter "Globe Coco") representing the unpaid price of a total of 34,365 kilograms of copra which Dennis sold and delivered to Globe Coco. According to the Complaint, Globe Coco, instead of paying its obligation, applied the amount due to Dennis Olivan's alleged remaining contract balance of 119,016 kilograms of copra with Globe Coco's sister company, defendant-appellant Worldwide Coco Products, Inc. (hereinafter "Worldwide Coco").

On September 22, 2000, Dennis filed an Amended Complaint,[3] impleading Worldwide Coco as additional defendant and alleging that:

> 9. It appears that in evident bad faith and in collusion with defendant Worldwide Coco, defendant Globe Coco fraudulently applied the proceeds of the sale of copra to the alleged obligation of another person, Adolfo Olivan, with defendant Worldwide Coco.

Thus, as amended, the Complaint prayed that judgment be rendered:

> a) On the first and second causes of action, to order the defendants, jointly and severally, to pay the plaintiff the total sum of P519,870.40.
> b) [O]rdering the defendants, jointly and severally, to pay plaintiff the sum of not less than P50,000.00 by way of attorney's fees and related expenses of litigation, plus such sum as this Honorable Court may fix by way of moral damages of not less than P300,000.00.
> c) [O]rdering the defendants, jointly and severally, to pay the plaintiff exemplary damages, and the cost of the suit; and
> d) Granting plaintiff such other reliefs remedies (sic) as this Honorable Court may deem just and equitable.[4]

Globe Coco and Worldwide Coco filed their respective Answers.[5] Globe Coco alleged that Dennis Olivan contracted interchangeably with Globe Coco and Worldwide Coco in his name or in the names of Adolfo Olivan or Allan Olivan, through his mother Heidi Olivan; that Worldwide Coco had a contract for purchase and sale of copra with Adolfo Olivan in 1997 for 300 tons of copra at the price of P9.90 per kilo, of which only 119,016 kilograms of copra were delivered, forcing Worldwide Coco to buy the difference from other copra sellers at a

higher price; and that the payment for the copra which Dennis Olivan contracted to deliver to Globe Coco was applied to the balance of 119,016 kilograms of copra owed to Worldwide Coco.

Meanwhile, in its Answer, Worldwide Coco corroborated the claims of Globe Coco and, additionally, alleged that Dennis Olivan was in bad faith in attempting to evade his outstanding obligation to Worldwide Coco by subsequently transacting with Globe Coco.

During the pre-trial, the parties entered into the following stipulations:

1)

That Globe Coco Products Manufacturing Co., one of the defendants in this case, is a corporation separate and distinct from Worldwide Coco Products, Inc.;

2)

That the person of Dennis U. Olivan is different from the person of Adolfo Olivan;

3)

That Contract No. 97-261 dated September 3, 1997 refers to a contract between Adolfo Olivan and Worldwide Coco Products, Inc.;

4)

That a certain Haide Olivan is the mother of the plaintiff Dennis Olivan and Allan Olivan; and

5)

That Adolfo Olivan is the brother of Benito Olivan, husband of Haide Olivan.[6]

Also, in the same pre-trial, the parties agreed to limit the issues to the following:

1)

Whether or not plaintiff has a cause of action against defendant Globe Coco Products;

2)

Whether or not defendant Globe Coco Products acted properly in offsetting the receivable of Dennis Olivan against the payment of Adolfo Olivan to the defendant's sister company, the Worldwide Coco Products, Inc.;

3)

Whether or not Haide Olivan used the account names of Adolfo Olivan, Allan Olivan and plaintiff Dennis Olivan; and

4)

Whether or not defendants are entitled to damages and attorney's fees.[7]

Thereafter, trial on the merits ensued.

Dennis Olivan testified and identified several exhibits to prove the allegations of the Amended Complaint. As demonstrated by his evidence, Dennis Olivan sold and delivered to Globe Coco a total of 34,365 kilograms of copra on May 28 and 30, 1998, respectively. Instead of paying the price for the copra, Globe Coco told Dennis Olivan that it applied the payment for said copra to his remaining contract balance with Worldwide Coco, which he denies.

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Meanwhile, the defendants-appellees presented Aibe U. Tan, the Administrative Manager of both Globe Coco and Worldwide Coco, and Julius Barrameda, Assistant Copra Supervisor of Globe Coco. They testified that the real seller or dealer of copra is Heidi Olivan, acting under the account names of "Adolfo Olivan", "Dennis Olivan" and "Allan Olivan"; that from 1993 to 1997, Heidi Olivan, using the account name of Adolfo Olivan, contracted with Worldwide Coco; that Heidi Olivan failed to deliver 119 tons and 16 kilograms of copra with a value of P630,784.80; that in 1998 Heidi Olivan transacted with Globe Coco, using the account name of Dennis Olivan; and that Aibe Tan, as Administrative Manager of both Worldwide Coco and Globe Coco, debited the accounts receivable of Heidi Olivan (using the name of Dennis Olivan) from Globe Coco against the accounts payable of Heidi Olivan (using the name of Adolfo Olivan) to Worldwide Coco.

On October 24, 2011, the court a quo issued its now assailed Decision which dismissed the complaint and holding that the defendants-appellees were right to offset the account receivable from Globe Coco and the account payable to Worldwide Coco. The court ruled:

> To the mind of the court, there is only one seller here, Haide Olivan. There can be no doubt that Haide Olivan using the account name Adolfo Olivan, is indebted to Worldwide Coco Products. That is admitted. But whether Globe Coco is indebted to Dennis Olivan is vigorously disputed by the former. It was gleaned from testimonial evidence that only Haide Olivan transacted business with defendants thru the companies' manager, Aibe Tan. Aibe Tan contended that she only transacted with Haide Tan who used the account names of Dennis, Adolfo and Bestra. Because of Haide's outstanding balance with Worldwide Coco Products using Adolfo's name, she instead used the account name of Dennis Olivan and transacted business with Globe Coco Products.
>
> In the desire of defendant Worldwide Coco Products to be paid the balance incurred by Adolfo Olivan, Aibe Tan, manager of both companies, applied the money supposed to be paid to Dennis Olivan to Adolfo's balance.
>
> The court is not persuaded by plaintiff's argument that defendants were in evident bad faith in applying his accounts receivable to the outstanding obligation of Adolfo Olivan. There is no question that deceit was employed by Haide Olivan to evade the payment of obligation to Worldwide Coco by again transacting business with Globe Coco using another account name. It is therefore proper for defendant Worldwide Coco to apply plaintiff's receivable as payment of Adolfo's obligation. After all, only one person really transacted with them, Haide Olivan.[8]

His Motion for Reconsideration having been denied in the Order[9] dated February 10, 2012, Dennis filed the present appeal, alleging that:

> ASSIGNED ERROR NO. 1
>
> THE LOWER COURT ERRED IN HOLDING THAT THE TRANSACTIONS OF PLAINTIFF-APPELLANT DENNIS U. OLIVAN WITH TWO (2) DEFENDANTS-APPELLEES GLOBE COCO AND WORLDWIDE COCO WHICH WERE MADE BY THE FORMER THROUGH HAIDE OLIVAN AS FORMER'S AGENT WERE INTERCHANGEABLY APPLICABLE TO THE OTHER TRANSACTIONS OF THE OTHER TWO (2) 'OLIVANS', NAMELY: ADOLFO OLIVAN AND BESTRA COMMERCIAL C/O ALLAN OLIVAN, DESPITE THE FACT THAT THE THREE 'OLIVANS' HAVE SEPARATE AND DISTINCT DEALINGS WITH THE LATTER.
>
> ASSIGNED ERROR NO. 2
>
> THE LOWER COURT ERRED IN HOLDING THAT COMPENSATION TOOK PLACE WHEN THE AMOUNT OF P519,870.40 COLLECTIBLE BY PLAINTIFF-APPELLANT DENNIS U. OLIVAN FROM DEFENDANT-APPELLEE GLOBE COCO WAS OFFSETTED BY IT IN FAVOR OF CO-DEFENDANT-APPELLEE WORLDWIDE COCO BASED ON AN ALLEGED OBLIGATION OF A CERTAIN ADOLFO OLIVAN WITH THE LATTER CO-DEFENDANT-APPELLEE.[10]

Defendants-appellees oppose the appeal, claiming that Heidi Olivan transacted business with Worldwide Coco and Globe Coco, that she is guilty of bad faith and that the lower court acted correctly in holding that legal compensation applies in the case.

Thus, the issue for the Court is whether or not the court a quo committed reversible error in dismissing the Amended Complaint on the ground of compensation or set-off.

The appeal is impressed with merit.

Compensation is a mode of extinguishing to the concurrent amount, the obligations of those persons who in their own right are reciprocally debtors and creditors of each other.[11] It is the offsetting of two obligations which are reciprocally extinguished if they are of equal value, or extinguished to the concurrent amount of different values.[12] According to Article 1279 of the Civil Code, the requisites of compensation are:

> (1) That each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other;
>
> (2) That both debts consist in a sum of money, or if the things due are consumable, they be of the same kind, and also of the same quality of the latter has been stated;
>
> (3) That the two debts be due;
>
> (4) That they be liquidated and demandable;
>
> (5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor.

A perusal of the records will immediately reveal that the requisites of compensation or set-off are not present in the case at bar and it was error on the part of the court a quo to rule that Globe Coco has a right to set-off the amount which it owed to Dennis Olivan with the amount which Adolfo Olivan owed to Worldwide Coco.

First, Exhibit "2-d-1" (also marked as Exhibit "J")[13] which is a copy of Contract No. 97-261 dated September 3, 1997 shows that the seller of the 300 tons of copra is "Adolfo Olivan" while the buyer is "Worldwide Coco Products, Inc." On the other hand, Exhibits "B" and "B-1"[14] are the weight slips of the copra sold and delivered to Globe Coco on May 28, 1998 and May 30, 1998. Exhibits "B" and "B-1" indicate the name of the seller as "Dennis Olivan".

It is clear from these documents that the names of the sellers are different, and Adolfo Olivan and Dennis Olivan are not one and the same person. This much was stipulated by the parties during the pre-trial, viz.:

> - That the person of Dennis Olivan is different from the person of Adolfo Olivan;
>
> - That Contract No. 97-261 dated September 3, 1997 refers to a contract between Adolfo Olivan and Worldwide Coco Products, Inc.

Defendants-appellees, however, claim that the real seller is Heidi Olivan, the mother of Dennis Olivan and the sister-in-law of Adolfo Olivan, and that the names of the latter were just used by Heidi Olivan. Defendants-appellees tried to prove this by presenting Aibe Tan, who allegedly talked to Heidi Olivan on several occasions concerning the sale and delivery of copra.

The Court is not persuaded.

Under the parol evidence rule under Section 9, Rule 130 of the Rules of Court, when the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between

the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement. The testimony of Aibe Tan which, in effect, varies the terms of Exhibit "2-d-1" (also marked as Exhibit "J"), and Exhibits "B" and "B-1" is in violation of this rule. In Gerales vs. Court of Appeals,[15] the Supreme Court explained that:

> In essence, petitioners are varying the terms embodied in the releases of claims, which is proscribed by Section 7 (now Section 9) of Rule 130 of the Rules of Court. It is a well-settled principle of law that proof of verbal agreements offered to vary the terms of written agreements is inadmissible under the Parol Evidence Rule (Continental Airlines Inc. v. Santiago, 172 SCRA 490 [1989]), and while Parol Evidence is admissible in a variety of ways to explain the meaning of written contracts, it cannot serve the purpose of incorporating into the contract additional contemporaneous conditions which are not mentioned at all in the writing, unless there has been fraud or mistake (Tupue v. Urgel, 161 SCRA 417 [1988] citing Yu Tek & Co. v. Gonzalez, 29 Phil. 384 [1915]).

Of course, according to Section 9, Rule 130 of the Rules of Court, there are exceptions to the parol evidence rule, namely:

> (a) An intrinsic ambiguity, mistake or imperfection in the written agreement;
>
> (b) The failure of the written agreement to express the true intent and agreement of the parties thereto;
>
> (c) The validity of the written agreement; or
>
> (d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the said written agreement.

However, not one of these exceptions was established by the defendants-appellees. They failed to convincingly explain why, if Heidi Olivan was the real seller, her name was not indicated in the contracts. According to defendants-appellees, Heidi Olivan dictated whose name was to be written in the contracts. But this is incredible because the defendants-appellees are business corporations which have been in the business for a long time. It is safe to assume that both defendants-appellees have had several contracts and they are meticulous with their contracts, including seeing to it that the parties who are principally liable under the contracts are clearly named therein. To allow the names of persons who will not be held liable under these expensive contracts simply defies logic.

What is more, there is no evidence presented that "Adolfo Olivan" and "Dennis Olivan" were acting as agents of Heidi Olivan, or vice versa. We cannot just take the word of defendants-appellees for it, without sufficient proof. The law makes no presumption of agency; and proving its existence, nature and extent is incumbent upon the person alleging it.[16]

In fine, as far as the evidence is concerned, the sellers are different. Adolfo Olivan and Dennis Olivan are two different persons. The obligations of one are not the obligations of the other.

Other than the fact that the sellers are different, the buyers are also different. Adolfo Olivan sold to Worldwide Coco, while Dennis Olivan sold to Globe Coco. Defendants-appellees' claim, however, that, being sister companies, they share the same interests. But this claim is contrary to the stipulation made by the parties during the pre-trial which states:

> - That Globe Coco Products Manufacturing Company, one of the defendants in this case, is a corporation separate and distinct from Worldwide Coco Products, Inc.

The claim also violates a basic principle in corporation law, that a corporation is invested by law with a

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personality separate and distinct from those of the persons composing it as well as from that of any other legal entity to which it may be related, and that a corporation may not be made to answer for acts or liabilities of its stockholders or those of the legal entities to which it may be connected and vice versa.[17] There are situations, of course, when this veil of corporate fiction may be pierced,[18] but the defendants-appellees failed to demonstrate any of these exceptional situations.

To repeat, the parties are different under the subject contracts under Exhibit "2-d-1" (also marked as Exhibit "J"), and Exhibits "B" and "B-1". In Exhibit "2-d-1" (also marked as Exhibit "J"), the debtor is Adolfo Olivan (because he failed to fulfill his obligation to deliver the contracted volume of copra) and the creditor is Worldwide Coco. In Exhibits "B" and "B-1", however, the debtor is Globe Coco (because it failed to fulfill its obligation to pay the contract price) and the creditor is Dennis Olivan. Clearly, there is no compensation because they are not "creditors and debtors of each other" as contemplated under Article 1278 of the Civil Code.

It was, therefore, grievous error on the part of the court a quo to rule that compensation was proper and to excuse Globe Coco from paying its obligation to Dennis Olivan. Globe Coco did not contest nor dispute that it owed Dennis Olivan the sum of P519,870.40. On the contrary, Globe Coco admitted the amount in its Letter[19] dated January 8, 1999 and in its Answer[20] dated May 31, 1999.

Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.[21] We are concerned with the contract of Dennis Olivan with Globe Coco. Considering that Globe Coco admitted to owing Dennis Olivan the amount of P519,870.40 for the 34,365 kilograms of copra which Dennis sold and delivered, Globe Coco should, therefore, be ordered to immediately pay the said amount plus legal interest which is at the rate of 6% per annum, from the time of extrajudical demand, that is, from December 18, 1998 until fully paid, pursuant to Dario Nacar vs. Gallery Frames.[22]

In addition, Dennis Olivan should be awarded P50,000.00 by way of attorney's fees as prayed for in his Amended Complaint. According to Article 2208 of the Civil Code, attorney's fees may be awarded when the defendant's act or omission has compelled the plaintiff to litigate. The prayer for moral and exemplary damages, however, is denied for lack of basis. These liabilities are imposed on Globe Coco only because, as earlier discussed, it has a separate and distinct personality from Worldwide Coco. The obligations of the former to Dennis Olivan are not the obligations of the latter.

WHEREFORE, the Decision dated October 24, 2011 issued by the Regional Trial Court of Naga City, Branch 19, in Civil Case No. RTC '99-4285 is REVERSED AND SET ASIDE, and a new one is entered ORDERING defendant-appellee Globe Coco Products Manufacturing Corporation to PAY plaintiff-appellant Dennis U. Olivan P519,870.40 plus legal interest at the rate of 6% per annum from December 18, 1998 until fully paid, plus P50,000.00 by way of attorney's fees. The complaint as against Worldwide Coco Products, Inc. is DISMISSED.

SO ORDERED.

Zalameda, and Diy, JJ., concur.

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[1] Rollo, pp. 36-43.

[2] Record, p. 1.

[3] Record, p. 40.

[4] Amended Complaint, p. 3; Record, p. 44.

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[5] Record, pp. 15, 60.

[6] Pre-Trial Order dated April 25, 2001; Record, p. 82.

[7] Ibid.

[8] Decision, p. 7; Rollo, p. 42.

[9] Record, p. 531.

[10] Appellant's Brief, p. 9; Rollo, p. 60.

[11] Tolentino, Arturo M., Commentaries and Jurisprudence on the Civil Code of the Philippines, Volume Four, 1995 Reprint, p. 365.

[12] Ibid.

[13] Record, p. 379.

[14] Record, pp. 134-135.

[15] G.R. No. 85909, February 9, 1993.

[16] Tuazon vs. Heirs of Ramos, G.R. No. 156262, July 14, 2005.

[17] ARB Construction vs. Court of Appeals, G.R. No. 126554, May 31, 2000.

[18] The veil of corporate fiction may be pierced when it is used as a shield to further an end subversive of justice; or for purposes that could not have been intended by the law that created it; or to defeat public convenience, justify wrong, protect fraud, or defend crime; or to perpetuate deception; or as an alter ego, adjunct or business conduit for the sole benefit of the stockholders. (ARB Construction vs. Court of Appeals, supra.)

[19] Exhibit "E"; Record, p. 138.

[20] Paragraph 11 thereof; Record, p. 16.

[21] Art. 1159, Civil Code.

[22] G.R. No. 189871, August 13, 2013.

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