

JOSEPH COCHINGYAN, JR., PETITIONER, VS. HON. GAUDENCIO CLORIBEL, PRESIDING JUDGE OF BRANCH VI, COURT OF FIRST INSTANCE OF MANILA, LEGIONNAIRES ENTERPRISES, INC., IRENEO R. CLAPA...

G.R. Nos. L-27070-71. February 16, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

In 1964 the Reparations Commission imported Japanese reparation consumers goods consisting principally of textiles, porcelain wares, electronic tubes, radio parts and photo-graphic materials, the proceeds of which shall accrue to a trust fund to be used exclusively for the benefit and reha-bilitation of veterans of the Philippines in World War II, and their widows and orphans. Upon arrival of the importations, various private-parties-buyers presented in court conflicting claims and totally adverse and conflicting contracts all claiming ownership to the same goods. The Court of First Instance of Manila effected a compromise agreement but the parties were not united in the mechanics and means of implementing the agreement. The case reached the Supreme Court which on April 22, 1977 promulgated its decision and created a committee composed of (a) receiver Ireneo B. Clapano, Jr. as chairman, (b) a representative to be named without delay by the Reparations Commission and (c) a representative of the CFI of Manila, Branch VI to be named by the Presiding Judge thereof. The committee was directed by this Court to do and perform, with deliberate speed, and always under the guidance, supervision and control of the Presiding Judge of Branch VI, certain acts and things, among which was "to proceed and to sell all the said reparations goods, each sale to be done either by public auction or by negotiation (negotiated sale), the manner of sale in every case subject to the prior approval of the Presiding Judge, x x x." Pursuant to such order, the Committee advertised for bidders for the sale and purchase of the fol-lowing reparations consumers goods in custodia legis:

Items

Quantity

Appraised Value

1. Electronics 17,791 pcs. \$ 3,595.25

102 cases

2. Textiles 270,937 yards 104,127.91

139 pkgs

3. Porcelain Wares 89,284 dozens 90,237.12

10,228 pkgs

4. Photographics 112,160 pcs. 500.00

72 cases

When all the submitted bids were opened on December 21, 1977 Luis Cua was found to have submitted the highest qualify-ing bid amounting to three million one hundred one thousand one hundred eleven pesos and eleven centavos (P3,101,111.11) proposing to buy the goods under the terms and conditions set forth in the Invitation to Bid. On December 29, 1977 Awardee was issued a certificate of award by the Committee which certificate recited, inter alia, "that upon compliance by the Awardee of Committee requirements, all the goods will be released in favor of the Awardee x x x." In compliance with the Committee's requirement, Awardee caused to be issued in the former's favor an irrevocable letter of credit in the amount of P2,601,111.11. The award made by the Committee in favor of Luis Cua was approved by this Court in the resolution of February 9, 1978. On February 28, 1978 awardee received from the Committee all the reparations consumers goods stored at Customs Bonded Warehouse No. 400 (Raymundo's Warehouse) and No. 253 (Reliance Warehousing Commercial Co.) consisting of porcelain wares, photographic films, materials and electronics. When the Committee was in the midst of withdrawing reparations consumers good and preparing its final report to this Court, the Auditor of the Bureau of Customs refused and forbade further release of reparations consumers goods unless storage charges in the amount of P2,509,494.00 be first fully paid and first satisfied.

The Committee made several representations with the Collector of Customs for the latter to release the reparations goods free of storage fees and charges to no avail. On account of the delay in the release and delivery to Awardee of the balance of the reparations goods, he wrote a letter dated May 29, 1978 to the late Chief Justice Fred Ruiz Castro for assist-ance to the end that "the remaining undelivered goods be no longer enforced (sic) and the Awardee be freed from his obli-gations to the Committee created by the Supreme Court" for the following reasons:

"1. Failure of the Committee of the Supreme Court to deliver all the reparation consumer goods within a reasonable period of time considering the five (5) months has already passed since Awardee acquired his right over the goods despite Awardee's com-pliance of the Committee's requirements.

"2. That the financial standing of Awardee was greatly affected so as to incur unnecessary losses due to the inability to deliver by the Committee.

"3. To prevent further losses on the part of the Awardee.

"4. Fairness and equity dictates that the transaction should no longer be enforced by the Committee as without fault on the part of the Awardee, the Committee failed to deliver the goods and even failed to inform Awardee that its inability to deliver has no definite period. For has the Awardee been accordingly informed of its inability to deliver, then Awardee, in all good faith would not have participated in the bidding.

"5. That the Invitation to Bid, it speaks of the merchandise subject of bidding by the whole lot and has complied with the requirements of Bidder's Bond and has caused to be issued in favor of the Committee irrevocable Letter of Credit (L/C) covering the whole lot. In turn, Awardee was only to receive portion of the merchandise to his detriment."

On July 13, 1978, the Committee elevated to the Office of the President the question of whether the reparation

consumers goods are subject to storage charges. On April 30, 1979 the President, in OP Case No. 1011 ruled that "the reparations goods are not subject to the payment of storage charges."

Subsequently, the Awardee informed the Committee in a letter dated May 7, 1979 that he was no longer interested in accepting delivery of such remaining reparations consumers goods on account of the considerable delay in such delivery; that considering the length of time, the value of the remaining subject reparation goods, specially Tetoron Textile of assorted dark and light colors, has considerably decreased owing to the ever changing fashion; that the long period of storage of said clothing materials will definitely have an adverse effect on the strength and quality of said materials, thereby decreasing its value; that in view thereof Awardee can-not possibly wait any longer nor take delivery of said remaining reparation goods under the original bid price without incurring additional heavy losses. Awardee prays that the Committee file the proper motion and/or paper releasing and freeing him of any and all further obligations. As an alternative, Awardee made an offer that, should the Committee insist on full consummation of the award, Awardee can no longer consent to the same at the original remaining bid price of P1,569,481.89 unless the Committee is willing to reduce the said remaining price to P450,000.00 to enable him to recover some of the losses in terms of unrealized profit and additional expenses and to compensate him for the damages he suffered.

In reply to said letter the Committee said that they cannot give favorable consideration to the request of Awardee and gave the latter a period of five (5) days from notice to take delivery of the remaining goods otherwise the Committee would be constrained to ask authority from the Supreme Court to negotiate the sale of the goods to qualified bidders. The period given to the Awardee expired, hence on August 2, 1979 the Committee filed before this Court a "motion for an authority to sell and deliver reparations consumers goods to third parties other than the Awardee," praying among others that in the event the Committee realizes the proceeds of sale but less than the amount of P1,601,111.11, the Awardee, Luis Cua, be ordered to pay whatever unrealized balance of the unremitted awarded amount or the difference between the P1,601,111.11 and the proceeds of sales herein sought to be recovered from third person. It was alleged in the motion that Awardee has already withdrawn 80% of the reparations consumers goods.

The Awardee in his position paper dated August 6, 1979 alleged that the unpaid balance of the bid price is only P1,569,482.11 and not P1,601,111.11, he having already made total payments of P1,531,629.00; that to charge Awardee with the payment of whatever balance would remain of the winning bid of P3,101,111.11 taking into consideration the payments already made by Awardee to the Committee and whatever proceeds are realized in the sale of the remaining reparations consumers goods to third parties other than Awardee, would in effect find Awardee guilty of fraud, negligence, or delay, or contravention in any manner of the tenor in the performance of his obligations under the award; that Awardee may no longer be compelled to take delivery of the reparations consumers goods in question because the contract of sale between him and the Committee has been partially rescinded on account of the failure of the Committee to perform their obligations under the contract. Awardee prays that the Committee be held liable for actual and compensatory damages of not less than P1,032,015.78 and attorney's fees and expenses of litigation and moral damages.

In the Committee's comment dated October 8, 1979 to the Awardee's position paper, the former alleges that Awardee failed to specifically deny that he has received 80% of the reparations consumers goods awarded him; that if the Awardee is no longer interested to withdraw the remaining 20% of the goods still undelivered, he should have to pay equitably what has been delivered; that the Committee exerted religiously their best efforts to help the Awardee release the reparations goods and the delay in the release of the remaining goods could be wholly attributed to the firm stand then of the Customs Auditor, not to effect further release of the goods unless storage charges are first fully paid.

In the Awardee's reply dated November 13, 1979 he alleges that the question of what reparations goods have been actually delivered is not a matter of rough calculation by percentage but of actual count on the basis of the documents evidencing such deliveries; that to whomever is attributed the delay is irrelevant because the vendor of goods cannot excuse himself from compliance with his legal obligation to transfer ownership of and to deliver the goods sold.

In the resolution of March 21, 1980, this Court required the parties to file their respective memoranda defining the issues involved therein.

In the Committee's memorandum dated April 26, 1980 the following two issues were raised:

"a) Allowing the Committee to deliver the remaining undelivered reparations consumers goods still at the Customs zone to third parties;

"b) For the Awardee Cua to pay whatsoever unrealized balance of the Supreme Court approved Award of P3,101,111.11 total value of the goods, after the third party pays for these remaining goods, as prayed for in the Committee's Motion of July 31, 1979, for facts and reasons therein stated."

As regards the first issue, the Committee alleges that the Awardee in his position paper dated August 6, 1979 stated that he has no objection to the motion for an authority to sell the rest of the goods to third parties and that said Awardee never mentioned, much less denies the allegation that he has already withdrawn 80% of the goods awarded him. On the other hand, Awardee contends that his statement that he has no objection to the aforesaid motion is merely concomitant to the legal position that he is no longer bound to accept the remaining reparations goods due to the considerable delay in the delivery. With regards to the percentage of goods already received by Awardee, he alleges that the same can be determined by documents evidencing such deliveries.

From the allegations of both parties We gathered that there are conflicting claims as to the amount of goods already delivered and still undelivered. Awardee claims that 64,781 dozens of porcelain and 150,340 yards of textiles have been delivered while the Committee contends that 81,441 dozens of porcelain and 164,829 yards of textiles have been received by Awardee. Hence, Awardee alleges that 24,503 dozens of porcelain and 120,727 yards of textiles still remain in customs custody. On the other hand, the Committee claims that only 7,843 dozens of porcelain and 105,008 yards of textiles have been undelivered.

The issues presented in this case are the following:

1. May the Committee be allowed to sell the reparations consumers goods to third parties?
2. If sold to third parties, may Awardee be held liable for the unrealized balance?

It is to be noted that both the Committee and the Awardee are agreeable to the sale of the reparations consumers goods to third parties. In view of the mutual agreement, the contract of sale between the parties covering the goods may be deemed cancelled insofar as the remaining goods still in customs custody are concerned.

The Committee's "motion for authority to sell and deliver reparations consumers goods to third parties other than Awardee" is hereby granted. However, Awardee Cua should not be ordered to pay the Committee whatever unrealized balance of the allegedly unremitted P1,601,111.11 after deducting therefrom the proceeds realized in the sale of the remaining reparations consumers goods to third parties. This is only just because Awardee Cua was not guilty of delay. Awardee was ready and willing to comply with his own obligation but delivery of the goods could not be effected by the Committee due to the refusal of the Bureau of Customs to allow release of the goods without payment of the storage charges thereon. The Committee was not likewise guilty of delay. The Committee had requested the Commissioner of Customs for the release of the goods free of storage charges and upon the

denial of the request, elevated the matter to the President resulting in a favorable resolution dated April 29, 1979.

As already stated the parties have presented conflicting claims as to the amount of goods already delivered and still undelivered. The determination of the total volume of goods actually delivered to the Awardee is a question of fact.

On November 12, 1981, Atty. Esteban Nancho, counsel for the Philippine Veterans Legion, the Philippine Association of War Widows, Parents and Orphans, the President Quezon's Own Guerillas, the Veterans Organization of the Philippines, and the Defenders of Bataan and Corregidor, filed a motion praying that the payment of their shares in the Philippine Veterans Legion-Legionnaires Enterprises, Inc. (PVL-LEI) allocation be authorized. In the comment dated January 4, 1982 respondent Reparations Commission (Repacom) stated that pending full and complete disposal of the reparations consumers goods and the full payment to Repacom of its claims on said goods as well as the other claims for expenses incurred in the procurement, transportation and storage of said goods, the payment sought by movants is yet premature.

WHEREFORE, judgment is hereby rendered:

- (a) Granting the motion of the Committee for an authority to sell and deliver the remaining reparations consumers goods still in customs custody to third parties;
- (b) Granting the Presiding Judge of the Court of First Instance of Manila, Branch VI, authority to supervise the sale of the remaining reparations consumers goods; the proceeds to be delivered to the Veterans Association entitled thereto;
- (c) Remanding the case to the Court of First Instance of Manila, Branch VI, for determination of the volume of goods already delivered to Awardee Cua, and ordering said Court to take over from the Committee the full responsibility for the execution of the final judgment rendered in this case.

SO ORDERED.

Barredo, Makasiar, Concepcion, Jr., Fernandez, Guerrero, Melencio-Herrera, Ericta, Plana, and Escolin, JJ., concur.

Fernando, C.J., Teehankee, Aquino, and Abad Santos, JJ., no part.

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