

EDMUNDO QUEBRAL, PETITIONER, VS. COURT OF APPEALS AND UNION REFINERY CORPORATION, RESPONDENTS.

G.R. No. 101941. January 25, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The main question answered in this Decision is: what are the effects of a reversal by an appellate court of a trial court's order of dismissal based on a demurrer to evidence? Secondly, when and how does the Supreme Court review factual findings of the Court of Appeals?

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court to reverse the Decision of the Court of Appeals[1] promulgated on July 29, 1991, in CA-G.R. CV No. 24954, which ordered petitioner to pay private respondent various sums of money.

This case was originally assigned to the First Division, but by a resolution dated November 13, 1995, it was transferred to the Third Division. After deliberating on the petition, comment, reply, and memoranda of the parties - as well as the records of the case in both the Court of Appeals and in the Regional Trial Court, this Court assigned the writing of this Decision to the undersigned ponente.

The Facts

A complaint for a sum of money and damages with preliminary attachment was filed by private respondent Union Refinery Corporation against petitioner and Higidio B. Gay-ya, Jr. before the Regional Trial Court, Branch 172,[2] Valenzuela, to collect the amount of P102,991.54, representing the un-paid oil products allegedly purchased by them from private respondent (Civil Case No. 2664-V-87).

The complaint alleged that on August 6, 1984, private respondent, a corporation engaged in refining, sale and distribution of oil, gasoline and lubricants, approved the credit application filed by petitioner which would allow him to sell private respondent's products in La Union, Ilocos Sur, Abra and Baguio City. Sometime in October, 1984, petitioner and Gay-ya, doing business under the name Taurus Commercial, represented to private respondent that they had closed a sale to Susan Lo of Basic Shell Service Station in Mayumbo, Dagupan City of ten drums of "Uniplus" oil products for the amount of P34,201.54, which private respondent delivered as evidenced by Sales Invoice No. 4106 dated October 22, 1984. Petitioner and Gay-ya had also caused the delivery of twenty drums of "Uniplus" oil products costing P68,790.00, including freight charges allegedly to the service station of Joseph Li in Mangaldan, Pangasinan as evidenced by Sales Invoice No. 4060 dated October 8, 1984.

The complaint further alleged that since demands for payment of the deliveries were unheeded by petitioner and Gay-ya, private respondent found out, upon inquiry, that the duo had "connived and conspired" with each other under the business name Taurus Commercial in defrauding private respondent because Susan Lo and Joseph Li never ordered any products of private respondent; rather, the said orders were actually sold by the petitioner and Gay-ya to third persons.

Alleging further that petitioner and Gay-ya were intending to leave the country thereby exposing private respondent to irreparable damages, the same complaint prayed for the issuance of a writ of preliminary attachment. It also prayed that petitioner and Gay-ya be held jointly and severally liable in the amounts of P102,991.54 plus interest thereon, P100,000.00 as damages, and P50,000.00 as attorney's fees.

After hearing, the trial court granted the prayer for a writ of preliminary attachment upon private respondent's filing of a bond in the amount of P103,000.00. In compliance with the order of attachment duly issued by the court on December 28, 1987, a parcel of riceland and a house in Villa Quirino, San Esteban, Ilocos Sur, declared by petitioner and his wife as their own for tax purposes, were attached. Personal properties owned by Gay-ya were also attached.

Contending that he was merely a sales agent of petitioner, Gay-ya filed a motion to dismiss the complaint and to lift the attachment of his proper-ties. Private respondent opposed the motion asserting that Gay-ya "x x x converted to his own use the proceeds of the oil products" amounting to P100,000.00. Annexed to the opposition was a copy of Gay-ya's letter dated July 19, 1985 addressed to the Credit and Collection Manager of private respondent, referring to the "account of Mr. EDMUNDO V. QUEBRAL in the amount of P102,991.54" and admitting personal liability for the following:

"21 (I/200) Drums Uniplus at P3,500.00 per Drum

P73,500.00

Personal loan from E.V. Quebral

18,404.73

Total accountability due URC &/or E.V. Quebral

P91,904.73"

In the promissory note dated July 19, 1985 appended to the aforesaid letter, Gay-ya obligated himself to pay the total amount of P91,904.73 to private respondent under a schedule of payments showing that the payments would be made between August 30, 1985 and May 30, 1986. Both the promissory note and the schedule of payments bore the signature of petitioner under the word "Conforme."

On April 11, 1988, the trial court denied Gay-ya's motion to dismiss and to lift the attachment. On April 19, 1988, private respondent moved that petitioner be declared in default but on April 26, 1988, petitioner filed an answer with counterclaim.

In his answer, petitioner categorically denied that he was a business partner of Gay-ya but admitted that he was Gay-ya's erstwhile co-employee at the Getty Oil Philippines. He averred that Gay-ya "transacted business" with private respondent without his knowledge and consent while using his "good name and credit standing" with private respondent. He asserted that he did not benefit from the business transactions between private respondent and Gay-ya and denied that he was leaving the country to abscond. He interposed a counterclaim against private respondent for the "malicious and groundless action" brought against him which allegedly caused him mental anguish. He therefore prayed for reasonable damages plus attorney's fees aside from the crossclaim for damages he filed against Gay-ya.

Upon motion of private respondent, Gay-ya was declared in default in the order of June 17, 1988.

In its order of September 23, 1988, the trial court granted petitioner's motion to lift the order of attachment citing

as reasons therefor private respondent's failure to substantiate its claim that petitioner was leaving the country to abscond and to prove that there were no sufficient securities for the enforcement of its claims.

The possibility of an amicable settlement between petitioner and private respondent being re-mote, the case was heard in due course. On June 15, 1989, after the private respondent had presented its evidence, petitioner filed a demurrer to evidence contending that private respondent had failed to present "material and competent evidence sufficient to hold (petitioner) civilly liable" for the claims against him. Petitioner averred that private respondent's evidence failed to prove that: (a) his credit application was duly approved; (b) granting that such application was approved by private respondent, the deliveries, per the invoices presented in evidence, were outside of the named areas of coverage appearing in the application, and (c) he never signed any purchase order in relation to the subject of the claims.

On June 26, 1989, the trial court rendered a decision holding that there was no evidence of petitioner's participation in the transactions involved, as he had not received the goods and the deliveries were made in places outside of La Union, Ilocos Sur, Ilocos Norte, Abra and Baguio City. It also found that petitioner's conformity to Gay-ya's promissory note and schedule of payments did not make him liable because it merely showed his "conformity to the assumption by defendant Higidio Gay-ya, Jr. of such liability." It disposed of the case as follows:

"WHEREFORE, in view of the foregoing, the case as against Edmundo Quebral is hereby dismissed. On the other hand, judgment is hereby rendered in favor of plaintiff and against defendant Higidio Gay-ya, Jr. ordering him to pay plaintiff:

1. The sum of P102,991.54 plus interest at legal rate from October 8, 1984 until the full amount is paid;
2. To pay plaintiff the sum of P20,000.00 by way of attorney's fees;
3. Declaring the writ of preliminary attachment against the property of defendant Higidio Gay-ya, Jr. permanent; and
4. Defendant to pay the costs of suit."

Gist of Appellate Court's Decision

Private respondent appealed to the Court of Appeals which, on July 29, 1991, rendered its Decision finding that, contrary to petitioner's allegation in his demurrer to evidence, it was not necessary for private respondent to prove the approval of petitioner's credit application because the fact of such approval was alleged in paragraph 3 of the complaint, and petitioner had admitted in paragraph 2 of his answer said paragraph of the complaint. The appellate court ruled that by such judicial admission, petitioner could no longer dispute the fact of the approval of his credit application.

On petitioner's denials that he was the business partner of Gay-ya and that he had not known about nor consented to Gay-ya's transactions with private respondent, the Court of Appeals said:

"Defendant Quebral, however, denied in his answer that the other defendant Higidio Gay-ya, Jr. was his business partner. This denial might be true, but in his credit application Exh. "B" or "1", he expressly named Gay-ya together with himself as the 'PERSONS AUTHORIZED TO RECEIVE GOODS/DELIVERIES' from plaintiff-appellant corporation; and in his letter to appellant's official Efren Vargas Exh. 'K', defendant Quebral introduced Gay-ya to Vargas as 'my representative.' Hence, although Gay-ya might not have been defendant Quebral's partner, he (Quebral), however, expressly made known to appellant corporation that Gay-ya was his duly authorized representative in his business, and he could not, therefore, blame appellant for regarding Gay-ya as such.

"Defendant Quebral also denied in his answer knowledge of or consent to the transactions represented by the unpaid Sales Invoices Exhs. 'C' and 'D' dated October 8, and 22, 1984, respectively, claiming that it was only his defaulting co-defendant Higidio B. Gay-ya, Jr. who transacted said sales with plaintiff-appellant corporation. And Quebral later claimed in his demurrer, which the lower court sustained, that plaintiff-appellant's evidence had failed to show that he knew of and was equally liable with Gay-ya for the value of the unpaid sales invoices. We are of the opinion, though, that contrary to defendant Quebral's claim and the ruling of the lower court in his favor, plaintiff-appellant corporation had sufficiently established by its evidence defendant Quebral's knowledge of and liability for the unpaid sales invoices in question, and as said defendant opted not to present evidence for himself and to rely solely on his demurrer to plaintiff-appellant's evidence, then the latter's evidence in this case stands uncontradicted and unrefuted and should, therefore, be taken as true."

The Court of Appeals noted petitioner's admission to the sheriff of his liability. As reflected in the sheriff's return, upon receiving the order of attachment, petitioner "proposed an arrangement wherein he undertook to settle his obligation with the plaintiff corporation within reasonable time," for which reason the sheriff, in good faith, did not effect the attachment immediately. As regards Gay-ya's promissory note bearing petitioner's conformity and signature, the Court of Appeals held that such "conforme" to Gay-ya's personal assumption of responsibility for P91,904.73 out of the P102,991.54 which the latter even referred to in his covering letter as 'the account of Mr. EDMUNDO V. QUEBRAL,' only binds Gay-ya and himself but does not necessarily bind appellant corporation who does not appear to have agreed to Gay-ya's promissory note assuming personal liability for P91,904.73 out of Quebral's account of P102,991.54 and his (Gay-ya's) proposal to pay said amount on installment x x x." Therefore, the Court of Appeals concluded that petitioner is still liable to private respondent for the amount of P102,991.54 "in spite of Gay-ya's promissory note, and especially as said promissory note also has remained unpaid." Furthermore, it was immaterial that the transactions involved were made in areas outside of the coverage of the credit application for, as testified to by the private respondent's comptroller, petitioner could also sell in nearby provinces.

The Court of Appeals considered as the "most telling documentary evidence yet" against petitioner his own handwritten letter dated January 19, 1985 to Efren Vargas, an official of private respondent, which reads:

"1-19, 1985

"MR. EFREN VARGAS
UNIOIL

Dear Mr. Vargas,

Bearer is Mr. HB Gay-ya, Jr., my representative. He is accompanying Mr. DICK COSUE, operator of SHELL SS in Carmen, Rosales, Pang. He is the cousin of Mr. W. T. KHO. He is interested in buying 20 drums of PROCESS OIL 150. He is asking for 30 days term and will give you his personal check. His present terms with SHELL is M-30. If you can accommodate him, bill him directly at P3100.00/drum. You may send Mr. Gay-ya to the plant to insure correctness of invoicing.

We are consolidating collection of the drums delivered to Joseph Li & Ms. Susan Lo. Mr. Gay-ya will explain to you further.

By the way, 1 drum delivered to Ms. Lo is leaking. It was half the content already when I last visited her in Dagupan.

We will remit our collection soon.

Thanks & Regards,

Ed"

On this piece of evidence, the Court of Appeals said:

"Defendant Quebral did not deny, as he could not have denied, his foregoing personal letter to appellant's official Efren Vargas who approved his credit application with said corporation. All he stated in his demurrer to plaintiff-appellant's evidence with respect to said letter is that it is 'worthless and does not have probative value in relation to the purpose for which it is being offered considering that it was never duly established. The alleged addressee of the letter was never presented to properly identify the same.' (p. 180, Rec.) We find this contention incorrect, however, since said letter which was addressed to appellant's official Efren Vargas, was presented by appellant as its Exhs. 'K' and 'K-I' and identified by its witness Milagros Po during her direct and additional direct examination to have been received by their office from defendant Quebral by way of reply to their collection letter and telegram which they had sent to the latter (pp. 2-3, tsn. Jan. 10, 1989; pp. 16-17, tsn Feb. 21, 1989). There was no need for Efren Vargas then to identify said letter himself since it was written to him by Quebral not in his personal capacity but in his capacity as an officer of appellant corporation and in connection with its business dealings with Quebral, and especially as the very contents of said letter shows that it was personally delivered to Vargas by defendant Quebral's representative, the other defendant Higidio Gay-ya. In fact, appellant corporation would not have been able to present said letter of Quebral as evidence in this case if it did not receive the same from the latter in the ordinary course of business. As defendant Quebral had failed to present any contrary evidence to show that his said letter Exh. 'K' had not been actually received by or delivered to appellant corporation, therefore, we believe and so hold that appellant corporation had sufficiently proved its receipt of said letter from Quebral."

Interpreting petitioner's letter, the Court of Appeals drew the following conclusions: petitioner had indeed ordered oil products which he sold to Joseph Li and Susan Lo, and he himself promised to collect from said customers and to remit the collections to private respondent. Noting that in the letter, petitioner was introducing Gay-ya while in-voices involved were dated before the letter was sent, the Court of Appeals held that it could not have been possible for Gay-ya to make the particular orders manifested by the invoices. Thus, were it not for Gay-ya's promissory note, petitioner should be held liable for the total amount of P102,991.54 because he acted upon the authority given him by the petitioner. Accordingly, the Court of Appeals disposed of the appeal as follows:

"WHEREFORE, the judgment appealed from herein is REVERSED and SET ASIDE, and another judgment is entered herein:

On appellant's complaint:

- (1) Holding both defendants Edmundo Quebral and the defaulting defendant Higidio Gay-ya, Jr. liable to appellant corporation for the amount of P91,904.73, plus legal interests thereon until said amount is fully paid, with the right on the part of appellant corporation to collect said amount from either defendant Quebral or Gay-ya;
- (2) Ordering defendant Edmundo Quebral to pay appellant corporation the amount of P11,086.81, which is the difference between the amount of P91,904.73 covered by defendant Gay-ya's promissory note of Exh. 'J-2' and the amount of P102,991.54, which is the aggregate value of the Sales Invoices Exhs. 'C' and 'D';
- (3) Ordering defendant Quebral to pay appellant corporation 25% attorney's fees on the amount of P102,991.54, as stipulated in the Sales Invoices Exhs. 'C' and 'D'; and
- (4) Ordering both defendants Quebral and Gay-ya to pay the costs of this suit.

On defendant Quebral's cross-claim:

(1) Ordering defendant Gay-ya to pay his co-defendant Quebral whatever principal amount the latter would be compelled to pay appellant corporation, up to the amount of P91,904.73, plus legal interests thereon until said amount is fully paid; and

(2) Ordering defendant Gay-ya to pay one-half of the attorney's fees and costs that defendant Quebral would likewise be compelled to pay appellant corporation in this case."

Alleged Errors of the Court of Appeals Raised by Petitioner

Petitioner filed a motion for the reconsideration of the Court of Appeals' decision but it was denied. Hence, the instant petition charging the Court of Appeals with "patent and manifest" error in: (a) admitting and considering Exhibit K as the basis for the finding that Gay-ya was petitioner's representative; (b) finding that there were purchase orders made by petitioner; (c) finding that petitioner had sufficient knowledge of and liability for the unpaid sales invoices, and (d) relying upon and giving weight to the report/explanation of the deputy sheriff.

The foregoing alleged errors are attacks on factual findings of the appellate court, which normally are not reviewable by this Court in petitions under Rule 45. However, since the factual findings of the respondent Court are at variance with those of the trial court, we decided to go over the records of the case both in the Court of Appeals and in the Regional Trial Court.

Petitioner asserts that he "vigorously objected" to the admission of Exhibit K primarily because its original was not "produced and introduced in court nor was the supposed addressee presented as a witness to testify and be cross-examined on said exhibit."

The Court's Ruling

We find such assertion to be an attempt on the part of petitioner to foist a falsehood and to mislead this Court. The same attempt to mislead is repeated in petitioner's blatant statement that "a careful scrutiny of the record of Civil Case No. 2664-V reveals that there's no indication that said original was ever produced in court." However, extant in the folder of Exhibits in Civil Case No. 2664-V-87, specifically page 7 thereof, is Exhibit K. It is the original letter itself, handwritten by petitioner on a piece of stationery the upper lefthand corner of which bears this printed identification: "From the desk of: E.V. Quebral," which was marked as Exh. "K-2".

Even if it were true that Exhibit K consisted of a mere photocopy and not the original of the petitioner's letter, petitioner nevertheless failed to make timely objection thereto. As to when an objection to a document must be made, the Court ruled in *Interpacific Transit, Inc. v. Aviles*:^[3]

"Objection to the documentary evidence must be made at the time it is formally offered, not earlier. The identification of the document before it is marked as an exhibit does not constitute the formal offer of the document as evidence for the party presenting it. Objection to the identification and marking of the document is not equivalent to objection to the document when it is formally offered in evidence. What really matters is the objection to the document at the time it is formally offered as an exhibit." (Italics supplied)

In the case at bench, no such timely objection was ever made. Consequently, the evidence not objected to became property of the case, and all parties to the case are considered amenable to any favorable or unfavorable effects resulting from the evidence. As it was, instead of objecting to said document, petitioner simply filed a demurrer to evidence, in the manner described in his own words, as follows:^[4]

"Said EXH. 'K' was never admitted in evidence as the record shows. When the court a quo directed defendant (herein petitioner) Edmundo Quebral to file a written comment on the exhibits submitted by plaintiff (respondent herein), before it could make any ruling on their admission, defendant Quebral filed instead a demurrer to evidence which the court sustained that led to the dismissal of the case insofar as herein petitioner Quebral is concerned."

Contrary to petitioner's claim, however, Exhibit K was in fact produced, introduced, and offered as evidence. This is reflected in the transcript of stenographic notes as follows:

"ATTY. QUINONES:

xxx xxx xxx

"Q In your additional direct examination last time, you presented a letter from Mr. Edmundo Quebral, which was marked as Exhibit K. Kindly show it to the Court..

A (Witness producing..)

ATTY. QUINONES:

Witness producing Exhibit K which is the letter addressed to Mr. Efren Vargas of UNIOIL, dated January 19, 1985 and the dorsal portion marked as Exh. K-I. May we be allowed to have this into the records -

COURT: Is that letter the subject of cross-examination?

ATTY. QUEBRAL:

No, your Honor, I have not touched on that.

COURT: You cannot present that. It is not even in my notes.

ATTY. QUINONES:

May we have it recorded.

COURT: You should have done that during the direct. Why don't you move for additional direct?

ATTY. QUINONES:

If the Court would only remember, during that time that we are presenting this letter, this representation was .

COURT: It would only prolong the whole thing. Since the question is not the subject of cross-examination you cannot ask redirect on that. If you want to, ask permission that you want to ask additional direct. I just want this to be on procedure.

ATTY. QUINONES:

I remember it was.

COURT: Show it if it was the subject of cross-examination.

ATTY. QUEBRAL:

Considering that we requested that we be furnished a copy, we did not touch that on cross-examination, your Honor.

COURT: That is why I said you should ask for additional direct.

ATTY. QUINONES:

In that case, may we be allowed to ask additional direct, Your Honor.

COURT: So this is additional direct..

ADDITIONAL DIRECT BY:

ATTY. QUINONES:

Q This letter that you have produced already marked as Exhibit K and the dorsal portion as Exh. K-I, there is a signature below the words Thanks and regards, Ed. Tell the Honorable Court who is this Ed mentioned in this letter?

A Mr. Ed Quebral, that is his signature, because he suing (sic) his stationery.

Q To whom was it addressed?

A To Mr. Efren Vargas, sir.

Q Not to you?

A No, sir.

ATTY. QUINONES:

This is a stationery coming from the desk of E.V. Quebral, which for purposes of identification, we request to be marked as Exhibit K-2, your Honor.

COURT: Mark it.

ATTY. QUINONES:

And likewise, this portion which was identified by the witness, "Thanks and regards Ed" be bracketed and marked as Exh. K-3, your Honor.

COURT: Mark it.

ATTY. QUINONES:

May I then go back to redirect examination, your Honor."

Exhibit K was formally offered in evidence by private respondent on June 8, 1989 together with other exhibits. Asked by the lower court to comment on the exhibits offered, petitioner instead re-requested that he be formally furnished with copies of the documents and that he be given seven days to comment. The court, however, gave him only five days. As earlier stated, petitioner did not file the required comment - he opted to file a demurrer to evidence. Such move proved to be costly error.

Section 1, Rule 35 of the Revised Rules of Court provides:

"Section. 1. Effect of judgment on demurrer to evidence. - After plaintiff has completed the presentation of his evidence, the defendant without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. However, if the motion is granted and the order of dismissal is reversed on appeal, the movant loses his right to present evidence in his behalf."

A demurrer to evidence abbreviates proceedings, it being an aid or instrument for the expeditious termination of an action, similar to a motion to dismiss, which the court or tribunal may either grant or deny.[5] However, whoever avails of it gambles his right to adduce evidence.[6] Pursuant to the aforementioned provisions of Rule 35, if the defendant's motion for judgment on demurrer to evidence is granted and the order of dismissal is reversed on appeal, judgment is rendered in favor of the adverse party because the movant loses his right to present evidence.[7]

Petitioner's contentions before this Court are premised on the erroneous appreciation by the Court of Appeals of

private respondent's evidence in the trial court. Since such appreciation and the appellate court's conclusions thereon, as mentioned earlier, are contradictory to that of the trial court, the case at bench falls under the exception to the general rule that factual findings of the Court of Appeals are considered final and conclusive.⁸ Accordingly, the Court closely examined the records, only to find out that there is no reason to overturn the findings of the Court of Appeals which are amply supported by sufficient evidence.

WHEREFORE, the instant petition for review is DENIED and the decision of the Court of Appeals is affirmed in toto. Costs against petitioner.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Fourth Division, composed of J. Alicia V. Sempio Diy, ponente, JJ. Vicente V. Mendoza, chairman and Oscar M. Herrera, member; Rollo, pp. 15-28.

[2] Presided over by Judge Teresita Dizon-Capulong.

[3] 186 SCRA 385 (June 6, 1990).

[4] cf Reply to the comment on the petition, p. 4; rollo, pp. 72-77, at p. 75

[5] Nepomuceno vs. Commission on Elections, 126 SCRA 472, 478 (December 29, 1983).

[6] Bagnas vs. Court of Appeals, 176 SCRA 159 (August 10, 1989).

[7] Cruz vs. People, 144 SCRA 677, 680 (October 9, 1986).

[8] Calde vs. Court of Appeals, 233 SCRA 376 (June 27, 1994).

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