

REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PAL-FOX LUMBER CO., INC. & FAR EASTERN SURETY & INSURANCE COMPANY, INC., DEFENDANTS, FAR EASTERN SURETY & INSURANCE CO., INC...

G.R. No. L-26473. February 29, 1972

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Claiming that the Pal-Fox Lumber Co., Inc. was indebted to the Bureau of Internal Revenue for forest charges and surcharges amounting to P11,851.56, and that the Far Eastern Surety & Insurance Co., Inc. was jointly and severally liable with the lumber company for the payment of said forest charges up to P5,000.00 on account of a forestry bond which the surety company executed in favor of the plaintiff on November 27, 1946, guaranteeing faithful compliance by the principal with all the provisions of the Forest Law and National Internal Revenue Code, as well as the "prompt and complete payment of all charges lawfully accruing on the forest products cut or gathered by (Pal-Fox Lumber Co., Inc.), and of all fines and penalties imposed in accordance with the provisions of law" the plaintiff commenced suit before the Court of First Instance of Manila (Civil Case No. 32386) seeking to recover, jointly and severally, from Pal-Fox Lumber Co., Inc. and the Far Eastern Surety & Insurance Co., Inc. the sum of P5,000.00 plus interest from the filing of the complaint, and from the Pal-Fox Lumber Co., Inc. alone the balance of P6,841.56 plus legal interest.

The Far Eastern Surety & Insurance Co., Inc. filed its answer with a cross-claim against its co-defendant Pal-Fox Lumber Co., Inc. which, due to the latter's failure to file an answer despite valid service of summons, was subsequently declared in default. With leave of court, the surety company later filed a third-party complaint against certain persons based on a separate indemnity agreement wherein said third-party appear to have bound themselves to indemnify the surety company for all damages it may suffer by reason of the execution of the forestry bond. In time, these third-party defendants were similarly declared in default.

After trial, the court a quo rendered a decision the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered ordering defendants to pay to plaintiff, jointly and severally, the sum of P5,000.00, with legal interest thereon from the filing of the complaint until fully paid, and defendant Pal-Fox Lumber Co., Inc. to pay to plaintiff the further sum of P6,841.56, with legal interest thereon from the filing of the complaint until fully paid, plus costs; and likewise ordering cross-defendant Pal-Fox Lumber Co., Inc. and third-party defendants Gaspar G. Palanca and Joseph Lee to pay to defendant Far Eastern Surety & Insurance Co., Inc. jointly and severally, any amount which the latter may pay to plaintiff under this judgment, plus premium in the amount of P3,750.00 and stipulated attorney's fees and interest at the rate of 15% and 12% per annum, respectively, on the total amount due, the said interest to be compounded quarterly from November 22, 1946, until fully paid."

Unable to secure, in a motion for reconsideration, a judgment absolving it from any and all liability under Forestry

Bond No. 7004, the surety company appealed to the Court of Appeals (CA-G.R. No. 31338-R) which Court subsequently certified the case here on a finding that the appeal involves only questions of law, to wit:

"The first legal point which arises in connection with said exhibits is: What is the probative value of documents which were admitted only as part of the testimony of the witness who identified them? Do they constitute evidence of the truth of their contents or not? In other words, are they evidence of demands for payment considering that Mr. Zalita merely testified that said exhibits are certified copies of records and documents now in the possession of the Record Control Section of the Bureau of Internal Revenue?

The next issue to resolve is who has the burden of proving that the claim of the plaintiff is not yet paid?

* * * * *

In the third assigned error, appellant raises the question of prescription of action. * * * " (Court of Appeals resolution prom. on August 15, 1966 in CA-G.R. No. 31338-R, pp. 6-7).

During the pendency of this case before this Court, certain pertinent developments have come about which practically render the resolution of appellant's assigned errors unnecessary. Thus in a manifestation filed on February 10, 1967 the surety company expressed its willingness to pay the sum of P5,000.00 under its forestry bond anytime "that an order is issued (by this Court) directing the defendant surety to so pay according to this manifestation." In a resolution dated February 22, 1967 this Court granted appellant surety company's plea, thereby allowing it to pay the Republic of the Philippines the sum of P5,000.00, in full payment of its liability under Forestry Bond No. 7004, and dismissing the case insofar as said appellant was concerned.

On March 27, 1967 the plaintiff moved for reconsideration, pointing out that the surety company's correct liability under the appealed decision was P5,000.00 plus legal interest from the filing of the complaint. In other words, the plaintiff would want the surety company to pay the legal interest adjudged by the trial court before the case may finally be considered dismissed insofar as appellant surety was concerned. Despite the opposition registered by the surety company this Court resolved on May 10, 1967 " * * * to MODIFY the resolution of February 22, 1967 in that the appellant Far Eastern Surety and Insurance Co., Inc. is further ordered to pay the Republic of the Philippines interest on the P5,000.00 at the rate of 6% per annum computed from April 24, 1957 when the complaint was filed until October 3, 1966 when the appellant offered to pay the appellee the sum of P5,000.00 in settlement of its obligation but which offer was ignored by the appellee; PROVIDED, that in case the appellant fails or refuses to pay the interest herein stated the case against him would not be considered dismissed, thereby leaving the matter on the liability of said appellant to pay interest subject to future orders by this Court along with the other matters that may be resolved in this case."

As things stand now, the contending parties are one in conceding that the decisive issue for determination, in view of the surety company's willingness to pay the amount of P5,000.00 under its forestry bond, is its liability for the payment of legal interest thereon.[1] The said company's denial of liability for such interest is based on the stipulation in the bond that it was bound to the plaintiff "in the sum of P5,000.00."

Judgment must go to the plaintiff. In the case of National Marketing Corporation vs. Marquez, et al., L-25553, January 31, 1969, (26 SCRA 722, 726), this Court resolved a similar question as follows:

"On the third and last issue (on whether the surety's liability can exceed the amount of its bond), it is enough to remark that while the guarantee was for the original amount of the debt of Gabino Marquez, the amount of the judgment by the trial court in no way violates the rights of the surety. The judgment on the principal was only for P10,000.00, while the remaining of P9,990.91 represent the moratory interest due on account of the failure to pay the principal obligation from and after the same had fallen due, and default had taken place. Appellant surety was fully aware that the obligation earned interest, since the note was annexed to its contract, Exhibit

'C'. The contract of guaranty executed by the appellant Company nowhere excludes this interest, and Article 2055, paragraph 2, of the Civil Code of the Philippines is clearly applicable.

'If it (the guaranty) be simple or indefinite, it shall comprise not only the principal obligation but also all its accessories, including judicial costs, provided with respect to the latter, that the guarantor shall only be liable for those costs incurred after he has been judicially required to pay.' (Italics supplied)"

WHEREFORE , the decision appealed from is affirmed, with the modification that the appellant should pay the interest adjudged in said decision up to the date of payment of the principal sum of P5,000.00. No pronouncement as to costs.

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

[1] In fact payment of the principal of P5,000.00 has been effected, as alleged in the surety company's opposition to the plaintiff's motion for reconsideration of the resolution of this Court of February 22, 1967, and evidenced by a photostat of the receipt attached.

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