

STANDARD-VACUUM OIL COMPANY, PLAINTIFF, VS. LORETO PAZ AND GLOBE ASSURANCE COMPANY, INC., DEFENDANTS. GLOBE ASSURANCE COMPANY, INC., CROSS PLAINTIFF AND APPELLANT, VS. LORETO PA...

G.R. No. L-16029. October 31, 1960

Ponente: BARRERA, J.

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BARRERA, J.:

Upon a complaint of Standard Vacuum Oil Company against Loreto Paz, as principal debtor and Globe Assurance Company, Inc., as surety, the Court of First Instance of Manila (in Civil Case No. 33561 of its docket) rendered judgment condemning both defendants, jointly and severally, to pay plaintiff the sum of P13,984.76 with interest at 12% per annum from the date of filing of the complaint until fully paid, plus 25% of the principal as attorney's fees and costs; and on the cross-claim of the surety, sentencing cross-defendants spouses Loreto Paz and Maxima Paz[1] (as indemnitors) to pay the surety company such amount as may be paid by the latter to plaintiff Stanvac, with 12% interest from date of such payment until fully reimbursed, plus 15% of the principal judgment as attorney's fees and costs.

Globe has brought the present appeal.

The facts are succinctly stated in the decision of the lower court, Judge Magno S. Gatmaitan, presiding, as follows:

"On September 21, 1953, Loreto Paz entered into a sales agreement with plaintiff which has not been exhibited in the record; two years after that, on April 12, 1955, he entered into another sales agreement, Exhibit 'A'. According to witness Roberto Maglaya of plaintiff, the first agreement of September 21, 1953, is exactly the same as the second agreement of April 12, 1955, because this is a regular company form, the only difference being one of dates and that the second agreement is only a continuation of the first; after the second agreement had been executed or about four (4) months (i.e., on 4 August 1955) thereafter, Globe Assurance executed undertakings of suretyship Exhibits 'C' and 'D' in favor of plaintiff to guarantee the fulfillment by Loreto Paz of his obligations; plaintiff, pursuant to the sales agreement furnished various quantities of petroleum products unto Loreto Paz; of these amounts there was due and owing as of April, 1957, the sum of P13,984.78 according to Exhibit 'B-1'; it is this amount which is the object of the present complaint. * * *."

Appellant Globe Assurance Company, Inc., in this instance, assigns four specific errors allegedly committed by the lower court, all of which, however, may be reduced to the single basic contention that appellant's liability is limited strictly and exclusively to the terms of the Reseller Sales Agreement dated September 21, 1953, specifically referred to in appellant's undertaking of suretyship, Exhibits C and D, and does not extend to the obligations of Paz under the Reseller Sales Agreement executed on April 12, 1955.

We find the stand of appellant untenable.

The contention of appellant would have validity if it be considered that the execution of the April, 1955

agreement has for its effect the termination of the September, 1953 contract. But, this is precisely not the intention of the parties as shown by their leaving in blank the spaces in the sentence "This cancels and supersedes Reseller Sales Agreement No.....dated....." found in paragraph 18 of the April, 1955 agreement. The sole witness presented testified that the latter contract is a mere continuation of the first. Appellant's attorney admitted it is a "renewal" of the former. Both agreements (which are admitted to be identical in terms) provide that they shall remain and continue in force indefinitely "subject to thirty (30) days' written notice of cancellation from either party to the other". Under the circumstances, the obligation of the buyer under the September, 1953 agreement (which was guaranteed by the appellant) was a continuing one until terminated by cancellation in writing. And, since the contract of 1955 did not terminate that obligation but merely continued or renewed it, the liability of the surety remained unaffected.

Moreover, as the trial court found, the undertaking' of appellant under its suretyship agreement comprehends more than the specific obligations of the Reseller Sales Agreement. Paragraphs 1, 2, and 3 of the Undertaking of Suretyship read:

"1. Whereas, on September 21, 1953, a certain Reseller Sales Agreement was entered into between STANDARD VACUUM OIL COMPANY, a foreign corporation organized under the laws of the State of Delaware, U.S.A., duly licensed to transact business in the Philippines, and having its principal office therein in the City of Manila (the 'SELLER') and LORETO PAZ, of Highway 54, Makati, Rizal (the 'BUYER') which said Reseller Sales Agreement is herein incorporated by reference and made a part hereof; and

"2. Whereas, we desire to guarantee to the SELLER the faithful performance on the part of the BUYER of all the covenants contained in the said Reseller Sales Agreement, the payment of the purchase price of the gasoline, kerosene, fuel oil, diesel oil, grease, lubricating oil, and merchandise, in general, that the SELLER has heretofore sold, and may hereafter sell, on credit to the BUYER; the payment of all sums of money advanced by the SELLER at the request and for the account of the BUYER in connection with the business of the SELLER; and the payment of all rentals due from the BUYER to the SELLER on any lease agreement heretofore entered into or which may hereafter be entered into between the SELLER and the BUYER.

"3. NOW, therefore, for and in consideration of the premises, we Globe Assurance Company, Inc. of Manila, hereby jointly and severally, agreed to reimburse the SELLER for any loss that it may suffer through any default of the BUYER."

It would seem clear from the above-quoted provisions that Reseller Sales Agreement was mentioned in Paragraph 1 merely to indicate that a relation of Seller and Buyer was created between Stanvac and Paz. Under paragraph 2, appellant warranted to guarantee, not only the compliance by Paz of the covenants in the Reseller Sales Agreement, but specifically (1) "the payment of, the. purchase price of the gasoline, kerosene, fuel oil, diesel oil, grease, lubricating oil and merchandise in general that the Seller has sold or may sell on credit to the Buyer before and after August 4, 1955" (date of the undertaking); (2) "the payment of all sums of money advanced by the Seller at the request and for the account of the Buyer in connection with the business of the Seller"; and (3) "the payment of all rentals due from the Buyer to the Seller on any lease agreement heretofore entered into or which may hereafter be entered into between the Seller and the Buyer". (Note that these last two undertakings are not in any manner contained or mentioned in the Reseller Sales Agreement, which fact supports the conclusion of the court that the suretyship contract is more comprehensive than the Reseller Sales Agreement.) In paragraph 3, appellant expressly agreed "to reimburse the Seller for any loss that it may suffer through any default of the Buyer." The only limitation to these broad terms of the undertaking of appellant is that the liabilities of the Buyer must have been incurred in connection with the business relationship into which Buyer and Seller had entered during the existence of that relationship. Considered in this light, the account and the amount involved in this case come within the terms of the suretyship agreement.

Appellant argues that the payment by the Philippine American General Insurance (Philamgen) of the sum of P15,000.00 on account of defendant Paz' total indebtedness to Stanvac amounting to P28,984.75, shows that the bond of said company (Philamgen) was the one which secured the fulfillment of the Reseller Sales Agreement of April 12, 1955 (Exh. A). There is absolutely no evidence on record supporting this inference. On the one hand, Stanvac had the right to cover the total indebtedness which far exceeded the guarantee subscribed by appellant; on the other, this is expressly authorized in the following quoted provision of appellant's undertaking of suretyship:

"We expressly agree with the Seller that our liability- under the terms of this Undertaking of Suretyship shall in no way be affected by any other security that the Seller has heretofore received, or may hereafter receive, from the Buyer or from any other person." (2nd par., par. 8.)

Finding the decision appealed from in accordance with law, the same is hereby affirmed, with the costs against the appellant. It is so ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Gutierrez David, and Paredes, JJ., concur.

Judgment affirmed.

[1] The spouses Paz were declared in default for failure to appear and answer both the complaint and the cross-claim filed against them.

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