

**FILIPINO PIPE AND FOUNDRY CORPORATION,
PLAINTIFF-APPELLANT, VS. NATIONAL WATERWORKS AND
SEWERAGE AUTHORITY, DEFENDANT-APPELLEE.**

G.R. No. L-43446. May 03, 1988

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

The plaintiff Filipino Pipe and Foundry Corporation (hereinafter referred to as "FPFC" for brevity) appealed the dismissal of its complaint against defendant National Waterworks and Sewerage Authority (NAWASA) by the Court of First Instance of Manila on September 5, 1973. The appeal was originally brought to the Court of Appeals. However, finding that the principal purpose of the action was to secure a judicial declaration that there exists 'extraordinary inflation' within the meaning of Article 1250 of the New Civil Code to warrant the application of that provision, the Court of Appeals, pursuant to Section 3, Rule 50 of the Rules of Court, certified the case to this Court for proper disposition.

On June 12, 1961, the NAWASA entered into a contract with the plaintiff FPFC for the latter to supply it with 4" and 6" diameter centrifugally cast iron pressure pipes worth P270,187.50 to be used in the construction of the Anonoy Waterworks in Masbate and the Barrio San Andres-Villareal Waterworks in Samar. Defendant NAWASA paid in installments on various dates, a total of One Hundred Thirty-Four Thousand and Six Hundred Eighty Pesos (P134,680.00) leaving a balance of One Hundred Thirty-Five Thousand, Five Hundred Seven Pesos and Fifty centavos (P135,507.50) excluding interest. Having completed the delivery of the pipes, the plaintiff demanded payment from the defendant of the unpaid balance of the price with interest in accordance with the terms of their contract. When the NAWASA failed to pay the balance of its account, the plaintiff filed a collection suit on March 16, 1967 which was docketed as Civil Case No. 66784 in the Court of First Instance of Manila.

On November 23, 1967, the trial court rendered judgment in Civil Case No. 66784 ordering the defendant to pay the unpaid balance of P135,507.50 in NAWASA negotiable bonds, redeemable after ten years from their issuance with interest at 6% per annum, P40,944.73 as interest up to March 15, 1966 and the interest accruing thereafter to the issuance of the bonds at 6% per annum and the costs. Defendant, however, failed to satisfy the decision. It did not deliver the bonds to the judgment creditor.

On February 18, 1971, the plaintiff FPFC filed another complaint which was docketed as Civil Case No. 82296, seeking an adjustment of the unpaid balance in accordance with the value of the Philippine peso when the decision in Civil Case No. 66784 was rendered on November 23, 1967.

On May 3, 1971, the defendant filed a motion to dismiss the complaint on the ground that it is barred by the 1967 decision in Civil Case No. 66784.

The trial court, in its order dated May 26, 1971, denied the motion to dismiss on the ground that the bar by prior judgment did not apply to the case because the causes of action in the two cases are different: the first action being for collection of the defendant's indebtedness for the pipes, while the second case is for adjustment of the

value of said judgment due to alleged supervening extraordinary inflation of the Philippine peso which has reduced the value of the bonds paid to the plaintiff.

Article 1250 of the Civil Code provides:

"In case an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of payment, unless there is an agreement to the contrary."

The court suggested to the parties during the trial that they present expert testimony to help it in deciding whether the economic conditions then, and still prevailing, would justify the application of Article 1250 of the Civil Code. The plaintiff presented voluminous records and statistics showing that a spiralling inflation has marked the progress of the country from 1962 up to the present. There is no denying that the price index of commodities, which is the usual evidence of the value of the currency has been rising.

The trial court pointed out, however, that this is a worldwide occurrence, but hardly proof that the inflation is extraordinary in the sense contemplated by Article 1250 of the Civil Code, which was adopted by the Code Commission to provide "a just solution" to the "uncertainty and confusion as a result of contracts entered into or payments made during the last war." (Report of the Code Commission, 132-133.)

Noting that the situation during the Japanese Occupation "cannot be compared with the economic conditions today" the trial court, on September 5, 1973, rendered judgment dismissing the complaint.

The only issue before Us is whether, on the basis of the continuously spiralling price index indisputably shown by the plaintiff, there exists an extraordinary inflation of the currency justifying an adjustment of defendant-appellee's unpaid judgment obligation to the plaintiff-appellant.

Extraordinary inflation exists when "there is a decrease or increase in the purchasing power of the Philippine currency which is unusual or beyond the common fluctuation in the value of said currency, and such decrease or increase could not have been reasonably foreseen or was manifestly beyond the contemplation of the parties at the time of the establishment of the obligation. (Tolentino Commentaries and Jurisprudence on the Civil Code Vol IV, p. 284.)

An example of extraordinary inflation is the following description of what happened to the deutschmark in 1920:

"More recently, in the 1920's Germany experienced a case of hyperinflation. In early 1921, the value of the German mark was 4.2 to the U.S. dollar. By May of the same year, it had stumbled to 62 to the U.S. dollar. And as prices went up rapidly, so that by October 1923, it had reached 4.2 trillion to the U.S. dollar!" (Bernardo M. Villegas & Victor R. Abola, Economics, An Introduction [Third Edition]).

As reported, "prices were going up every week, then every day, then every hour. Women were paid several times a day so that they could rush out and exchange their money for something of value before what little purchasing power was left dissolved in their hands. Some workers tried to beat the constantly rising prices by throwing their money out of the windows to their waiting wives, who would rush to unload the nearly worthless paper. A postage stamp cost millions of marks and a loaf of bread, billions." (Sidney Rutberg, "The Money Balloon" New York: Simon and Schuster, 1975, p. 19, cited in "Economics, An Introduction" by Villegas & Abola, 3rd Ed.)

While appellant's voluminous records and statistics proved that there has been a decline in the purchasing power of the Philippine peso, this downward fall of the currency cannot be considered "extraordinary". It is simply a universal trend that has not spared our country.

WHEREFORE, finding no reversible error in the appealed decision of the trial court, We affirm it in toto. No

costs.

SO ORDERED.

Narvasa, Cruz, and Gancayco, JJ., concur.

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