

**UTILITY ASSURANCE CORPORATION, PLAINTIFF-APPELLEE, VS.
CARLOS H. RAVANERA, OSCAR M. RAVANERA, FELINA P.
BALBASTRE AND RURAL BANK OF NUEVA CACERES, INC. OF NAGA
CITY, DEFENDANTS-...**

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal from the Decision[1] dated December 12, 2006 issued by the Regional Trial Court of Makati City, Branch 66, in Civil Case No. 97-019, the dispositive portion of which reads:

WHEREFORE, premises considered, defendants Carlos Ravanera and the Rural Bank of Nueva Caceres are hereby ordered to pay plaintiff Utility Assurance Corporation the amount of P840,703.47 as actual damages with legal interest thereon from January 7, 1997 until the whole amount is fully paid, P160,000.00 as penalty, and P100,000.00 as attorney's fees. Judgment is likewise rendered in favor [of] third-party plaintiffs Carlos Ravanera and the Rural Bank of Nueva Caceres who are entitled to subrogation or contribution from third-party defendant Newsounds Broadcasting Corporation (sic) up to one-half of the defendants' liability.

SO ORDERED.

The facts are borne out by the records.

Defendants-appellants and third-party plaintiffs-appellees Carlos Ravanera and Oscar Ravanera (hereinafter the "Ravaneras"), together with third-party defendant-appellant Newsounds Broadcasting Network, Inc. (hereinafter "Newsounds"), were respondents in several labor cases[2] filed before the National Labor Relations Commission (NLRC) Sub-Regional Arbitration Branch No. V in Naga City. In a Decision[3] dated September 30, 1993, the Labor Arbiter held that the complainants were illegally dismissed and ordered the respondents to pay the complainants' monetary claims totalling P840,703.47. The Ravaneras appealed to the NLRC in Quezon City. Pursuant to the Rules of the NLRC, in order to stay the execution of the Labor Arbiter's Decision, the Ravaneras posted a Surety Bond,[4] obtained from the plaintiff-appellee Utility Assurance Corporation (hereinafter the "Utility Assurance"), also in the sum of P840,703.47.

To secure their obligation to the Utility Assurance, Carlos Ravanera co-executed an Indemnity Agreement[5] dated October 26, 1993 and a Deed of Assignment of Bank Deposit[6] of even date. The other signatory was Felina P. Balbastre, the Branch Manager of the Rural Bank of Nueva Caceres, Naga City, where the Ravaneras maintained their bank deposits. Under the Indemnity Agreement, they bound themselves to indemnify the Utility Assurance for "any damages, prejudices, losses, costs, payments, advances and expenses of whatever kind and nature, including counsel or attorney's fees, which the COMPANY may, at any time, sustain or incur, as a consequence of having executed the above-mentioned Bond." Meanwhile, under the Deed of Assignment of Bank Deposit, they "assign its bank deposit in the amount of PESOS: EIGHT HUNDRED FORTY THOUSAND SEVEN HUNDRED THREE & 47/100 (P840,703.47) ONLY, Philippine Currency, in favor of UTILITY ASSURANCE CORPORATION now deposited with the RURAL BANK OF NUEVA CACERES, INC., Naga

Branch, Naga City, represented by its Manager—FELINA P. BALBASTRE of which amount shall serve as the collateral to the issuance of the Supersedeas Bond by the UTILITY ASSURANCE in the same amount.”

The appeal from the Labor Arbiter's Decision dated September 30, 1993 failed and the said Decision became final and executory. On June 3, 1996, the Utility Assurance received a Notice of Garnishment[7] dated May 28, 1996, issued by the Sheriff of the NLRC Regional Arbitration Branch No. V in Legaspi City, against the Surety Bond, with a directive for it to deliver the amount to the Sheriff within five days. The Utility Assurance then wrote a letter to the Rural Bank of Nueva Caceres demanding the withdrawal of the assigned bank deposits but the bank refused to release the amount. In a Letter[8] dated June 7, 1996 sent by the bank's counsel, the Utility Assurance was informed that the Surety Bond had not been renewed after its expiration and with it followed the extinguishment of any collateral agreement.

On November 28, 1996, the Philippine National Bank (PNB), with which the Utility Assurance maintained its deposits, informed the latter that it had frozen withdrawals against its deposit accounts pursuant to the Garnishment Order issued by the NLRC Sheriff.[9] On January 14, 1997, PNB formally informed the Utility Assurance that the amount of P840,703.47 was debited from its account.[10]

On January 6, 1997, the Utility Assurance filed with the court a quo a Complaint[11] for Specific Performance and Damages with prayer for Preliminary Attachment, seeking reimbursement from the Ravaneras and the Rural Bank of Nueva Caceres, in the amount of P840,703.47 plus other costs. On March 13, 1997, the Ravaneras filed their Answer[12] and a Third Party Complaint[13] against Newsounds Broadcasting Network. In their Answer, the Ravaneras alleged that the Surety Bond was not renewed and was no longer in force when the NLRC Sheriff issued the Notice of Garnishment. As a result, according to them, the indemnity agreement and the deed of assignment of bank deposit which they executed to secure their obligation to Utility Assurance also were without effect. On the other hand, the Ravaneras alleged that should they be adjudged liable to Utility Assurance, Newsounds should be ordered to pay the complainants up to the extent of one-half (½), or equivalent to P420,351.73, since it was a co-respondent in the NLRC cases.

On March 17, 1997, the court a quo issued an Order[14] granting the Utility Assurance's prayer for preliminary attachment, ruling that:

Upon consideration of the foregoing, the Court finds sufficient basis for the issuance of the writ of attachment. The Deed of Assignment of Bank Deposits provides that “said deposits cannot be withdrawn by said depositor until the termination of the appeal of the above-entitled case.” The withdrawal by defendant Carlos Bolante (sic) with the consent of defendant RBNC despite said prohibition resulted to the great prejudice of the herein plaintiff in violation of the Deed of Assignment. Thus, only for purposes of attachment, the defendants, with the exception only of Felina Balbastre, appear to be guilty in incurring the obligation.

WHEREFORE, the application for issuance of writ of preliminary attachment is hereby GRANTED and the plaintiff is hereby directed to file an attachment bond in the amount of P500,000.00. Thereafter, let a writ of attachment (sic) issued for the Sheriff to attach all the property of defendants Carlos H. Ravanera, Oscar Ravanera and the Rural Bank of Nueva Caceres of Naga City not exempt from execution, or so much thereof as may be sufficient to satisfy the applicants demand in the amount of P840,703.47.

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Meanwhile, Newsounds filed its Answer[15] to the third-party complaint, alleging that the said complaint should be dismissed on the ground of *litis pendentia* as Newsounds and the Ravaneras are also parties in Civil Case No. 91-2317 which was an action for dissolution of partnership. Also, Newsounds claimed that there is no basis for the claim for contribution and/or reimbursement because it is not a signatory to the Indemnity Agreement and

Deed of Assignment of Bank Deposit executed in favor of Utility Assurance.

During the pre-trial, Utility Assurance manifested that it was adopting its evidence during the hearings for the issuance of a writ of preliminary attachment.[16] On the other hand, with respect to the third-party complaint, the Ravaneras and Newsounds stipulated that they were the same respondents in the NLRC case, that pending before the Regional Trial Court of Naga City was Civil Case No. 91-2317, entitled Newsounds Broadcasting Network (NBN), Inc., represented by Rogelio M. Florete versus Oscar Ravanera and Carlos Ravanera, an action for the dissolution of the partnership between Newsounds and Oscar Ravanera, and that Newsounds was not a signatory or one of the parties in the subject surety bond, the Indemnity Agreement and the Deed of Assignment.[17]

The supposed presentation of evidence by the Ravaneras was deemed waived due to the continued non-appearance of the Ravaneras and/or their counsel.[18] Newsounds then manifested that it was not presenting any evidence due to the failure of the Ravaneras to present theirs.[19]

On December 12, 2006, the court a quo issued the now assailed Decision which held that the Ravaneras and the Rural Bank of Nueva Caceres were liable to Utility Assurance for the amount of P840,703.47 as stated in the Indemnity Agreement and the Deed of Assignment of Bank Deposit, plus interests, penalties and attorney's fees. The Ravaneras and the Rural Bank of Nueva Caceres were, however, allowed to seek reimbursement up to one-half or 50% thereof from Newsounds.

Both the Ravaneras and the Rural Bank of Nueva Caceres, on the one hand, and Newsounds, on the other, appealed. On the part of the Ravaneras and the Rural Bank of Nueva Caceres, they allege in their Appellants' Brief that:

THE COURT A QUO ERRED WHEN IT HELD DEFENDANTS-APPELLANTS STILL LIABLE UNDER THE INDEMNITY AGREEMENT AND DEED OF ASSIGNMENT AND ORDERED THEM TO PAY THE AMOUNT OF P840,703.47 AS ACTUAL DAMAGES; P160,000.00 AS PENALTY AND P100,000.00 AS ATTORNEY'S FEES.[20]

They argue that the indemnity agreement and the deed of assignment of bank deposit were dependent upon the validity of the surety bond, and since they did not renew the bond by paying additional premiums, it expired on October 25, 1994. With the said expiration or cancellation of the main agreement, the collateral agreements also ceased to have any legal effect.

On the other hand, Newsounds makes the following assignment of errors:

1. THE LOWER COURT ERRED IN FAILING TO DISMISS THE THIRD-PARTY COMPLAINT UPON THE GROUND OF LITIS PENDENTIA CONSIDERING THAT THE CLAIM AND/OR ISSUE FOR INDEMNITY AND REIMBURSEMENT WAS ONE OF THE ISSUES IN THE SUBJECT MATTER OF AN EARLIER ACTION BETWEEN NBN, ON ONE HAND, AND OSCAR RAVANERA AND CARLOS RAVANERA, ON THE OTHER HAND, PENDING THEN BEFORE THE REGIONAL TRIAL COURT OF NAGA CITY DOCKETED AS CIVIL CASE NO. 91-2317 AND WHICH IS NOW ON APPEAL BEFORE THE HONORABLE COURT OF APPEALS DOCKETED AS CA G.R. NO. CV 86461 IN WHICH JUDICIAL NOTICE MAY TAKEN (SIC).

2. THE LOWER COURT ERRED IN FAILING TO DISMISS THE THIRD PARTY COMPLAINT THERE BEING NO EVIDENCE PRESENTED AND ADDUCED BY THE THIRD-PARTY PLAINTIFFS-APPELLEES TO PROVE THEIR ALLEGATIONS OF INDEMNITY AND REIMBURSEMENT.

3. GRANTING WITHOUT CONCEDED THAT THE THIRD-PARTY PLAINTIFFS-APPELLEES ARE ENTITLED TO INDEMNITY AND REIMBURSEMENT NOTWITHSTANDING THE ABSENCE OF

EVIDENCE, THE THIRD-PARTY PLAINTIFFS-APPELLEES ARE MERELY ENTITLED TO CLAIM FOR BENEFICIAL REIMBURSEMENT AND ONLY TO THE EXTENT OF ONE-THIRD (1/3) OF THE JOINT LIABILITY IMPOSED IN THE MONETARY JUDGMENT RENDERED IN THE LABOR CASES AND NOT ON THE BASIS OF THE LIABILITIES SAID THIRD-PARTY PLAINTIFFS-APPELLEES ARE LIABLE TO THE PLAINTIFF.

4. FURTHER GRANTING WITHOUT CONCEDED THAT THE THIRD-PARTY PLAINTIFFS-APPELLEES ARE ENTITLED TO CLAIM FOR BENEFICIAL REIMBURSEMENT AND TO THE EXTENT OF ONE-THIRD (1/3) OF THE LIABILITY IN THE LABOR CASES, THE LOWER COURT SHOULD HAVE NONETHELESS DISMISSED THE THIRD-PARTY COMPLAINT UPON THE GROUND OF LITIS PENDENTIA CONSIDERING THAT THIS IS THE SAME AND ONE OF THE ISSUES AND CLAIMS TO BE RESOLVED AND IN FACT HAVE BEEN RESOLVED IN CIVIL CASE NO. 91-2317 WHICH IS NOW ON APPEAL BEFORE THE HONORABLE COURT OF APPEALS IN CA G.R. NO. CV 86461.[21]

Newsounds merely reiterates its arguments below, that the third-party complaint should have been dismissed because of the pending action between it and the Ravaneras for dissolution of the partnership, and that there is no evidence that it was a party to the indemnity agreement and the deed of assignment of bank deposit.

Utility Assurance did not file its Appellee's Brief despite notice.

Hence, the main issue in this joint appeal is whether or not the court a quo committed reversible error in ordering the Ravaneras and the Rural Bank of Nueva Caceres to reimburse Utility Assurance the sum of P840,703.47 as stated in the Indemnity Agreement and the Deed of Assignment of Bank Deposit, plus interests, penalties and attorney's fees, and in ordering Newsounds to pay, by way of contribution, 50% or one-half thereof to the Ravaneras and the Rural Bank of Nueva Caceres.

After careful evaluation of the records and the arguments raised, this Court finds both appeals to be without merit.

We will first resolve the appeal of the Ravaneras and the Rural Bank of Nueva Caceres.

It is not disputed that the Ravaneras and Newsounds were ordered by the Labor Arbiter, in the NLRC cases filed against them, to pay monetary claims totalling P840,703.47. When they appealed the Labor Arbiter's decision to the NLRC, they were required by the NLRC Rules to post a surety bond. Section 6, Rule VI of the NLRC Rules of Procedure pertinently provides:

SECTION 6. BOND. - In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, an appeal by the employer may be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney's fees.

x x x

Based on the documents on record, Carlos Ravanera, on his own behalf and on behalf of his father, obtained a Surety Bond[22] from the Utility Assurance. The bond provides:

WHEREAS, defendants OSCAR RAVANERA AND CARLOS RAVANERA have appealed from the aforementioned decisions rendered against them to the Court of Appeals; NATIONAL LABOR RELATIONS COMMISSION SUB-REGIONAL ARBITRATION BRANCH NO. V, NAGA CITY (sic)

WHEREAS, pending their appeal in the Court of Appeals (sic), upon the posting of a bond in the amount of P840,703.47 by the plaintiff, a special order authorizing the execution decision was issued by the Court of (sic)

WHEREAS, defendants, OSCAR RAVANERA AND CARLOS RAVANERA desire to post a supersedeas

Bond in the aforementioned amount of EIGHT HUNDRED FORTY THOUSAND SEVEN HUNDRED THREE & 47/100 ONLY P840,703.47, Philippine Currency, in favor of the plaintiff in order to dissolve the writ of execution issued against them pending appeal;

NOW THEREFORE, we, the UTILITY ASSURANCE CORPORATION as Surety, NBN/DZDR/CARLOS RAVANERA & OSCAR RAVANERA as principals, jointly and severally, bind ourselves in favor of the plaintiff ALMA RAMOS, et., al. in the amount of EIGHT HUNDRED FORTY THOUSAND SEVEN HUNDRED THREE & 47/100 ONLY P840,703.47, Philippine Currency, conditioned upon the performance of the judgment appealed from in case it be affirmed wholly or in part.

The said Surety Bond had an original term of one year, from October 25, 1993 to October 25, 1994.[23] Then, on October 20, 1994, the Surety Bond was extended for another year, or until October 25, 1995, after the payment of additional premium.[24]

In consideration of the responsibility undertaken by Utility Assurance under the Surety Bond, and for any renewal, extension and substitution thereof, the Ravaneras and the Rural Bank of Nueva Caceres (with which the Ravaneras maintained cash deposits) agreed to indemnify Utility Assurance in the amount of P840,703.47, plus costs and attorney's fees. Also, the Ravaneras and the Rural Bank of Nueva Caceres, executed a Deed of Assignment of Bank Deposit, which provides:

That for and in consideration of Supersedeas Bond No. JCL (15) 008 to be executed and issued by UTILITY ASSURANCE CORPORATION, in favor of OSCAR M. RAVANERA AND CARLOS H. RAVANERA in their appeal of the decision of the NATIONAL LABOR RELATIONS COMMISSION – SUB REGIONAL ARBITRATION BRANCH V, NAGA CITY in its appeal of the case entitled ALMA RAMOS, et., al., complainant versus NEWSOUNDS BROADCASTING NETWORK., et., al do hereby assign its bank deposit in the amount of PESOS: EIGHT HUNDRED FORTY THOUSAND SEVEN HUNDRED THREE & 47/100 (P840,703.47) ONLY, Philippine Currency, in favor of UTILITY ASSURANCE CORPORATION now deposited with the RURAL BANK OF NUEVA CACERES, INC., Naga Branch, Naga City, represented by its Manager – FELINA B. BALBASTRE of which amount shall serve as the collateral to the issuance of the Supersedeas Bond by the UTILITY ASSURANCE CORPORATION in the same amount.[25] (Emphasis ours)

Pursuant further to the Deed of Assignment of Bank Deposit, the bank deposit to the extent of P840,703.47 could not be withdrawn by the Ravaneras until the termination of the appeal of the case. Also, if the Ravaneras obtained a reversal or favorable decision in the appeal, then the Deed of Assignment of Bank Deposit would be deemed automatically terminated, rendered null and void, and the amount so assigned would revert back to the depositor. But if the surety bond would be ordered forfeited, then Utility Assurance should be empowered to withdraw the bank deposit so assigned.

As already stated, the Ravaneras did not succeed in their appeal and, then, the Labor Arbiter's Decision dated September 30, 1993 became final and executory. To answer for the monetary awards, the NLRC Sheriff proceeded against the Surety Bond sometime in May 1996. Then, sometime in November 1996, the NLRC Sheriff was able to garnish and seize the bank deposit of Utility Assurance with the Philippine National Bank, corresponding to the amount of P840,703.47.

When sought for reimbursement, both the Ravaneras and the Rural Bank of Nueva Caceres denied liability on the ground that the Surety Bond was automatically cancelled after October 25, 1995 when no additional premium was paid. To this day, they insist that they are not obligated to reimburse Utility Assurance.

The contention of the Ravaneras and the Rural Bank of Nueva Caceres is without merit.

Under the NLRC Rules, the Surety Bond which the Ravaneras posted in order to stay the execution of the Labor

Arbiter's Decision dated September 30, 1993 was valid until the termination of the appeal or until the satisfaction of the award. Section 6, Rule VI of the NLRC Rules of Procedure provides:

x x x

A cash or surety bond shall be valid and effective from the date of deposit or posting, until the case is finally decided, resolved or terminated, or the award satisfied. This condition shall be deemed incorporated in the terms and conditions of the surety bond, and shall be binding on the appellants and the bonding company.

x x x

Notwithstanding the agreement between the Utility Assurance and the Ravaneras, with respect to its term or expiration, the Surety Bond would remain valid and would continue to answer for the judgment award. This is clear from Section 6, Rule VI of the NLRC Rules which seeks to prevent the situation where, in order to evade its obligation under the Judgment, the employer would simply not pay the premium in order to render the Surety Bond without legal effect. While, generally, the payment of the premium is an essential condition for the validity of an insurance contract under Section 77 of the Insurance Code,[26] the non-payment thereof does not result in the cancellation of the Surety Bond.

Our ruling finds basis in AFP General Insurance vs. Molina,[27] where the Supreme Court held:

In addition, Rule VI, Section 6 of the Revised NLRC Rules of Procedure is a contemporaneous construction of Article 223 by the NLRC. As an interpretation of a law by the implementing administrative agency, it is accorded great respect by this Court. Note that Rule VI, Section 6 categorically states that the cash or surety bond posted in appeals involving monetary awards in labor disputes "shall be in effect until final disposition of the case." This could only be construed to mean that the surety bond shall remain valid and in force until finality and execution of judgment, with the resultant discharge of the surety company only thereafter, if we are to give teeth to the labor protection clause of the Constitution. To construe the provision any other way would open the floodgates to unscrupulous and heartless employers who would simply forego paying premiums on their surety bond in order to evade payment of the monetary judgment. The Court cannot be a party to any such iniquity.

In the case at bar, the deliberate intent of the Ravaneras not to pay the premiums and not to renew the Surety Bond is well-documented. In his Affidavit[28] dated February 11, 1997, Carlos Ravanera stated:

x x x

While the said appeal was pending, and before the expiration of said Surety Bond on October 25, 1994, I was required by the surety to renew the bond and pay the premiums and other charges, otherwise said bond shall be cancelled.

That I agreed with the renewal of said bond for another one year period from October 25, 1994 up to October 25, 1995 and paid the corresponding premium and other charges therefor.

Meantime, the decision of the NLRC, Third Division, Manila on appeal has been received on July 5, 1994 granting in toto the decision of NLRC, Naga City appealed from, hence a Motion for Reconsideration thereof was filed but the same was denied in the Resolution dated January 30, 1995, copy of which was received on February 21, 1995.

That after the expiration of said Surety Bond on October 25, 1995, Atty. Oscar Ravanera then instructed me not to renew the same and did not anymore pay the premiums therefor, hence my understanding that after ten (10) days from October 25, 1995 said bond shall already be cancelled, as provided for in the Said Surety Bond No. 1339 above-quoted. (Emphasis ours)

Clearly, the Ravaneras knew beforehand that they lost in their appeal. They had notice of the Decision of the Third Division of the NLRC dismissing their appeal on July 5, 1994, while they learned about the denial of their Motion for Reconsideration on February 21, 1995. At the time the Surety Bond was still valid and effective; it was to expire on October 25, 1995.

The deliberate failure of the Ravaneras to pay the premium did not result in the cancellation of the Surety Bond. As explained in the AFP General Insurance case:

x x x The petitioner's reliance on Sections 64 and 77 of the Insurance Code is misplaced. The said provisions refer to insurance contracts in general. The instant case pertains to a surety bond; thus, the applicable provision of the Insurance Code is Section 177 (now Section 179), which specifically governs suretyship. It provides that a surety bond, once accepted by the obligee becomes valid and enforceable, irrespective of whether or not the premium has been paid by the obligor. The private respondents, the obligees here, accepted the bond posted by Radon Security and issued by the petitioner. Hence, the bond is both valid and enforceable. *A verbis legis non est recedendum* (from the language of the law there must be no departure). (Emphasis ours)

Clearly, despite the non-payment of the premium, the Surety Bond was still valid and binding against the Ravaneras. Necessarily, the collateral agreements, i.e., the Indemnity Agreement and the Deed of Assignment of Bank Deposit, to secure performance of their obligation under the Surety Bond, were still valid and binding. Obligations arising from these contracts have the force of law between the contracting parties and should be complied with in good faith.[29]

Thus, the court a quo did not err when it ordered the Ravaneras and the Rural Bank of Nueva Caceres to solidarily reimburse Utility Assurance the principal amount of P840,703.47 plus the incidental costs and attorney's fees as agreed upon by them. Under Paragraph 4 of the Indemnity Agreement, the Ravaneras and the Rural Bank of Nueva Caceres bound themselves to pay 20% of the principal amount as attorney's fees. However, this Court notes that the court a quo fixed the attorney's fees in the amount of P100,000.00 instead of P168,140.694 which is 20% of P840,703.47. We find this an exercise of the trial court's sound discretion, which this Court is not compelled to disturb.

However, this Court finds no basis for the penalty fixed by the court a quo in the amount of P160,000.00. As held in *Garcia vs. Court of Appeals*,[30] penalty interests are in the nature of liquidated damages. Being liquidated damages, they are agreed upon by the parties to a contract, to be paid in case of breach thereof.[31] Unfortunately, the Indemnity Agreement is silent on penalties or liquidated damages. There being none agreed upon by the parties, there is no basis to award it and the same should be deleted in the decision appealed from.

As for the legal interest, the proper rate is now 6% per annum pursuant to the recent Supreme Court decision in *Dario Nacar vs. Gallery Frames*. [32]

Now to the obligation of Newsounds to contribute to the indemnity. According to Newsounds, it is not liable to contribute because it was not a party to the Indemnity Agreement and the Deed of Assignment of Bank Deposit.

The contention is without merit.

It is not denied by Newsounds that it entered into a partnership with Oscar Ravanera. As a result of that partnership, both of them were made respondents in the NLRC cases filed by their former employees. And when the Labor Arbiter decided in favor of the complaining employees, both the Ravaneras and Newsounds were ordered to pay the monetary claims in the total amount of P840,703.47.

While it is true that only the Ravaneras entered into a surety contract with the Utility Assurance, the obligations arising therefrom are binding as well upon Newsounds. This is because, as partners, they are considered agents of

one another and whatever any one of them may do for the carrying on of business of the partnership shall bind the partnership.[33]

Also, it is incorrect for Newsounds to say that the Surety Bond was obtained only for the benefit of the Ravaneras. Newsounds also benefited from it, as in fact, the Decision of the Labor Arbiter dated September 30, 1993 was also stayed even as against Newsounds.

While not denying that it is partners with Oscar Ravanera, Newsounds claims that the Third-Party Complaint should have been dismissed on the ground of *litis pendentia*.

The claim deserves scant consideration.

Litis pendentia requires the concurrence of the following requisites: 1. Identity of parties, or at least such parties as those representing the same interests in both actions; 2. Identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and 3. Identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res adjudicata* in the other case.[34]

While there may be identity of parties between the case below and Civil Case No. 91-2317 which was then pending before the Regional Trial Court of Naga City, there was no identity in the rights asserted and the reliefs prayed for, such that a decision in one would not amount to *res judicata* in the other. The third-party complaint is for contribution, while Civil Case No. 91-2317 was an action for dissolution of the partnership. Dissolution is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on of the business.[35] It is that point of time when the partners cease to carry on the business together.[36] What follows after it is the winding up or liquidation of the business.[37] It was, therefore, immaterial to the right of the Ravaneras to seek contribution with respect to the obligation owing to Utility Assurance, which obligation was incurred long before the dissolution of the partnership.

As a last note, the court *a quo* was correct in fixing the contribution of Newsounds to 50% or one-half only because the Ravaneras and Newsounds were held jointly liable under the Labor Arbiter's Decision dated September 30, 1993. There were only two joint debtors because Carlos Ravanera was just the attorney-in-fact of his father, the late Oscar Ravanera. So, there being two joint debtors, the obligation is equally shared, that is 50-50.[38]

WHEREFORE, in view of the foregoing, the instant appeal is DISMISSED and the Decision dated December 12, 2006 issued by the Regional Trial Court of Makati City, Branch 66, in Civil Case No. 97-019 is AFFIRMED with MODIFICATION, in that the penalty in the amount of P160,000.00 is hereby DELETED, while the legal interest on the sums adjudged is FIXED at 6% per annum from finality of the Decision until fully paid.

SO ORDERED.

Zalameda and Reyes-Carpio,[*] JJ., concur.

[*] Acting Junior Member vice J. Diy per Office Order No. 283-14-ABR dated June 16, 2014.

[1] Rollo, pp. 79-82.

[2] NLRC Sub-RAB-05-06-00149-91, NLRC Sub-RAB-05-06-00150-91, NLRC Sub-RAB-05-06-00151-91, NLRC Sub-RAB-05-06-00152-91, NLRC Sub-RAB-05-06-00160-91, NLRC Sub-RAB-05-06-00161-91, NLRC Sub-RAB-05-06-00164-91, and NLRC Sub-RAB-05-06-00196-91.

- [3] Record, Vol. I, p. 19.
- [4] Record, Vol. I, p. 45.
- [5] Record, Vol. I, p. 10.
- [6] Record, Vol. I, p. 11.
- [7] Record, Vol. I, p. 13.
- [8] Record, Vol. I, p. 14.
- [9] Record, Vol. I, p. 67.
- [10] Record, Vol. I, p. 70
- [11] Record, Vol. I, p. 1.
- [12] Record, Vol. I, p. 170.
- [13] Record, Vol. I, p. 135.
- [14] Record, Vol. I, pp. 182-183.
- [15] Record, Vol. I, p. 433.
- [16] Record, Vol. II, p. 495.
- [17] Pre-Trial Order dated February 27, 2004, Record, Vol. II, p. 633.
- [18] Order dated May 9, 2006; Record, Vol. II, p. 216.
- [19] Ibid.
- [20] Rollo, p. 90.
- [21] Rollo, p. 42.
- [22] Record, Vol. I, p. 45.
- [23] Record, Vol. I, p. 44.
- [24] Record, Vol. I, p. 46.
- [25] Record, Vol. I, p. 11.
- [26] P.D. 612, as amended by R.A. 10607.
- [27] G.R. No. 151133, June 30, 2008.
- [28] Record, Vol. I, pp. 72-76, 73.
- [29] Art. 1159, Civil Code.
- [30] G.R. Nos. 82282-83, November 24, 1988.
- [31] Art. 2226, Civil Code.
- [32] G.R. No. 189871.
- [33] Arts. 1803(1) and 1818, Civil Code.

[34] Rudecon Management vs. Singson, G.R. No. 150798, March 31, 2005.

[35] Art. 1828, Civil Code.

[36] Idos vs. Court of Appeals, G.R. No. 110782, September 25, 1998.

[37] Ibid.

[38] Art. 1208, Civil Code.

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