

EDGARDO L. DE JESUS, PETITIONER, V. FORD LIBIS AND DEPARTMENT OF TRADE AND INDUSTRY, RESPONDENTS.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Subject here is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court. The Petition assails the Resolution[2] dated August 9, 2011 of public respondent Department of Trade and Industry (“public respondent DTI” for brevity) in APPEAL CASE NO. 010-06.

Among the salient facts are those as stated in public respondent DTI's Resolution[3] dated August 9, 2011, which are as follows:

“Briefly, it is shown that complainant (petitioner here) availed the 50% promotional offering by Ford Libis (private respondent here) of the For[d] Explorer Sport Trac model with the balance payable in two (2) years. Complainant (petitioner) informed respondent sales agent Cecille Cruz to get a[n] 'estate green' 2003 Ford Explorer Sport Trac in time for his wedding anniversary on July 22, 2003 with a price of P1, 368,000.00. Respondent (private respondent) did not have a unit of that color so it acquired from a co-dealer, Ford Edsa.

Complainant (petitioner) alleged that upon acquiring the unit on July 23, 2003, he (petitioner) noticed that the same did not have the smell of a brand new unit and that he (petitioner) told Ms. Cruz his observation that the unit was not a 2003 brand new model. Ms. Cruz accordingly answered him that the unit was brand new and the sale pushed through. The Vehicle Sales Invoice shows that the subject vehicle is a 2003 model, however, due to complainant's (petitioner's) suspicion, he asked some of his friends from LTO on the basis of the conduction sticker pasted on the vehicle. He (petitioner) was allegedly told that the unit was a 2002 issue. He did not complain on what he learned, however, almost three (3) months after he bought the vehicle, she (sic) (petitioner) brought it to the service center for the first 800 km[.] check up and still he (petitioner) did not clarify the matter. It was only when he (petitioner) went back for installation of tonneau (pick-up cover), keyless entry and alarm that he (petitioner) told Ms. Cruz about what he (petitioner) discovered that the unit is a 2002 issue based on the conduction sticker but he did not file a formal query or complaint. When he (petitioner) brought the said unit with (sic) Ford Edsa for a 500 km check-up, to his disappointment, he (petitioner) discovered that the subject vehicle is a 2002 year model based on the computer generated print-out. Complainant (petitioner) alleged that based on the 10th digit of the Vehicle Identification Number (VIN), the vehicle is a 2002 model and its model number is different from the one indicated in the Vehicle Sales Invoice, Certificate of Registration and Official Receipt given by the respondent (private respondent). xxx”[4] (Emphasis Supplied)

On November 24, 2004, petitioner Edgardo L. De Jesus (“petitioner” for brevity) filed before public respondent DTI, a Complaint[5] for “Deceptive, Unfair, and Unconscionable Sales Acts and Practices under Arts. 50 and 52”[6] of Republic Act No. 7394 (“R.A. No. 7394” for brevity), otherwise known as “The Consumer Act of the Philippines” against private respondent Ford Libis (“private respondent” for brevity).

The rest of the facts are continued in public respondent DTI's Resolution[7] dated August 9, 2011, to wit:

“During the preliminary conference, it was ruled that there was no need to include Ford Edsa and Ford Group

Philippines, Inc. (FPGPI) as respondents since complainant (petitioner) has no privity of contract with them and even respondent Libis (private respondent) did not manifest to implead them as co-respondent.”[8]

On December 18, 2006, the Acting Consumer Arbitration Officer (ACAO) of the Office of Legal Affairs (“DTI-OLA” for brevity) of public respondent DTI rendered a Decision[9], the dispositive portion of which read:

“WHEREFORE, foregoing premises considered, this Office finds for Complainant. Respondents are hereby found to have violated R.A. No. 7394, particularly the provisions of Deceptive, Unfair, and Unconscionable Sales Acts and Practices (Arts. 50 and 52). Consequently, Respondents are hereby directed to:

1. A. Refund the payments made by Complainant, as follows:

a. Downpayment in the amount of SIX HUNDRED NINETY-EIGHT THOUSAND SIXTY-EIGHT PESOS (Php698,068.00) Philippine currency;

b. FORTY-FIVE THOUSAND PESOS (Php45,000.00) Philippine currency, for the hard tonneau;

c. SIX THOUSAND SEVEN HUNDRED SIXTY-NINE PESOS (Php6,769.00) Philippine currency, for the keyless entry; and

d. Amortization payments paid by Complainant.

PROVIDED, that [a]fter Respondents have refunded above-mentioned amounts of money to the Complainant, the latter shall return the subject Ford Explorer Sport Trac to the former.

OR IN THE ALTERNATIVE -

B. Replace the subject vehicle with another Ford Explorer Sport Trac, which should be of 5000 kms. mileage only.

2. Pay Administrative Fine to the Government of the Republic of the Philippines, thru the Department of Trade and Industry, in the amount of FIFTEEN THOUSAND PESOS (Php15,000.00) Philippine currency, payable at the DTI-Cashier's Office, 4th Floor, 361 Sen. Gil Puyat Avenue, Makati City.

SO ORDERED. No pronouncement as to costs.”[10] (Emphasis and Italics were made in the original)

As a result, private respondent Ford Libis filed an Appeal[11] on February 1, 2007[12] before the Office of the Secretary of public respondent DTI.

On May 31, 2007, the Office of the Secretary of public respondent DTI, through Director Benjamin T. Subido (“Director Subido” for brevity), issued an Order[13] remanding the case to the DTI-OLA for further proceedings to establish the year model of the subject vehicle.[14]

Petitioner and private respondent filed their respective Motions for Reconsideration[15] which were both denied by the Secretary of public respondent DTI, through Director Subido, in an Order[16] dated September 21, 2007. The Order also set aside[17] the DTI-OLA's Decision[18] dated December 18, 2006 because “during the arbitration proceedings, both parties (not complainant alone) failed to establish the true year model of the subject vehicle, which is the very reason why there is a need to remand the case to the concerned ACAO.”[19]

On March 9, 2010, the DTI-OLA rendered a Decision[20] dismissing the case for petitioner's failure to “prove that the year model of the subject vehicle [was] indeed, 2002”[21] because petitioner only presented a “photocopy of the Sales Invoice”[22] of the subject vehicle.

Upon petitioner's Appeal[23], public respondent DTI, through its Appeals Committee, issued the assailed Resolution[24] of August 9, 2011. The dispositive portion of the Resolution read:

“WHEREFORE, premises considered, the instant appeal is hereby granted. The respondent is hereby directed to perform the following:

1. To refund the complainant the price difference between 2002 and 2003 model of the vehicle.
2. To pay an administrative fine in the amount of P25,000.00 payable at DTI - Cashier's Office, 4th flr., 361 Sen. Gil Puyat Avenue, Makati City.

SO ORDERED.”[25]

Petitioner then filed the Petition at bench, praying that:

“WHEREFORE, all the foregoing premises considered, Petitioner Edgardo L. De Jesus respectfully prays that the first part of the Decision dated 18 December 2006 be REINSTATED and the 2nd part – the option to avail of the alternative should be an option to be exercise[d] by the Petitioner and only if there is a real 2003 year and model Sportac, in light of clear evidence that the only issue to be resolved, i.e., the true and actual year model of the subject vehicle, had been clearly established to be 2002, and not 2003. Specifically, Petitioner prays that:

1. A. Refund the payments made by Petitioner, as follows:
 - a. Downpayment in the amount of SIX HUNDRED NINETY EIGHT THOUSAND SIXTY-EXIGHT (sic) PESOS (P698,068.00) Philippine currency;
 - b. FORTY-FIVE THOUSAND PESOS (P45,000.00) Philippine currency, for the hard tonneau;
 - c. SIX THOUSAND SEVEN HUNDRED SIXTY-NINE PESOS (P6,769.00) Philippine currency, for the keyless entry; and
 - d. Amortization payments paid by Petitioner.

PROVIDED, that after Ford Libis have refunded above-mentioned amount of money to the Petitioner, the latter shall return the subject Ford Explorer Sport Trac to the former.

OR AT THE PETITIONER'S OPTION, AS AN ALTERNATIVE

B. Replace the subject vehicle with a 2003 Ford Explorer Sport Trac.

2. Pay Administrative Fine to the Government of the Republic of the Philippines, thru the Department of Trade and Industry, in the amount of FIFTEEN THOUSAND PESOS (P15,000.00) Philippine currency, payable at the DTI-Cashier's Office, 4th Floor, 361 Sen. Gil Puyat Avenue, Makati City.

Petitioner prays for other just and equitable reliefs in the premises.”[26]

Petitioner raised the following grounds:

“I

THE DTI APPEALS COMMITTEE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION BY WHOLLY DEPARTING FROM THE DISPOSITIVE PORTION OF THE 18 DECEMBER 2006 DECISION OF THE DTI OLA, WHICH ALREADY FORMED PART OF THE LAW OF THE CASE.

II

EVEN ASSUMING THAT THE DTI APPEALS COMMITTEE MAY DEPART FROM ITS EARLIER FINDINGS, THE DTI APPEALS COMMITTEE COMMITTED GRAVE ABUSE OF DISCRETION IN DIRECTING FORD LIBIS TO MERELY REFUND THE PRICE DIFFERENCE BETWEEN 2002 AND 2003 MODEL OF THE VEHICLE. THE MEAGER PENALTY IS CONTRARY TO LAW, BEREFT OF LEGAL BASIS AND IS THE INCORRECT PENALTY TO BE IMPOSED AGAINST A COMPANY FRAUDULENTLY SELLING A VEHICLE DIFFERENT FROM THE VEHICLE DESCRIBED IN THE SALES INVOICE, OR AGAINST A COMPANY ENGAGED IN MISREPRESENTATION, FRAUDULENT, DECEPTIVE, AND UNFAIR SALES PRACTICES.”[27] (Emphasis was made in the original)

To begin with, the Petition for Certiorari at bench is readily defective and dismissible. This is because petitioners failed to file a Motion for Reconsideration of the assailed public respondent DTI's Resolution[28] dated August 9, 2011 before filing the Petition at bench. Such failure violates the pronouncement of the Supreme Court in *Novateknika Land Corporation vs. Philippine National Bank and the Register of Deeds of Manila City*[29], citing *Cervantes vs. Court of Appeals*, as follows:

“Unmistakably, before a petition for certiorari can prosper, the petitioner must be able to show, among others, that he does not have any other 'plain, speedy and adequate remedy in the ordinary course of law.' This remedy referred to in Section 1 of Rule 65 is a motion for reconsideration of the questioned order.

xxx

Jurisprudence is replete with decisions which reiterate that before filing a petition for certiorari in a higher court, the attention of the lower court should be first called to its supposed error and its correction should be sought. Failing this, the petition for certiorari should be denied. The reason for this is to afford the lower court the opportunity to correct any actual or fancied error attributed to it through a re-examination of the legal and factual aspects of the case. The petitioner's disregard of this rule deprived the trial court the right and the opportunity to rectify an error unwittingly committed or to vindicate itself of an act unfairly imputed. (Emphasis Supplied)

As aptly declared by this Court in the case of *Cervantes v. Court of Appeals*:

It must be emphasized that a writ of certiorari is a prerogative writ, never demandable as a matter of right, never issued except in the exercise of judicial discretion. Hence, he who seeks a writ of certiorari must apply for it only in the manner and strictly in accordance with the provisions of the law and the Rules. Petitioner may not arrogate to himself the determination of whether a motion for reconsideration is necessary or not. To dispense with the requirement of filing a motion for reconsideration, petitioner must show a concrete, compelling, and valid reason for doing so, which petitioner failed to do. Thus, the Court of Appeals correctly dismissed the petition. xxx (Emphasis was made in the original)

xxx

The petitioner is reminded that procedural rules are instituted to facilitate the adjudication of cases and, as such, the courts and the litigants are enjoined to abide strictly by the rules. While it is true that litigation is not a game of technicalities, it is equally important that every case must be prosecuted in accordance with the prescribed rules of procedure to ensure an orderly and speedy administration of justice. Only for the most persuasive of reasons can such rules be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.” (Emphasis Supplied)

Even if petitioner's failure to file a Motion for Reconsideration could be considered as an exception to the rule[30] that such a Motion should be filed, still, after a careful study of the Petition, petitioner's positions were revealed to

be unmeritorious.

Contrary to petitioner's arguments in his assigned ground I, the DTI-OLA's Decision[31] dated December 18, 2006 is not the law of the case.

Petitioner had argued as follows:

“First, that a clear cut ruling was rendered on 18 December 2006 by the DTI-OLA, through ACAO Macapagal xxx, in favor of the Petitioner because he had been sold a year 2002 model vehicle passed off as a year 2003 model. xxx

xxx

Second, that the 18 December 2006 Decision, on appeal by Ford Libis, was remanded by Director Subido to determine solely the year model of the Subject Vehicle since 'a closer look at the record of the case shows that the actual year model of the Subject Vehicle was not clearly established xxx

Third, instead of specifically determining the specific year model of the Subject Vehicle, ACAO Macapagal instead issued a new ruling via the 9 March 2010 Decision, dismissing the complaint of herein petitioner xxx, delving extensively into the admissibility of the evidence, despite the fact that such had already been admitted via the 29 September 2008 Order xxx. ACAO Macapagal likewise disregarded the fact that the proceedings were administrative in nature, wherein it was not bound by the strict technical rules on evidence. xxx

xxx

Verily, Petitioner cannot be forced to make use of a vehicle it never intended to purchase. The Subject Vehicle was sold through evident fraud and machinations, to the extreme detriment and prejudice of the Petitioner. Petitioner has demanded, from the very start, for the rescission of the sale, so as to allow the mutual restitution of goods exchanged. As such, Petitioner strongly moves that the Assailed Resolution be annulled or modified to reinstate the dispositive portion of the 18 December 2006 Decision.”[32] (Emphasis Supplied)

Negating petitioner's arguments however, is that as the records showed, the DTI-OLA's Decision[33] dated December 18, 2006 did not become final and executory. This is because private respondent timely filed its Appeal[34] from the DTI-OLA's Decision[35] to the Office of the Secretary of public respondent DTI on February 1, 2007[36], or within fifteen (15) days from private respondent's receipt of DTI-OLA's Decision[37] on January 18, 2007[38]. Such appeal in turn, eventually led to public respondent DTI's Order[39] dated September 21, 2007, which set aside[40] the DTI-OLA's Decision[41] dated December 18, 2006.

Consequently, the rule that "once a decision attains finality, it becomes the law of the case"[42] did not apply in the instant case.

Moreover, contrary to petitioner's assigned ground II, the penalty imposed by public respondent DTI, through its Appeal Committee, was proper.

Petitioner had argued as follows:

“The DTI Appeals Committee failed to impose the proper penalty, despite its declaration that Ford Libis 'violated the provision on deceptive and unfair practices for failure to disclose the complainant the actual production year of the subject vehicle.' This finding alone serves as proof that herein Petitioner was maliciously misled to purchase the unintended vehicle. Such is considered to be substantial breach that would entitle him to rescind the sales contract, in accordance with the provisions of the Civil Code.

xxx

It bears stressing that Ford Libis was not able to present any evidence to show that it did not misrepresent to

Petitioner the actual year model of the Subject Vehicle. On the contrary, what Ford Libis was able to present is testimony to the effect that despite the efforts of Petitioner to bring to respondent's attention his doubts on the true year model of the subject vehicle, i.e. whether it is a 2002 or a 2003 year model, he was consistently re-assured by Ford Libis' own officers, employees and/or representatives that the Subject Vehicle is a 2003 year model. In fact, Ford Libis had no witness except for herein Petitioner, who was presented as hostile witness.

It is, therefore, apparent from the foregoing that Ford Libis' continued re-assurances to complainant that the year model of the Subject Vehicle is 2003 despite its being a 2002 year model, which Ford Libis, in fact, knows, prove the deceptive, unfair and unconscionable act on the part of respondent in selling the Subject Vehicle to Petitioner.

xxx

As held by jurisprudence, and as found in the Assailed Resolution, there lies sufficient factual and legal basis to justify the rescission of the sale, not the mere refund of the 'price difference'. Petitioner, thus, again submits for the annulment or modification of the Assailed Resolution to reflect the rescission of the sale, and allow the mutual restitution of the goods exchanged pursuant thereto.”[43] (Emphasis Supplied)

Prevailing over petitioner's arguments however, is that apart from public respondent DTI enjoying the presumption of regularity in the performance of its duty[44], no showing was made by petitioner that public respondent DTI, through its Appeal Committee, acted maliciously and arbitrarily in arriving at the penalty imposed upon private respondent Ford Libis. Such penalty was, that private respondent Ford Libis was directed to “refund [petitioner] the price difference between [the] 2002 and 2003 model of the vehicle”[45].

In fact, public respondent DTI, through its Appeal Committee, imposed such a penalty pursuant to Article 60 of R.A. No. 7394 which states:

“ARTICLE 60. Penalties. –

xxx

b) In addition to the penalty provided for in paragraph (1), the court may grant an injunction restraining the conduct constituting the contravention of the provisions of Articles 50 and 51 and/or actual damages and such other orders as it thinks fit to redress injury to the person caused by such conduct.” (Emphasis Supplied)

No cogent reason was therefore shown to warrant deviation from the following findings of public respondent DTI, which were pursuant to the facts and the law:

“The Committee finds the appeal meritorious.

We agree with the complainant (petitioner) that his failure to submit the original of the sales invoice shall not be a ground for the dismissal of the complaint. While it is true that the subject vehicle was released and registered on year 2003, it can be perceived, however, that it was really a 2002 year model based on the other facts presented. The repair invoices itself described the vehicle as 2002/03, thus, giving the Committee a significant conclusion that it is actually a 2002 year model but only with 2003 variant.

Further, after going over the evidence presented by parties as well as their respective arguments, the Committee believes that laches cannot be applied to complainant (petitioner) because of the delay in pursuing his claim. It is understandable that complainant (petitioner) was trying to believe by himself that he was not deceived by the respondent (private respondent) until such time that he (petitioner) discovered that what he (petitioner) got is not a 2003 model but instead a 2002 model. It was on that basis that the Committee took into account all other related information surrounding the case and this includes the pieces of evidence adduced by the complainant (petitioner).

The Committee disagrees with the ACAO in her ruling that the complainant (petitioner) failed to prove that the unit is a 2003 model due to his failure to present the copy of the original sales invoice. Although we concur with the notion that secondary evidence is inadmissible if the original copy was not presented, the said principle, however, may be dispensed with after taking into consideration other documents presented during the initial investigation. It is significant to note that other than the testimonies of his witness, Ms. Mison, complainant (petitioner) also made mention of the Service Invoice or computer generated print-outs provided to him when he brought the unit to Ford Edsa which showed that the unit is a 2002 Ford Sport Trac model. Thus, even in absence of the original copy of the Sales Invoice, it can be established that complainant was not duly informed of the unit's actual year model.

On that basis, the Committee finds the respondent (private respondent) to have violated the provision on deceptive and unfair practices for failure to disclose the complainant (petitioner) the actual production year of the subject vehicle.”[46]

Indeed, the rule is settled that by reason of the special knowledge and expertise of administrative agencies over matters falling under their jurisdiction, their findings of fact, such as those of public respondent DTT's Appeals Committee here, are accorded respect, if not finality[47]. This is especially so, when the findings are supported by substantial evidence, as was the situation here.

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be just under the circumstances, the following disposition is therefore made on this matter.

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Dicdican (Chairman) and Paredes, JJ., concur.

[1] Rollo, pp. 3-30

[2] Rollo, pp. 31-37

[3] Rollo, pp. 31-37

[4] Rollo, p. 31

[5] Rollo, p. 7

[6] Rollo, p. 7

[7] Rollo, pp. 31-37

[8] Rollo, pp. 31-32

[9] Rollo, pp. 81-87

[10] Rollo, p. 86

[11] Rollo, pp. 88-103

[12] Rollo, p. 113

[13] Rollo, pp. 113-115

- [14] Rollo, p. 114
- [15] Rollo, p. 116
- [16] Rollo, pp. 116-117
- [17] Rollo, p. 117
- [18] Rollo, pp. 81-87
- [19] Rollo, p. 116
- [20] Rollo, pp. 125-130
- [21] Rollo, p. 129
- [22] Rollo, p. 128
- [23] Rollo, pp. 131-132; pp.133-164
- [24] Rollo, pp. 31-37
- [25] Rollo, p. 36
- [26] Rollo, pp. 26-27
- [27] Rollo, p. 16
- [28] Rollo, pp. 31-37
- [29] G.R. No. 194104, March 13, 2013
- [30] Republic of the Philippines, represented by the Privatization and Management Office (PMO) vs. Pantranco North Express, Inc. (PNEI), et al., G.R. No. 178593, February 15, 2012
- [31] Rollo, pp. 81-87
- [32] Rollo, pp. 17-20
- [33] Rollo, pp. 81-87
- [34] Rollo, pp. 88-103
- [35] Rollo, pp. 81-87
- [36] Rollo, p. 113
- [37] Rollo, pp. 81-87
- [38] Rollo, p. 93
- [39] Rollo, pp. 116-117
- [40] Rollo, p. 117
- [41] Rollo, pp. 81-87
- [42] Team Pacific Corporation vs. Josephine Daza in her capacity as Municipal Treasurer of Taguig, G.R. No. 167732, July 11, 2012

[43] Rollo, pp. 20-26

[44] Section 3 (m), Rule 131 of the Rules of Court

[45] Rollo, p. 36

[46] Rollo, pp. 35-36

[47] Aowa Electronic Philippines, Inc. vs. Department of Trade and Industry, G.R. No. 189655, April 13, 2011

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