

PROVIDENT INSURANCE CORPORATION, PETITIONER, VS. COURT OF APPEALS AND NORTHERN MINDANAO TRANSPORT CO., INC., RESPONDENTS.

G.R. No. 110504. October 27, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

On 3 January 1987, Atlas Fertilizer Corporation (ATLAS for brevity) shipped 13,000 bags of fertilizer from Sangi, Toledo City, to Iloilo City through MV Ana Alexandria owned by private respondent Northern Mindanao Transport Co., Inc. (NORTHERN for brevity). Petitioner Provident Insurance Corp. (PROVIDENT for brevity) insured the shipment against damage or loss.

When the shipment reached Iloilo City, one bag of fertilizer was missing and 188 bags sustained unrecovered spillage of 887.50 kgs. Additional unrecovered spillage of 1,712.50 kgs. from 118 torn bags was incurred while the shipment was being transported from the vessel to the warehouse of ATLAS by broker Benny Espinosa Trucking Services (BENNY for brevity).

On 13 October 1987, ATLAS made a formal demand from NORTHERN to pay P3,461.25 representing one bag shortlanded and unrecovered spillage from 118 bags. NORTHERN refused to pay. On 26 April 1988 ATLAS nonetheless recovered from PROVIDENT the amount of P7,311.04 for the damage and loss to its shipment and the latter was accordingly subrogated to the rights of the former.

On 9 November 1988, PROVIDENT initiated this collection suit for reimbursement of P7,311.04 against NORTHERN before the Metropolitan Trial Court of Makati (MeTC). After the answer and position papers were filed pursuant to the Rule on Summary Procedure, but pending resolution of PROVIDENT's motion to admit amended complaint to implead broker BENNY as defendant, the MeTC of Makati, Branch 64, rendered on 28 September 1989 a decision dismissing the complaint under the Carriage of Goods by Sea Act (COGSA) for having been filed beyond the 1-year reglementary period. A motion for reconsideration filed by PROVIDENT was denied on 24 November 1989. PROVIDENT appealed to the Regional Trial Court (RTC) of Makati but on 28 January 1993 said court affirmed the court a quo.

On 24 February 1993, PROVIDENT filed before respondent Court of Appeals a petition for review of the RTC decision. On 2 March 1993 the appellate court dismissed the petition for having been expressly taken upon a pure question of law, non-certification of the annexed copy of the RTC decision and lack of certification against forum-shopping.[1] PROVIDENT moved for reconsideration but it was denied on 28 May 1993. Hence, this recourse.

Aside from maintaining that the COGSA reglementary period is not applicable to domestic commerce, PROVIDENT also asserts that what it raised before the Court of Appeals was a question of fact. Specifically, PROVIDENT alleges that "(a)n examination of the evidence has to be done because the error pointed out by the issue in question relates to the failure of the court a quo to consider the validity and merits of plaintiff's claim." [2]

It invokes "the power of review" of appellate courts which is "broad enough to encompass issues not passed upon by the lower court and would even extend to matters not assigned as errors on appeal,"[3] apparently hinting that the Court of Appeals and this Court should resolve the factual issues involved and decide the petition on the merits.

We affirm the judgment of the Court of Appeals.

On 9 March 1990, we issued Circular No. 2-90 setting guidelines to be observed in appeals to the Court of Appeals and to the Supreme Court. Thus -

x x x x

4. Erroneous Appeals. - An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.

x x x x

c) Raising issues purely of law in the Court of Appeals, or appeal by wrong mode. - If an appeal under Rule 41 is taken from the Regional Trial Court to the Court of Appeals and therein the appellant raises only questions of law, the appeal shall be dismissed, issues purely of law not being reviewable by said court. So, too, if an appeal is attempted from the judgment rendered by a Regional Trial Court in the exercise of its appellate jurisdiction by notice of appeal, instead of by petition for review, the appeal is inefficacious and should be dismissed.

d) No transfer of appeals erroneously taken. - No transfer of appeals erroneously taken to the Supreme Court or to the Court of Appeals to whichever of these tribunals has appropriate appellate jurisdiction will be allowed; continued ignorance or willful disregard of the law on appeals will not be tolerated.[4]

Since only questions of law were raised before the Court of Appeals, the instant petition should be dismissed under Circular No. 2-90. As pointed out by respondent Court of Appeals, petitioner admitted in its petition that what it filed was a "Petition for Review on Appeal upon a question of law of the Decision of the Honorable Presiding Judge of Branch 64 of the Regional Trial Court of Makati, Metro Manila." [5] Petitioner cannot now belatedly retract this admission.

Specifically, the following questions were raised before the appellate court: (a) whether the RTC erred in affirming the dismissal of the MeTC considering the alleged valid and meritorious claims of plaintiff; (b) whether the RTC erred in dismissing the case on the ground of prescription that was not raised as a defense by private respondent; and, (c) whether the RTC erred in applying the COGSA and holding that the action had prescribed because more than one year had elapsed from the delivery of the cargo to the consignee on 13 January 1987 to the filing of the complaint on 9 November 1988.[6]

As correctly observed by the Court of Appeals, the second and third issues are evidently pure questions of law because their resolution is based on facts not in dispute. With regard to the first question, PROVIDENT argues that it was necessary to go over the records. But we do not agree. Whether the MeTC was correct in dismissing the case grounded on prescription and, corollarily, whether the dismissal on such ground may be had without going into the merits, are questions of law which do not require an examination of the facts on record. Thus, it is incumbent upon every attorney who would seek review of a judgment or order promulgated against his client to make sure of the nature of the errors he proposes to assign, whether these be of fact or of law; then upon such basis, to ascertain which court has appellate jurisdiction; and, finally, to follow scrupulously the requisites for appeal prescribed by law, ever aware that any error or imprecision in compliance may well be fatal to his client's cause.[7]

WHEREFORE, finding no reversible error in the Resolutions of respondent Court of Appeals of 2 March 1993 and 28 May 1993, the instant petition for review is DENIED.

SO ORDERED.

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

[1] Penned by Justice Alfredo L. Benipayo, concurred in by Justices Serafin E. Camilon, Chairman, and Ricardo P. Galvez.

[2] Rollo, p. 64.

[3] Rollo, p. 67.

[4] Par. 4.

[5] See Records, Court of Appeals, p. 2.

[6] Id., pp. 5-6.

[7] Par. 4 (e), Circular No. 2-90.

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