

**PHILIPPINE CHARTER INSURANCE CORPORATION,
PLAINTIFF-APPELLEE, VS.MARCOPPER MINING CORPORATION,
DEFENDANT-APPELLANT.**

Ponente: BARRIOS, J.

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BARRIOS, J.:

On appeal is the decision in the case for Collection of Sum of Money filed by the appellee Philippine Charter Insurance Corporation (hereafter PCIC for brevity) against the appellant Marcopper Mining Corporation (or Marcopper).

PCIC alleged in its complaint that Marcopper was the respondent in an illegal dismissal case before the National Labor Relations Commission (or NLRC) entitled Ernesto S. Monge vs. Marcopper Mining Corporation and/or Mr. John Dodge. Judgment was rendered against Marcopper ordering it to reinstate Monge to his former position and pay him backwages. To stay the execution of the decision pending appeal, Marcopper secured a supersedeas bond from PCIC. On March 18, 1997, PCIC issued Supersedeas Bond No. 23532 in favor of Monge in the amount of P512,138.00 to secure the performance of Marcopper's obligation in the event that the decision is affirmed with finality. As a condition for the issuance of the bond, Marcopper delivered to PCIC an undated check in the amount of P512,138.00 payable to the NLRC and drawn against Marcopper's current account with the Ayala Avenue Branch of the Westmont Bank. The condition was confirmed by Marcopper's broker Lacson & Lacson Insurance Brokers Inc. (or Lacson & Lacson) through a letter dated April 4, 1997. Also in conformity with the requirements for the issuance of the bond, Marcopper undertook to enter into an Indemnity Agreement with PCIC. PCIC then sent to Marcopper a pre-signed form Indemnity Agreement but it failed to return this to PCIC.

On October 15, 2001, the NLRC directed PCIC to release the amount of P512,138.00 as partial satisfaction of Marcopper's judgment obligation. The corresponding Notice of Garnishment was issued on the same day by the NLRC. Subsequently, PCIC turned over Marcopper's Westmont Bank Check to the NLRC Sheriff. PCIC then notified Marcopper of this turn over to the NLRC on account of the garnishment of the proceeds of the supersedeas bond. The said check was however dishonored by the drawee bank upon its presentment for payment, hence PCIC was forced to pay the NLRC the amount of P512,138.00. Thereafter, PCIC sent demand letters to Marcopper asking for the reimbursement of the amount of P512,138.00 which it had paid. For the continued refusal of Marcopper to pay, PCIC filed the instant suit.

For its part, Marcopper admitted that it obtained a supersedeas bond from PCIC to stay the execution of the decision rendered by the NLRC against it. It however raised the defense that it did not bind itself to any undertaking because it did not execute an indemnity agreement with PCIC. Marcopper claimed that its payment of the premium on the supersedeas bond in the amount of P5,026.96 extinguished its liability to PCIC. It further maintained that the alleged corporate check had nothing to do with the issuance and validity of the bond.

On November 2, 2004, the trial court ruled in favor of PCIC, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, plaintiff's complaint is GRANTED and defendant Marcopper Mining

Corporation is herein adjudged liable to pay plaintiff Philippine Charter Insurance Corp. the amount of P512,138.00 plus legal interest of 12% per annum from the date this Decision is rendered until the said amount is fully paid. Defendant shall also pay attorney's fees equivalent to ten percent (10%) of the total claim and P40,000.00 representing plaintiff counsel's acceptance fee plus costs of this suit.

SO ORDERED. (pp. 45-46, rollo)

Hence, this appeal.

Marcopper asseverates that the trial court erred in finding it liable to PCIC for the amount of P512,138.00 which it paid to the NLRC on account of the garnishment for the proceeds of the supersedeas bond.

Marcopper is wrong and the RTC was correct. It is undisputed that Supersedeas Bond No. 23532 was issued by PCIC at the instance of Marcopper, in order to stay the execution of the money judgment rendered by the NLRC against Marcopper. The issuance of the Westmont Bank Check No. 87396 payable to the NLRC in the amount of P512,138.00 was used by Marcopper as a collateral or additional security for the bond. This was not intended to secure the services of the broker Lacson & Lacson as vacuously claimed by Marcopper, because the check clearly indicates that it is payable to the NLRC. Furthermore, this purpose for which the check was issued was confirmed by Lacson & Lacson through a letter addressed to PCIC dated April 4, 1997 (Annex "D", p. 101, record).

Marcopper likewise raises the defense that it did not enter into any indemnity agreement with PCIC. But there is the unquestioned allegation by PCIC that Marcopper refused to execute and sign the agreement after the supersedeas bond was issued. Noteworthy is the testimony of PCIC's witness Ma. Leah C. Ortiz explaining why PCIC was not able to obtain a duly signed copy of the Indemnity Agreement:

- Q. You also mentioned an Indemnity Agreement as being one of the standard requirements, what action did Lacson & Lacson and Marcopper take regarding this matter?

A. Lacson & Lacson received from Phil. Charter the original and duplicate original copies of the Indemnity Agreement for signature of the responsible officer of Marcopper. Unfortunately, after the supersedeas bond was issued the Indemnity Agreement was never returned to Phil. Charter.

- Q. Can you explain why the procedure which you described was adopted by Phil. Charter?

A. The purpose was to facilitate the completion of all documentary requirements taking into account the urgency of issuing a supersedeas bond to stay the execution of the NLRC judgment.

- Q. Do you have a copy of the Indemnity Agreement?

A. All we have is one of the duplicate original copies of the Agreement since the original and the other duplicate copies thereof were all turned over to Marcopper through Lacson & Lacson. Copy thereof produced and marked as Annex "G". (Judicial Affidavit dated April 1, 2003, pp. 94-95, record).

Finally, it must be stressed that attorney's fees may be awarded when a party is compelled to litigate or to incur expenses to protect his interest by reason of an unjustified act of the other party (*United Coconut Planters Bank vs. Ramos*, 415 SCRA 596). In the present case, Marcopper's unreasonable refusal to reimburse the amount paid to the NLRC has compelled PCIC to institute an action for collection to protect its rights and interest. Thus, the award of attorney's fees is just and equitable under the given circumstances, and no reversible error was committed.

Indeed, findings of facts of the trial court carry great weight and will not be disturbed on appeal unless shown to be contrary to the facts and circumstances of weight and substance in the record (*People vs. Soriano*, 383 SCRA 676). Finding no cogent reason to deviate from the findings and determination of the court a quo -

WHEREFORE, the appeal is DENIED and the assailed Decision is AFFIRMED.
SO ORDERED.

Guariña III and Romilla-Lontok, JJ., concur.

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