

RELIANCE COMMODITIES, INC., PETITIONER, VS. DAEWOO INDUSTRIAL CO., LTD., RESPONDENT.

G.R. No. 100831. December 17, 1993

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-100831/>

FELICIANO, J.:

On 9 January 1980, petitioner Reliance Commodities, Inc. ("Reliance") and private respondent Daewoo Industrial Co., Ltd. ("Daewoo") entered into a contract of sale under the terms of which the latter undertook to ship and deliver to the former 2,000 metric tons of foundry pig iron for the price of US\$404,000.00. Pursuant to this contract, Daewoo shipped from Pohang, Republic of Korea, 2,000 metric tons of foundry pig iron on board the M/S Aurelio III under Bill of Lading No. PIP-1 for carriage to and delivery in Manila to its consignee, Reliance. The shipment was fully paid for. Upon arrival in Manila, the subject cargo was found to be short of 135.655 metric tons as only 1,864.345 metric tons were discharged and delivered to Reliance.

On 2 May 1980, another contract was entered into between the same parties for the purchase of another 2,000 metric tons of foundry pig iron. Daewoo acknowledged the short shipment of 135.655 metric tons under the 9 January 1980 contract and, to compensate Reliance therefor, bound itself to reduce the price by US\$1 to US\$2 per metric ton of pig iron for succeeding orders. This undertaking was made part of the 2 May 1980 contract. However, that contract was not consummated and was later superseded by still another contract dated 31 July 1980.

The 31 July 1980 contract read as follows:

"CONFIRMATION OF ORDER

SALES NOTE No. HSB-SN/S001-R

To Messrs: Reliance Commodities, Inc.

161, 9th Street, 10th Avenue

Caloocan City

Reference: HSB-PI/8019-R

Contracted through:

Order No.:

Commodity: Foundry Pig Iron

Spec.: JIS G 2202 Class 1-1C

Quantity: 2,000MT

Price: US \$190.30/MT C&F Manila

Amount: US \$380,600.00

Packing: Bare Loose

Shipment: August

Destination: Manila

Payment: By an irrevocable at sight letter of credit in favor of Daewoo Industrial Co., Ltd., 541 5th Street, namdaemunro, Jung-Gu,

Seoul, Korea.

Remarks: Other terms and conditions as per attached sheet.

We confirm our sales as specified herein. Subject to the terms and conditions set forth herein, this confirmation of order ("the Contract") constitutes a contract between Daewoo Industrial Co., Ltd. ("Seller") and the addressee ("Buyer"). Other terms and conditions of the Contract are on the back hereof. If you find anything herein not in order, please let us know immediately, if necessary by telex, cable or telegram. Kindly sign and return the duplicate after confirming the above.

Read and agreed to:

Name of addressee: Daewoo Industrial Co., Ltd.

By: ("SGD) MR. SAMUEL CHUASON By: (SGD) JA-HYUNG RYU

Date: July 31, 1980 Date: July 31, 1980"[1]

The attached sheet referred to above set out the following:

"Reliance Commodities, Inc.

Our Reference No. HSB-PI/S019-R

1. Invoicing : Actual Weight

2. Chemical Composition (%):

Carbon : 3.30 min. (aiming 3.80 min.)

Silicon : 2.21-2.60 (aiming 2.60)

Manganese : 0.30-1.00

Phosphorous : 0.45 max. (aiming 0.25 max.)

Sulfur : 0.05 max.

3. Quantity Tolerance : ± 10 percent of total quantity should be allowed.

4. Unit Weight : 5 kgs. ± 1 kg. (one notch)

5. Broken pieces of twenty (20%) percent should be allowed.
6. All disputes, controversies, or differences which may arise between the parties, out of or in relation to or in connection with this contract, or for the breach thereof, shall be finally settled by arbitration in Korea in accordance with the rules and regulations of Korea commercial arbitration association or in the Philippines in accordance with the Philippine arbitration rules.
7. Letter of credit should be opened on or before August 7, 1980.
8. Other terms and conditions, if necessary, are to be solved later by mutual agreement.
9. Mill sheets and copies of non-negotiable documents to be sent to buyer by airmail immediately after shipment.
10. This Sales Note No. HSB-SN/S001R cancels Sales Note No. HSB-SN/8001 dated May 2, 1980."^[2]

On August 1, 1980, Reliance, through its Mr. Samuel Chuason, filed with the China Banking Corporation, an application for a Letter of Credit (L/C) in favor of Daewoo covering the amount of US\$380,600.00. The application was endorsed to the Iron and Steel Authority (ISA) for approval but the application was denied. Reliance was instead asked to submit purchase orders from end-users to support its application for a Letter of Credit. However, Reliance was not able to raise purchase orders for 2,000 metric tons. Reliance alleges that it was able to raise purchase orders for 1,900 metric tons.^[3] Daewoo, upon the other hand, contends that Reliance was only able to raise purchase orders for 900 metric tons.^[4] An examination of the exhibits^[5] presented by Reliance in the trial court shows that only purchase orders for 900 metric tons were stamped "Received" by the ISA. The other purchase orders for 1,000 metric tons allegedly sent by prospective end-users to Reliance were not shown to have been duly sent and exhibited to the ISA. Whatever the exact amount of the purchase orders was, Daewoo rejected the proposed L/C for the reason that the covered quantity fell short of the contracted tonnage. Thus, Reliance withdrew the application for the L/C on 14 August 1980.

Subsequently, Daewoo learned that the failure of Reliance to open the L/C stipulated in the 31 July 1980 contract was due to the fact that as early as May 1980, Reliance had already exceeded its foreign exchange allocation for 1980. Because of the failure of Reliance to comply with its undertaking under the 31 July 1980 contract, Daewoo was compelled to sell the 2,000 metric tons to another buyer at a lower price, to cut losses and expenses Daewoo had begun to incur due to its inability to ship the 2000 metric tons to Reliance under their contract.

On 3 September 1980, Reliance, through its counsel, wrote Daewoo requesting payment of the amount of P226,370.48, representing the value of the short delivery of 135.655 metric tons of foundry pig iron under the contract of 9 January 1980. Not being heeded, Reliance filed an action for damages against Daewoo with the trial court. Daewoo responded, inter alia, with a counterclaim for damages, contending that Reliance was guilty of breach of contract when it failed to open an L/C as required in the 31 July 1980 contract.

After trial, the trial court ruled that:

- (1) the 31 July 1980 contract did not extinguish Daewoo's obligation for short delivery pursuant to the 9 January 1980 contract and must therefore pay Reliance P226,370.48 representing the value of the short delivered goods plus interest and attorney's fees; and
- (2) Reliance is in turn liable for breach of contract for its failure to open a letter of credit in favor of Daewoo pursuant to the 31 July 1980 contract and must therefore pay the latter P331,920.97 as actual damages with legal interest plus attorney's fees.

Reliance appealed the second part of the trial court's judgment. Public respondent Court of Appeals found no

merit in the appeal and in affirming the decision of the trial court ruled that:

- 1) the trial court's finding that Reliance could not have opened the Letter of Credit in favor of Daewoo because it had already exhausted its foreign exchange allocation at the time of its application, was amply supported by evidence; and
- 2) the opening of a letter of credit is not such a future and uncertain event as to make it a suspensive condition within the contemplation of law; but, only a mode of payment agreed upon by the parties, and a standard mode at that when one of the parties to transaction is a foreigner and the consideration is payable in foreign exchange.

In the present Petition for Review, Reliance assails the award of damages in favor of Daewoo. Reliance contends a) that its failure to open a Letter of Credit was due to the failure of Daewoo to accept the purchase orders for 1,900 metric tons instead of 2,000 metric tons; b) that the opening of the Letter of Credit was a condition precedent to the effectivity of the contract between Reliance and Daewoo; and c) that since such condition had not occurred, the contract never came into existence and, therefore, Reliance should not have been held liable for damages.

The issue before us is whether or not the failure of an importer (Reliance) to open a letter of credit on the date agreed upon makes him liable to the exporter (Daewoo) for damages.

In addressing this issue, it is useful to recall the nature of a Letter of Credit, and the mechanics involved in applying for a Letter of Credit.

The nature of a letter of credit was extensively discussed in *Bank of America, NT & SA v. Court of Appeals, et al*[6] by Vitug, J. in the following terms:

A letter of credit is a financial device developed by merchants as a convenient and relatively safe mode of dealing with sales of goods to satisfy the seemingly irreconcilable interests of a seller, who refuses to part with his goods before he is paid, and a buyer, who wants to have control of the goods before paying. To break the impasse, the buyer may be required to contract a bank to issue a letter of credit in favor of the seller so that, by virtue of the letter of credit, the issuing bank can authorize the seller to draw drafts and engage to pay them upon their presentment simultaneously with the tender of documents required by the letter of credit. The buyer and the seller agree on what documents are to be presented for payment, but ordinarily they are documents of title evidencing or attesting to the shipment of the goods to the buyer.

Once the credit is established, the seller ships the goods to the buyer and in the process secures the required shipping documents or documents of title. To get paid, the seller executes a draft and presents it together with the required documents to the issuing bank. The issuing bank redeems the draft and pays cash to the seller if it finds that the documents submitted by the seller conform with what the letter of credit requires. The bank then obtains possession of the documents upon paying the seller. The transaction is completed when the buyer reimburses the issuing bank and acquires the documents entitling him to the goods. Under this arrangement, the seller gets paid only if he delivers the documents of title over the goods, while the buyer acquires the said documents and control over the goods only after reimbursing the bank."[7] (footnotes omitted).

A letter of credit is one of the modes of payment, set out in Sec. 8, Central Bank Circular No. 1389, "Consolidated Foreign Exchange Rules and Regulations", dated 13 April 1993, by which commercial banks sell foreign exchange to service payments for, e.g., commodity imports. The primary purpose of the letter of credit is to substitute for, and therefore support, the agreement of the buyer/importer to pay money under a contract or other arrangement.[8] It creates in the seller/exporter a secure expectation of payment.

A letter of credit transaction may thus be seen to be a composite of at least three (3) distinct but intertwined

relationships, each relationship being concretized in a contract:

- (a) One contract relationship links the party applying for the L/C (the account party or buyer or importer) and the party for whose benefit the L/C is issued (the beneficiary or seller or exporter). In this contract, the account party, here Reliance, agrees, among other things and subject to the terms and conditions of the contract, to pay money to the beneficiary, here Daewoo.
- (b) A second contract relationship is between the account party and the issuing bank. Under this contract, (sometimes called the "Application and Agreement" or the "Reimbursement Agreement"), the account party, among other things, applies to the issuing bank for a specified L/C and agrees to reimburse the bank for amounts paid by that bank pursuant to the L/C.
- (c) The third contract relationship is established between the issuing bank and the beneficiary, in order to support the contract, under (a) above, of the account party and the beneficiary to, inter alia, pay certain monies to the latter.

Certain other parties may be added to the foregoing, but the above three are the indispensable ones.

The issue raised in the Petition at bar relates principally to the first component contractual relation above: that between account party or importer Reliance and beneficiary or exporter Daewoo.

Examining the actual terms of that relationship as set out in the 31 July 1980 contract quoted earlier (and not simply the summary inaccurately rendered by the trial court), the Court considers that under that instrument, the opening of an L/C upon application of Reliance was not a condition precedent for the birth of the obligation of Reliance to purchase foundry pig iron from Daewoo. We agree with the Court of Appeals that Reliance and Daewoo, having reached "a meeting of minds" in respect of the subject matter of the contract (2000 metric tons of foundry pig iron with a specified chemical composition), the price thereof (US \$380,600.00), and other principal provisions, "they had a perfected contract."^[9] The failure of Reliance to open, the appropriate L/C did not prevent the birth of that contract, and neither did such failure extinguish that contract. The opening of the L/C in favor of Daewoo was an obligation of Reliance and the performance of that obligation by Reliance was a condition for enforcement of the reciprocal obligation of Daewoo to ship the subject matter of the contract - the foundry pig iron - to Reliance. But the contract itself between Reliance and Daewoo had already sprung into legal existence and was enforceable.

The L/C provided for in that contract was the mode or mechanism by which payment was to be effected by Reliance of the price of the pig iron. In undertaking to accept or pay the drafts presented to it by the beneficiary according to the tenor of an L/C, and only later on being reimbursed by the account party, the issuing bank in effect extends a loan to the account party. This loan feature, combined with the bank's undertaking to accept the beneficiary's drafts drawn on the bank, constitutes the L/C as a mode of payment.^[10] Logically, before the issuing bank opens an L/C, it will take steps to ensure that it would indeed be reimbursed when the time comes. Before an L/C can be opened, specific legal requirements must be complied with.

The Central Bank of the Philippines has established the following requirements for opening a letter of credit:

"All L/C's must be opened on or before the date of shipment with maximum validity of one (1) year. Likewise, only one L/C should be opened for each import transaction. For purposes of opening an L/C, importers shall submit to the commercial bank the following documents:

- a) the duly accomplished L/C application;
- b) firm offer/proforma invoice which shall contain information on the specific quantity of the importation, unit cost and total cost, complete description/specification of the commodity and the Philippine Standard

Commodity Classification statistical code;

c) permits/clearances from the appropriate government agencies, whenever applicable; and

d) duly accomplished Import Entry Declaration (IED) form which shall serve as basis for payment of advance duties as required under PD 1853." [11] (Underscoring supplied)

The need for permits or clearances from appropriate government agencies arises when regulated commodities are to be imported.[12] Certain commodities are classified as "regulated commodities" for purposes of their importation, "for reasons of public health and safety, national security, international commitments, and development/rationalization of local industry".[13] The petitioner in the instant case entered into a transaction to import foundry pig iron, a regulated commodity. In respect of the importation of this particular commodity, the Iron and Steel Authority (ISA) is the government agency designated to issue the permit or clearance.[14] Prior to the issuance of such permit or clearance, ISA asks the buyer/importer to comply with particular requirements, such as to show the availability of foreign exchange allocations. The issuance of an L/C becomes, among other things, an indication of compliance by the buyer/importer with his own government's regulations relating to imports and to payment thereof.[15]

The record shows that the opening of the L/C in the instant case became very difficult because Reliance had exhausted its dollar allocation. Reliance knew that it had already exceeded its dollar allocation for the year 1980 when it entered into the 31 July 1980 transaction with Daewoo.[16] As a rule, when the importer has exceeded its foreign exchange allocation, his application would be denied. However, ISA could reconsider such application on a case to case basis.[17] Thus, in the instant case, ISA required Reliance to support its application by submitting purchase orders from end-users for the same quantity the latter wished to import. As earlier noted, Reliance was able to present purchase orders for only 900 metric tons of the subject pig iron.[18] For having exceeded its foreign exchange allocation before it entered into the 31 July 1980 contract with Daewoo, petitioner Reliance can hold only itself responsible. For having failed to secure end-users' purchase orders equivalent to 2,000 metric tons, only Reliance should be held responsible.

Daewoo rejected Reliance's proposed reduced tonnage. It had the right to demand compliance with the terms of the basic contract and had no duty to accept any unilateral modification of that contract. Compliance with Philippine legal requirements was the duty of Reliance; it is not disputed that ISA's requirements were legal and valid, and not arbitrary or capricious. Compliance with such requirements, like keeping within one's dollar allocation and complying with the requirements of ISA, were within the control of Reliance and not of Daewoo. The Court is compelled to agree with the Court of Appeals that the non-opening of the L/C was due to the failure of Reliance to comply with its duty under the contract.

We believe and so hold that failure of a buyer seasonably to furnish an agreed letter of credit is a breach of the contract between buyer and seller. Where the buyer fails to open a letter of credit as stipulated, the seller or exporter is entitled to claim damages for such breach. Damages for failure to open a commercial credit may, in appropriate cases, include the loss of profit which the seller would reasonably have made had the transaction been carried out.[19]

We hold, further, that the Court of Appeals committed no reversible error when it ruled that the damages incurred by Daewoo were sufficiently proved with the testimony of Mr. Ricardo Fernandez and "the various documentary evidence showing the loss suffered by the defendant when it was compelled to sell the subject goods at a lower price"[20]

WHEREFORE, in view of all the foregoing, the Petition for Review is hereby DENIED for lack of merit and the decision of the Court of Appeals dated 8 February 1991 is hereby AFFIRMED. Costs against petitioner.

SO ORDERED.

Bidin, Romero, Melo, and Vitug, JJ., concur.

[1] As quoted in the Court of Appeals decision; Rollo pp. 47-48.

[2] Id., Rollo pp. 48-49.

[3] TSN, 16 December 1992, Direct Examination of Mr. Samuel Chuason, p. 40.

[4] TSN, 25 April 1986, Cross Examination of Ms. Nancy Solinap, pp. 11-12.

[5] Records, Exhibits I to I-4 for then-plaintiff Reliance Commodities, Inc., pp. 195-199.

[6] G.R. No. 105395, promulgated December 10, 1993.

[7] Id.

[8] Ryan, "General Principles and Classifications of Letters of Credit", in Letters of Credit (1981), p.12.

[9] Decision of the Court of Appeals, p. 11; Villamor v. Court of Appeals, 202 SCRA 607 (1991); Edca Publishing & Distributing Corporation v. Santos, 184 SCRA 614 (1990).

[10] Sia v. People, 121 SCRA 655 (1983); Vintola v. Insular Bank of Asia & America, 150 SCRA 578 (1987); Abad v. CA, 181 SCRA 195 (1990).

[11] Section 9, CB Circular No. 1389, "Consolidated Foreign Exchange Rules and Regulations", 13 April 1993.

[12] Section 7, id.

[13] Section 6, Chapter II Foreign Trade Transactions, id.

[14] Item No. 19, Section 8, CB Circular No. 1029, "Consolidated Rules and Regulations to Govern Import Transactions", 15 October 1984.

[15] Kramer, d'Arlin, Root, International Trade: Theory, Policy, Practice (1959), p. 603.

[16] TSN, 16 December 1982, p. 39.

[17] TSN, 25 April 1986, p. 26.

[18] TSN, 25 April 1986, pp. 11-12.

[19] Such is the rule in many jurisdictions and in the practice of international trade; see chap. 21, "The Finance of Export", in C.M. Schmitthoff, The Export Trade - The Law and Practice of International Trade, (1962), Stevens & Sons Limited, London.

[20] Decision of the Court of Appeals, p. 13.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.