

PHILIPS ELECTRONICS AND LIGHTING, INC., PLAINTIFF-APPELLANT, VS. VERSATECH CONSTRUCTION AND DEVELOPMENT, INC., DEFENDANT-APPELLEE.

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the appeal from the Decision dated 03 March 2011 (“assailed Decision”),[1] and the Order dated 17 January 2012 (“assailed Order”),[2] issued by the Regional Trial Court, Branch 141, Makati City (“RTC”) in Civil Case No. 05-762.

THE FACTS

The facts are as follows: Philips Electronics and Lighting, Inc., (“plaintiff-appellant Philips”) filed the Complaint[3] for sum of money against Versatech Construction and Development, Inc. (“defendant-appellee Versatech”).

The Complaint averred: plaintiff-appellant Philips was engaged in the business of manufacturing, selling, and distributing home appliances, lighting products, electronics, and other consumer items; defendant-appellee Versatech purchased and received from plaintiff-appellant Philips, various merchandise (“subject merchandise”) worth Php10,623,762.12 in good order and condition, per various Invoices;[4] plaintiff-appellant Philips made repeated demands on defendant-appellee Versatech to pay the principal balance in the amount of Php10,623,762.12 but defendant-appellee Versatech did not pay; defendant-appellee Versatech agreed to pay plaintiff-appellant Philips the monthly interest of 2.5% of the invoice value of the subject merchandise (reckoned from the corresponding due dates until the overdue account was fully paid); defendant-appellee Versatech agreed to pay plaintiff-appellant Philips 25% its total obligation (as attorney's fees) in case the collection of the outstanding obligation would be made through an attorney; plaintiff-appellant Philips was constrained to engage the services of, and agreed to pay, counsel the sum of 25% of its total claims (as attorney's fees), and Php2,500.00 for every court appearance, because of the unjustified refusal of defendant-appellee Versatech to pay its obligation.

The Complaint prayed that the RTC render judgment: 1) ordering defendant-appellee Versatech to pay plaintiff-appellant Philips the sum of Php10,623,762.12 (plus interests/penalties, computed at 2.5% per month from date of default until fully paid); 2) ordering defendant-appellee Versatech to pay plaintiff-appellant Philips 25% of the total claim (as attorney's fees), Php2,500.00 for every court appearance of plaintiff-appellant Philip's counsel, the costs of suit, and litigation expenses.

In the Answer with Counterclaim,[5] defendant-appellee Versatech averred: the transaction between plaintiff-appellant Philips and defendant-appellee Versatech was not for the purchase of lighting materials, but rather, plaintiff-appellant Philips and defendant-appellee Versatech entered into a design and construct contract with the Manila Jockey Club Inc. (“MJCI”) for the lighting system design of the race track and parade ring of MJCI's San Lazaro Leisure Park; pursuant to its obligations under the contract, plaintiff-appellant Philips agreed

to design, supply, and warrant the integrity of an appropriate lighting system for MJCI's race track, and warrant the quality of the supplied lamps, materials, and other accessories; defendant-appellee Versatech undertook to perform the civil and electrical works, and supply the materials, manpower, and the necessary equipment for the civil and electrical works; plaintiff-appellant Philips and defendant-appellee Versatech agreed that defendant-appellee Versatech would sign the contract in behalf of plaintiff-appellant Philips; defendant-appellee Versatech complied with its obligations under the contract, but plaintiff-appellant Philips did not; MJCI penalized defendant-appellee Versatech for the failure of plaintiff-appellant Philips to perform its obligations because MJCI had no privity of contract with plaintiff-appellant Philips; defendant-appellee Versatech was not liable for damages, attorney's fees, and costs of suit because plaintiff-appellant Philips did not come to court with clean hands, and defendant-appellee Versatech only exercised its rights, acted with justice, and observed honesty and good faith in the performance of its duties.

By way of Compulsory Counterclaim, defendant-appellee Versatech averred: MJCI penalized defendant-appellee Versatech because of plaintiff-appellant Philips' failure to perform its obligations, thus defendant-appellee Versatech suffered loss of income in the amount of Php25,000,000.00; defendant-appellee Versatech's reputation was damaged because plaintiff-appellant Philips filed the Complaint even if it did not have a cause of action against defendant-appellee Versatech; the court should hold plaintiff-appellant Philips liable to pay defendant-appellee Versatech Php1,000,000.00 (exemplary damages) to deter the public from filing unfounded suits; defendant-appellee Versatech was constrained to hire the services of, and agreed to pay, counsel 25% of the counterclaim, in order to defend itself from plaintiff-appellant Philips' unfounded Complaint.

The Answer with Counterclaim prayed that the RTC render judgment: 1) dismissing the Complaint; 2) ordering plaintiff-appellant Philips to pay defendant-appellee Versatech Php25,000,000 (compensatory damages), Php1,000,000.00 (exemplary damages), and 25% of defendant-appellee Versatech's counterclaim (attorney's fees).

Trial on the merits proceeded.

The following persons testified for plaintiff-appellant Philips: Rosanna Callueg (plaintiff-appellant Philips' Chief Finance Officer); Jose Ricardo Casas (plaintiff-appellant Philips' former Sales Manager).

Plaintiff-appellant Philips' evidence is summarized thus: MJCI, who needed lighting fixtures for its San Lazaro race track, made a proposal to plaintiff-appellant Philips to use plaintiff-appellant Philips' lighting fixtures for the race track on the condition that the fixtures would be properly installed; plaintiff-appellant Philips did not have the technical competence to install the lighting fixtures because it was primarily involved in sales and distribution, thus MJCI referred four contractors (which included defendant-appellee Versatech) who could install the lighting products on the race track to plaintiff-appellant Philips; plaintiff-appellant Philips identified defendant-appellee Versatech to MJCI as the most competent among the four contractors, and in turn, defendant-appellee Versatech ordered the lighting fixtures (the subject merchandise) from plaintiff-appellant Philips; defendant-appellee Versatech ordered to purchase the subject merchandise from plaintiff-appellant Philips worth Php11,538,873.00, per Purchase Order No. 1816;[6] plaintiff-appellant Philips issued the Quotation[7] corresponding to defendant-appellee Versatech's Purchase Order No. 1816; after processing defendant-appellee Versatech's order, plaintiff-appellant Philips delivered the subject merchandise to defendant-appellee Versatech;[8] plaintiff-appellant Philips made several written demands (i.e., First Dunning Notice,[9] Second Dunning Notice,[10] Third Dunning Notice,[11] Fourth Dunning Notice,[12] and the Letter[13] dated 10 March 2004) to defendant-appellee Versatech for the payment of the outstanding balance of Php10,623,762.12, but defendant-appellee Versatech did not pay; as indicated in the Sales Invoices issued by plaintiff-appellant Philips to defendant-appellee Versatech, defendant-appellee Versatech agreed that any unpaid amount on the due date would incur a 2.5% monthly interest until fully paid, and if plaintiff-appellant Philips would resort to legal action

to enforce collection of the unpaid amount, defendant-appellee Versatech would be liable for an additional amount equivalent to 25% of the overdue amount, but not less than Php25,000.00 (as costs of collection and attorney's fees).

The following persons testified for defendant-appellee Versatech: Charlie Fuentes (defendant-appellee Versatech's President); Architect Nathaniel Santos (an employee of MJCI).

Defendant-appellee Versatech's evidence is summarized thus: plaintiff-appellant Philips was going to undertake a lighting system project with MJCI, but plaintiff-appellant Philips could only do the lighting design and did not have the capacity to do the civil works on the project; plaintiff-appellant Philips, through Ricardo Casas (plaintiff-appellant Philips' former Sales Manager), approached Charlie Fuentes (defendant-appellee Versatech's President) so that defendant-appellee Versatech could make an offer for the sub-contracting job on the civil works for the lighting system project; defendant-appellant Versatech submitted the estimate, costing, and scope of works to plaintiff-appellant Philips, which plaintiff-appellant Philips accepted; defendant-appellee Versatech, Charlie Fuentes, Ricardo Casas, and some of plaintiff-appellant Philips' engineers, attended the weekly coordination meeting for all the suppliers and contractors of the MJCI, as a team; during the meeting, Ricardo Casas told the group that he already had a team who could do the civil works for the lighting system project, and that plaintiff-appellant Philips was ready to sign a contract with MJCI; Atty. Alfonso Reno (MJCI's President) made it clear that MJCI wanted to award the lighting system project to plaintiff-appellant Philips since the project was within plaintiff-appellant Philips' field of expertise, and stated that plaintiff-appellant Philips and defendant-appellee Versatech should define their respective roles and obligations as part of the team; in the letter^[14] dated 12 August 2002 addressed to MJCI, plaintiff-appellant Philips and defendant-appellee Versatech, defined their respective roles and obligations vis-à-vis the lighting system project with MJCI; plaintiff-appellant Philips and defendant-appellee Versatech agreed that defendant-appellee Versatech would sign the construction contract with MJCI because plaintiff-appellant Philips could not sign service contracts; after MJCI received the letter dated 12 August 2002, MJCI and defendant-appellee Versatech executed the Construction Contract;^[15] MJCI did not sign a contract with plaintiff-appellant Philips anymore because MJCI was given the impression that plaintiff-appellant Philips and defendant-appellee Versatech were partners in the lighting system project; defendant-appellee Versatech completed and performed its obligations in the lighting system project, but plaintiff-appellant Philips failed to perform its obligations (i.e., failed in the design, supply, and warranty of the lighting system); defendant-appellee Versatech implored plaintiff-appellant Philips to work together as partners, and to finalize a program to complete and officially turn over the lighting system project to MJCI; plaintiff-appellant Philips met with defendant-appellee Versatech and MJCI, and made a commitment to MJCI that it would do its part (i.e., provide a lighting system), but plaintiff-appellant Philips' lighting system failed; MJCI had to look for another supplier because it was not satisfied with plaintiff-appellant Philips' lighting system; MJCI incurred delays and damages because plaintiff-appellant Philips failed to perform its obligations (i.e; defective lighting design; failure to supply the correct luminaries; failure to provide warranties on the integrity of the designed lighting system as well as the supplied materials and accessories; and failure to provide after sales service); defendant-appellee Versatech made a demand on MJCI to pay Php29,000,000.00 for the accomplished work, but MJCI insisted that it would penalize defendant-appellee Versatech for the non-performance of plaintiff-appellant Philips, and deduct the penalty from the Php29,000,000.00; MJCI and defendant-appellee Versatech executed the Agreement,^[16] and defendant-appellant Versatech settled for the compromise amount of Php2,000,000.00, as payment for its work; defendant-appellee Versatech incurred losses because MJCI penalized defendant-appellee Versatech for the shortcomings of plaintiff-appellant Philips.

On 03 March 2011, the RTC rendered the assailed Decision,^[17] dismissed plaintiff-appellant Philips' Complaint, and denied defendant-appellee Versatech's counterclaim.

In the Motion for Reconsideration,[18] plaintiff-appellant Philips prayed for the RTC to set aside the assailed Decision, and averred: the RTC erred in concluding that plaintiff-appellant Philips and defendant-appellee Versatech's joint undertaking was equivalent to a joint venture in the form of an implied partnership; the RTC erred in not considering the purchase order, the sales invoices, and the demand letters, at face value; the RTC erred in ordering plaintiff-appellant Philips to pay the litigation expenses; the RTC erred in dismissing the Complaint. On 17 January 2012, the RTC issued the assailed Order, and denied plaintiff-appellant Philips' Motion for Reconsideration after finding no substantial argument to warrant the reversal of the assailed Decision.[19]

Aggrieved, plaintiff-appellant Philips filed the Notice of Appeal.[20]

In the Plaintiff-Appellant's Brief,[21] plaintiff-appellant Philips raises the following assignment of errors:[22]

ASSIGNMENT OF ERRORS

1. The trial court erred in concluding that the joint undertaking (Exhibit "1") is equivalent to a joint venture, in the form of and equivalent to an implied partnership.
2. The trial court erred in not considering the purchase order and the sales invoices (Exhibits "A" - "G", inclusive) and demand letters at face value indicating that the contract between the parties was a simple sale.
3. The trial court erred in ordering the plaintiff to pay the cost of litigation.
4. The trial court erred in dismissing the complaint.

The issues are: 1) whether the RTC erred in dismissing the Complaint; and 2) whether the RTC erred in awarding the costs of litigation in favor of defendant-appellant Versatech.

PLAINTIFF-APPELLANT'S BRIEF

With respect to the first issue, plaintiff-appellant Philips answers in the affirmative. The RTC erred in dismissing the Complaint. The Plaintiff-Appellant's Brief[23] thrusts: the contract between plaintiff-appellant Philips and defendant-appellee Versatech was one of sale, and not a joint venture or an implied partnership; the RTC erred in not considering the purchase order, the sales invoices, and the demand letters at face value to prove the contract of sale.

Anent the second issue, plaintiff-appellant Philips answers in the affirmative. The RTC erred in awarding the costs of litigation in favor of defendant-appellant Versatech. The Plaintiff-Appellant's Brief thrusts: plaintiff-appellant Philips should not be liable for litigation costs because plaintiff-appellant Philips was left with no recourse but to file the Complaint against defendant-appellee Versatech who refused to pay for the subject merchandise.

BRIEF FOR DEFENDANT-APPELLEE

With respect to the first issue, defendant-appellee Versatech answers in the negative. The RTC did not err in dismissing the Complaint. The Brief for Defendant-Appellee[24] parries: there was no contract of sale between plaintiff-appellant Philips and defendant-appellee Versatech; the RTC correctly ruled that the purchase order, sales invoices, and demand letters, could not be relied upon as proof of sale.

Defendant-appellee Versatech was silent on the second issue.

THE COURT'S RULING

Plaintiff-appellant Philips did not have a cause of action against defendant-

appellee Versatech. There was no contract of sale between plaintiff-appellant Philips and defendant-appellee Versatech.

With respect to the first issue, we rule in the negative. The RTC did not err in dismissing the Complaint.

Article 1458 of the New Civil Code, which defines a contract of sale, is relevant. It states:

Article 1458. By the contract of sale, one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

xxx

By its very nature, a contract of sale is consensual because it is perfected by mere consent. The essential elements of a contract of sale are the following: a) consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price; b) determinate subject matter; and c) price certain in money or its equivalent.[25]

There is here no contract of sale between plaintiff-appellant Philips and defendant-appellee Versatech, because not all the elements of a contract of sale are present.

Plaintiff-appellant Philips presented the following evidence to prove that plaintiff-appellant Philips and defendant-appellant Versatech entered into a contract of sale: the testimony of Jose Ricardo Casas (plaintiff-appellant Philips' Sales Manager) that defendant-appellee Versatech ordered from plaintiff-appellant Philips the subject merchandise which would installed at MJCI's racetrack; Purchase Order No. 1816;[26] Quotation;[27] various sales invoices;[28] and the testimony of Rosana Callueg (plaintiff-appellant Philips) that plaintiff-appellant Philips delivered the subject merchandise to defendant-appellee Versatech.

We are not persuaded by plaintiff-appellant Philips' evidence.

Undoubtedly, the second and third elements of a contract of sale were present. There was a determinate subject matter (i.e., the subject merchandise), and there was a price certain in money or its equivalent (i.e., Php11,538,873.00, the value of the subject merchandise).

However, the first element was absent. There was no meeting of the minds between the plaintiff-appellant Philips and defendant-appellee Versatech, in that, there was no consent to transfer ownership over the subject merchandise to defendant-appellee Versatech in exchange for the price.

It is a well-entrenched doctrine that the transfer of ownership is the very essence of a contract of sale.[29]

In this case, it is clear from the evidence that there was no intent to transfer ownership of the subject merchandise to defendant-appellee Versatech, because plaintiff-appellant Philips delivered the subject merchandise to defendant-appellee Versatech pursuant to their joint undertaking for the lighting design and construction of MJCI's race track.[30]

Plaintiff-appellant Philips' and defendant-appellee Versatech's letter to MJCI dated 12 August 2002[31] further emphasized the fact that plaintiff-appellant Philips and defendant-appellee Versatech did not intend to enter into a contract of sale in relation to the subject merchandise. The pertinent portion of the letter clearly delineated the respective obligations of plaintiff-appellant Philips and defendant-appellee Versatech vis-a-vis MJCI's lighting system project, to wit:

xxx

PHILIPS ELECTRONICS AND LIGHTING, INC., (Philips) and VERSATECH CONSTRUCTION AND

DEVELOPMENT, INC., (Versatech) have agreed to consolidate their resources and technical experience to come up with the design and the construct scheme of the electrical and lighting system of the San Lazaro Leisure Park. The collaborative effort of both companies shall work in accordance with the following specific roles and responsibilities: to wit--

PHILIPS VERSATECH

1. Design -- Provide the lighting system design of the Project in accordance with the agreed lux level for the Racetrack and the Parade Ring.
 2. Supply -- Supply the lighting system, metal poles, luminaries with lamps as well as all the accessories necessary to ensure the integrity of the designed lighting system including the 5% spare lamps.
 3. Warranty -- Warrants the integrity of the designed lighting system as well as the supplied materials and accessories within the one-year warranty period.
1. Design -- Provide the design of the electrical and civil works requirements of the Project to meet and support the lighting system designed by Philips and approved by MJCI.
 2. Supply -- Supply the materials, manpower and equipment necessary to implement the designed electrical and civil works.
 3. Warranty -- Warrants the integrity of the materials and workmanship of the electrical and civil workmanship in accordance with the approved design and plan within the one-year warranty period.

xxx

(Emphasis supplied.)

It is thus evident that under the joint undertaking between plaintiff-appellant Philips and defendant-appellee Versatech, plaintiff-appellant Philips undertook to supply the lighting system (the subject merchandise) which will be needed for MJCI's race track, while defendant-appellee Versatech undertook to supply the materials, manpower, and equipment necessary to implement the designed electrical and civil works. This disproves plaintiff-appellant Philips' claim that it merely acted as the supplier of the lighting materials to defendant-appellee Versatech.

Anent plaintiff-appellant Philips' contention that the RTC erred in not considering the purchase order and the sales invoices at face value to prove sale, we are not persuaded. It is well settled that the issuance of the sales invoices does not prove transfer of ownership of the thing sold to the buyer.[32]

There being no contract of sale between plaintiff-appellant Philips and defendant-appellant Versatech, plaintiff-appellant Philips did not have a cause of action against defendant-appellant Versatech. As such, the RTC was correct in dismissing the Complaint.

The award of costs in favor of defendant-appellee Versatech was proper.

As regards the second issue, we rule in the negative. The RTC did not err in awarding the costs of litigation in favor of defendant-appellant Versatech.

Rule 142, Section 1 of the Rules of Court is relevant. It states:

SECTION 1. Costs ordinarily follow results of suit. -- Unless otherwise provided in these rules, costs shall be allowed to the prevailing party as a matter of course, but the court shall have power, for special reasons, adjudge that either party shall pay the costs of an action, or that the same be divided, as may be equitable. No costs shall be allowed against the Republic of the Philippines unless otherwise provided by law.

(Emphasis supplied.)

Pursuant to Rule 142, above quoted, and considering that plaintiff-appellant Philips did not have a cause of action against defendant-appellant Versatech, we find that the RTC's award of costs against plaintiff-appellant Philips was proper.

We DISMISS the appeal.

IT IS SO ORDERED.

De Leon, M.M., Chairperson and Lantion, J.A.C., JJ., concur.

[1] C.A. Rollo, p. 57.

[2] C.A. Rollo, p. 66.

[3] Records, p. 1.

[4] Invoice No. 6170027801; Invoice No. 6170028840; Invoice No. 6170028870; Invoice No. 6170027811; Invoice No. 6170028834; Invoice No. 6170029083; Invoice No. 6170027807; Invoice No. LI-03-023.

[5] Records, p. 71.

[6] Exhibit "N" (with sub-markings), Records, p. 201.

[7] Exhibit "O," Records, p. 204.

[8] Exhibits "A" to "G" (with sub-markings), Records, pp. 187-193.

[9] Exhibit "I" (with sub-markings), Records, p. 195.

[10] Exhibit "J" (with sub-markings), Records, p. 196.

[11] Exhibit "K" (with sub-markings), Records, p. 197.

[12] Exhibit "L" (with sub-markings), Records, p. 198.

[13] Exhibit "M" (with sub-markings), Records, p. 199.

[14] Exhibit "1" (and sub-markings), Records, p. 364.

[15] Exhibit "2" (and sub-markings), Records, p. 366.

[16] Exhibit "8" (with sub-markings), Records, p. 379.

[17] Supra, note 1.

[18] Records, p. 433.

[19] Order, supra, note 2.

[20] Records, p. 467.

[21] C.A. Rollo, p. 37.

[22] Ibid, p. 45.

[23] C.A. Rollo, p. 37.

[24] C.A. Rollo, p. 74.

[25] Riosa v. Tabaco La Suerte Corporation, G.R. No. 203786, 23 October 2013, citing David v. Misamis Occidental II Electric Cooperative, Inc., G.R. No. 194785, 11 July 2012.

[26] Exhibit "N," supra, note 6.

[27] Exhibit "O," supra, note 7.

[28] Exhibits "A" to "G," supra, note 8.

[29] Commissioner of Internal Revenue v. Court of Appeals , G.R. No. 115349, 18 April 1997.

[30] Decision, supra, note 1, at p. 61.

[31] Exhibit "1," supra, note 14.

[32] Union Motor Corporation v. Court of Appeals, G.R. No. 117817, 20 July 2001

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