

UNIVERSAL MOTORS CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS, RAFAEL VERENDIA, TEODORO GALICIA AND MARCELINA GALICIA, RESPONDENTS.

G.R. No. L-47432. January 27, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari seeking the reversal of the decision of the respondent Court of Appeals promulgated on April 29, 1977 which reversed and set aside the decision of the Court of First Instance of Manila, Branch XVII dismissing the complaint with costs against the plaintiff; and its resolution dated November 11, 1977 denying the motion for reconsideration.

The antecedent facts giving rise to the controversy at bar are as follows:

On December 15, 1962 private respondents Rafael Verendia, Teodoro Galicia and Marcelina Galicia purchased from petitioner Universal Motors Corporation two (2) Mercedes Benz trucks at a cash price of P33,608.27 each payable within ninety (90) days.

The private respondents made several payments amounting to the sum of P7,100.00 which were applied to the principal interest and to the expenses incurred in executing and registering a deed of chattel mortgage in favor of petitioner. For failure of the private respondents to pay the cash price of P67,216.54 for the two vehicles within the 90-day period, their account was re-scheduled to allow them a period of thirty (30) months within which to complete the payments.

On June 3, 1963 private respondents executed a promissory note in favor of the petitioner for the sum of P74,064.40 covering the re-scheduled account thereby promising to pay the same in monthly installments at the rates stipulated on the promissory note with interest thereon at 12% per annum until said promissory note is fully paid.

As of September 16, 1965, the balance of said account was P40,945.31 with the accrued interest thereon. But despite repeated demands, the private respondents failed to comply with their foregoing undertaking so that on January 4, 1966 the petitioner commenced a complaint for the recovery of the unpaid balance among others with the Court of First Instance of Manila.

Private respondents in their Answer with Counterclaim admitted the principal allegations of the Complaint, except that they insisted that their outstanding account was only the amount of P28,911.10 as of October 31, 1965.

The petitioner then filed a motion for summary judgment, but the same was denied by the lower court on January 9, 1967.

When the case was called for hearing on February 9, 1967, neither the private respondents nor their counsel appeared despite due notice, hence upon motion of the petitioner's counsel, petitioner was allowed to present

evidence ex-parte. On the basis of such evidence, the lower court on February 10, 1967 rendered judgment in favor of the petitioner.

On April 8, 1968, after re-hearing the case on motion filed by private respondent Rafael Verendia, the court rendered a decision the dispositive portion of which is hereunder quoted as follows:

"IN VIEW OF ALL THE FOREGOING, the Court hereby reiterates its judgment dated February 10, 1967, and again orders the Defendants, Rafael Verendia, Teodoro Galicia and Marcelina Galicia, to pay, jointly and severally to the Plaintiff, Universal Motors Corporation, the sum of P47,732.35 with interest at the rate of 12% per annum on one-half of the principal balance of P69,672.66 from February 10, 1967, until fully paid, plus the further sum equivalent to 25% of the amount due as attorney's fees and the costs of the suit.

"SO ORDERED." (Amended Record on Appeal, pp. 52-53)

From said decision, the private respondents interposed an appeal before the respondent Court of Appeals raising the following errors, to wit:

"1. THE LOWER COURT ERRED IN RULING THUS:

"During the hearing, the Defendant, Rafael Verendia, attempted to prove that he was not indebted to plaintiff but that he had overpaid his obligation to it in the sum of P12,407.32. This allegation x x x is absolutely without merit x x x"

"2. THE LOWER COURT ERRED IN ALLOWING EXECUTION PENDING APPEAL." (Rollo, p. 38)

On May 28, 1968 petitioner filed a motion for execution pending appeal which was granted by the trial court in its order of July 13, 1968. However, petitioner could not find any visible properties belonging to private respondents that may be levied upon, and, therefore, the writ of execution could not be carried out and remained unenforced.

The respondent court reversed the decision of the trial court and rendered a decision promulgated on April 29, 1977, to wit:

"WHEREFORE, the appealed decision is hereby reversed and set aside and in lieu thereof, a new one is rendered (a) dismissing the complaint with costs against the plaintiff in both instances, and (b) ordering restitution to the defendants by the plaintiff of whatever amounts inclusive of the P5,500.00 and P25,000.00 covered by the receipts, Exhibits 3 and 4, which the latter may have received from the former in excess of the amount due under the promissory note, Exhibit A with interest at the legal rate from the date with overpayment.

"SO ORDERED." (Rollo, p. 43)

On June 17, 1977, the petitioner filed a motion for reconsideration of the aforementioned Court of Appeals' decision. However, respondent court in a resolution dated November 11, 1977 denied the motion finding no cogent reason to disturb the questioned decision.

Hence, this present petition raising six (6) assignment of errors, which are as follows:

"I

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN ALLOWING PRIVATE RESPONDENTS, WHO HAVE EXPRESSLY ADMITTED THEIR LIABILITY TO THE PETITIONER IN THEIR ANSWER TO THE COMPLAINT, TO MAKE A COMPLETE TURNABOUT AND NOT ONLY DENY THEIR LIABILITY, BUT EVEN CLAIM OVERPAYMENT.

"II

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN ALLOWING PRIVATE RESPONDENTS TO CHANGE THEIR DEFENSE WHEN THEY HAVE NOT, AT ANY STAGE OF THE PROCEEDINGS, AMENDED THEIR PLEADINGS AND, WHEN THEY INTRODUCED THEIR EVIDENCE THEREON, THE SAME WAS DULY AND SEASONABLY OBJECTED BY PETITIONER.

"III

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN NOT HOLDING THAT THE PRINCIPLE OF ESTOPPEL IS APPLICABLE TO PRIVATE RESPONDENTS.

"IV

THE COURT OF APPEALS GRAVELY ERRED IN EXONERATING PRIVATE RESPONDENTS FROM ANY LIABILITY TO PETITIONER.

"V

THE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT PRIVATE RESPONDENTS HAVE OVERPAID PETITIONER.

"VI

THE COURT OF APPEALS ERRED IN HOLDING THAT THE RESULT OF THE APPEAL INTERPOSED BY PRIVATE RESPONDENT VERENDIA WILL INURE TO THE BENEFIT OF THE OTHER PRIVATE RESPONDENTS WHO HAVE NOT APPEALED THE DECISION OF THE TRIAL COURT. (Rollo, pp. 102-103)

Finding the first five issues interrelated, the petitioner discusses them jointly and submits that the findings of the respondent court are erroneous for the following reasons:

"First, in the answer filed by respondents to the complaint, they expressly admitted that they were indebted to petitioner in the amount of P28,911.10 as of October 23, 1965. (pp. 7-10, Amended Record on Appeal)

"Second, in the same answer, private respondents declared that 'there was no necessity for plaintiff to retain services of counsel as defendants never ran away from a valid obligation' and that 'the institution of this action for which the defendants do not deny and never have they denied (their obligation)' compelled them to retain the services of counsel and incur expenses. (Pars. 6 and 8, pp. 9-10 Ibid)

"Third, private respondents have not at any stage of the proceedings amended their pleadings and when they introduced their evidence attempting to show overpayment of their account with petitioner, the introduction and admission thereof were duly objected to by petitioner. x x x considering that private respondents have not amended their answer admitting liability of their obligation to the plaintiff, they are bound by such admission.

"Fourth, the principle of estoppel is applicable to private respondents, x x x, therefore, their admission of the liability in their Answer to the Complaint is binding upon them and they may no longer deny the same, much less claim overpayment.

"Fifth, it is presumed that private respondent Verendia in the conduct of his business affairs, followed the ordinary course thereof (Rule 131, sec. 5, Par. Q). If, as he claims, he has overpaid the petitioner, why did he immediately confirm to Sycip, Gorres, Velayo & Co. that he owed petitioner P28,911.10? It is not the natural reaction of a man who sincerely believes that he has no obligation at all; it is, on the contrary the natural reaction of a man who knows that he is indebted. x x x"

"Finally, if private respondent Verendia was honestly convinced that his account with petitioner was only the much smaller amount that he is claiming, why did he still allegedly pay P25,000.00 (in cash yet) to Manuel Seeping (p. 21, tsn, Jan. 22, 1968), which supposedly resulted in an overpayment."

"x x x." (Rollo, pp. 108-111)

In sum, the petitioner stresses that where there is ambiguity in a questioned decision of the Court of Appeals, the doubt should be resolved to sustain the trial court.

Finally, in support of its argument that the appeal interposed by private respondent Verendia should not inure to the benefit of the other private respondents who did not appeal, the petitioner emphasizes that the case cited by the Court of Appeals entitled *Municipality of Orion v. Concha*, 50 Phil 679, declares that where the liability of the debtors is joint and several, the judgment on appeal will not affect those who do not appeal. Inasmuch as the Court of Appeals, in its decision states that the liability incurred by the obligors under the promissory note is solidary, the decision should affect only the private respondent Verendia. Hence, insofar as the other private respondents Teodoro Galicia and Marcelina Galicia are concerned, the decision of the trial court, which they did not appeal is, therefore, already final and executory.

In contradiction to petitioner's contentions, private respondents insist that all the arguments of petitioner actually require the court to examine and contrast the oral and documentary evidence submitted by the parties. Private respondents emphasize that the task of examining documentary proofs or exhibits is a task for the Court of Appeals and not this Court.

Private respondents stress that this case does not fall within the exceptions where the Supreme Court can review on appeal the final and conclusive findings of fact of the Court of Appeals.

Furthermore, the private respondents maintain that it is merely discretionary whether the court may allow the pleadings to be amended and that such failure does not affect the result of the trial of the issues.

We find the petition devoid of merit.

We already stressed in the case of *Bustamante v. Hon. Court of Appeals* (G.R. No. 89880, February 6, 1991, 193 SCRA 603, 608-609) that "(a)s a rule, findings of fact of the Court of Appeals are final and conclusive and cannot be reviewed on appeal, provided, they are borne out by the record or are based on substantial evidence. However, this rule admits of certain exceptions, as when the findings of facts are conclusions without citation of specific evidence on which they are based; or the appellate court's findings are contrary to those of the trial court. (*Sese v. Intermediate Appellate Court*, G.R. 66168, 31 July 1987, 152 SCRA 585)"

Furthermore, only question of law may be raised on a petition for review on certiorari under Rule 45 of the Revised Rules of Court. The jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive. It is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed. Barring, therefore, a showing that the findings complained of are totally devoid of support in the records, or that they are so glaringly erroneous as to constitute serious abuse of discretion, such findings must stand for the Supreme Court is not expected or required to examine or contrast the oral and documentary evidence submitted by the parties. (*Andres v. Manufacturers Hanover and Trust Corp.*, G.R. 82670, 15 September, 1989, 177 SCRA 618)

The respondent court opined that the record consisting of both the oral and documentary evidence presented in the case outweighed the findings of fact of the trial court.

The apparent conflict between the findings of the appellate court and that of the trial court is due to the fact that evidence was presented *ex parte* in the lower court while the evidence of the private respondents were presented only on appeal. Hence, the trial court decided the case on the basis solely of the evidence of the petitioner while the respondent court reached a decision with the advantage of weighing and analyzing both the evidence of the petitioner and the private respondents.

Bearing in mind these facts and in the absence of any showing that the findings complained of are totally devoid of support in the records, such findings must stand and be admitted as final and conclusive.

Anent the petitioner's contention that the respondent court committed an error in allowing private respondents to change their defense when they have not at any stage of the proceedings amended their pleadings, We quote the pertinent portion of Section 5, Rule 10 of the Revised Rules of Court, to wit:

"x x x Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. x x x"

In other words, judgment may still be rendered not on the basis of the issues alleged, but on the basis of the issues discussed and proved in the course of the trial. (Paras, *Rules of Court Annotated*, Vol. I, Second Edition, 1989, p. 303) Hence, the failure of the private respondents to amend their pleadings in order to conform to the evidence presented will not at all affect the result of the trial.

Finally, the petitioner's claim that the result of the appeal interposed by private respondent Verendia, one of the solidary debtors will not inure to the benefit of the other private respondents who did not appeal is devoid of merit.

In the recent case of *Citytrust Banking Corporation v. The Court of Appeals and William Samara*, G.R. No. 92591, April 30, 1991, 196 SCRA 553, 563. We already ruled that "the Court will not allow the absurd situation where a co-defendant who is adjudged to be primarily liable for sums of money and for tort would be charged for an amount lesser than what its co-defendant is bound to pay to the common creditor and allowed to collect from the first co-defendant. Such a situation runs counter to the principle of solidarity in obligations as between co-defendants established by a judgment for recovery of sum of money and damages. x x x."

The Court therein noted the modification made by the respondent court which ordered not only the appellant therein but both 'defendants jointly and severally' to pay the new amount. It explained that though, as a matter of procedure, the modification shall be applied only to the appellant, substantial justice and equity also demand that the decision should be interpreted to refer to the non-appealing defendant as well. There exists a strong and compelling reason to warrant an exception to the rule that a judgment creditor is entitled to execution of a final and executory judgment against a party especially if that party failed to appeal. (*Olacao v. National Labor Relations Commission*, 177 SCRA 38 [1989]; *Quigui v. Boncaros*, 151 SCRA 416 [1987]; *Orata v. Intermediate Appellate Court*, 185 SCRA 148 [1990]).

It is obvious that the respondent court committed no error in ruling that its decision inures to the benefit of all the private respondents regardless of the fact that only one appealed. It is erroneous to rule that the decision of the trial court could be reversed as to the appealing private respondent and continue in force against the other private respondents. The latter could not remain bound after the former had been released; although the other private respondents had not joined in the appeal the decision rendered by the respondent court inured to their benefit. When the obligation of the other solidary debtors is so dependent on that of their co-solidary debtor the release of the one who appealed provided it be not on grounds personal to such appealing private respondent, operates as well as to the others who did not appeal. It is for this reason that a decision or judgment in favor of the private

respondent who appealed can be invoked as res judicata by the other private respondents.

All premises considered, the Court is convinced that the respondent court committed no error in reversing the decision of the trial court and in dismissing the complaint in favor of the private respondents.

ACCORDINGLY, the petition is DENIED and the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Narvasa, C.J., Cruz, and Grino-Aquino, JJ., concur.

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