

GERMAN E. VILLANUEVA, DOING BUSINESS UNDER THE NAME AND STYLE OF VILTRA COMPANY, PLAINTIFF-APPELLEE, VS. NATIONAL MARKETING CORPORATION, DEFENDANT-APPELLANT.*G.R. No. L-27441. June 30, 1969*

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/67cab24389af/>**MAKALINTAL, J.:**

This is an action for specific performance. The contract sued upon was entered into on November 25, 1965 between the National Marketing Corporation (NAMARCO) and Viltra Company, a single proprietorship represented by the plaintiff German E. Villanueva. By its terms NAMARCO, purportedly in implementation of its trade assistance program, agreed to import and sell to VILTRA 10,000 metric tons of wire rod valued at \$1,320,000, in consideration of which VILTRA would pay the C & F value of the shipment plus banking charges that NAMARCO might incur by reason of the dollar requirements of the importation, and a service fee equivalent to 2% of such C & F value. The buyer was to negotiate directly with the foreign supplier, take charge of effecting the shipment to the Philippines, and assume all the expenses of loading and unloading. The buyer furthermore agreed "to open an irrevocable domestic letter of credit in favor of NAMARCO and/or assign domestic letters of credit opened in favor of the BUYER TO NAMARCO which in turn shall open an irrevocable (for-*eign*) letter of credit in favor of the supplier."

Thereafter the plaintiff negotiated with Tokyo Boeki, Ltd., of Tokyo, Japan, to supply the wire rod importation provided for in the contract. On its part NAMARCO, through its General Manager, Jose D. Calderon, issued to its bank, the Pacific Banking Corporation, a letter-authority to open an irrevocable letter of credit up to the amount of \$1,320,000 in favor of the Japanese supplier aforementioned, covering the full in-invoice value of 10,000 metric tons of wire rod subject of the contract. That was on January 3, 1966.

On January 28, 1966 the Secretary of Commerce and Industry, Marcelo S. Balatbat, who was concurrently the Chairman of the Board of NAMARCO, received a telegram from Jose P. Marcelo asking that the contract with the plaintiff be cancelled. Balatbat referred the telegram to Juvenal D. Almendras, then newly appointed General Manager of NAMARCO, for "comment and appropriate action." On February 11, 1966 Almendras replied that the importation was "duly covered by a perfected contract of sale between the former management and Viltra Company, executed on November 24, 1965, in view of which the corporation (NAMARCO) is duly committed and has no alternative but to comply with its obligations per contract." Marcelo was duly informed of the recommendation. NAMARCO, however, failed to comply thereafter, particularly with its under-taking to open the irrevocable foreign letter of credit agreed upon. Hence this action.

The initial pleading filed by Villanueva was denominated as a petition for mandamus to compel performance of the contract, with a prayer for the issuance of a writ of preliminary (mandatory) injunction ordering the Pacific Banking Corporation, also impleaded as respondent, to immediately open the letter of credit in question. An additional prayer was for actual, moral and exemplary damages, attorney's fees and expenses of litigation,

aggregating in the alleged amount of P350,000.

On March 21, 1966 NAMARCO filed its answer, wherein it averred two defenses, namely: (1) that the contract of sale was never perfected, since the petitioner had no legal capacity to enter into it, not being qualified as an applicant for trade assistance under section 7 of Administrative Order No. 16 of NAMARCO, dated August 31, 1965; and (2) that the petitioner had not complied with the stipulation in the contract that it would "open an irrevocable domestic letter of credit in favor of NAMARCO and/or assign domestic letters of credit opened in favor of the BUYER to NAMARCO..."

Apropos this second defense, it appears that in connection with a motion for contempt filed by the petitioner against the Acting General Manager and the Assistant General Manager of NAMARCO for failure to comply with the writ of preliminary injunction issued by the Court, a hearing was held wherein the petitioner presented documentary evidence, on the basis of which the Court, in its order of March 24, 1966, found that the corresponding domestic letters of credit called for in the contract had been opened by said petitioner in favor of NAMARCO and that the latter had been duly informed thereof.

On November 23, 1966 the petitioner filed an amended complaint, with a motion for its admission. The amendment consisted in changing the formal designation of the original pleading from "petition" to "complaint," and of the parties from "petitioner" to "plaintiff" and "respondent" to "defendant" respectively. In effect the action was converted from one of mandamus to one of specific performance. The amended complaint was admitted by the Court "without terms," over the opposition of respondent NAMARCO, in an order dated November 29, 1966. On the following December 7, the plaintiff moved for summary judgment, alleging that no genuine issue as to any material fact had been tendered by the defendant's answer.

On December 9, 1966 the defendant filed an answer to the amended complaint wherein the previous defenses were reiterated and a new defense added, namely, that the contract was null and void because it was contrary to law, public policy and public interest, being merely "a scheme between plaintiff and the former management of defendant, to bring into the Philippines the goods described in the contract aforesaid free from taxes and customs duties, making it appear that defendant was and is the importer thereof, whereas in truth it was and is the plaintiff Viltra Company that was and is the importer of the same."

On December 14, 1966 the plaintiff filed a motion to strike out the answer to the amended complaint on the ground that it was in effect an amended answer to the original petition and contained substantial amendments which materially altered the defenses set up in the original answer, and that it was filed without prior leave of court. The motion to strike was granted by the Court in an order dated December 17, 1966, and on the following December 19 a partial decision was rendered pursuant to the plaintiff's motion for summary judgment. The dispositive part of said decision reads:

"Wherefore, judgment is hereby rendered in favor of the plaintiff against the defendant, ordering the said defendant to comply with its obligations under the contract in question, more specifically to cause the opening immediately of an irrevocable letter of credit in favor of Tokyo Boeki, Ltd., in accordance with the terms and conditions of paragraph 2 relative to the opening of domestic letters of credit."

The defendant's motion for reconsideration having been denied, the case was brought to this Court on direct appeal. The appellant contends that in striking out its answer to the amended complaint and rendering a partial decision pursuant to the appellee's motion for summary judgment, the trial Court deprived it of the right to prove the defenses it had raised.

The procedural point concerning the answer to the amended complaint involves the question of whether or not it was entitled to admission in the first place, even without leave of court. The appellant invokes section 3 of Rule

11, which states that if the complaint is amended a new answer thereto may be filed (as a matter of right) within 10 days from notice, failing which the previous answer filed before the amendment shall stand as answer to the amended complaint. In this case the defendant filed its answer to the amended complaint within the reglementary period. We believe that the trial court should not have ordered the said answer stricken out, for while it is true that the amended complaint contained practically the same allegations of fact as the original petition, there was a substantial change in the nature of the cause of action itself: the first was one for mandamus while the other was one for specific performance. And in any case, since the case had not yet been scheduled for trial at the time the said answer was submitted, the trial Court should have allowed it, especially considering that in its opinion the original answer failed to tender an issue, as shown by the fact that it rendered a partial summary judgment.

But going to the more fundamental question of whether the summary judgment was justified on the basis of the pleadings then before the Court, we note that the two defenses set up by the defendant did tender factual issues which called for the presentation of evidence. The first one challenged the legal capacity of the appellee to enter into the contract in question on the ground that it was not qualified as an applicant for trade assistance from NAMARCO under the latter's Administrative Order No. 16, dated August 31, 1965, under which applicants must be either:

"(1) Duly accredited NAMARCO Distributor and/or retailer;

- (a) Who are actively in operation per sales record;
- (b) Who are of sound financial condition and credit standing;
- (c) Who have a permanent establishment conveniently located in the commercial district of the locality;
- (d) and who have adequate storage and transportation facilities.

"(2) Local Manufacturers:

- (a) Filipino owned and managed, single proprietorship, partnership, corporation or cooperative association;
- (b) Must be duly licensed and registered in accordance with existing local laws;
- (c) Must be actively engaged in the business of manufacturing or processing consumer goods and/or industrial products."

With respect to the second of the defenses raised by the appellant there is of course reference in the partial decision to certain domestic letters of credit submitted as evidence by the appellee, but their submission was only in relation to a motion for contempt that came up as an incident before the lower court, and there is no showing that the parties had agreed to have them considered, such as they are, for purposes of a decision on the merits, or that the appellant can no longer question those letters of credit as sufficient compliance by the appellee with its obligations under the contract. The fact is that the appellant has raised the appellee's failure to so comply as a defense, and the appellant is entitled to be heard thereon.

The delay in this case, which the appellee claims has been causing it considerable prejudice, could have been avoided if shortcuts of doubtful validity had not been resorted to and the case had been allowed to go through the usual procedure of trial and judgment.

Wherefore, the partial decision appealed from is set aside, the defendant's answer to the amended complaint is ordered admitted, and the case is remanded for further proceedings. No special pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Sanchez, Ruiz Castro, Capistrano, and Teehankee, JJ., concur.
Dizon, Fernando, and Barredo, JJ., did not take part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.