

METAL FORMING CORPORATION, PETITIONER, VS. OFFICE OF THE PRESIDENT, REPRESENTED BY THE EXECUTIVE SECRETARY, VIRGILIO M. DEL ROSARIO AND CORAZON PAREDES-DEL ROSARIO, RESPONDENTS.

G.R. No. 111386. August 28, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

On 21 November 1990 the private respondents, spouses Virgilio M. del Rosario and Corazon Paredes-del Rosario, filed a letter-complaint with the Department of Trade and Industry (DTI) charging petitioner METAL FORMING CORPORATION with violation of Sec. 3 of Act No. 3740, "An Act to Penalize Fraudulent Advertising, Mislabeling or Misbranding of any Product, Stocks, Bonds, Etc." Specifically it provides:

Sec. 3. It shall be unlawful for any person, firm or corporation, either as principal or agent, in any handbill, billboard, sign, pamphlet, circular, projected lantern slides, or any other form of advertising whatsoever printed, displayed, or circulated in the Philippine Islands, to misrepresent the character, value, properties or condition of any article offered or exposed for sale, barter, or exchange, or of the materials of which the article is composed.

The spouses alleged, among other things, that in selling to the public roofing materials known as "Banawe" shingles, petitioner made representations on the durability of the product and the sturdiness of its installation. Aside from massive advertisements in print media and television, it also distributed brochures to its prospective customers containing the same representations.

The alleged advertisements were not submitted in evidence at the DTI except a copy of a brochure which was among those distributed by petitioner to prospective customers and which prompted private respondents to buy the "Banawe" shingles and had them installed at their residence. On the first page of the brochure appears the following: "STRUCTURALLY SAFE AND STRONG . . . The BANAWA METAL TILE structure acts as a single unit against wind and storm pressure due to the strong hook action on its overlaps." [2] Barely two (2) months after completion of the installation, portions of the roof of private respondents were blown away by strong winds brought about by typhoon "Ruping."

On 29 May 1991 the DTI rendered a decision ordering petitioner to pay an administrative fine of P10,000.00, otherwise, for failure to do so within ten (10) days from finality of the decision, the business name registration of petitioner, if any, would be deemed suspended and its establishment closed until the fine was fully paid. [3] Its decision was based on the finding that petitioner misrepresented that (a) the Banawe metal tile structure was strong against wind and storm pressure, and (b) it acted as a single unit against wind and storm pressure. According to the DTI, letter (a) was a misrepresentation as far as the metal tile structure installed at the residence of private respondents was concerned because as the records showed, strong winds blew off part of the structure/roof; and letter (b) was likewise a misrepresentation as far as the structure installed at the residence of private respondents was concerned because the records showed that the structure acted in parts when strong winds

blew. A part remained while another part was blown off. Therefore petitioner misrepresented the character of the merchandise offered.[4]

On 9 January 1992 the motion to reconsider the decision was denied.[5]

On 30 April 1993, on appeal to respondent Office of the President, the decision of the DTI was affirmed in toto.[6] On 18 June 1993 the motion for its reconsideration was denied. On 2 August 1993 the second motion for reconsideration was likewise denied except that public respondent reversed its previous finding that petitioner also misrepresented that its product was "strong when there (was) wind and storm pressure" for the reason that -

A careful reading of the pertinent portion of the brochure, supra, readily reveals that what (petitioner) represented is that its (product) `acts as a single unit against wind and strong (storm?) pressure due to the strong hook (action) on its overlaps.'

Nowhere is it mentioned in the brochure that `the structure is strong when there is wind and storm pressure.'

As correctly pointed out by (petitioner), this is already `misinterpretation' or a strained interpretation, to say the least. While the term `strong' is indeed found in said brochure, it was there mentioned only to describe the hook's action on the overlaps.[7]

Petitioner raises as an issue whether the statement in its brochure that "the Banawe metal tile acts as a single unit against wind and storm pressure due to the strong hook action on its overlaps" is a misrepresentation within the contemplation of Sec. 3 of Act No. 3740 simply because a section or portion of the roof of private respondents was blown away by a strong typhoon.

Petitioner asseverates that under Art. 1174 of the Civil Code it should not be made responsible for the adverse consequences of a fortuitous event such as typhoon "Ruping" which, as admitted by private respondents, caused the blowing away of a section or portion of their roof. Besides, its product acts as a single unit specifically against storm pressure. A cursory examination of the questioned statement in the brochure shows that even without availing of said provision there could not have been any misrepresentation under Sec. 3 of Act No. 3740. What appears to be emphasized in the brochure is the strong hook action on the overlaps of the tiles. There is no evidence whatsoever that single panels of the tiles from the same section or portion were blown away while other panels in the same section or portion remained; or that individual panels from different sections or portions were blown away. It is common knowledge in the trade that roofs are not monolithically constructed but are made up of sections. A section can be entirely blown off without affecting the others. Consequently, even if only one section or portion was blown away, it can still be reasonably concluded that the tiles in that section acted as a single unit.

The claim of petitioner that roofs are made up of sections such that even if only one section or portion is blown away the tiles in that section can be said to have acted as a single unit, may appear to be a sound argument. Nevertheless, it is a defense that should have been established at the administrative level. We take into account the finding of the DTI that a part of the roof was blown away while a part remained. There was no reference to a section or distinct portion of the roof that was blown away nor to a section or distinct portion that remained. Public respondent arrived at the same finding. Whether the part that was blown away and that which remained constitute sections is a question of fact that we will not determine here. This Court is not a trier of facts. Moreover, we agree with the observation of the Solicitor General that -

Petitioner (gives) a restricted interpretation of its statement that the structure of its roof tiles has the capacity to act as a single unit x x x x Surely, in buying the subject roof tiles, the private respondents correctly relied on petitioner's representations as it would be commonly and reasonably interpreted by the buying public, viz., that since its structure acts as a single unit, wind and storm pressure would not be able to blow away any part or

portion thereof.[8]

Petitioner harps on the distinction between a tropical storm and a typhoon. According to the Philippine Atmospheric, Geophysical and Astronomical Services Administration, "the maximum winds about the center of the disturbance (tropical storm) range from 64 to 117 kilometers per hour (kph) or 18 to 32 meters per second (mps) or 34 to 64 knots, while the maximum winds about the center of the disturbance (typhoon) are 118 kilometers per hour or 33 meters per second or 65 knots or more." [9]

Contrary to petitioner's pretension, the phrase "against wind and storm pressure" is not couched in specific terms because as correctly pointed out by the Office of the Solicitor General -

x x x x in deciding whether or not to buy the subject roof tiles being advertised by petitioner, it is reasonable to assume that buyers, like private respondents, would consider (said) phrase x x x as referring to all kinds of weather disturbances being experienced in our country during the rainy season, be it a mere tropical depression, a storm or even a typhoon.[10]

In this regard, public respondent opined, which we sustain, that -

(Petitioner) cannot place undue reliance on the distinction between or among the terms 'storm,' 'typhoon' or 'cyclone' because it itself had caused the misrepresentations to be couched in general terms. Also, considering the weather situation in the country where storms and typhoons are not a rare or unusual occurrence, these terms ought to, as they should only be, understood as comprehending and referring practically to the same thing, at least insofar as the jural effects of misrepresentations (petitioner's) are concerned. [11]

On a different angle, petitioner avers that under Art. 1174 of the Civil Code it should not be made responsible for the adverse consequences of a fortuitous event such as the typhoon which caused the section or portion of private respondents' roof to be blown away.

Article 1174 provides that subject to certain exceptions, no person shall be responsible for those events which could not be foreseen, or which though foreseen were inevitable. A fortuitous event presents the following characteristics: (a) the cause of the unforeseen and unexpected occurrence, or the failure of the debtor to comply with his obligations, must be independent of the human will; (b) it must be impossible to foresee the event which constitutes the *caso fortuito*, or if it can be foreseen, it must be impossible to avoid; (c) the occurrence must be such as to render it impossible for the debtor to fulfill his obligation in a normal manner; and, (d) the obligor must be free from any participation in the aggravation of the injury resulting to the creditor.

Based on the foregoing, in order that a fortuitous event may exempt a person from liability, it is necessary that he be free from negligence. An act of God cannot be urged for the protection of a person who has been guilty of gross negligence in not trying to avert its results. When the negligence of a person concurs with an act of God in producing a loss, such person is not exempt from liability by showing that the immediate cause of the damage was the act of God.[12]

As correctly viewed by public respondent, although the occurrence of a typhoon is a fortuitous event which by itself might have exempted petitioner from liability to private respondents -

x x x x it cannot efface the fundamental fact that (petitioner) acted in bad faith and/or with gross negligence in failing to deliver the necessary accessories for the proper installation of the structure x x x x and actually installed inferior roofing materials at (private respondents') residence, in violation of the proper installation procedure expressly specified in the former's brochures and advertisements for installation, i.e., the metal tile attached to the roof panels should be by two (2) self-drilling screws for one (1) metal cleat. However, instead of conforming with

this procedure, (petitioner) attached some of the metal cleats with only one (1)-inch ordinary nail each and others were fastened with only one (1) wood screw each.[13]

To a large extent, the capacity of petitioner's roof tiles to act as a single unit depends on the strong hook action on the overlaps of the individual parts which comprise the whole structure. However, as inferred by the Solicitor General -

x x x x there can only be a strong hook action if the subject roof tiles were properly installed by petitioner complete with all the necessary accessories thereto x x x x[14]

As it turned out, the tiles were improperly installed thus contributing to the damage to private respondents' roof.

By reason of the special knowledge and expertise of the DTI and public respondent over matters falling under their jurisdiction, they are in a better position to pass judgment thereon and their findings of fact in that regard are generally accorded respect, if not with finality, by the courts.[15] Furthermore, petitioner failed to show any grave abuse of discretion on the part of public respondent in affirming the ruling of the DTI. There is no reason indeed to rule otherwise.

We therefore uphold the finding of the DTI and public respondent that petitioner misrepresented the character of its product which is prohibited under Sec. 3 of Act No. 3740. The Banawe Metal Tile structure did not act as a single unit against wind and storm pressure due to the weak hook action on its overlaps. However we note that Sec. 6 of said Act, as amended by C.A. 46, provides the penalty of fine of not less than P200.00 and not more than P5,000.00. Conformably therewith, we have no choice but to reduce the fine imposed on petitioner from P10,000.00 to P5,000.00.

WHEREFORE, finding no grave abuse of discretion amounting to lack or excess of jurisdiction, the petition is DISMISSED. The decision dated 30 April 1993, the order dated 18 June 1993, and the resolution dated 2 August 1993 of public respondent are AFFIRMED except as to the fine of P10,000.00 which is reduced to P5,000.00.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, and Hermosisima, Jr., JJ., concur.

[1] This case was filed on 25 August 1993 hence is not covered by Rev. Adm. Circ. No. 1-95, "Rules Governing Appeals to the Court of Appeals from Judgments or Final Orders of the Court of Tax Appeals and Quasi-Judicial Agencies," which took effect 1 June 1995, and the Office of the President is not among those included in the "Transitory Provisions" of the Circular.

[2] Rollo, p. 23.

[3] Id., p. 22.

[4] Id., pp. 23-24.

[5] Id., pp. 51-52.

[6] Id., p.27; signed by Renato C. Corona, Assistant Executive Secretary for Legal Affairs.

[7] Id., p. 21; signed by Leonardo A. Quisumbing, Senior Deputy Executive Secretary.

[8] Id., pp. 92-93.

[9] Classification of tropical cyclones furnished by the Philippine Atmospheric, Geophysical and Astronomical Services Administration, Annex "B" of petitioner's Reply; Rollo, pp. 76--77.

[10] Rollo, pp. 90-91.

[11] Id., p. 26.

[12] Tolentino, Arturo M., Civil Code of the Philippines, Vol. IV, 1991 Edition, pp. 127-128, 130 citing Tan Chiong Sian v. Inchausti, 22 Phil. 152 (1912).

[13] Rollo, pp. 26-27.

[14] Id., p. 128.

[15] Philippine Merchant Marine School, Inc. v. Court of Appeals, G.R. No. 112844, 2 June 1995.

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