

ACE-AGRO DEVELOPMENT CORPORATION, PETITIONER, VS. COURT OF APPEALS AND COSMOS BOTTLING CORPORATION, RESPONDENTS.

G.R. No. 119729. January 21, 1997

Ponente: MENDOZA, J.

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MENDOZA, J.:

This case originated in a complaint for damages for breach of contract which petitioner filed against private respondent. From the decision of the Regional Trial Court, Branch 72, Malabon, Metro Manila, finding private respondent guilty of breach of contract and ordering it to pay damages, private respondent appealed to the Court of Appeals which reversed the trial court's decision and dismissed the complaint for lack of merit. Petitioner in turn moved for a reconsideration, but its motion was denied. Hence, this petition for review on certiorari.

The facts are as follows:

Petitioner Ace-Agro Development Corporation and private respondent Cosmos Bottling Corporation are corporations duly organized and existing under Philippine laws. Private respondent Cosmos Bottling Corp. is engaged in the manufacture of soft drinks. Since 1979 petitioner Ace-Agro Development Corp. (Ace-Agro) had been cleaning soft drink bottles and repairing wooden shells for Cosmos, rendering its services within the company premises in San Fernando, Pampanga. The parties entered into service contracts which they renewed every year. On January 18, 1990, they signed a contract covering the period January 1, 1990 to December 31, 1990. Private respondent had earlier contracted the services of Aren Enterprises in view of the fact that petitioner could handle only from 2,000 to 2,500 cases a day and could not cope with private respondent's daily production of 8,000 cases. Unlike petitioner, Aren Enterprises rendered service outside private respondent's plant.

On April 25, 1990, fire broke out in private respondent's plant, destroying, among other places, the area where petitioner did its work. As a result, petitioner's work was stopped.

On May 15, 1990, petitioner asked private respondent to allow it to resume its service, but petitioner was advised that on account of the fire, which had "practically burned all . . . old soft drink bottles and wooden shells," private respondent was terminating their contract.

Petitioner expressed surprise at the termination of the contract and requested private respondent, on June 13, 1990, to reconsider its decision and allow petitioner to resume its work in order to "cushion the sudden impact of the unemployment of many of [its] workers." As it received no reply from private respondent, petitioner, on June 20, 1990, informed its employees of the termination of their employment. Petitioner's memorandum [1] read:

MEMORANDUM TO : All Workers/Union Members

THRU : Mr. Angelito B. Catalan

Local Chapter President

Bisig Manggagawa sa Ace Agro-NAFLU

This is to inform you that the Cosmos Bottling Corp. has sent a letter to Ace Agro-Development Corp. terminating our contract with them.

However, we are still doing what we can to save our contract and resume our operations, though this might take some time.

We will notify you whatever would be the outcome of our negotiation with them in due time.

Truly yours,

ACE AGRO-DEVELOPMENT CORP.

(Sgd.)

ANTONIO L. ARQUIZA

Manager

This led the employees to file a complaint for illegal dismissal before the Labor Arbiter against petitioner and private respondent.

On July 17, 1990, petitioner sent another letter to private respondent, reiterating its request for reconsideration. Its letter [2] read:

COSMOS BOTTLING CORPORATION

San Isidro, MacArthur Highway

San Fernando, Pampanga

Attention: Mr. Norman P. Uy

General Services Manager

Gentlemen:

In our letter to you dated June 13, 1990 seeking your kind reconsideration of your sudden drastic decision to terminate our mutually beneficial contract of long standing, it is more than a month now but our office has not received a reply from you.

Our workers, who have been anxiously waiting for the resumption of the operations and who are the ones most affected by your sudden decision, are now becoming restless due to the financial difficulties they are now suffering.

We are, therefore, again seeking for the reconsideration of your decision to help alleviate the sufferings of the displaced workers, which we also have to consider for humanitarian reason.

Yours very truly,

ACE AGRO-DEVELOPMENT CORP.

(Sgd.) ANTONIO I. ARQUIZA

Manager

In response, private respondent advised petitioner on August 28, 1990 that the latter could resume the repair of wooden shells under terms similar to those contained in its contract but work had to be done outside the company premises. Private respondent's letter [3] read:

MR. ANTONIO I. ARQUIZA

Manager

ACE-AGRO DEVELOPMENT CORPORATION

165 J.P. Bautista Street

Malabon, Metro Manila

Dear Mr. Arquiza:

We are pleased to inform you that COSMOS BOTTLING CORPORATION, San Fernando Plant is again accepting job-out contract for the repair of our wooden shells.

Work shall be done outside the premises of the plant and under similar terms you previously had with the company. We intend to give you priority so please see or contact me at my office soonest for the particulars regarding the job.

Here is looking forward to doing business with you at the earliest possible time.

(Sgd.) DANILO M. DE CASTRO

Plant General Manager

Petitioner refused the offer, claiming that to do its work outside the company's premises would make it (petitioner) incur additional costs for transportation which "will eat up the meager profits that [it] realizes from its original contract with Cosmos." In subsequent meetings with Danilo M. de Castro, Butch Ceña and Norman Uy of Cosmos, petitioner's manager, Antonio I. Arquiza, asked for an extension of the term of the contract in view of the suspension of work. But its request was apparently turned down.

On November 7, 1990, private respondent advised petitioner that the latter could then resume its work inside the plant in accordance with its original contract with Cosmos. Private respondent's letter [4] stated:

MR. ANTONIO I. ARQUIZA

General Manager

Ace-Agro Development Corporation

165 J. P. Bautista St., Malabon

Metro Manila

Dear Mr. Arquiza:

This is to officially inform you that you can now resume the repair of wooden shells inside the plant according to your existing contract with the Company.

Please see Mr. Ener G. Ocampo, OIC-PDGS, on your new job site in the Plant.

Very truly yours,

COSMOS BOTTLING CORPORATION

(Sgd.) MICHAEL M. ALBINO

VP-Luzon/Plant General Manager

On November 17, 1990, petitioner rejected private respondent's offer, this time, citing the fact that there was a pending labor case. Its letter [5] to private respondent stated:

Mr. Michael M. Albino

VP-Luzon/Plant General Manager

Cosmos Bottling Corporation

San Fernando, Pampanga

Dear Mr. Albino,

This is in connection with your letter dated November 7, 1990 regarding the resumption of the repair of your wooden shells inside San Fernando, Pampanga Plant according to the existing contract with your company.

At present, there is a pending case before the Department of Labor and Employment in San Fernando, Pampanga which was a result of the premature termination of the said existing contract with your company. In view of that, we find it proper for us to work for the resolution of the said pending case and include in the Compromise Agreement the matter of the resumption of the repair of wooden shells in your San Fernando, Pampanga Plant.

Thank you very much.

Very truly yours,

ACE AGRO-DEVELOPMENT CORP.

(Sgd.) ANTONIO I. ARQUIZA

Manager

On January 3, 1991, petitioner brought this case against private respondent for breach of contract and damages in the Regional Trial Court of Malabon. It complained that the termination of its service contract was illegal and arbitrary and that, as a result, it stood to lose profits and to be held liable to its employees for backwages, damages and/or separation pay.

On January 16, 1991, a decision was rendered in the labor case, finding petitioner liable for the claims of its employees. Petitioner was ordered to reinstate the employees and pay them backwages. However, private respondent Cosmos was absolved from the employees' claims on the ground that there was no privity of contract between them and private respondent.

On the other hand, in its decision rendered on November 21, 1991, the RTC found private respondent guilty of breach of contract and ordered it to pay damages to petitioner. Petitioner's claim for reimbursement for what it had paid to its employees in the labor case was denied. The dispositive portion of the trial court's decision read:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Ace-Agro Development Corporation and against defendant Cosmos Bottling Corporation, ordering the latter to pay to the former the following:

- a) The amount of P1,008,418.01 as actual damages;
- b) P100,000.00 as corrective or exemplary damages;
- c) The amount of P50,000.00 as and for attorney's fees; and
- d) Costs and expenses of litigation.

Defendant's counterclaims are dismissed.

SO ORDERED.

Private respondent appealed to the Court of Appeals, which on December 29, 1994, reversed the trial court's decision and dismissed petitioner's complaint. The appellate court found that it was petitioner which had refused to resume work, after failing to secure an extension of its contract. Petitioner now seeks a review of the Court of Appeals' decision.

First. Petitioner claims that the appellate court erred "in ruling that respondent was justified in unilaterally terminating the contract on account of a force majeure." Quite possibly it did not understand the appellate court's decision, or it would not be contending that there was no valid cause for the termination of the contract but only for its suspension. The following is what the appellate court said: [6]

Article 1231 of the New Civil Code on extinguishment of obligations does not specifically mention unilateral termination as a mode of extinguishment of obligation but, according to Tolentino, "there are other causes of extinguishment of obligations which are not expressly provided for in this chapter" (Tolentino, Civil Code of the Phils., Vol. IV, 1986 ed., p. 273). He further said:

But in some contracts, either because of its indeterminate duration or because of the nature of the prestation which is its object, one of the parties may free himself from the contractual tie by his own will (unilateral extinguishment); x x x. (p. 274-275, Ibid)

And that was just what defendant-appellant did when it unilaterally terminated the agreement it had with plaintiff-appellee by sending the May 23, 1990 letter. As per its letter, the reason given by defendant-appellant for unilaterally terminating the agreement was because the April 25, 1990 fire practically burned all of the softdrink bottles and wooden shells which plaintiff-appellee was working on under the agreement. What defendant-appellant was trying to say was that the prestation or the object of their agreement had been lost and destroyed in the above-described fire. Apparently, the defendant-appellant would like this situation to fall within what -- according to Tolentino -- would be:

x x x (O)bligations may be extinguished by the happening of unforeseen events, under whose influence the obligation would never have been contracted, because in such cases, the very basis upon which the existence of the obligation is founded would be wanting.

Both parties admitted that the April 25, 1990 fire was a force majeure or unforeseen event and that the same even burned practically all the softdrink bottles and wooden shells -- which are the objects of the agreement. But the story did not end there.

It is true that defendant-appellant still had other bottles that needed cleaning and wooden shells that needed repairing (pp. 110-111, orig. rec.); therefore, the suspension of the work of the plaintiff-appellee brought about by the fire is, at best, temporary as found by the trial court. Hence, plaintiff-appellee's letters of reconsideration of the termination of the agreement addressed to defendant-appellant dated June 13, 1990 and July 17, 1990.

It is obvious that what petitioner thought was the appellate court's ruling is merely its summary of private

respondent's allegations. Precisely the appellate court does not agree with private respondent, that is why, in the last paragraph of the above excerpt, the court says that there was no cause for terminating the contract but at most a "temporary suspension of work." The court thus rejects private respondent's claim that, as a result of the fire, the obligation of contract must be deemed to have been extinguished.

Nonetheless, the Court of Appeals found that private respondent had reconsidered its decision to terminate the contract and tried to accommodate the request of petitioner, first, by notifying petitioner on August 28, 1990 that it could resume work provided that this was done outside the premises and, later, on November 7, 1990, by notifying petitioner that it could then work in its premises, under the terms of their contract. However, petitioner unjustifiably refused the offer because it wanted an extension of the contract to make up for the period of inactivity. As the Court of Appeals said in its decision: [7]

It took defendant-appellant time to make a reply to plaintiff-appellee's letters. But when it did on August 28, 1990, it granted plaintiff-appellee priority to resume its work under the terms of their agreement (but outside its premises), and the plaintiff-appellee refused the same on the ground that working outside the defendant-appellant's San Fernando Plant would mean added transportation costs that would offset any profit it would earn.

The appellee was without legal ground to refuse resumption of work as offered by the appellant, under the terms of their above agreement. It could not legally insist on staying inside property it did not own, nor was under lease to it In its refusal to resume its work because of the additional transportation costs to be brought about by working outside the appellant's San Fernando plant, the appellee could be held liable for damages for breach of contract.

. . . .

Thereafter, appellant sent its November 7, 1990 letter to appellee, this time specifically stating that plaintiff-appellee can now resume work in accordance with their existing agreement. This time, it could not be denied that by the tenor of the letter, appellant was willing to honor its agreement with appellee, that it had finally made a reconsideration of appellee's plea to resume work under the contract. But again, plaintiff-appellee refused this offer to resume work.

Why did the appellee refuse to resume work? Its November 17, 1990 letter stated that it had something to do with the settlement of the NLRC case filed against it by its employees. But that was not the real reason. In his cross-examination, the witness for appellee stated that its real reason for refusing to resume work with the appellant was -- as in its previous refusal -- because it wanted an extension of the period or duration of the contract beyond December 31, 1991, to cover the period within which it was unable to work.

The agreement between the appellee and the appellant is with a resolutory period, beginning from January 1, 1990 and ending on December 31, 1990. When the fire broke out on April 25, 1990, there resulted a suspension of the appellee's work as per agreement. But this suspension of work due to force majeure did not merit an automatic extension of the period of the agreement between them. According to Tolentino:

The stipulation that in the event of a fortuitous event or force majeure the contract shall be deemed suspended during the said period does not mean that the happening of any of those events stops the running of the period the contract has been agreed upon to run. It only relieves the parties from the fulfillment of their respective obligations during that time. If during six of the thirty years fixed as the duration of a contract, one of the parties is prevented by force majeure to perform his obligation during those years, he cannot after the expiration of the thirty-year period, be compelled to perform his obligation for six more years to make up for what he failed to perform during the said six years, because it would in effect be an extension of the term of the contract. The contract is stipulated to run for thirty years, and the period expires on the thirtieth year; the period of six years during which performance by one of the parties is prevented by force majeure cannot be

deducted from the period stipulated.

In fine, the appellant withdrew its unilateral termination of its agreement with appellee in its letter dated November 7, 1990. But the appellee's refusal to resume work was, in effect, a unilateral termination of the parties' agreement -- an act that was without basis. When the appellee asked for an extension of the period of the contract beyond December 31, 1990 it was, in effect, asking for a new contract which needed the consent of defendant-appellant. The appellee might be forgiven for its first refusal (pertaining to defendant-appellant's August 28, 1990 letter), but the second refusal must be construed as a breach of contract by plaintiff-appellee. .

..

The Court of Appeals was right that petitioner had no basis for refusing private respondent's offer unless petitioner was allowed to carry out its work in the company premises. That petitioner would incur additional cost for transportation was not a good reason for its refusal. Petitioner has not shown that on August 28, 1990, when it was notified of the private respondent's offer, the latter's premises had so far been restored so as to permit petitioner to resume work there. In fact, even when petitioner was finally allowed to resume work within the plant, it was not in the former work place but in a new one, which shows that private respondent's reason for not granting petitioner's request was not just a pretext.

Nor was petitioner justified in refusing to resume work on November 7 when it was again notified by petitioner to work. Although it cited the pending labor case as reason for turning down private respondent's offer, it would appear that the real reason for petitioner's refusal was the fact that the term of the contract was expiring in two months and its request for an extension was not granted. But, as the appellate court correctly ruled, the suspension of work under the contract was brought about by force majeure. Therefore, the period during which work was suspended did not justify an extension of the term of the contract. [8] For the fact is that the contract was subject to a resolutory period which relieved the parties of their respective obligations but did not stop the running of the period of their contract.

The truth of the matter is that while private respondent had made efforts towards accommodation, petitioner was unwilling to make adjustments as it insisted that it "cannot profitably resume operation under the same terms and conditions [of] the terminated contract but with an outside work venue [as] transportation costs alone will eat up the meager profit that Ace-Agro realizes from its original contract." [9] While this so-called "job-out" offer of private respondent had the effect of varying the terms of the contract in the sense that it could increase its cost, what petitioner did not seem to realize was that the change was brought about by circumstances not of private respondent's making.

Again when private respondent finally advised petitioner on November 7, 1990 to work under the strict terms of its contract and inside the plant, petitioner thought only of its interest by insisting that the contract be extended. Petitioner's manager, Antonio I. Arquiza, testified that he tried to secure a term extension for his company but his request was turned down because the management of private respondent wanted a new contract after the expiration of the contract on December 31, 1990. Arquiza testified: [10]

A [Butch Ceña] told me that Cosmos is agreeable to allow us to resume our operation and when I inquired about the extension of the contract he told me that I better refer the matter to Mr. Norman Uy.

....

Q Did you see Mr. Norman Uy?

A Yes, sir, when I went to see Mr. Norman Uy he asked me why I was there and he told me why I did not start operation I told him that what we are expecting that Mr. Ceña would give me the formal letter regarding the resumption of the operation and honoring of contract and he said that our price was so high and if we are

willing to use said contract and when I said yes he told me that we will just send you a letter considering that another contractor repairing our damaged shells and cleaning of dirty bottles. When I asked him that does that mean that the meeting I had with Mr. Ceña, he told me that was null and void and he told me that Mr. Ceña want a new contract.

As already stated, because the suspension of work was due to force majeure, there was no justification for petitioner's demand for an extension of the terms of the contract. Private respondent was justified in insisting that after the expiration of the contract, the parties must negotiate a new one as they had done every year since the start of their business relations in 1979.

Second. Petitioner slams the Court of Appeals for ruling that "it was [petitioner's] unjustified refusal which finally terminated the contract between the parties." This contention is likewise without merit. Petitioner may not be responsible for the termination of the contract, but neither is private respondent, since the question in this case is whether private respondent is guilty of breach of contract. The trial court held that private respondent committed a breach of contract because, even as its August 28, 1990 letter allowed petitioner to resume work, private respondent's offer was limited to the repairs of wooden shells and this had to be done outside the company's premises. On the other hand, the final offer made on November 7, 1990, while allowing the "repair of wooden shells [to be done] inside the plant according to your contract with the company," was still limited to the repair of the wooden shells, when the fact was that the parties' contract was both for the repair of wooden crates and for the cleaning of soft drink bottles.

But this was not the petitioner's complaint. There was never an issue whether the company's offer included the cleaning of bottles. Both parties understood private respondent's offer as including the cleaning of empty soft drink bottles and the repair of the wooden crates. Rather, the discussions between petitioner and private respondent's representatives focused first, on the insistence of petitioner that it be allowed to work inside the company plant and, later, on its request for the extension of the life of the contract.

Petitioner claims that private respondent had a reason to want to terminate the contract and that was to give the business to Aren Enterprises, as the latter offered its services at a much lower rate than petitioner. Aren Enterprises' rate was P2.50 per shell while petitioner's rates were P4.00 and P6.00 per shell for ordinary and super sized bottles, respectively. [11]

The contention has no basis in fact. The contract between private respondent and Aren Enterprises had been made on March 29, 1990 - before the fire broke out. The contract between petitioner and private respondent did not prohibit the hiring by private respondent of another service contractor. With private respondent hitting production at 8,000 bottles of soft drinks per day, petitioner could clearly not handle the business, since it could clean only 2,500 bottles a day. [12] These facts show that although Aren Enterprises' rate was lower than petitioner's, they did not affect private respondent's business relation with petitioner. Despite private respondent's contract with Aren Enterprises, private respondent continued doing business with petitioner and would probably have done so were it not for the fire. On the other hand, Aren Enterprises could not be begrudged for being allowed to continue rendering service even after the fire because it was doing its work outside private respondent's plant. For that matter, after the fire, private respondent on August 28, 1990 offered to let petitioner resume its service provided this was done outside the plant.

Petitioner may not be to blame for the failure to resume work after the fire, but neither is private respondent. Since the question is whether private respondent is guilty of breach of contract, the fact that private respondent is blameless can only lead to the conclusion that the appealed decision is correct.

WHEREFORE, the petition for review is DENIED and the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

[1] Records, p. 63.

[2] Id., p. 62.

[3] Id., p. 82.

[4] Id., p. 83.

[5] Id., p. 84.

[6] At pp. 11-13 (Emphasis added).

[7] At pp. 13-15.

[8] Victorias Milling Corp. v. Victorias Milling Planters Cooperative, 97 Phil. 318 (1955); See American Far Eastern School v. Ayala y Cia, 89 Phil. 292 (1951).

[9] Record, p. 88.

[10] TSN, June 27, 1991, pp. 20-21.

[11] Record, p. 59 and p. 95.

[12] TSN, July 11, 1991, pp. 43-45.

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