

**SUMMIT GUARANTY & INSURANCE COMPANY, INC.,
PETITIONER, VS. THE HONORABLE GREGORIA C. ARNALDO, IN HER
CAPACITY AS INSURANCE COMMISSIONER, AND FGU INSURANCE
CORPORATION, RESPONDENTS.**

G.R. No. L-48546. February 29, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

As a result of a vehicular accident that happened on November 26, 1976 whereby a Ford Pick-up with Plate No. UC-5925 Phil. '76 owned by Marcos Oloso was bumped by a cargo truck with Plate No. OY-783 then owned by Alberto Floralde, FGU Insurance Corporation (FGU) by reason of Motor Vehicle Insurance Policy No. IC-VF-07185 paid Oloso the sum of P2,817.50 as its share in the repair cost of the said Ford Pick-up. Having thus been subrogated to the rights and causes of action of said Oloso in the said amount FGU formally demanded payment of said amount from Floralde and attempted to verify Floralde's insurance carrier. Floralde failed to reveal his insurance carrier. In the early part of 1978 FGU was able to ascertain the identity of Floralde's insurance carrier to be the Summit Guaranty and Insurance Company, Inc. (Summit). On February 22, 1978 FGU wrote to the insurance commissioner requesting for a conference with Summit and demanded from Summit through counsel on February 28, 1978 the payment of the damages sustained by the car of Oloso but to no avail. Hence on May 22, 1978 FGU filed IC Case No. 825 in the Insurance Commissioner's Office against Summit for recovery of said amount.

A motion to dismiss the complaint was filed by Summit on May 30, 1978 on the ground of prescription under Section 384 of PD No. 612. In an order of June 19, 1978 the resolution of the motion was deferred until after the hearing on the merits. A motion for reconsideration of said order filed by Summit was denied in an order of June 28, 1978 and Summit was required to file its answer to the complaint. Hence Summit filed the herein petition for certiorari and prohibition with restraining order in this Court alleging that respondent commissioner acted without or in excess of jurisdiction or with grave abuse of discretion in denying the aforesaid motion for reconsideration when it has been shown that the action has already prescribed so petitioner sought an order to restrain the respondent commissioner from further proceeding in the case during the pendency of the petition.

Without giving due course to the petition, the respondents were required to comment thereon within ten (10) days from notice. The comments of respondents were submitted in due time. The petitioner was then required to submit a reply thereto which reply was filed. On October 6, 1978 the court gave due course to the petition and thereafter required the parties to file their briefs. The briefs of all the parties having all been submitted, the case is now due for decision.

Outrightly, the court finds that the petition should be dismissed for lack of merit. The questioned orders of the respondent Commissioner of June 19, 1978 and June 28, 1978 deferring the consideration of the petitioner's motion to dismiss the complaint until after the hearing on the merits of the case are supported by the provision of

Section 3, Rule 16 of the Rules of Court that such hearing and determination of the motion may be deferred "until the trial if the ground alleged therein does not appear to be indubitable". Obviously, the respondent Commissioner had doubts from the mere allegations of the motion to dismiss. Considering such doubt the deferment was proper and may be considered as a provisional denial of the motion to dismiss.[1]

The purpose of this provision requiring that the order of the court dismissing an action should be founded on indubitable grounds is to avoid multiplicity of appeals. In case of doubt, the court, instead of denying or granting the motion, must defer its final hearing and determination until the trial.[2]

The remedy against the denial of a motion to dismiss is by appeal in due course after the case is decided on the merits, save where the trial court clearly acted outside its jurisdiction or with grave abuse of discretion as to amount to excess of jurisdiction.[3] Thus it is only when it clearly appears that the trial judge or court is proceeding in excess or outside of its jurisdiction, when the remedy of prohibition would lie since it would be useless to waste time to go ahead with the proceedings.[4] The same remedy applies when the court denies the motion based on lack of jurisdiction.[5] However, such a situation does not exist in the present case as to warrant this extraordinary remedy.

Nevertheless, petitioner squarely brings into focus the provisions of Section 384 of PD 612, the Insurance Code, which provides as follows:

"Sec. 384. Any person having any claim upon the policy issued pursuant to this chapter shall, without any unnecessary delay, present to the insurance company concerned a written notice of claim setting forth the amount of his loss, and/or the nature, extent and duration of the injuries sustained as certified by a duly licensed physician. Notice of claim must be filed within six months from date of the accident, otherwise, the claim shall be deemed waived. Action or suit for recovery of damage due to loss or injury must be brought, in proper cases, with the Commissioner or the Courts within one year from date of accident, otherwise, the claimant's right of action shall prescribe."

As averred in the motion to dismiss filed by petitioner the accident happened on November 26, 1976 while the complaint was filed on May 22, 1978 beyond the one-year period from the time of the accident provided for by the aforecited provision of law.

Respondent FGU, however, contends that the said one-year prescriptive period can not apply to it because it was merely subrogated to the rights of Olaso; that the prescriptive period of its cause of action is ten (10) years being one arising from a written contract;[6] that said provision of Section 384 of the Insurance Code apply only to the claim directly filed by a person against the insurance company for the loss he sustained; and that the claim of respondent FGU is one for reimbursement as subrogee of its assured Marcos Olaso against petitioner for the third party liability insurance coverage the latter issued in favor of Floralde.

Respondent Commissioner in turn argues that the cause of action of FGU was shown and arose only from the date it paid Olaso for the damages suffered and not from the date of the accident; and that the period set forth in Section 384 of PD 612 begins to run only from the time the party against whom the right is to be asserted is identified. In this case FGU was able to identify petitioner only in 1978 after all efforts were undertaken to verify its identity. FGU paid Marcos Olaso on Dec. 9, 1976.

Respondent Commissioner invites attention to the phrase "in proper cases" in Section 384 of PD 612 and argues that the prescriptive period was interrupted upon the extrajudicial demand for payment made by FGU on petitioner.[7] It is further argued that respondent FGU had a right to wait for the petitioner to respond to the demand before it should file a suit as litigation is not encouraged when it could be justifiably settled.

In the cases of *Summit Guaranty & Insurance Co., Inc. vs. The Hon. Jose C. de Guzman, etc., et al.*, G.R. No.

50997, Summit Guaranty & Insurance Co., Inc. vs. The Hon. Gregoria C. Arnaldo, etc., G.R. No. L-48679, and Summit Guaranty & Insurance Co., Inc. vs. The Hon. Ramon B. Jabson, etc., G.R. No. L-48758, which were jointly decided by this Court on June 30, 1987, wherein the petitioner in the present case was also the petitioner in said cases, the Court had occasion to interpret the aforesaid provision of Section 384 of the Insurance Code in this manner:

“Petitioner company contends that the two periods prescribed in the aforementioned law - that is, the six-month period for filing the notice of claim and the one-year period for bringing an action or suit – are mandatory and must always concur. Petitioner company argues that under this law, even if the notice of claim was timely filed with the insurance company within the six-month period, as what happened in the three cases before Us, the action or suit that follows, if filed beyond the one-year period should necessarily be dismissed on the ground of prescription.

We find no merit in the contention of petitioner company. There is absolutely nothing in the law which mandates that the two periods must always concur. On the contrary, it is very clear that the one-year period is only required ‘in proper cases’. It appears that petitioner company disregarded this very significant phrase when it made its own interpretation of the law. Had the lawmakers intended it to be the way petitioner company assumes it to be, then the phrase ‘in proper cases’ would not have been inserted. At this point, it is but appropriate for Us to reiterate our ruling in *Aisporna vs. Court of Appeals*,^[8] to wit:

‘Legislative intent must be ascertained from a consideration of the statute as a whole. The particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible.’

It is very obvious that petitioner company is trying to use Section 384 of the Insurance Code as a cloak to hide itself from its liabilities. The facts of these cases evidently reflect the deliberate efforts of petitioner company to prevent the filing of a formal action against it. Bearing in mind that if it succeeds in doing so until one year lapses from the date of the accident it could set up the defense of prescription, petitioner company made private respondents believe that their claims would be settled in order that the latter will not find it necessary to immediately bring suit. In violation of its duties to adopt and implement reasonable standards for the prompt investigation of claims and to effectuate prompt, fair and equitable settlement of claims, and with manifest bad faith, petitioner company devised means and ways of stalling the settlement proceedings. In G.R. No. L-50997, no steps were taken to process the claim and no rejection of said claim was ever made even if private respondent had already complied with all the requirements. In G.R. No. L-48758 - petitioner company even provided legal assistance to one of the private respondents in the criminal case filed against him leading private respondents to believe that it was ready to pay. In the same case, petitioner company admits that it took no final action or adjudication of the claim. Worse still, in G.R. No. L-48679, assurances of payment were constantly given and petitioner company even said that a check was ready for release.

This Court has made the observation that some insurance companies have been inventing excuses to avoid their just obligations and it is only the State that can give the protection which the insuring public needs from possible abuses of the insurers.

In view of the foregoing, We hold that these three cases do not fall within the meaning of ‘proper cases’ as contemplated in Section 384 of the Insurance Code. To hold otherwise would enable petitioner company to evade its responsibility through a clever scheme it had contrived.”

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“The one-year period should instead be counted from the date of rejection by the insurer as this is the time when the cause of action accrues. Since in these cases there has yet been no accrual of cause of action. We hold that

prescription has not yet set in."

We also observed in the aforesaid cases that because of the problems created by the aforesaid provision of the Insurance Code the said section was amended by the then Batas Pambansa to read as follows:

"x x x Action or suit for recovery of damage due to loss or injury must be brought in proper cases, with the Commissioner or the Courts within one year from the denial of the claim, otherwise, the claimant's right of action shall prescribe."

In the present case, it is not denied that an extrajudicial demand for payment was made by respondent FGU on petitioner but petitioner failed to respond to the same. Nevertheless the complaint was filed even before a denial of the claim was made by petitioner. For all legal purposes, the one-year prescriptive period provided for in Section 384 of the Insurance Code has not begun to run. The cause of action arises only and starts to run upon the denial of the claim by the insurance company.

The court takes note of the dilatory tactics employed by petitioner in this as in the several cases aforesaid to avoid payment of its liabilities. We now put a finis to this case and express extreme disapproval of such actuations of petitioner.

WHEREFORE, the petition is DISMISSED for lack of merit with costs against petitioner. Respondent Commissioner is hereby directed to terminate the proceedings in IC No. 825 with deliberate dispatch. No motion for extension of time to file a motion for reconsideration of this decision shall be entertained.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Bidin, Sarmiento, and Cortes, JJ., concur.

Padilla, J., no part, for having been a director of FGU's parent company.

[1] Nico vs. Blanco, 81 Phil. 213; Zobel vs. Abreau, 52 O.G. 3592; Guerrero, et al. vs. Madrigal, G.R. No. L-12951, Nov. 19, 1959.

[2] Asejo vs. Leonoso, 78 Phil. 467.

[3] Espiritu vs. Solidum, L-27672, July 25, 1973.

[4] University of Sto. Tomas vs. Villanueva, G.R. No. L-13748, October 30, 1959.

[5] Pac. Micronesia Line, Inc. vs. Baens-del Rosario, 50 O.G. 5271 (1954).

[6] Article 1144, Civil Code.

[7] Art. 1155 and 2011 of the Civil Code.

[8] 113 SCRA 459.

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