

FIELDMEN'S INSURANCE CO., INC., PETITIONER, VS. ASIAN SURETY & INSURANCE CO., INC. AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-23447. July 31, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal by certiorari from a decision of the Court of Appeals.

On various dates - between April 11, 1960 and January 9, 1961 - the Asian Surety & Insurance Company, Inc. and the Fieldmen's Insurance Company, Inc. entered into seven (7) reinsurance agreements or treaties[1] under the general terms of which the former, as the ceding company, undertook to cede to the latter, as the reinsuring company, a specified portion of the amount of insurance underwritten by ASIAN upon payment to FIELDMEN'S of a proportionate share of the gross rate of the premium applicable with respect to each cession after deducting a commission. Said agreements or treaties were to take effect from certain specific dates and were to be in force until cancelled by either party upon previous notice of at least three (3) months by registered mail to the other party, the cancellation to take effect as of the 31st of December of the year in which the notice was given.

On September 19, 1961 FIELDMEN'S, by means of registered mail, served notice to ASIAN of the former's desire to be relieved from all participation in its various treaties with the latter effective December 31, 1961. This communication, although admittedly received by ASIAN on September 25, 1961, did not elicit any reply from ASIAN.

On December 7, 1961 FIELDMEN'S sent another letter to ASIAN expressing regrets at alleged violations committed by the latter with respect to the various treaties between them; in the same letter, FIELDMEN'S reiterated its position that it would consider itself "no longer at risk for any reinsurance and/or cession" given by ASIAN which might be in force on December 31, 1961. Not having received any formal reply from ASIAN, FIELDMEN'S sent anew a letter on February 17, 1962 reminding ASIAN of the December 7 letter regarding the cancellation of all the reinsurance treaties and cessions as of December 31, 1961. At the same time FIELDMEN'S requested ASIAN to submit its final accounting of all cessions made to the former for the preceding months when the reinsurance agreements were in force.

Meanwhile one of the risks reinsured with FIELDMEN'S under Cession No. 61-87, Policy No. RI-1236, issued in favor of the Government Service Insurance System, became a liability when the insured property was burned on February 16, 1962. Since the policy was issued on July 1, 1961, it was supposed to expire on July 1, 1962.[2] The next day, February 17, ASIAN immediately notified FIELDMEN'S of said fire loss. And on February 26, 1962, ASIAN sent its reply stating, among other things, as follows:

“x x x we beg to reiterate that your letter of December 7, 1961, terminating said treaties by December 31, 1961, is not in accordance with the terms thereof, since there was no prior three months notice. How ever, considering the attitude express (sic) in your aforesaid letter of December 7, 1961, we are willing to waive

provision that said treaties maybe cancelled on December 31st of any year, and will consider them cancelled at the end of three (3) months from December 7, 1961, by which time we shall be able to render the final accounting you desire."

FIELDMEN'S, relying on the sufficiency of its notice of termination dated September 19, 1961 and obviously bent on avoiding its liability under the reinsurance agreements with ASIAN, filed a petition for declaratory relief with the Court of First Instance of Manila to seek a declaration that all the reinsurance contracts entered into between them had terminated as of December 31, 1961 and to obtain an order directing ASIAN to render a final accounting of the transactions between them with respect to said reinsurance treaties as of the cut-off date.

In its answer below ASIAN denied having received FIELDMEN'S letter dated September 19, 1961; and argued that even assuming it did, FIELDMEN'S could not have terminated the reinsurance treaties as of December 31, 1961 because the letter was merely an expression of FIELDMEN'S desire to cancel the treaties and not a formal notice of cancellation as contemplated in their reinsurance agreements. By way of special defense ASIAN contended that even if the September 19 letter were considered sufficient notice of cancellation - thereby rendering the reinsurance agreements terminated as of December 31, 1961 - the liability of FIELDMEN'S with respect to policies or cessions issued under two of the said agreements (marked as Annexes A and B) prior to their cancellation continued to have full force and effect until the stated expiry dates of such policies or cessions.

On December 4, 1962 the trial court rendered a decision declaring six^[3] of the seven^[4] reinsurance agreements in question cancelled as of December 31, 1961. At the same time, it upheld ASIAN'S position that all cessions of reinsurance made by it to FIELDMEN'S prior to the cancellation of the reinsurance treaties continued in full force and effect until their expiry dates. The same decision also ordered FIELDMEN'S to make an accounting of its business transactions with ASIAN within 30 days, and to pay the costs.

On Appeal to the Court of Appeals, the decision of the trial court was substantially affirmed, with the slight modification that the order for accounting was eliminated, without prejudice to the filing of a proper action between the parties for that purpose.

The cancellation as of December 31, 1961 of the reinsurance treaties involved in this case is not now in issue. It was declared by both the trial court and the Court of Appeals, and has not been challenged here. The main controversy between the parties is on the question of whether or not said cancellation had the effect of terminating also the liability of FIELDMEN'S as reinsures with respect to policies or cessions issued prior to the termination of the principal reinsurance contracts or treaties.

Of the six reinsurance contracts under consideration two contain provisions which clearly and expressly recognize the continuing affectivity of policies ceded under them for reinsurance notwithstanding the cancellation of the contracts themselves. Thus, as already noted hereinabove, Article 10 of the Facultative-Obligatory Reinsurance Treaty Fire (Annex A to the petition below) provides "that in the event of termination of this Agreement x x x, the liability of the Fieldmen's under current cessions shall continue in full force and effect until their natural expiry x x x;" and the 4th paragraph of Article VI of the Personal Accident Reinsurance Treaty (Annex B to the petition below) states:

"4. On the termination of this Agreement from any cause whatever, the liability of the REINSURER (Fieldmen's) under any current cession including any amounts due to be ceded under the terms of this Agreement and which are not cancelled in the ordinary course of business shall continue in full force until their expiry unless the COMPANY (Asian) shall, prior to the thirty-first December next following such notice, elect to withdraw the existing cessions, x x x"

Insofar as the two reinsurance agreements with the express stipulations aforequoted are concerned, there is clearly

no merit in FIELDMEN'S claim that their cancellation carried with it ipso facto the termination of all reinsurance cessions there under. Such cessions continued to be in force until their respective dates of expiration. Since it was under one of said agreements, namely, the Facultative-Obligatory Reinsurance Treaty-Fire, that the reinsurance cession corresponding to the GSIS policy had been made, FIELDMEN'S cannot avoid liability which arose by reason of the burning of the insured property.

With respect to the other four agreements, it would seem that the petition for declaratory relief is moot, and that no useful purpose would be served by defining the respective rights and obligations of the parties there under. The said agreements have been cancelled, and it does not appear that any claim by or liability in favor of the insured has actually arisen under any of the reinsurance cessions made prior to such cancellation. Future conflicts of the same nature as those which have motivated the present action can of course be obviated by using more precise and definite terminology in the reinsurance agreements which the parties may enter into henceforth.

It is significant to note in this connection: (1) that in ASIAN'S answer to the petition below, particularly to the allegation in paragraph III concerning the right of either party to terminate the reinsurance agreements upon at least three months notice, such termination to take effect on the 31st of December of the year in which notice was given, ASIAN made express reference only to the provisions in the two agreements marked as Annexes A and B to the petition that "the liability of FIELDMEN'S under any current cession ... shall continue in full force and effect until their natural expiry...;" (2) that the same provisions, and no other, were relied upon as a special defense on the question of FIELDMEN'S continued liability; and (3) that in ASIAN'S prayer for relief in its answer it was only with respect to those two agreements that ASIAN asked for a declaration that the cessions on reinsurance issued prior to their cancellation would continue in full force and effect until their natural expiry. In other words, ASIAN was quite willing that no similar declaration be made by the Court with respect to the other agreements, obviously because no risk reinsured pursuant thereto had become an actual liability. And since those agreements had been cancelled as of December 31, 1961, there is no point in the prayer for declaratory judgment concerning them.

FIELDMEN'S insists on its alternative prayer that all cessions under the six reinsurance agreements be declared rescinded by reason of certain violations thereof, as stated by FIELDMEN'S in its letter of December 7, 1961.

This action, however, is not one for rescission but merely for declaratory relief, and the petition contains no averments, which would constitute grounds for rescission. Neither are there any findings of fact in the decision of the Court of Appeals upon which rescission may be predicated. If anything, the thrust of said decision is that ASIAN was not guilty of any substantial breach of the contracts, which would warrant such a step. And this conclusion, being factual in nature, is binding and conclusive upon this Court.

WHEREFORE, the decision appealed from is affirmed insofar as it refers to the Facultative-Obligatory Reinsurance Treaty and the Personal Accident Reinsurance Treaty are concerned, and modified with respect to the others by declaring the issues concerning them as moot and academic. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] The seven (7) reinsurance agreements or treaties involved in this case are:

1. Facultative-Obligatory Reinsurance Treaty-Fire dated January 9, 1961 and effective from January 1, 1961.
2. Personal Accident Reinsurance Treaty dated November 28, 1960 and effective from January 1, 1961.

3. Quota-Share Reinsurance Treaty-Specified Casualty Lines dated April 11, 1960 and effective from April 1, 1960.
4. Fire Branch Reinsurance/Retrocession Treaty dated April 11, 1960 and effective from April 1, 1960.
5. Fire First Surplus Reinsurance Treaty dated April 11, 1960 and effective from April 1, 1960.
6. Aviation Quota-Share Reinsurance Treaty dated April 11, 1960 and effective from April 1, 1960.
7. Reinsurance/Retrocession Agreement-Specified Casualty Lines dated April 11, 1960 and effective from April 1, 1960.

[2] Article 10 of the Facultative-Obligatory Reinsurance Treaty-Fire under which the policy in question had been issued provides:

"This Agreement shall take effect at January 1st, 1961 and shall apply to risks underwritten on and after that date, and shall continue in force for an indefinite period subject to cancellation at anytime by either party giving to the other three months' notice of its desire to cancel such notice to expire at the 31st of December of any year.

"In the event of termination of this Agreement in accordance with paragraph 1 of this Article, the liability of the FIELDMEN'S under current Cessions shall continue in full force and effect until their natural expiry. However, no cession shall be ceded for a period longer than twelve months."

[3] The six are: 1. Facultative-Obligatory Reinsurance Treaty-Fire; 2. Personal Accident Reinsurance Treaty; 3. Quota-Share Reinsurance Treaty-Specified Casualty Lines; 4. Fire Branch Reinsurance/Retrocession Treaty; 5. Aviation Quota-Share Reinsurance Treaty; 6. Reinsurance Retrocession Agreement.

[4] The Fire First Surplus Reinsurance Treaty had been admittedly cancelled effective December 31, 1961 by mutual consent of the parties.

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