

EXCELSA INDUSTRIES, INC., PETITIONER, VS. COURT OF APPEALS, ASIAN ALCOHOL CORPORATION, SPOUSES RODOLFO V. ZULUETA AND GERMAINE R. ZULUETA AND BRIQUETTED DIAMOND CORPORATION, RES...

G.R. No. 105455. August 23, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court to reverse and set aside the decision of the Court of Appeals in CA-G.R. No. 28825 dated 11 March 1992 and its resolution dated 14 May 1992 denying petitioner's motion for reconsideration.

The antecedent facts are not disputed.

On 19 March 1985, private respondent Asian Alcohol Corporation (hereinafter referred to as AAC) entered into an agreement,[1] with petitioner for the purchase of a coal briquetting machine for P1,500,000.00 with P450,000.00 as downpayment and the balance of P1,050,000.00 to be paid in eight (8) equal quarterly installments at 24% interest per annum.

On 18 May 1987, petitioner filed a complaint for recovery of a sum of money before the Regional Trial Court of Quezon City against respondent AAC. Petitioner alleged that despite its numerous demands, respondent AAC refused and failed to pay the remaining balance of the purchase price.

In its answer filed on 19 June 1987, respondent AAC contended that it was constrained to withhold payment of the balance of the purchase price in view of the controversy over the ownership of the machinery it bought from petitioner which arose from the case instituted by spouses Rodolfo and Germaine Zulueta before the Securities & Exchange Commission (docketed as SEC Case No. 2883) against Lorenzo Elago, respondent Briquetted Diamond Corporation (hereinafter referred to as BDC), petitioner Excelsa Industries Corporation and AAC itself. The Zulueta spouses claimed that the true owner of the subject machinery was respondent BDC and not petitioner Excelsa Industries, Inc.

On 27 July 1987, petitioner filed a motion for summary judgment anchored on the alleged admission of respondent AAC of its accountability[2] which respondent AAC opposed on 17 August 1987.

On 26 August 1987, respondent AAC filed a Motion for Leave to File Third Party Complaint against respondents BDC and Rodolfo and Germaine Zulueta.

On 27 August 1987, respondent AAC deposited in trust the remaining balance of the purchase price (P1,050,000.00) with the Far East Bank & Trust Co., Ramada Branch, Manila.

On 25 September 1987, the trial court denied petitioner's motion for summary judgment and admitted respondent AAC's third party complaint.

Petitioner questioned the above-mentioned order in a petition for certiorari and mandamus before the Court of Appeals. On 12 July 1989, the Court of Appeals dismissed the petition and ruled that the "ownership of the machinery sold is a genuine issue as to a material fact which should be threshed out in a full-blown trial." [3]

On 17 October 1989, petitioner filed a petition for certiorari with this Court for the annulment of the Court of Appeals' decision dated 12 July 1989.

On 23 October 1987, this Court dismissed the petition for failure to comply with Supreme Court Circular 1-88. Petitioner's motion for reconsideration was denied in a Resolution dated 6 December 1989.

Meanwhile, on 5 February 1990, respondent BDC filed its answer to the third party complaint and averred that:

2. Paragraph 4 is denied. Third-party defendant BDC does not claim, and has never claimed ownership over the coal briquetting machineries purchased by third-party plaintiff. Third-party defendant likewise does not seek, nor has ever sought nullification and invalidation of the Agreement of Sale entered into by and between plaintiff Excelsa Industries Corporation and third-party plaintiff. Third-party defendant BDC fully recognizes the genuineness, due execution, validity and efficacy of the Agreement of Sale. [4]

On 16 February 1990, petitioner filed a second motion for summary judgment on the ground that the question of ownership has been finally settled when respondent BDC categorically stated, as aforequoted, that it has no claim of ownership over the subject machinery and does not dispute the sale agreement between petitioner and respondent ACC. [5]

On 8 May 1990, the trial court granted petitioner's motion and ruled that respondent BDC's answer to the third party complaint "put to rest the issue of ownership which was the main reason why defendant (respondent) ACC refused to pay the balance of P1,050,000.00 to Excelsa Industries Inc...." [6]

The dispositive portion of the trial court's decision reads:

PREMISES ABOVE-CONSIDERED, summary judgment is hereby rendered in favor of the plaintiff and against defendant Asian Alcohol Corporation ordering the latter to pay to the former the sum of P1,050,000.00 representing the balance of the purchase price of a coal briquetting machinery. Plaintiff is hereby allowed to withdraw the amount above-indicated which was deposited by the defendant in trust for the plaintiff with the Far East & Trust Co., Ramada Branch as full payment of the purchase price.

No pronouncement as to attorney's fees and costs.

The third party complaint is hereby dismissed.

SO ORDERED. [7]

On 31 May 1990, petitioner's motion for execution was granted and subsequently petitioner withdrew the P1,050,000.00 from Far East Bank & Trust Co., Ramada Branch.

On 11 June 1990, the Zulueta spouses appealed to the Court of Appeals. Not satisfied with the decision of the trial court, petitioner likewise appealed to the Court of Appeals on 19 June 1990 for the sole purpose of recovering interest, attorney's fees, exemplary damages and costs of suit.

On 11 March 1992, the Court of Appeals reversed the decision of the trial court and remanded the case to the trial court for trial on the merits. The dispositive portion reads as follows:

WHEREFORE, the decision appealed from is hereby annulled and set aside. The writ of execution issued pursuant to the invalid decision is likewise declared to be legally flawed. Plaintiff-appellant is hereby directed to

cause restitution of the sum of P1,142,036.51; representing the amount withdrawn from the Far East Bank, Ramada Branch upon a proper motion therefor. Also, the case is hereby remanded to the court of origin for trial on the merits.

SO ORDERED.[8]

In the instant petition for review, petitioner made the following contentions:

I

THERE IS NO GENUINE ISSUE AS TO A MATERIAL FACT IN THE CASE. THIS JUSTIFIED THE TRIAL COURT'S SUMMARY JUDGMENT.

II

RESPONDENT ASIAN'S THIRD PARTY COMPLAINT WAS PROCEDURALLY IMPROPER AND CLEARLY REPUGNANT TO THE IDEA OF A THIRD PARTY COMPLAINT AS DEFINED BY THE RULES AND JURISPRUDENCE. THE RESPONDENT COURT FAILED/REFUSED TO ACKNOWLEDGE THIS.

III

THE RESPONDENT COURT ORDERED THE REMAND OF THE CASE TO THE TRIAL COURT YET IT CANNOT GIVE ANY EXPLANATION ON WHY IT SHOULD BE SO REMANDED, AS IT COULD NOT EVEN SAY WHAT THE PARTIES WILL CONDUCT TRIAL FOR, DESPITE PETITIONER'S DIRECT CHALLENGE TO THIS EFFECT.

IV

THE RESPONDENT COURT LIKEWISE ERRED IN NOT GRANTING PETITIONER'S CLAIM FOR DAMAGES.[9]

The petition has no merit.

The issue boils down to whether or not it was proper for the trial court to render summary judgment in the case at bench.

We rule that it was not.

Summary judgment under Rule 34 of the Revised Rules of Court is a procedural technique which is proper only if there is no "genuine issue as to the existence of a material fact and that the moving party is entitled to a judgment as a matter of law." [10]

It is a method intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits on record. [11]

Summary judgment or accelerated judgment is a device for weeding out sham claims or defenses at an early stage of the litigation, thereby avoiding the expense and loss of time involved in a trial. The very object is to separate what is formal or pretended in denial or averment from what is genuine and substantial, so that only the latter may subject a suitor to the burden of a trial. [12]

The term "genuine issue" has been defined as an issue of fact which calls for the presentation of evidence as distinguished from an issue which is sham, fictitious, contrived, set up in bad faith and patently unsubstantial so as not to constitute a genuine issue for trial. The court can determine this on the basis of the pleadings, admissions, documents, affidavits and/or counter-affidavits submitted by the parties to the court. Where the facts

pleaded by the parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial.[13]

Well-settled also is the rule that the party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact.[14] Upon the plaintiff is the burden to prove the cause of action, and to show that the defense is interposed solely for the purpose of delay. After the plaintiffs burden has been discharged, defendant has the burden to show facts sufficient to entitle him to defend.[15]

Although determination of the efficacy of a motion for summary judgment depends on the particular circumstances of the case, the general test is whether the pleadings, affidavits and exhibits in support of the motion are sufficient to overcome the opposing papers as to justify a finding as a matter of law that there is no defense to the action or the claim is clearly meritorious.[16]

Applying the foregoing principles to the case at bench, we find that there exists a genuine and vital factual issue, namely, who is the rightful owner of the subject machinery.

It is quite apparent that the trial court based its decision on petitioner's second motion for summary judgment solely on the answer filed by respondent BDC. It failed to consider or appreciate the answer of the other third party defendants, now respondents Zulueta spouses, minority stockholders of respondent BDC, who have unwaveringly and persistently asserted that the coal briquetting machine, subject of the sale agreement between petitioner and respondent AAC, belong to or are among the properties of respondent BDC.[17]

As readily observed by the Court of Appeals:

... In addition, the other third-party defendants (Rodolfo and Germaine Zulueta) did not simply fold their arms and keep their voices of protest to themselves since they also externalized their indignation as early as October 30, 1987 (page 83, Record) or three years prior to the decision rendered on May 8, 1990. Hence, this caveat definitely posed a serious question on the issue of ownership which was asserted by Rodolfo Zulueta as Treasurer of Briquetted Diamond Corporation premised on the theory that the alienation of the machinery from Briquetted Diamond Corporation to Excelsa is ultra vires due to absence of stockholders' approval but, regrettably, only the other answer submitted by Briquetted Diamond Corporation to the third party complaint was considered by the lower court.[18] (*Italics ours.*)

Moreover, we note with some perturbation the ownership structure of petitioner Excelsa Industries, Inc. and respondent BDC. Lorenzo Elago, the current president of petitioner Excelsa Industries, Inc. is, likewise, one of the majority stockholders of respondent BDC.[19] The effect that this kind of set-up may have on the issue of ownership over the subject machinery in the instant case should have been considered by and should have cautioned the trial court. At the very least, it clothed the aforequoted answer of respondent BDC with some suspicion.

The question of ownership thus raised by respondent AAC is a substantial issue. It was not merely contrived to delay payment of the purchase price. As the records show, respondent AAC had already deposited the amount of P1,050,000.00 representing the remaining balance of the purchase price in trust. Hence, it cannot be accused of bad faith.

Petitioner cannot rely on the dismissal of the case filed with the Security & Exchange Commission by respondent Zulueta spouses against petitioner and the other respondents, including Lorenzo Elago. The SEC and this Court dismissed the case not on the merits but on grounds of lack of jurisdiction precisely because the issue involved ownership of machineries and equipment (including the subject machinery) and not an intra-corporate dispute:

From a perusal of the allegation of the petition, we find and so hold that there already existed in the petition itself a controversy as to the ownership of the machineries and equipment involved in this case. For this reason, we hold that we have no jurisdiction over the instant case. xxx (Rodolfo Zulueta, et al. v. Lorenzo D. Elago, et al., SEC Case No. SEC-AC No. 167; Order pages 1 and 2).[20]

From the foregoing, we therefore hold that a trial on the merits is necessary. "Courts should not render summary judgment hastily.... considering that this remedy is in disparagement of a party's right to due process...."[21]

It is well to remember that:

In case there is doubt as to the propriety of a summary judgment, the doubt shall be resolved against the moving party. The court should take that view of evidence most favorable to the party against whom it is directed and give that party the benefit of all favorable inferences. The trial courts have but limited authority to render summary judgments and may do so only in cases where there is clearly no genuine issue as to any material fact. The rule does not invest the court with jurisdiction summarily to try the factual issue on affidavits, but authorizes summary judgment only if it clearly appears that there is no genuine issue as to any material fact.[22]

ACCORDINGLY, the petition is hereby DISMISSED. The decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Hermosisima, Jr., JJ., concur.

[1] Annex K to the Petition, Rollo, pp. 85-92.

[2] Rollo, p. 35.

[3] Ibid.

[4] Ibid.

[5] Rollo, p. 84.

[6] Ibid.

[7] Ibid.

[8] Id., at 38.

[9] Id., at 9.

[10] Sec. 3, Rule 34, Revised Rules of Court; Solid Manila Corporation v. Bio Hong Trading Co., Inc. 195 SCRA 748 (1991); Arradaza v. CA, 170 SCRA 12 (1989); De Leon v. Faustino, 110 Phil. 249 (1961).

[11] Viajar v. Estenzo, 89 SCRA 685 (1979); Bayang v. CA, 148 SCRA 91 (1987).

[12] Estrada v. Consolacion, 71 SCRA 523 (1976).

[13] Paz. v. CA, 181 SCRA 26 (1990); Garcia v. CA, 167 SCRA 815 (1988); Caderao v. Estenzo, 132 SCRA 93 (1984); Vergara, Sr. v. Suelto, 156 SCRA 753 (1987); PNB v. Noah's Ark Sugar Refinery, 226 SCRA 36 (1993).

[14] Viajara v. Estenzo. supra. Paz v. CA. supra.

[15] Estrada v. Consolacion. supra.

[16] Sugay v. CA, 198 SCRA 349 (1991); Galicia v. Judge Polo, 179 SCRA 371 (1989); Estrada v. Consolacion. supra.

[17] Rollo, pp. 74-75.

[18] Id., at 37.

[19] Id., at 30, 74.

[20] Id., at 47.

[21] Paz v. CA. supra. Viajar v. Estenzo. supra.

[22] Archipelago Builders v. IAC, 194 SCRA 207 (1991); Viajar v. Estenzo. supra. Paz v. CA. supra.

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