JOHNNY K. LIMA AND WILLIAM LIMA, PETITIONERS, VS. TRANSWAY SALES CORPORATION AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 106770. October 22, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court assailing the Decision of the Court of Appeals in CA - G.R. No. 11420, dated October 10, 1991, and its Resolution, dated August 4, 1992, denying the Motion for Reconsideration.

The facts that matter are as follows:

> On October 19, 1981, Johnny K. Lima brought a Complaint against Transway Sales Corp. and Jose U. Yao for Delivery of Personal Property with Damages and prayer for the issuance of writ of replevin, docketed as Civil Case No. 14755 before Branch II of the Regional Trial Court of Davao, alleging inter alia:
>
> xxx " 2. That sometime before July, 1981, Plaintiff contracted the Defendant to install an airconditioner in Plaintiff's Volkswagen car with full assurance that the car airconditioner have a cooling effect in such type of a car;
>
> 3. That acting on such assurance by the Defendant, Plaintiff had his car installed the airconditioner;
>
> 4. That after the installation by the defendant of the airconditioner on Plaintiff's car, the airconditioner has no cooling effect contrary to the Defendant's full assurance and despite repeated demands to repair or reinstall another airconditioner, defendant refused and failed and still refuses and fails to do so.
>
> 5. That sometime in the month of July, 1981, the Defendant without authority to impound took possession, held and impounded the car valued at P55,000.00 with Motor No. BJ-515079; Serial Chassis No. FJ-829501; Plate No. BV-6-727; Color Blue; in its premises unlawfully and despite demands to release the car, the Defendant refuses and fails to do so," xxx[1]

In an Order dated November 15, 1981, Judge Francisco Z. Consolacion of the lower court of origin found the existence of a mechanic's lien in favor of defendant and denied the application for seizure sought for by plaintiffs, citing Article 1731 of the New Civil Code which provides:

> "He who has executed work upon a movable has a right to retain it by way of pledge until he is paid."

The defendant filed its Answer on November 26, 1981, averring thus:

> "The plaintiff had used the car with the airconditioner from March 1981 to July 1981 without any complaint. When plaintiff complained about the airconditioner sometime in July 1981 defendants tested the car in the presence of plaintiff's mechanic and driver and the cooling efficiency is good.
>
> Apparently, plaintiff's complaint is that when the car is driven at a low speed, especially within the city, the cooling effect is reduced, but that is normal in air-conditioned vehicles.

> 5. Defendants admit having detained possession of plaintiff's car but denies specifically the allegation contained in paragraph 5 that defendant(s) without authority to impound, took possession, held and impounded the car valued at P55,000.00 with Motor No. BJ-515079, Serial/Chassis No. FJ-829501, Plate No. BV-6-727, Color Blue, the truth being that defendants, who have executed work on the vehicle above described by installing thereon an air-conditioning unit, supplying the air-conditioning unit made by Mac Frost Co., materials and labor in connection therewith, has a right to retain said motor vehicle by way of pledge until the defendants shall have been paid by the plaintiff the value of the air-conditioning unit, materials and labor supplied by defendants in connection with said installation.

xxx xx x xxx

> 2. By reason of the defendants's mechanic's lien on the car, the plaintiff may not take possession of the said car even by an action for replevin without first paying for the value of the air-conditioning unit, the materials and labor supplied by the defendants in the installation of said air-conditioning unit on the plaintiff's car.
>
> 3. The case has become moot and academic for the reason that the plaintiff already paid the defendant's claim in connection with the installation of the air-conditioning, materials and labor supplied by defendants in installing said air-conditioning unit. The defendants delivered the car to, and accepted by the plaintiff or his representative in good order and condition. xxx"[2]

In the Answer to defendant's Counterclaim dated December 11, 1981, the plaintiffs countered:

> "xxx it was Defendant's own making since the Defendant illegally detained the car, because there was no mechanic's lien, as the installation of the air-conditioning unit was a case of a contract of sale between the Plaintiff and the Defendant, the Plaintiff being the buyer and the Defendant, the seller, the installation being a part of the contract of sale, and that there was breach of the contract of sale, the air-conditioning unit having no cooling effect, the complaint having been lodged by Plaintiff immediately upon receipt of the car but the Defendant refused and failed to remedy the defect and if any lien there was, it was released when the Defendant delivered the car to the Plaintiff only to be repossessed after more than three (3) months.
>
> xxx 3. That although indeed, Plaintiff caused the release of the Volkswagen car, by paying the alleged indebtedness, he has done so under protest xxx[3]

On November 11, 1982, plaintiffs presented a Motion to Admit Amended Complaint to which the defendant interposed its Opposition on December 1, 1982. Plaintiffs sent in their Reply to such Opposition on December 10, 1982.

On December 24, 1982, the trial court allowed the Amended Complaint which alleged that:

> xxx "on or about March 12, 1981, Plaintiff purchased an airconditioner with free installation from the Defendant for the sum of P5,819.50 and on or about March 21, 1981, Plaintiff had another vehicle re-aligned for which defendant charged Plaintiff the sum of P46.35;
>
> 3. That Defendant before installing the airconditioner on Plaintiff's Volkswagen car fully assured the latter that the airconditioner could have cooling effect on such type a car;
>
> 4. That acting on such assurance by the Defendant, Plaintiff had his car installed the airconditioner;
>
> 5. That after the installation by the Defendant of the airconditioner on Plaintiff's car, the airconditioner has no cooling effect contrary to the Defendants fully (sic) assurance and despite repeated demands to repair or reinstall another airconditioner;[4]

The parties filed below their Memorandums on February 12, 1986 and March 6, 1986, respectively. After their offer of evidence, the lower court came out with its Decision, disposing thus:

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> "WHEREFORE, all the foregoing consideration duly considered, judgment is hereby rendered dismissing the complaint for lack of merit, and rendering judgment on defendants' counterclaim, hereby ordering the plaintiffs, jointly and solidarily, to pay the defendants:
>
> 1.-the amount of P50,000.00 as moral damages for having injured the reputation and goodwill of the defendants;
>
> 2.-the amount of P5,000.00 as exemplary damages;
>
> 3.-the amount of P5,000.00 as and for attorney's fees;
>
> 4.- the amount of P2,000.00 as and for litigation expenses; and
>
> 5. -to pay the costs of the suit.[5]

In support of its judgment of affirmance, the Court of Appeals ratiocinated and concluded:

> "Based upon a careful and painstaking examination and evaluation of the evidence adduced, plaintiff's seemingly narrow, straight-jacketed version has to fail, as it clearly defies logic.
>
> Necessarily and unavoidably, in the installation of the air-conditioner, costs for the labor of the mechanic is part and parcel of the costs of the unit bought by the car owner. Now, if the car owner, for reasons of his own, without taking into consideration the other parties side, refuses to pay such cost price of the air-conditioning unit, how then can one service shop owner/dealer (here the defendant-corporation) pay its mechanic responsible for installing the unit on the car? It is simply on this very aspect where, as correctly and judiciously found and resolved by the Court even way back November 19, 1981, after due hearing, that the issue as to the existence of a "mechanic's lien" has to be ruled in the affirmative. xxx

xxx xxx xxx

Ex-Senator Arturo Tolentino, in his Commentaries and Jurisprudence on the Civil Code, Vol. II, pp. 941-942, said:

> "A person who has made repairs upon an automobile at the request of the owner is entitled to retain it until he has been paid the price of the work executed (Bachrach Motor Co. vs. Mendoza, 43 Phil. 410). This lien of the mechanic on the property on which he has made repairs, is superior to the right of the chattel mortgage, and the latter cannot take possession of the property, even by action for replevin, without first paying for the value of the services of the mechanic." (Bachrach vs. Mantel, 25 Phil. 410)

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> The plaintiffs's contention, however, that the air-conditioning unit installed did not efficiently cool, the car, hence, raised that as an excuse for refusing to pay the agreed invoice price of the same. Such excuse appear flimsy. For a period encompassing about four (4) months from the unit's installation, plaintiffs undoubtedly used the air-conditioner without any complaint as to its malfunctioning or unsatisfactory performance. While they had claimed having called by telephone the office of the defendant-corporation three or four times complaining about the sub-normal efficiency of the unit, such deserves scant, if any, credence as common sense would show that a car owner, the moment he notices some malfunctioning in his car, or its accessory, would immediately bring it immediately (sic) to the shop where such trouble can be repaired or fixed, or where the accessory have (sic) been obtained and installed for check-up and repair by its expert mechanics. One does not merely call-up the service shop concerned, except when the vehicle itself is stalled by other serious defects. A straight-dealing car owner would not even dare bring his motor vehicle to another shop on the pretext that defendant's service failed to fix the alleged malfunctioning of the air-conditioning unit, which is not only another risky recourse, but quite inconceivable. It was only July 1981 when the complaint on the alleged improper functioning of the air-conditioning unit was made, as embodied in the letter of their Legal Counsel,

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> but only after they were in receipt of a collection letter (Ex. "3") from defendant-corporation (tsn., pp. 118-119, Aug. 14, 1984, Test. of Jose U. Yao)

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> As to the contrasting, directly contradict positions portrayed by the plaintiffs and the defendants on whether Credit Invoice No. 14253 (Exh. "D"; "2") refers to an alignment of a Galant Car, and not the Volkswagen car as plaintiffs want the Court to believe, but on the contrary refers to the very same Volkswagen car of plaintiff, as defendants contend, this Court is strongly inclined to give more weight and credence to the postulated version of the defendants. Logic and simple common sense supports this conclusion. Not only because both invoices are in the name of William Lima but both were duly signed by him (Exh. "1-A", "2-A") when he brought his Volkswagen car for installation of the car airconditioner on March 12, 1981, and again for the alignment (wheels) on March 21, 1981. It is a fact that even if a motor vehicle is relatively new, it does not mean that it does not need its wheels aligned. Experience says it should. Moreover, the explanation of Jose U. Yao appears highly impressed with factual basis, logical and highly convincing, in contrast to what plaintiffs have noticeably exaggerated.

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> And, quite importantly, for the institution of the verified complaint despite its built-in lack of legal as well as factual basis, resulting as a consequence in not only compelling the defendants to engage the services of counsel to protect their right and interest in this unfounded suit for an agreed fee of P5,000.00, but have undeniably subjected their business good will and reputation to unwarranted damage and injury, as a consequence of the malicious and unwarranted suit, it being one of the City's successful and reputable progressive firm engaged in the business of selling and dealing with automotive accessories, tires, batteries, air-conditioners, plus service shops, inter alia, as managed by defendant Jose U. Yao, basic tenets of justice and fairplay dictates that they be awarded commensurate compensation for clear damages and injuries it/they have suffered on account of this unfounded complaint apart from exemplary damages it is entitled to if only to set the example for the public good, so as to inculpate (sic) upon the plaintiffs to act in the future in its dealings with others with more prudence, circumspection and fairness."[6]

On May 5, 1986, the plaintiff filed a notice of appeal and the trial judge ordered that the records be forwarded to the Intermediate Appellate Court (now Court of Appeals). On April 1, 1987, the plaintiffs filed their Briefs and on October 10, 1991, the Ninth Division of the Court of Appeals reproduced in verbatim the findings of fact of the trial court and ruled in favor of the defendants, to wit:

> "In view of the foregoing, there was no error committed by the Court a quo in not holding defendants liable to the plaintiff for damages, nor in holding plaintiffs liable to the defendants.
>
> Furthermore, even assuming arguendo that the court a quo erred procedurally in not granting the writ of replevin after plaintiff filed the necessary bond, the issue of replevin became moot and academic when the car was returned to the plaintiff, even before plaintiffs' amended complaint was admitted. Neither was there error in allowing oral evidence anent the credit invoice since a reading of the answer of defendants shows that defendants expressly claim therein "the value of the air-conditioning, materials and labor supplied by defendants," to the effect that there was no violation of the parole evidence rule, nor were defendants estopped from submitting the invoice, to prove that plaintiffs also brought the Volkswagen car for alignment, just because they objected thereto as "immaterial and irrelevant" when plaintiffs submitted the same as Exhibit "D", since plaintiffs were submitting it for a different purpose.
>
> PREMISES CONSIDERED, WE find no reversible order in the decision being appealed from, which is hereby AFFIRMED in all respects."[7]

On November 6, 1991, the plaintiffs filed a Motion for Reconsideration of the aforesaid Decision but to no avail.

The same was denied in the Resolution issued on August 4, 1992 by the Court of Appeals.

Undaunted, the petitioners found their way to this Court via the present Petition for Review on Certiorari, posing the issues:

> "WHETHER OR NOT A MECHANIC'S LIEN EXIST FOR WORKS DONE UPON A MOTOR VEHICLE WHICH WAS RELEASED TO THE OWNERS TO BE PAID ON CREDIT OR WHETHER OR NOT A MECHANIC'S LIEN MAY BE REINSTATED AUTOMATICALLY ON THE SUBJECT PROPERTY AFTER IT WAS RELEASED TO THEIR OWNERS BUT SUBSEQUENTLY RETURNED TO THE MECHANIC FOR FURTHER REPAIRS.
>
> WHETHER OR NOT PETITIONERS-APPELLANTS SHOULD BE HELD LIABLE FOR DAMAGES WHEN THEY MERELY EXERCISE (sic) THEIR RIGHT TO LITIGATE"[8]

Petitioners placed reliance on the Best Evidence Rule,[9] Parole Evidence,[10] Article 32[11] of the New Civil Code, and judicial admission.

On October 27, 1992, the Second Division of this Court resolved to dismiss the petition, on the basis of the following disquisition:

> "Pursuant to the Constitutional mandate to adopt a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court and to complement further Administrative Circular No. 1 on January 28, 1988, the Court in an En Banc resolution dated November 8, 1989, as amended by Revised Circular No. 1-88 effective July 1, 1991, stressing strict compliance with the Rules governing the filing of the petitions in this Court and providing that only petitions that comply strictly with the following requirements of the Rules of Court shall be entertained:

xxx xxx xxx

> 2. proof of service of a copy of the petition on the lower court, tribunal or office concerned and on the adverse party;

xxx xxx xxx

> On the basis of the foregoing, the Court RESOLVED TO DISMISS the petition for review on certiorari for non-compliance with the above-mentioned requirement no. 2, besides the fact that the petition was filed out of time on September 14, 1992, due date being August 28, 1992, and that the petitioners failed to submit the registry receipts as proof of service on the respondents of copies of the aforesaid petition as well as the certification that no other action or proceeding involving the same issues raised in this case has been filed or is pending before any court, tribunal or agency, pursuant to Circular Nos. 19-91 and 28-91 dated August 13, 1991 and September 17, 1991, respectively."[12]

On November 11, 1992, petitioners moved for reconsideration of the October 27, 1992 Resolution of dismissal, contending that the requisite registry receipts were not attached to the pleadings due to the inadvertence of one Virginia Cabaylo, and that there was compliance with Circular No. 19-91.

On February 15, 1993, the Court granted the Motion for Reconsideration and on October 28, 1993, the respondent corporation filed its Comment on the Petition, inviting attention that (1) the Petition does not distinctly set forth questions of law and (2) the petitioners still question the factual findings of the trial court and the Court of Appeals, contrary to the nature of the petition for review on certiorari.

In their Reply of January 19, 1994, petitioners advanced the same arguments embodied in the Petition. On April 7, 1994, the respondent corporation sent in a Rejoinder to the Reply, citing Articles 1731, 2085 and 2093 of the New Civil Code, to wit:

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> "Article 2085. The following requisites are essential to the contracts of pledge and mortgage:
>
> (1) That they be constituted to secure the fulfillment of a principal obligation;
>
> (2) That the pledgor or mortgagor be the absolute owner of the thing pledged or mortgaged;
>
> (3) That the persons constituting the pledge or mortgage have the free disposal of their property, and even in the absence thereof, that they be legally authorized for the purpose.

xxx xxx xxx

> Article 2093. In addition to the requisites prescribed in Article 2085, it is necessary, in order to constitute the contract of pledge, that the thing pledged be placed in the possession of the creditor, or of a third person by common agreement."

As to the Counterclaim, the respondent corporation relied on the decision in Dongco vs. Intermediate Appellate Court, 187 SCRA 541, which held:

> "As already pointed out, the Trial Court- and the Intermediate Appellate Court - found the plaintiffs, the Dongcos, to have acted in bad faith, their allegations shown to be false by the evidence, and decreed that not only should their complaint be dismissed but they should be sentenced as well, to pay damages to the defendant spouses. xxx"[13]

Both parties submitted their Memoranda on December 17, 1996 and August 28, 1997, respectively, anchored on the same arguments contained in their earlier pleadings.

The petition is not impressed with merit.

To begin with, the case has not been rendered moot and academic by the payment by petitioners of P5,865.85, representing the cost of installation of the air-conditioning unit in question, since they paid the same under protest.

On the matter of existence of mechanic's lien in favor of the respondent corporation, explicit is the applicable provision of Article 1731 of the New Civil Code that the latter can legally retain, by way of pledge, the movable upon which it executed its work. Corrolarily, the respondent corporation regained possession of subject Volkswagen car when it was returned to it for further repairs, and that the requirement of possession under Article 2093 of the New Civil Code had been satisfied and accordingly, the mechanic's lien was retained. In the case of Virata, et. al. vs. Benjamin H. Aquino, et. al, G.R. No. L-35027, September 10, 1973, 53 SCRA 24, 38 the Court held:

> "xxx The situation is no different from the garnishee being one with a mechanic's lien over a car that he has repaired; until he has been paid his charges, his mechanic's lien entitles him to sole custody of the car xxx"

There is no tenability to petitioners' contention that what is sued upon is a contract of sale and not the repair done on subject Volkswagen car, and to their submission that the proper action of respondent corporation is an ordinary collection case.

It should be noted that it was only after the petitioners received the collection letter of respondent corporation that the former complained to the latter that subject air-conditioner was not functioning well. It should be noted that the said air-conditioner was installed on March 12, 1981 and yet, it was only in June 1981 or about three months after, that the petitioners made known their complaint. It is unusual for a car owner to just keep quiet for months after noticing the unsatisfactory repairs and malfunctioning accessories installed in his car. Indeed, the present case depicts something unnatural and hard to believe. One conclusion remains – that the repaired air-conditioning unit functioned well. Evidently, the filing of the Complaint was a belated claim on the part of the petitioners just

to escape liability.

The petitioners theorize that Exhibits “1” and “1-A” in the amount of P5,819.50 was for the installation of the air-conditioning unit while Exhibit “D” or “Credit Invoice 12453” in the amount of P46.35 represented the cost of re-alignment of another car, a Galant car. After a careful study, the Court is of the irresistible conclusion that the said exhibits covered the costs of installation of subject air-conditioning unit and the re-alignment of the same Volkswagen car.

As regards the award of damages prayed for in the counterclaim embodied in the Answer of the respondent corporation, the same is sustainable. A counterclaim is any claim which a defending party may have against an opposing party. (Section 6, Rule 6, 1997 Revised Rules on Civil Procedure). It partakes of the nature of a complaint or cause of action against the plaintiff. (Matela v. Chua Ty, 5 SCRA 163). It is an independent action, separate and distinct from the original complaint.

Here, the respondent corporation established that it suffered moral and exemplary damages, retained the services of a lawyer to protect its interest and paid the costs of litigation as a result of the malicious filing of petitioners’ Complaint.

WHEREFORE, the Petition is DENIED for lack of merit; and the Decision of the Court of Appeals in CA-G.R. No. 11420 AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

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[1] Annex “A”, Petition, pp. 1-2, Rollo, pp. 46-47.

[2] Answer, pp. 1-3, Rollo, pp. 51-53.

[3] Answer to the Counterclaim, Annex “E” to the Petition, pp. 1-2, Rollo, pp. 57-58.

[4] Amended Complaint, p. 1, Rollo, p. 60.

[5] Decision, Civil Case No. 147555, penned by Judge Bernardo V. Aludares.

[6] Decision, pp. 11, 13, 14, 15, 16, 17, 18, Rollo, pp. 114, 116, 117, 118, 119, 120, 121.

[7] CA-G.R. CV No. 11420, Decision, pp. 14-15, Rollo, pp. 165-166.

[8] Decision, p. 11, Rollo, p. 27.

[9] Section 3. Original document must be produced; exceptions.-When the subject of inquiry is the contents of the document, no evidence shall be admissible other than the original document itself, except in the following cases;

> (a) When the original document has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
>
> (b) When the original is in custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;
>
> (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and

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(d) When the original is a public record in the custody of a public officer or is recorded in a public office.

[10] Evidence of written agreements.- When the terms of the agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.

However, a party may present evidence to modify, explain, or add to the terms of the written agreement if he puts in issue in his pleading:

(a) An intrinsic ambiguity, mistake or imperfection in the written agreement;

(b) The failure of the written agreement to express the true intent and agreement of the parties thereto;

(c) The validity of the written agreement; or

(d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.

The term “agreement” includes will.

[11] Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

xxx xxx xxx

In any of the cases refereed to in this article, whether or not the defendant’s act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence.

The indemnity shall include moral damages. Exemplary damages may also be adjudicated.

[12] Rollo, pp. 191-192.

[13] Rejoinder, p. 3 Rollo, p. 244.

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