

GIL RUBIO, PETITIONER, VS. THE COURT OF APPEALS, AND J. GORDON COMMERCIAL CORPORATION, RESPONDENTS.

G.R. No. 101286. July 14, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari to reverse the Decision dated March 14, 1991 of the Court of Appeals and its Resolution dated June 5, 1991 in CA-G.R. No. CV No. 21681.

I

On September 7, 1981, private respondent filed a complaint against petitioner for the collection of a sum of money, alleging that petitioner had on several occasions purchased on credit from private respondent several electronic organs.

The electronic organs were delivered to and received by petitioner at his place of business. He made partial payments by issuing three postdated checks in the total amount of P87,390.66:

CHECK NUMBER

DATE

AMOUNT

57769

March 15, 1981

P19,050.00

21893

March 30, 1981

3,006.66

57770

March 31, 1981

65,334.00

TOTAL:

P87,390.66

(Rollo, pp. 62-63).

The postdated checks were dishonored by the bank on the ground that payment was stopped by petitioner. Hence, the filing of the complaint by private respondent.

In his answer, petitioner admitted that he had entered into a dealership agreement with private respondent. He alleged, however, that he deliberately stopped payment of the checks because private respondent had violated their contract. As affirmative defenses, petitioner alleged: (1) that private respondent lacked the legal capacity to sue as a juridical entity; (2) that the claims had already been waived, abandoned or otherwise extinguished; (3) that one unit was never delivered; (4) that the amount of P95,730.00 in cash had been paid on March 6, 1981 to an official of private respondent; (5) that three units of Kawai Organs valued at P41,840.00 were mere replacements; (6) that if there was any amount left unpaid, the same was very negligible and could be compensated by the damages incurred by him when private respondent failed to replace the defective units and raffled another unit to customers; and (7) that petitioner's stocks in his Davao City establishment worth P113,390.00 were shipped back to private respondent on various dates.

On November 22, 1988, judgment was rendered in favor of private respondent, the dispositive portion of which reads:

"WHEREFORE, premises considered, the Court renders judgment in favor of the plaintiff corporation and against the defendant Gil Rubio, ordering the latter to pay the plaintiff;

1. P216,978.68 representing his total obligation after deducting the cost of the Suzuki Organ to 37P with Serial No. 4515 costing P2,500.00 (P221,478.68 minus P2,500.00 equals P218,978.68) plus 12% interest per annum from demand (May, 1981) until the whole obligation is fully paid;
2. P50,000.00 representing attorney's fees; and
3. Costs of the suit" (Rollo, pp. 74-75).

Petitioner appealed to the Court of Appeals, which disposed as follows:

"WHEREFORE, the judgment appealed from is hereby affirmed subject to the following modifications: The court a quo in the aforesaid decision ordered the defendant-appellant to pay the plaintiff-appellee the sum of P218,978.68 representing his total obligation; however, in view of the foregoing discussion, We find the defendant-appellant liable to pay the plaintiff-appellee the sum of only P127,502.99 with legal interest from May, 1981 until the obligation is fully paid. Costs against appellant" (Rollo, p. 165).

In a Resolution dated June 5, 1991, the Court of Appeals denied petitioner's motion for reconsideration.

II

The main issue to be resolved is the amount of the balance of petitioner's obligation to private respondent.

At the trial, private respondent presented its exhibits showing that on various dates petitioner purchased 13 Kawai and Suzuki Organs with a total value of P247,436.46.

Private respondent admitted having received and deducted from petitioner's outstanding obligation the following checks totalling P97,887.08 in payment of the latter's obligations, to wit:

Check No. 54089 dated November 30, 1980 for P85,187.08;

Check No. 54091 dated December 30, 1980 for P6,350.00; and

Check No. 54092 dated January 31, 1981 for P6,350.00 (Rollo, pp. 70-71).

Private respondent further admitted having received from petitioner seven units returned by the latter with a total value of P91,475.70.

We agree with the appellate court that the amount of P2,500.00 representing one Suzuki Organ, which was raffled off to the customers of private respondent, should also be deducted from petitioner's outstanding obligation.

Taking into account the foregoing considerations, the computation of petitioner's obligation is as follows:

Total Purchases: less:

P247,436.46

Total Checks Paid

P97,887.08

Returned (7) Units

91,475.70

One (1) Suzuki Organ

2,500.00

191,862.78

TOTAL:

P 55,573.68

Hence, petitioner is still liable to pay the amount of P55,573.68 to private respondent.

Concerning the amount of P95,730.00 allegedly paid in cash by petitioner, we agree with the trial court that no such payment was made. It is a well-established rule of evidence that events or facts which usually happen in the ordinary course of business and other human affairs are presumed to have happened or coexisted in any particular case, unless the contrary appears from the evidence (Francisco, Basic Evidence 40 [1991]).

Petitioner had been paying his indebtedness in checks even when the amount was only P6,350.00. With more reason then should he be expected to pay in checks when the amount involved was P95,730.00. The records are bereft of any evidence that could convince this Court that petitioner indeed paid the amount of P95,730.00.

In addition, petitioner contended that the amount of P95,730.00 was in payment of several invoices, including Invoice No. 1291. However, the temporary receipt in which petitioner based his claim of payment shows that he also issued Check Nos. CGY 57770 dated March 31, 1981 for P65,334.00 and CGY 57769 dated March 15, 1981 for P19,050.00 in payment of invoices including Invoice No. 1291. It is highly improbable for petitioner to have paid Invoice No. 1291 twice.

WHEREFORE, the Decision dated March 14, 1991 of the Court of Appeals is AFFIRMED with the MODIFICATION that petitioner is held liable to pay private respondent the sum of P55,573.68 with legal interest from May 1981 until the obligation is fully paid.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.

Bellosillo, J., on leave.

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