

NATIONAL POWER CORPORATION, PETITIONER, VS. COURT OF APPEALS AND DENNIS COO, RESPONDENTS.

G.R. No. 122195. July 23, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioner seeks a review of the decision[1] of the Court of Appeals which affirmed with modification the decision of the Regional Trial Court of Bacolod City, Branch 51, and the subsequent resolution which denied petitioner's motion for reconsideration.

It appears that on July 23, 1984, private respondent Dennis Coo purchased six (6) tons of assorted scrap aluminum wires and allied accessories from the New Alloy Metal Company in Manila. The assorted goods were shipped to Bacolod City and were there received by Coo on July 30, 1984. However, the next day, July 31, 1984, the goods were seized by elements of the 331st PC from Coo's residence and deposited in the PC headquarters.[2]

On August 6, 1984, the PC Provincial Commander filed a criminal complaint against Coo for violation of the anti-fencing law. However, the Investigating Fiscal dismissed it for insufficiency of evidence.[3] Upon representation of petitioner NPC, the complaint was re-investigated,[4] resulting in the filing of an Information before the Regional Trial Court of Bacolod City, Branch 48.

On August 23, 1985, the trial court rendered a decision acquitting Coo on the ground that the wares belonged to him.[5] Notwithstanding this decision, petitioner got the property from the PC Headquarters.[6] Private respondent wrote petitioner NPC demanding the return of the wares. Because of petitioner's refusal to return the subject property, private respondent Coo filed a complaint for replevin against NPC and its officers in the Regional Trial Court of Bacolod City.[7]

After posting a surety bond for P120,000.00, Coo was able to obtain possession of the seized items on August 5, 1986.[8] After trial, Coo was declared the owner and possessor of the aluminum wires and allied accessories.[9]

On appeal, the Court of Appeals affirmed the trial court's decision with the modification that Alfredo Arzaga, Jr. and Zosimo Briones, NPC's Branch Manager and NPC's officer-in-charge for Negros Occidental, respectively, were absolved from any liability in their personal capacity and the awards of compensatory and moral damages were deleted. Instead, NPC was ordered to pay nominal damages and attorney's fees.[10]

NPC moved for reconsideration but its motion was denied. Hence, this petition for review on certiorari.[11]

Petitioner contends that the Court of Appeals erred in relying on the decision in the criminal case acquitting Dennis Coo for its ruling that the aluminum conductor wires in question belonged to him. Petitioner claims that the acquittal was based on reasonable doubt and, therefore, was not conclusive of the ownership of the goods. On the other hand, according to petitioner, the following facts support its claim that the aluminum wires bought by Coo from the New Alloy Metal Company were different from those seized by the PC from Coo and delivered to NPC:[12]

1. The sales invoice as well as the way bill submitted by private respondent indicates that the assorted scrap aluminum wires were delivered to private respondent Coo's factory while the property seized by the PC was found in Coo's residence.
2. The sales invoice covers only six (6) tons of scrap aluminum wires while the property seized by the PC weighs nine (9) tons.
3. The sales invoice only states "aluminum wires," while the property seized from Coo's residence consisted not only of aluminum wires but included transmission hardware as well.
4. The "fact" that in the entire Philippines only petitioner NPC imports and uses aluminum conductor wires rated 795 MCR ACSR and 336 MCR ACSR.

From these premises, NPC concludes that the property seized by the PC and later turned over to it is not the same as that covered by the sales invoice and the way bill which private respondent presented in court.[13] The Court of Appeals thus overlooked or misapprehended the aforesaid material facts.[14]

Petitioner also contends that although it may be argued that private respondent uses aluminum wires as raw materials in manufacturing kitchen utensils, the business in which he is engaged, he has not explained why he also purchased transmission line hardware which his business obviously does not need. It maintains that the aluminum conductor wires and hardware were pilfered from its transmission towers which had been blown down.[15]

Private respondent denies petitioner's allegations and argues that the issues raised by the petitioners are factual and insubstantial.

We find the petition to be without merit.

First. It should be pointed out that the petitioner does not dispute the value of the invoice and way bill either here or in the court below. Neither does it question their genuineness. What it questions is whether the property subject of the case is the same property covered by the said documents.

Petitioner calls attention to the fact that the goods covered by the documents were delivered to private respondent's warehouse, whereas the goods seized by the PC were taken from his residence.[16] This has, however, already been explained by Coo during cross-examination[17] at the trial of the case: The goods were moved to his residence because the warehouse had already become overcrowded. In addition, petitioner points out that the documents only cover six (6) tons of scrap aluminum, while what was seized weighed nine (9) tons.[18]

In his Comment, private respondent Coo points out that the receipt issued by the PC raiding team listed the items seized from Coo as five (5) tons of assorted aluminum conductor wires.[19]

Indeed, the affidavit[20] of a member of the PC raiding team, which is appended to the private respondent's Rejoinder in this case, states that the property seized weighed "about 5 tons." This has not been denied by petitioner. Moreover, it is important to note that in the stipulation of facts, both the petitioner and private respondent agreed that the very same property subject of the criminal case is the property subject of the present civil case, without reference to its weight.[21] The records do not in fact show that this question was ever raised in the court below. It was only in the petitioner's Appellants-Brief[22] in the Court of Appeals where such a question was raised. Clearly, the records do not support the claim that the property seized from private respondent's residence weighed nine (9) tons.[23]

Petitioner makes much of the fact that the documents state "scrap aluminum" while the property seized consisted of "aluminum conductor wires and transmission hardware." [24] Thus, the invoice and way bill show that they cover "Scrap asst. alum. wire"/"Assorted Scrap alum. wires." [25] The word "scrap" is defined as "manufactured

articles or parts rejected for imperfection or discarded because of excessive wear or lack of demand and useful only as raw material for reprocessing.”[26] The term is broad enough to cover different types of property as long as they are rejected or discarded and useful only as raw material for reprocessing. Indeed, the petitioner’s own witness, Rolando Bulfa, a property custodian of petitioner, described the property turned over by the PC to NPC as “all already broken.”[27] Thus, the fact that the documents describe the property as “scrap” is consistent with the description given by petitioner’s own witness. It is of no moment that the seized property consisted of aluminum wires and transmission hardware. What is important is the condition of the materials, that is, all broken up and hence useful only as raw material for reprocessing.

It should also be pointed out that it is common practice for scrap material to be sold and bought by lot. They are not normally bought sorted out. Hence, it is quite possible that transmission hardware formed part of the property sold to private respondent Coo. It is not surprising that aluminum conductor wires are attached to such hardware. As for the fact that the documents refer specifically to said wires and not the hardware, it is understandable since the wires were the ones private respondent Coo primarily wanted to buy from the establishment.

Lastly, petitioner points out that even if Coo claims the property to be needed as raw material in the manufacture of kitchen utensils, it cannot be argued that transmission hardware would also be needed.[28]

This is mere opinion. Moreover, as already pointed out, it is a practice that scrap material is bought by lot. Hence, assuming petitioner is correct that transmission hardware is not needed in private respondent’s business, the fact that such type of ware is found with the aluminum scrap wires seized from private respondent’s residence is not enough to find that the subject property belonged to it and not to private respondent.

As a general rule, findings of fact of the Court of Appeals are binding and conclusive upon the Supreme Court, and the Court will not normally disturb such factual findings unless the findings of the court are palpably unsupported by the evidence on record or unless the judgment itself is based on a misapprehension of facts.[29]

The present case not falling under the exceptions, the general rule applies.

Petitioner claims to be the only entity in the Philippines that imports and uses aluminum conductor wires such as those subject of the present controversy,[30] and that the purchase price for the aluminum wires indicated in the invoice presented by private respondent Coo was only P5.00 per kilo when the going price for aluminum scrap during 1984 was already P19.00 a kilo.

These are mere allegations of witnesses who are not experts. They are not supported by any evidence. The witnesses cannot even state with certainty that the property belongs to NPC. All they can say is that the subject property is similar to that used by petitioner NPC in its power transmission lines.

Anent the claim that NPC has exclusive access to the type of aluminum wires subject of the case, the Court of Appeals found that the petitioner conducts public biddings,[31] thus implying that petitioner does not have exclusive access to the material in question.

The trial court correctly found that private respondent Coo had proven by a preponderance of evidence that he and not petitioner NPC is entitled to the possession of the subject property. It pointed out that while private respondent had consistently presented his documentary evidence showing his purchase of the property and its delivery to his residence, petitioner merely relied on mere opinions and assumptions unsupported by any concrete evidence. It correctly observed that while there may be no denying the fact that the petitioner may be using a similar type of hardware as that involved in the present case, no iota of evidence was ever presented to show that the particular items involved in the case belong to it.[32]

As against documents presented by the private respondent and the judgment in the criminal case acquitting him, the petitioner presented only its employees whose testimonies consisted merely of assumptions and opinions.

By preponderance of evidence is meant simply evidence which is of greater weight, or more convincing than that which is offered in opposition to it.[33]

Clearly, private respondent Coo has provided evidence of greater weight than the petitioner relevant to the determination of who is entitled to the possession of the subject property.

At any rate, in a case for replevin, it is sufficient that the plaintiff prove entitlement to legal possession. It is not necessary to prove ownership.

It is worth stressing at this point, that a suit for replevin is founded solely on the claim that the defendant wrongfully withholds the property sought to be recovered. It lies to recover possession of personal chattels that are unlawfully detained. "To detain" is defined as to mean "to hold or keep in custody," and it has been held that there is tortious taking whenever there is an unlawful meddling with the property, or an exercise or claim of dominion over it, without any pretense of authority or right; this, without manual seizing of the property is sufficient. Under the Rules of Court, it is indispensable in replevin proceeding that the plaintiff must show by his own affidavit that he is entitled to the possession of property, that the property is wrongfully detained by the defendant, alleging the cause of detention, that the same has not been taken for tax assessment, or seized under execution, or attachment, or if so seized, that it is exempt from such seizure, and the actual value of the property.[34]

A perusal of the way bill shows that the consignee is private respondent. Hence, it is sufficient to support the claim that private respondent is entitled to a writ of replevin. It is evidence that he is entitled to the possession of the property subject of this case.

Anent the requirement that the personal property be unlawfully detained by another not entitled to its possession, it is to be remembered that petitioner NPC was the complainant in the criminal case against private respondent and, as such, knew of the decision in the case. As a consequence of the said decision, private respondent Coo should have been given possession of the subject property.[35] However, petitioner NPC refused to relinquish possession of the same even after the decision in the criminal case declaring Coo to be the owner of the goods. It is thus wrongfully withholding possession of the property, thus entitling private respondent to the writ of replevin.

Second. The petitioner also assigns as error respondent Court of Appeals' order to pay respondent Coo nominal damages and attorney's fees. Petitioner contends that it cannot be held liable for damages because the law requires that one be injured by a wrongful act or omission of another in order to be entitled to compensation. It argues that it was not guilty of any wrongful act but that it was merely exercising its legal right when it recovered possession of the aluminum wires and the hardware. At any rate, it is claimed, petitioner acted in good faith when it refused to release the said property.[36]

As already discussed, after private respondent Coo had shown that he was entitled to possession of the property, it became the duty of petitioner to yield possession of the goods. Article 2221 of the Civil Code provides:

Art. 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

Based on this provision, petitioner is liable to private respondent for nominal damages.

Nor did the Court of Appeals err in awarding attorney's fees to private respondent, considering that petitioner's

refusal to return the property compelled private respondent to incur expenses to protect his interest.[37] Moreover, petitioner acted in gross and evident bad faith in refusing to satisfy private respondent's plainly valid, just, and demandable claim.[38]

In view of the foregoing rulings, the contention that the Court of Appeals erred in not awarding expenses of litigation and attorney's fees in favor of petitioner NPC is clearly without merit.[39]

WHEREFORE, the decision dated March 28, 1995 and the resolution dated September 29, 1995 of the Court of Appeals are AFFIRMED.

SO ORDERED.

Regalado, (Chairman), Melo, Puno, and Martinez, JJ., concur.

[1] Per Justice Jesus M. Elbinias, concurred in by Justice Lourdes K. Tayao-Jaguros and Justice B.A. Adefuin-de la Cruz.

[2] Rollo, p. 34.

[3] Ibid.

[4] Records, p. 23.

[5] Rollo, pp. 34-35.

[6] CA Rollo, p. 75.

[7] Rollo, p. 35.

[8] Ibid.

[9] Rollo, p. 36.

[10] Id., pp. 33-39.

[11] Id., p. 16.

[12] Id., pp. 24-26.

[13] Id., p. 24.

[14] Id., p. 26.

[15] Id., pp. 25-26.

[16] Id., p. 24.

[17] TSN, Jan. 27, 1989, p. 28.

[18] Rollo, p. 24.

[19] Id., p. 49.

[20] Id., p. 77.

[21] TSN, Jan. 27, 1989, p. 4; TSN, May 12, 1989, p. 3.

[22] CA Rollo, p. 49.

- [23] Id., p. 77.
- [24] Rollo, p. 24.
- [25] Records, p. 9.
- [26] Webster's Third International Dictionary 2039 (3rd ed., 1971).
- [27] TSN, May 12, 1989, p. 17.
- [28] Rollo, pp. 25-26.
- [29] Valenzuela v. Court of Appeals, 252 SCRA 303 (1996).
- [30] Rollo, pp. 18-22.
- [31] Id., p. 37.
- [32] CA Rollo, pp. 78-79.
- [33] New Testament Church of God v. Court of Appeals, 246 SCRA 266 (1995).
- [34] Paat v. Court of Appeals, 266 SCRA 185 (1997).
- [35] See Heirs of Carlos Caballero v. Solano, 243 SCRA 660 (1995).
- [36] Rollo, pp. 19-20.
- [37] civil code, Art. 2208 (2).
- [38] Id., Art. 2208 (5).
- [39] Rollo, pp. 28-29.

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