

PAULINO SORIANO, NENITA C. ESPERANZA AND ALEJANDRO G. MACADANGDANG, PETITIONERS, VS. HON. COURT OF APPEALS (FORMER SIXTH DIVISION) AND GERVACIO CU, RESPONDENTS.

G.R. No. L-49834. June 22, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The central issue in this case is whether or not the respondent appellate court[1] erred in affirming in toto the decision dated July 12, 1971 of the trial court[2] in Civil Case No. 4463 which held the petitioners, defendants therein, solidarily liable in their personal capacity to the private respondent under an agreement between them embodied in a receipt. It is the petitioners' contention that they should not be made accountable for the controversial contract in their personal capacity but, if ever, as officers of Bacarra (I.N.) FaCoMa, Inc., they having entered into the "deal" with the private respondent as such. The petitioners argue that even if their liability proves to be personal in character, still the same should only be joint and not solidary as erroneously ruled by the two lower courts. Further, they claim that inasmuch as their co-defendant in the court a quo, Bienvenido E. Acosta (who did not join them in their appeal and in this petition), acted without their authority and consent, he, alone, should be held responsible for whatever loss the private respondent may have incurred. The petitioners, however, lament that the trial court refused to give due course to their cross-claim against Acosta, and the appellate court chose to ignore this point in their appeal.

The receipt dated August 10, 1964, the bone of the present controversy, states as follows:

GREETINGS:

WE, the President, Manager, Treasurer and Director Representative of Bacarra (I.N.) Facoma, Inc., do hereby execute this document:

That we received from Mr. Gervacio Cu a truck load of Virginia tobacco consisting of ONE HUNDRED SIXTY (160) bales of fifty (50) kilos each bale (sic) the said Virginia tobacco consists of different grades or class from E to A (sic) the said tobaccos are to be shipped to the redrying plants through the Bacarra Facoma under Guia number 236.

Conditions of the deal between Mr. Cu and the Association. Upon payment of the said tobacco by the Philippine Virginia Tobacco Administration then Mr. Cu will collect the corresponding payments as graded by the redrying plant as further stipulated that the check representing the payment shall only be cashed in the presence of Mr. Cu or his authorized representative. (Sic)

This instrument is executed for the protection, guidance and information of the parties concerned.

Done this 10th day of August 1964 at Bacarra, Ilocos Norte.

(Sgd.) Paulino Soriano

PAULINO SORIANO

President

(Sgd.) Nenita C. Esperanza

NENITA C. ESPERANZA

Sec. --Treasurer

by:

(Sgd.) Erlinda V. Acosta

-BIENVENIDO E. ACOSTA

Director, Official

Representative

(Sgd.) A. Macadangdang

A.G. MACADANGDANG

Manager[3]

Conflict later arose when the private respondent was not paid his tobacco, prompting him to file on January 31, 1969, a complaint with the trial court for the collection of a sum of money against all the signatories to the receipt.

During the course of the trial, it became apparent from the testimony of the private respondent's only witness that the said tobacco was diverted by defendant Bienvenido E. Acosta to another redrying plant. The petitioners, professing lack of knowledge of Acosta's act of diverting the tobacco and not having authorized or consented to its diversion, moved on January 8, 1971, for leave to file a cross-claim against their co-defendants, the spouses Bienvenido E. Acosta and Erlinda V. Acosta.[4] In an order dated January 11, 1971,[5] the trial court, ruling that the cross-claim "partakes more of a defense premised on plaintiff's (private respondent's) evidence and not a claim of legal liability of the cross-defendants (the Acostas) so-called and considering that it (the motion) is obviously intended for delay," denied the petitioners' motion.

After trial, the trial court adjudged for the plaintiff (private respondent herein). The dispositive portion of the decision reads:

Consequently, judgment is hereby rendered ordering the defendants to jointly and severally pay the plaintiff Cu: (1) the sum of P19,350.00 with interest thereon at the legal rate from the filing of the complaint; (2) the sum of P2,000.00 as attorney's fees; (3) the amount of P320.00, value of the empty sacks, P80.00, cost of baling, and transportation expenses of P350.00; and (4) costs of suit.

SO ORDERED.[6]

The petitioners elevated the case to the Court of Appeals raising the following errors allegedly committed by the trial court:

I

THE LOWER COURT ERRED IN HOLDING THAT THE TRANSACTION SUBJECT MATTER OF THE PRESENT ACTION BETWEEN THE PLAINTIFF AND DEFENDANTS WAS A SALE ON CREDIT TO THE OFFICERS OF THE BACARRA (I.N.) FACOMA, INC. IN THEIR PRIVATE CAPACITIES.

II

THE LOWER COURT ERRED IN HOLDING THAT CONSIGNMENT OF PLAINTIFF'S TOBACCOS THROUGH THE BACARRA (I.N.) FACOMA, INC. WAS NOT ESTABLISHED BY THE EVIDENCE.

III

THE LOWER COURT ERRED IN DENYING THE ADMISSION OF THE CROSS-CLAIM AGAINST DEFENDANTS BIENVENIDO E. ACOSTA AND ERLINDA V. ACOSTA.

IV

THE LOWER COURT ERRED IN ORDERING DEFENDANTS TO JOINTLY AND SEVERALLY PAY THE PLAINTIFF (1) THE SUM OF P19,350.00 WITH INTEREST THEREON AT THE LEGAL RATE FROM THE FILING OF THE COMPLAINT (2) THE SUM OF P2,000.00 AS ATTORNEY'S FEES (3) THE AMOUNT OF P320.00, VALUE OF THE EMPTY SACKS; P80.00. COSTS OF BALING AND TRANSPORTATION EXPENSES OF P250.00 AND (4) COSTS OF THE SUIT.[7]

On April 4, 1978, the respondent appellate court affirmed in toto the decision of the trial court.

In support of its decision on the central issue earlier adverted to, the appellate court ruled that the fact that the petitioners signed their names over their respective positions in the Bacarra (I.N.) FaCoMa, Inc. was of no legal moment as there was no showing that the document was signed by them for and on behalf of the corporation.[8] The appellate court likewise emphasized the failure of the petitioners to present any evidence to show that they were authorized by the corporation to enter into the transaction.[9] Further, the respondent court of Appeals, in affirming the trial court's decision, made capital of what it observed was a departure from the corporation's usual business practice in the execution of the receipt in question.[10] No discussions were made however on the other errors assigned by the petitioners particularly on the matter of the counter-claim and the liability being joint or solidary.

The petitioners moved for a reconsideration of the respondent appellate court's decision but their motion proved futile as shown by the resolution[11] of that court dated December 4, 1978, which denied the same.

Hence, this petition.

As already stated, the petitioners reiterate before us the submission that their liability under the contract lies in their official capacity as officers of the Bacarra (I.N.) FaCoMa, Inc., and not in their personal capacity as ruled by the lower courts. In addition, the petitioners bewail the alleged failure of the respondent appellate court to pass upon the errors of the trial court in refusing to give due course to their cross-claim against their co-defendants, the Acosta spouses, and in holding them (the petitioners and their co-defendants below) jointly and severally liable to the private respondent.

The petition is impressed with merit.

Contrary to the view espoused by the respondent Court of Appeals, the act of the petitioners -- indicating in the controversial receipt their official designations in the Bacarra (I.N.) FaCoMa, Inc. -- is vital in the proper

resolution of this case. We cannot accept the conclusion that the official designations of the petitioners were written on the document merely as meaningless and hollow decorations or as mere descriptio personae without any relevance to the liability of the corporation these officers obviously represented. Indeed, taken in conjunction with the other obtaining circumstances, the receipt discloses the capacity by which the petitioners entered into the "deal" with the private respondent.

The subject receipt itself states that the conditions contained therein were between the private respondent and the "Association." The lower courts ruled that the "Association" referred only to the signatories. We disagree. It is quite plain and we are convinced that the "Association" is none other than the Bacarra (I.N.) FaCoMa, Inc., which is a farmers' cooperative marketing association. Not only that, we cannot find any cogent reason why the petitioners (and their co-defendants) used the word "Association" when they could have more easily and conveniently placed "the undersigned" or words to the same effect in its stead. The error of the appealed decision on this regard is made evident when we consider that even the private respondent's lone witness, Rafael Ayson, the driver of the truck used in transporting the tobacco, testified at the trial that the receipt and invoices used in transporting the private respondent's tobacco were in the name of the Bacarra (I.N.) FaCoMa, Inc. and not in names of the signatories to the controversial document.[12] This seals the case for the petitioners because if it were as the two lower courts ruled, the other documents relative to the transport of the tobacco would have been prepared in the petitioners' names.

Anent the alleged failure of the petitioners to present any authorization from the Bacarra (I.N.) FaCoMa, Inc. to enter into the transaction with the private respondent, the same has been sufficiently explained. As pointed out by the petitioners, the signatories to the receipt in question comprise the majority of the Board of Directors of Bacarra (I.N.) FaCoMa, Inc. There was thus no further need for a separate authorization to bind the corporation to the transaction. To pass such a separate resolution, the petitioners would only be seeking authorization from themselves to enter into the transaction which is clearly a redundancy.

The alleged departure from the established business practice of the corporation with respect to the execution of the controversial receipt on the other hand, could be traced to the uncontroverted fact that the private respondent, aside from being a non-member of the Bacarra (I.N.) FaCoMa, Inc., is also an alien, a Chinese national. While the petitioners admit that the FaCoMa accepted consignments of produce even from non-members, that privilege was not extended to aliens like the private respondent. (The private respondent did not make an effort to rebut the petitioners on this point). Hence, the private respondent's citizenship presented a problem. It is precisely for this reason that the receipt was executed in the manner it was done. To further expedite the transaction, the guia and the other documents covering the private respondent's tobacco were also listed not in his name but in the names of several farmers which he himself furnished to the Association. Unfortunately, the lower courts failed to grasp the importance of these circumstances peculiar to the case, choosing instead to fault the petitioners for their failure to present in court the farmers in whose names the other documents covering the private respondent's tobacco were issued. Surely, the petitioners could not be expected to present the said farmers in court because their names were merely supplied by the private respondent. There is even a possibility that the said names are fictitious.

In the light of the foregoing, it is clear that the liability of the petitioners under the document subject of the instant case, is not personal but corporate, and therefore attached to the Bacarra (I.N.) FaCoMa, Inc. which, being a corporation, has a personality distinct and separate from that of the petitioners who are only its officers. It is the general rule that the protective mantle of a corporation's separate and distinct personality could only be pierced and liability attached directly to its officers and/or members-stockholders, when the same is used for fraudulent, unfair, or illegal purpose.[13] In the case at bar, there is no showing that the Association entered into the transaction with the private respondent for the purpose of defrauding the latter of his goods or the payment

thereof. More importantly, there is no proof whatsoever that the majority of the directors used the distinct and separate personality of Bacarra (I.N.) FaCoMa, Inc. as a protective shield for any wrongdoing. Therefore, the general rule on corporate liability, not the exception, should be applied in resolving this case. Consequently, the private respondent's cause of action lies against the Bacarra (I.N.) FaCoMa, Inc., and not against the petitioners.

In view of this ruling, there is no need to discuss the other issues raised by the petitioners. Suffice it to state that under the law and well-established jurisprudence, an obligation is presumed joint and not solidary.[14] There is nothing in the receipt, constituting the agreement of the parties, which would sufficiently indicate that the petitioners bound themselves solidarily, if they bound themselves personally at all.

WHEREFORE, the petition is GRANTED; the Decision dated April 4, 1978 of the court of Appeals, and its Resolution dated December 4, 1978 are REVERSED and SET ASIDE, and another one entered dismissing the complaint against the herein petitioners. Costs against the private respondent.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Pascual, C., J., ponente; Agrava, C., and Climaco, R.C., JJ., Concurring; CA-G.R. No. 50352-R, entitled "Gervacio Cu, Plaintiff-Appellee vs. Paulino Soriano, Nenita C. Esperanza, and Alejandro G. Macadandang, Defendants-Appellants".

[2] Judge Ricardo Y. Navarro, presiding, Court of First Instance of Ilocos Norte, Second Judicial District.

[3] Rollo, 10-11, 64, and 82-83; see also, Annex "A" of the Complaint; Joint Record on Appeal, 7.

[4] Joint Record on Appeal, 7.

[5] Id., 48.

[6] Id., 63.

[7] Rollo, id., 77-78.

[8] Id., 21.

[9] Ibid.

[10] Id., 22.

[11] Id., 33.

[12] Id., 85-86.

[13] Yutivo Sons Hardware Company vs. Court of Tax Appeals, No. L-13203, January 28, 1961, 1 SCRA 160; Cease vs. Court of Appeals, No. L-33172, October 18, 1979, 93 SCRA 483; Guerrero vs. Court of Appeals, No. L-35250, November 29, 1983, 126 SCRA 109; National Federation of Labor Union (NAFLU) vs. Ople, No. 68661, July 22, 1986, 143 SCRA 124.

[14] Articles 1207 and 1208, Civil Code of the Philippines; Compania General de Tabacos vs. Obed, 13 Phil. 391 (1909); Agoncillo, et al. vs. Javier, 38 Phil. 424 (1918).

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