

COCA-COLA BOTTLERS PHILIPPINES, INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS (FIFTH DIVISION) AND MS. LYDIA GERONIMO, RESPONDENTS.

G.R. No. 110295. October 18, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This case concerns the proprietress of a school canteen which had to close down as a consequence of the big drop in its sales of soft drinks triggered by the discovery of foreign substances in certain beverages sold by it. The interesting issue posed is whether the subsequent action for damages by the proprietress against the soft drinks manufacturer should be treated as one for breach of implied warranty against hidden defects or merchantability, as claimed by the manufacturer, the petitioner herein, which must therefore be filed within six months from the delivery of the thing sold pursuant to Article 1571 of the Civil Code, or one for quasi-delict, as held by the public respondent, which can be filed within four years pursuant to Article 1146 of the same Code.

On 7 May 1990, Lydia L. Geronimo, the herein private respondent, filed a complaint for damages against petitioner with the Regional Trial Court (RTC) of Dagupan City.[1] The case was docketed as Civil Case No. D-9629. She alleges in her complaint that she was the proprietress of Kindergarten Wonderland Canteen located in Dagupan City, an enterprise engaged in the sale of soft drinks (including Coke and Sprite) and other goods to the students of Kindergarten Wonderland and to the public; on or about 12 August 1989, some parents of the students complained to her that the Coke and Sprite soft drinks sold by her contained fiber-like matter and other foreign substances or particles; she then went over her stock of soft drinks and discovered the presence of some fiber-like substances in the contents of some unopened Coke bottles and a plastic matter in the contents of an unopened Sprite bottle; she brought the said bottles to the Regional Health Office of the Department of Health at San Fernando, La Union, for examination; subsequently, she received a letter from the Department of Health informing her that the samples she submitted "are adulterated;" as a consequence of the discovery of the foreign substances in the beverages, her sales of soft drinks severely plummeted from the usual 10 cases per day to as low as 2 to 3 cases per day resulting in losses of from P200.00 to P300.00 per day, and not long after that she had to close shop on 12 December 1989; she became jobless and destitute; she demanded from the petitioner the payment of damages but was rebuffed by it. She prayed for judgment ordering the petitioner to pay her P5,000.00 as actual damages, P72,000.00 as compensatory damages, P500,000.00 as moral damages, P10,000.00 as exemplary damages, the amount equal to 30% of the damages awarded as attorney's fees, and the costs.[2]

The petitioner moved to dismiss[3] the complaint on the grounds of failure to exhaust administrative remedies and prescription. Anent the latter ground, the petitioner argued that since the complaint is for breach of warranty under Article 1561 of the Civil Code, it should have been brought within six months from the delivery of the goods pursuant Article 1571 of the said Code. In her Comment[4] thereto, private respondent alleged that the complaint is one for damages which does not involve an administrative action and that her cause of action is based on an injury to plaintiff's right which can be brought within four years pursuant to Article 1146 of the Civil Code;

hence, the complaint was seasonably filed. Subsequent related pleadings were thereafter filed by the parties.[5]

In its Order of 23 January 1991,[6] the trial court granted the motion to dismiss. It ruled that the doctrine of exhaustion of administrative remedies does not apply as the existing administrative remedy is not adequate. It also stated that the complaint is based on a contract, and not on quasi-delict, as there exists a pre-existing contractual relation between the parties; thus, on the basis of Article 1571, in relation to Article 1562, the complaint should have been filed within six months from the delivery of the thing sold.

Her motion for the reconsideration of the order having been denied by the trial court in its Order of 17 April 1991,[7] the private respondent came to this Court via a petition for review on certiorari which we referred to the public respondent "for proper determination and disposition." [8] The public respondent docketed the case as CA-G.R. SP No. 25391.

In a decision promulgated on 28 January 1992,[9] the public respondent annulled the questioned orders of the RTC and directed it to conduct further proceedings in Civil Case No. D-9629. In holding for the private respondent, it ruled that:

"Petitioner's complaint being one for quasi-delict, and not for breach of warranty as respondent contends, the applicable prescriptive period is four years.

It should be stressed that the allegations in the complaint plainly show that it is an action for damages arising from respondent's act of 'recklessly and negligently manufacturing adulterated food items intended to be sold for public consumption' (p.25, rollo). It is a truism in legal procedure that what determines the nature of an action are the facts alleged in the complaint and not those averred as a defense in the defendant's answer (I Moran 126; Calo v. Roldan, 76 Phil. 445; Alger Electric, Inc. v. CA, 135 SCRA 340).

Secondly, despite the literal wording of Article 2176 of the Civil Code, the existence of contractual relations between the parties does not absolutely preclude an action by one against the other for quasi-delict arising from negligence in the performance of a contract.

In *Singsong v. Court of Appeals* (23 SCRA 1117), the Supreme Court ruled:

'It has been repeatedly held: that the existence of a contract between the parties does not bar the commission of a tort by the one against the other and the consequent recovery of damages therefor x x x. Thus in *Air France vs. Carrascoso*, x x x (it was held that) although the relation between a passenger and a carrier is "contractual both in origin and nature the act that breaks the contract may also be a tort.'

Significantly, in American jurisprudence, from which Our law on Sales was taken, the authorities are one in saying that the availability of an action for breach of warranty does not bar an action for torts in a sale of defective goods." [10]

Its motion for the reconsideration of the decision having been denied by the public respondent in its Resolution of 14 May 1993,[11] the petitioner took this recourse under Rule 45 of the Revised Rules of Court. It alleges in its petition that:

"I

THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR IN RULING THAT ARTICLE 2176, THE GENERAL PROVISION ON QUASI DELICTS, IS APPLICABLE IN THIS CASE WHEN THE ALLEGATIONS OF THE COMPLAINT CLEARLY SHOW THAT PRIVATE RESPONDENT'S CAUSE OF ACTION IS BASED ON BREACH OF A SELLER'S IMPLIED WARRANTIES UNDER OUR LAW ON SALES.

II

COROLLARILY, THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR IN OVERRULING PETITIONER'S ARGUMENT THAT PRIVATE RESPONDENT'S CAUSE OF ACTION HAD PRESCRIBED UNDER ARTICLE 1571 OF THE CIVIL CODE."[12]

The petitioner insists that a cursory reading of the complaint will reveal that the primary legal basis for private respondent's cause of action is not Article 2176 of the Civil Code on quasi-delict -- for the complaint does not ascribe any tortious or wrongful conduct on its part -- but Articles 1561 and 1562 thereof on breach of a seller's implied warranties under the law on sales. It contends that the existence of a contractual relation between the parties (arising from the contract of sale) bars the application of the law on quasi-delicts and that since private respondent's cause of action arose from the breach of implied warranties, the complaint should have been filed within six months from delivery of the soft drinks pursuant to Article 1571 of the Civil Code.

In her Comment the private respondent argues that in case of breach of the seller's implied warranties, the vendee may, under Article 1567 of the Civil Code, elect between withdrawing from the contract or demanding a proportionate reduction of the price, with damages in either case. She asserts that Civil Case No. D-9629 is neither an action for rescission nor for proportionate reduction of the price, but for damages arising from a quasi-delict and that the public respondent was correct in ruling that the existence of a contract did not preclude the action for quasi-delict. As to the issue of prescription, the private respondent insists that since her cause of action is based on a quasi-delict, the prescriptive period therefor is four (4) years in accordance with Article 1144 of the Civil Code and thus the filing of the complaint was well within the said period.

We find no merit in the petition. The public respondent's conclusion that the cause of action in Civil Case No. D-9629 is founded on quasi-delict and that, therefore, pursuant to Article 1146 of the Civil Code, it prescribes in four (4) years is supported by the allegations in the complaint, more particularly paragraph 12 thereof, which makes reference to the reckless and negligent manufacture of "adulterated food items intended to be sold for public consumption."

The vendee's remedies against a vendor with respect to the warranties against hidden defects of or encumbrances upon the thing sold are not limited to those prescribed in Article 1567 of the Civil Code which provides:

"ART. 1567. In the case of Articles 1561, 1562, 1564, 1565 and 1566, the vendee may elect between withdrawing from the contract and demanding a proportionate reduction of the price, with damages in either case."[13]

The vendee may also ask for the annulment of the contract upon proof of error or fraud, in which case the ordinary rule on obligations shall be applicable.[14] Under the law on obligations, responsibility arising from fraud is demandable in all obligations and any waiver of an action for future fraud is void. Responsibility arising from negligence is also demandable in any obligation, but such liability may be regulated by the courts, according to the circumstances.[15] Those guilty of fraud, negligence, or delay in the performance of their obligations and those who in any manner contravene the tenor thereof are liable for damages.[16]

The vendor could likewise be liable for quasi-delict under Article 2176 of the Civil Code, and an action based thereon may be brought by the vendee. While it may be true that the pre-existing contract between the parties may, as a general rule, bar the applicability of the law on quasi-delict, the liability may itself be deemed to arise from quasi-delict, i.e., the act which breaks the contract may also be a quasi-delict. Thus, in *Singson vs. Bank of the Philippine Islands*,[17] this Court stated:

"We have repeatedly held, however, that the existence of a contract between the parties does not bar the commission of a tort by the one against the other and the consequent recovery of damages therefor.[18] Indeed, this view has been, in effect, reiterated in a comparatively recent case. Thus, in *Air France vs. Carrasco*,[19] involving an airplane passenger who, despite his first-class ticket, had been illegally ousted from his first-class accommodation and compelled to take a seat in the tourist compartment, was held entitled to recover damages from the air-carrier, upon the ground of tort on the latter's part, for, although the relation between the passenger and a carrier is 'contractual both in origin and nature x x x the act that breaks the contract may also be a tort.'"

Otherwise put, liability for quasi-delict may still exist despite the presence of contractual relations.[20]

Under American law, the liabilities of the manufacturer or seller of injury-causing products may be based on negligence,[21] breach of warranty,[22] tort,[23] or other grounds such as fraud, deceit, or misrepresentation.[24] Quasi-delict, as defined in Article 2176 of the Civil Code, (which is known in Spanish legal treatises as *culpa aquiliana*, *culpa extra-contractual* or *cuasi- delitos*)[25] is homologous but not identical to tort under the common law,[26] which includes not only negligence, but also intentional criminal acts, such as assault and battery, false imprisonment, and deceit.[27]

It must be made clear that our affirmance of the decision of the public respondent should by no means be understood as suggesting that the private respondent's claims for moral damages have sufficient factual and legal basis.

IN VIEW OF ALL THE FOREGOING, the instant petition is hereby DENIED for lack of merit, with costs against the petitioner.

SO ORDERED.

Cruz, (Chairman), Bellosillo, and Quason, JJ., concur.
Griño-Aquino, J., on official leave.

[1] Annex "C" of Petition; Rollo, 46-49.

[2] Rollo, 46-48.

[3] Annex "D" of Petition; Rollo, 58-59.

[4] Annex "E" of Petition; Rollo, 58-59.

[5] Reply to the Comment (Annex "F" of Petition); Rejoinder to Reply (Annex "G" of Petition); Surrejoinder (Annex "H" of Petition).

[6] Annex "I" of Petition; Rollo, 77-78. Per Judge Eloy R. Bello, Jr.

[7] Annex "J" of Petition; Rollo, 79-81.

[8] Rollo, 13, 39.

[9] Annex "A" of Petition; Rollo, 36-43. Per Associate Justice Ricardo L. Pronove, Jr., concurred in by Associate Justices Nicolas P. Lapeña, Jr. and Consuelo Ynares-Santiago.

[10] Rollo, 40-41. Citing 72 CJS Supp. Products Liability § 9; *Guarino vs. Mine Safety Appliance Co.*, 44 ALR 3d 470, 255 N.E.2d 173; *Goldberg vs. Kollsman Instrument Corp.*, 12 N.Y.2d 432, 436, 191 N.E.2d 82-83; *Greco vs. S.S. Kresge Co.* 12 N.E. 2d. 557, 561.

[11] Annex "B" of Petition; Rollo, 45.

[12] Rollo, 14-15.

[13] The first remedy is known as the redhibitory action and the second, the *accion quanti minoris*. (TOLENTINO, A.M., *Commentaries and Jurisprudence on the Civil Code of the Philippines*, Vol. V. 1992 ed., 123).

[14] TOLENTINO, *supra*.

[15] Article 1171 and 1172, Civil Code.

[16] Article 1170, Civil Code.

[17] 23 SCRA 1117 [1968]. See, also *Araneta vs. De Joya*, 57 SCRA 59 [1974].

[18] Citing *Cangco vs. Manila Railroad*, 38 Phil. 768; *Yamada vs. Manila Railroad*, 33 Phil. 8; *Vasquez vs. Borja*, 74 Phil. 560.

[19] 18 SCRA 155 [1966].

[20] PARAS, E.L., *Civil Code of the Philippines*, vol. V, 1990 ed., 995-996, citing *Air France vs. Carrascoso and Singson vs. Bank of the Phil. Islands*, *supra*.

[21] 63 AM JUR 2d *Products Liability* § 25.

[22] *Id.*, § 91.

[23] *Id.*, § 123.

[24] *Id.*, § 153.

[25] Report of the Code Commission on the Proposed Civil Code of the Philippines, 161.

[26] *Vasques vs. De Borja*, 74 Phil. 560 [1944].

[27] Report of the Code Commission on the Proposed Civil Code of the Philippines, 162.

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