

**PETROPHIL CORPORATION, PETITIONER, VS. COURT OF APPEALS,
DR. AMANDA TERNIDA-CRUZ, JESSIE DE VERA, MARCIAL MULIG,
ANTONIO CUENCA, AND RUFINO CUENCA, RESPONDENTS.**

G.R. No. 122796. December 10, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition seeks to annul and set aside the decision[1] dated September 26, 1995, of the Court of Appeals, affirming with modification the decision of the Regional Trial Court of Manila, Branch 52, in Civil Case No. 87-40930 for specific performance with preliminary injunction and Civil Case No. 88-43946 for damages. It likewise seeks to annul the resolution[2] dated November 16, 1995 denying petitioner's motion for reconsideration.

On December 27, 1970, petitioner Petrophil Corporation (Petrophil) entered into contract with private respondent Dr. Amanda Ternida-Cruz, allowing the latter to haul and transport any and all packages and/or bulk products of Petrophil. The contract provided among others, that Petrophil could terminate the contract for breach, negligence, discourtesy, improper and/or inadequate performance or abandonment. Dr. Cruz was also required to reserve the use of at least two (2) units of tank trucks solely for the hauling requirements of Petrophil. Paragraph 11 of the contract also stipulated that the contract shall be for an indefinite period, provided that Petrophil may terminate said contract at any time with 30 days prior written notice.[3]

Annexed to the contract was the Penalty Clause which contained calibrated penal sanctions for infractions that may be committed by Dr. Cruz and/or her employees.[4] Petrophil also required the formation of a Hearing Committee that will hear the offenses committed by hauling contractors or their employees, to give an erring party opportunity to be heard prior to the imposition of any penalty.[5]

In a letter dated May 21, 1987, Petrophil, through its Operations Manager, advised Dr. Cruz that it was terminating her hauling contract in accordance with paragraph 11 thereof.[6] Dr. Cruz appealed to Petrophil for reconsideration but said appeal was denied on June 5, 1987.

On June 23, 1987, Dr. Cruz filed with the Regional Trial Court of Manila, a complaint docketed as Civil Case No. 87-40930, against Petrophil seeking the nullity of the termination of the contract and declaring its suspension as unjustified and contrary to its terms and conditions.[7]

On March 11, 1988, the other private respondents herein, Jessie de Vera, Marcial Mulig, Antonio and Rufino Cuenca, all tank truck drivers of Dr. Cruz, also filed a complaint docketed as Civil Case No. 88-43946 for damages against Petrophil Operations Manager Antonio Santos, Pandacan Terminal Manager Crispino A. de Castro, and Pandacan Terminal Superintendent Jaime Tamayo.[8]

The two cases were consolidated and jointly tried.

During the hearing, Dr. Cruz testified that she had been in the gasoline business as dealer, operator and hauling

contractor for the last 26 years. She claimed that the termination of her hauling contract was a retaliation against her for allegedly sympathizing with the then striking Petrophil employees and for informing the PNOC president of anomalies perpetrated by some of its officers and employees.

Driver Jessie de Vera corroborated these allegations and said that the termination of Dr. Cruz's contract was intended to silence her. Further, he testified that before the termination of the contract, Petrophil officials reduced their hauling trips to make life harder for them so that they would resign from Dr. Cruz's employ, which in turn would result in the closure of her business.

Petitioner denied that Petrophil officials were out to starve Dr. Cruz's drivers for their support of her. They professed that the hauling trips were reduced not because Dr. Cruz was being punished, but because the company was assigning hauling trips on the basis of compartmentation and not on a first-come first-serve. Additionally, witnesses for Petrophil testified that on April 25, 1987, there was a strike at the Pandacan terminal and Dr. Cruz and her husband were at the picket line. They refused to load petroleum products, resulting in the disruption of delivery to service stations in Metro Manila and in the provinces, which in turn resulted in loss of sales and revenues. Because of Dr. Cruz's refusal to load, the management terminated the hauling contract.

The trial court on May 29, 1991 rendered a decision that reads:

WHEREFORE, judgments are rendered as follows:

- In Civil Case No. 87-40830 (sic), the defendant Petrophil Corporation is ordered to pay plaintiff Dra. Amanda Ternida-Cruz the sum of P309,723.65 as unearned hauling charges and P20,000.00 as attorney's fees and expenses of suit, without prejudice to indemnification from its officials and employees responsible for the damage, and making the preliminary injunction permanent.

- In Civil Case NO. 88-43949 (sic), ordering the defendants therein, jointly and severally, to pay each of plaintiffs Jessie de Vera and Rufino Cuenca the sums of P64,390.00 and P5,000.00 as unearned income and attorney's fees, respectively.

Costs in each case against the respective defendants.

SO ORDERED.[9]

In Civil Cases Nos. 87-40930 and 88-43946, Dr. Cruz alleged that the trial court erred in not awarding actual damages from loss of income during the illegal and arbitrary suspension of the hauling contract. She asked that Petrophil be ordered to pay her the sum of P309,723.65, representing the unearned hauling charges that ended in 1990 and until said amount is paid and settled; and to award compensatory, exemplary, and moral damages.[10]

On September 26, 1995, the Court of Appeals affirmed with modification the decision of the trial court. It held:

WHEREFORE, the appealed decision is hereby AFFIRMED, with the modification that the amount of P309,723.65, awarded as unearned hauling charges should earn legal interest from May 29, 1991 until fully paid.

SO ORDERED.[11]

The Court of Appeals sustained the trial court declaring that the termination of the contract was "for cause", and that the procedures set forth in petitioner's policy guidelines should be followed.

In this petition for review, Petrophil alleges that the Court of Appeals erred in rendering a decision that:

I

... UNLAWFULLY SET ASIDE A VALID AND EXISTING CONTRACTUAL STIPULATION BETWEEN THE PARTIES.

II

... IMPOSED TORTIOUS LIABILITY WHERE THE REQUISITES PRESCRIBED BY LAW FOR SUCH LIABILITY WERE NOT ESTABLISHED AT ALL BY THE EVIDENCE.[12]

On the first assigned error, petitioner contends that the courts' a quo finding that the contract was terminated "for cause" was a superfluity because petitioner was after all not contractually bound to use the mode, "for cause" under par. 7, nor prohibited from using the other mode, "without cause", under par. 11. It could use either. Petitioner avers these two modes were not mutually exclusive. The hauling contract did not state that the existence of conditions for the exercise of one, precluded the exercise of the other. Petitioner says it chose to terminate the contract under paragraph 11, whose language was very clear and required no interpretation. Petitioner insists that Article 1377 of the Civil Code,[13] applicable to contracts of adhesion, does not apply in this case.

Private respondents, on the other hand, claim that the contract did not envision a situation where the contract can be rescinded or terminated after the occurrence of ambivalent acts which may qualify as cause for termination. The contract's vagueness, according to private respondents, needed an interpretation. Further, they contend that even granting *arguendo* that petitioner had all the right to terminate the contract even "without cause", petitioner would still be liable to answer for damages under Article 19 of the Civil Code[14] on abuse of right for terminating the contract without reason but out of sheer whim and caprice.

Two questions must initially be resolved: (1) whether or not the hauling contract needed interpretation, and (2) whether petitioner was guilty of arbitrary termination of the contract, which would entitle Dr. Cruz to damages.

On the first issue, we agree with petitioner that the contract clearly provided for two ways of terminating the contract, and, one mode does not exclude the other. Although the contract provided for causes for termination, it also stated in paragraph 11 that the contract was for an indefinite term subject to the right of Petrophil to terminate it any time after a written notice of 30 days. When the language of a contract is clear, it requires no interpretation.[15] Thus, the finding that the termination of the contract was "for cause", is immaterial. When petitioner terminated the contract "without cause", it was required only to give Dr. Cruz a 30-day prior written notice, which it did in this case.

However, we differ with petitioner on the second issue. Recall that before Petrophil terminated the contract on May 25, 1987, there was a strike of its employees at the Pandacan terminal. Dr. Cruz and her husband were seen at the picket line and were reported to have instructed their truck drivers not to load petroleum products. At the resumption of the operation in Pandacan terminal, Dr. Cruz's contract was suspended for one week and eventually terminated. Based on these circumstances, the Court of Appeals like the trial court concluded that Petrophil terminated the contract because of Dr. Cruz's refusal to load petroleum products during the strike. In respondent court's view, the termination appeared as a retaliation or punishment for her sympathizing with the striking employees. Nowhere in the record do we find that petitioner asked her to explain her actions. Petrophil simply terminated her contract. These factual findings are binding and conclusive on us, especially in the absence of any allegation that said findings are unsupported by the evidence, or that the appellate and trial courts misapprehended these facts.[16] In terminating the hauling contract of Dr. Cruz without hearing her side on the factual context above described, petitioner opened itself to a charge of bad faith. While Petrophil had the right to terminate the contract, petitioner could not act purposely to injure private respondents. In *BPI Express Card Corporation vs. CA*, 296 SCRA 260, 272 (1998), we held that there is abuse of a right under Article 19 if the following elements are present: 1) there is a legal right or duty; 2) which is exercised in bad faith; 3) for the sole purpose of

prejudicing or injuring another. We find all these three elements present in the instant case. Hence, we are convinced that the termination by petitioner of the contract with Dr. Cruz calls for appropriate sanctions by way of damages.

Petitioner likewise contends that the lower court erred when they applied the procedures set forth in the Policy Statement and Guidelines^[17] and penalty clause.^[18] Petitioner argues that the offenses in the penalty clause refer to product theft or pilferage or gross violation of company policies on credit, security and the like, as required in tank truck deliveries. Dr. Cruz claims, in turn, that there was no showing that her alleged act was covered by the said offenses, hence petitioner erred when it imposed the procedure in her case. However, this is the first time that petitioner raises this issue. Well-established is the rule that matters not brought out in the proceedings below but raised for the first time on appeal will ordinarily not be considered by a reviewing court.^[19] Given no compelling reason, we shall not now deviate from this familiar rule.

On the second assigned error, petitioner contends that the Court of Appeals erred when it imposed a tortious liability where the requisites therefor were not established by the evidence. According to petitioner, aside from the hearsay and inadmissible testimony of Jessie de Vera, there is no other evidence that the termination of the contract was done with deliberate intent to harm or for the sole purpose of prejudicing the respondent-drivers. Petitioner adds that the termination was an exercise of a right and directed primarily at Dr. Cruz.

Article 20 of the Civil Code provides that every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the damage done. Petitioner might not have deliberately intended to injure the respondent-drivers. But as a consequence of its willful act directed against Dr. Cruz, respondent-drivers lost their jobs and consequently suffered loss of income. Note that under Article 20, there is no requirement that the act must be directed at a specific person, but it suffices that a person suffers damage as a consequence of a wrongful act of another in order that indemnity could be demanded from the wrongdoer.^[20] The appellate court did not err, given the circumstances of this case, in awarding damages to respondent-drivers.

WHEREFORE, the petition is DENIED. The decision and resolution of the Court of Appeals dated September 26, 1995 and November 16, 1995, respectively, are hereby AFFIRMED.

Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and De Leon, Jr., JJ., concur.
Buena, J., on official leave.

[1] Rollo, pp. 40-57.

[2] Id. at 9.

[3] Records, Vol. 1, pp. 8-12.

[4] Id. at 13-14.

[5] Id. at 17-18.

[6] Id. at 19.

[7] Id. at 1-7.

[8] Records, Vol. III, pp. 1- 4.

[9] Rollo, pp. 78-79.

[10] CA Records, p. 39. (Plaintiffs-Appellants Brief, pp. 10-11).

[11] Rollo, p. 57.

[12] Id. at 18.

[13] ART. 1377. The interpretation of obscure words or stipulations in a contract shall not favor the party who caused the obscurity.

[14] ART. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

[15] *Leveriza vs. Intermediate Appellate Court*, No. L-66614, 157 SCRA 282, 292 (1988).

[16] *Valenzuela vs. CA*, G.R. No. 115024, 253 SCRA 303, 313 (1996).

[17] *Supra* note 6.

[18] Rollo, p. 29.

[19] *Salafranca vs. Philamlife (Pamplona) Village Homeowners Association Inc.*, G.R. No. 121791, 300 SCRA 469, 480 (1998).

[20] *Garcia and Alba. CIVIL CODE OF THE PHILIPPINES*, Vol. I, 52 (1950).

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