ALLIED BANKING CORPORATION,PETITIONER, VS. COURT OF APPEALS, G.G. SPORTSWEAR MANUFACTURING CORPORATION, NARI GIDWANI, SPOUSES LETICIA AND LEON DE VILLA AND ALCRON INTERNATIONAL ...

G.R. NO. 125851. July 11, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review on certiorari assails (a) the July 31, 1996 Decision[1] of the Court of Appeals, ordering respondent G.G. Sportswear Manufacturing Corp. to reimburse petitioner US $20,085; and exonerating the guarantors from liability; and (b) the January 17, 1997 Resolution[2] denying the motion for reconsideration.

The facts are undisputed.

On January 6, 1981, petitioner Allied Bank, Manila (ALLIED) purchased Export Bill No. BDO-81-002 in the amount of US $20,085.00 from respondent G.G. Sportswear Mfg. Corporation (GGS). The bill, drawn under a letter of credit No. BB640549 covered Men's Valvoline Training Suit that was in transit to West Germany (Uniger via Rotterdam) under Cont. #73/S0299. The export bill was issued by Chekiang First Bank Ltd., Hongkong. With the purchase of the bill, ALLIED credited GGS the peso equivalent of the aforementioned bill amounting to P151,474.52 and the receipt of which was acknowledged by the latter in its letter dated June 22, 1981.

On the same date, respondents Nari Gidwani and Alcron International Ltd. (Alcron) executed their respective Letters of Guaranty, holding themselves liable on the export bill if it should be dishonored or retired by the drawee for any reason.

Subsequently, the spouses Leon and Leticia de Villa and Nari Gidwani also executed a Continuing Guaranty/Comprehensive Surety (surety, for brevity), guaranteeing payment of any and all such credit accommodations which ALLIED may extend to GGS. When ALLIED negotiated the export bill to Chekiang, payment was refused due to some material discrepancies in the documents submitted by GGS relative to the exportation covered by the letter of credit. Consequently, ALLIED demanded payment from all the respondents based on the Letters of Guaranty and Surety executed in favor of ALLIED. However, respondents refused to pay, prompting ALLIED to file an action for a sum of money.

In their joint answer, respondents GGS and Nari Gidwani admitted the due execution of the export bill and the Letters of Guaranty in favor of ALLIED, but claimed that they signed blank forms of the Letters of Guaranty and the Surety, and the blanks were only filled up by ALLIED after they had affixed their signatures. They also added that the documents did not cover the transaction involving the subject export bill.

On the other hand, the respondents, spouses de Villa, claimed that they were not aware of the existence of the export bill; they signed blank forms of the surety; and averred that the guaranty was not meant to secure the export bill.

Respondent Alcron, for its part, alleged that as a foreign corporation doing business in the Philippines, its branch in the Philippines is merely a liaison office confined to the following duties and responsibilities, to wit: acting as a message center between its office in Hongkong and its clients in the Philippines; conducting credit investigations on Filipino clients; and providing its office in Hongkong with shipping arrangements and other details in connection with its office in Hongkong. Respondent Alcron further alleged that neither its liaison office in the Philippines nor its then representative, Hans-Joachim Schloer, had the authority to issue Letters of Guaranty for and in behalf of local entities and persons. It also invoked laches against petitioner ALLIED.

GGS and Nari Gidwani filed a Motion for Summary Judgment on the ground that since the plaintiff admitted not having protested the dishonor of the export bill, it thereby discharged GGS from liability. But the trial court denied the motion. After the presentation of evidence by the petitioner, only the spouses de Villa presented their evidence. The other respondents did not. The trial court dismissed the complaint.

On appeal, the Court of Appeals modified the ruling of the trial court holding respondent GGS liable to reimburse petitioner ALLIED the peso equivalent of the export bill, but it exonerated the guarantors from their liabilities under the Letters of Guaranty. The CA decision reads as follows:

> For the foregoing considerations, appellee GGS is obliged to reimburse appellant Allied Bank the amount of P151,474.52 which was the equivalent of GGS's contracted obligation of US$20,085.00.
>
> The lower court however correctly exonerated the guarantors from their liability under their Letters of Guaranty. A guaranty is an accessory contract. What the guarantors guaranteed in the instant case was the bill which had been discharged. Consequently, the guarantors should be correspondingly released.
>
> WHEREFORE, judgment is hereby rendered ordering defendant-appellee G.G. Sportswear Mfg. Corporation to pay appellant the sum of P151,474.52 with interest thereon at the legal rate from the filing of the complaint, and the costs.
>
> SO ORDERED.[3]

The petitioner filed a Motion for Reconsideration, but to no avail. Hence, this appeal, raising a single issue:

> Whether or not respondents Nari, De Villa and Alcron are liable under the Letters of Guaranty and the Continuing Guaranty/ comprehensive Surety notwithstanding the fact that no protest was made after the bill, a foreign bill of exchange, was dishonored.[4]

The main issue raised before us is: Can respondents, in their capacity as guarantors and surety, be held jointly and severally liable under the Letters of Guaranty and Continuing Guaranty/Comprehensive Surety, in the absence of protest on the bill in accordance with Section 152 of the Negotiable Instruments Law?[5]

The petitioner contends that part of the Court of Appeals" decision exonerating respondents Nari Gidwani, Alcron International Ltd., and spouses Leon and Leticia de Villa as guarantors and/or sureties. Respondents rely on Section 152 of the Negotiable Instruments Law to support their contention.

Our review of the records shows that what transpired in this case is a discounting arrangement of the subject export bill, between petitioner ALLIED and respondent GGS. Previously, we ruled that in a letter of credit transaction, once the credit is established, the seller ships the goods to the buyer and in the process secures the required shipping documents of title. To get paid, the seller executes a draft and presents it together with the required documents to the issuing bank. The issuing bank redeems the draft and pays cash to the seller if it finds that the documents submitted by the seller conform with what the letter of credit requires. The bank then obtains possession of the documents upon paying the seller. The transaction is completed when the buyer reimburses the issuing bank and acquires the documents entitling him to the goods.[6] However, in most cases, instead of going

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to the issuing bank to claim payment, the buyer (or the beneficiary of the draft) may approach another bank, termed the negotiating bank, to have the draft discounted.[7] While the negotiating bank owes no contractual duty toward the beneficiary of the draft to discount or purchase it, it may still do so. Nothing can prevent the negotiating bank from requiring additional requirements, like contracts of guaranty and surety, in consideration of the discounting arrangement.

In this case, respondent GGS, as the beneficiary of the export bill, instead of going to Chekiang First Bank Ltd. (issuing bank), went to petitioner ALLIED, to have the export bill purchased or discounted. Before ALLIED agreed to purchase the subject export bill, it required respondents Nari Gidwani and Alcron to execute Letters of Guaranty, holding them liable on demand, in case the subject export bill was dishonored or retired for any reason.[8]

Likewise, respondents Nari Gidwani and spouses Leon and Leticia de Villa executed Continuing Guaranty/Comprehensive Surety, holding themselves jointly and severally liable on any and all credit accommodations, instruments, loans, advances, credits and/or other obligation that may be granted by the petitioner ALLIED to respondent GGS.[9] The surety also contained a clause whereby said sureties waive protest and notice of dishonor of any and all such instruments, loans, advances, credits and/or obligations.[10] These letters of guaranty and surety are now the basis of the petitioner's action.

At this juncture, we must stress that obligations arising from contracts have the force of law between the parties and should be complied with in good faith.[11] Nothing can stop the parties from establishing stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.[12]

Here, Art. 2047 of the New Civil Code is pertinent. Art. 2047 states,

> Art. 2047. By guaranty a person, called the guarantor, binds himself to the creditor to fulfill the obligation of the principal debtor in case the latter should fail to do so.
>
> If a person binds himself solidarily with the principal debtor, the provisions of Section 4, Chapter 3, Title I of this Book shall be observed. In such case the contract is called a suretyship.

In this case, the Letters of Guaranty and Surety clearly show that respondents undertook and bound themselves as guarantors and surety to pay the full amount of the export bill.

Respondents claim that the petitioner did not protest[13] upon dishonor of the export bill by Chekiang First Bank, Ltd. According to respondents, since there was no protest made upon dishonor of the export bill, all of them, as indorsers were discharged under Section 152 of the Negotiable Instruments Law.

Section 152 of the Negotiable Instruments Law pertaining to indorsers, relied on by respondents, is not pertinent to this case. There are well-defined distinctions between the contract of an indorser and that of a guarantor/surety of a commercial paper, which is what is involved in this case. The contract of indorsement is primarily that of transfer, while the contract of guaranty is that of personal security.[14] The liability of a guarantor/surety is broader than that of an indorser. Unless the bill is promptly presented for payment at maturity and due notice of dishonor given to the indorser within a reasonable time, he will be discharged from liability thereon.[15] On the other hand, except where required by the provisions of the contract of suretyship, a demand or notice of default is not required to fix the surety's liability.[16] He cannot complain that the creditor has not notified him in the absence of a special agreement to that effect in the contract of suretyship.[17] Therefore, no protest on the export bill is necessary to charge all the respondents jointly and severally liable with G.G. Sportswear since the respondents held themselves liable upon demand in case the instrument was dishonored and on the surety, they

even waived notice of dishonor as stipulated in their Letters of Guarantee.

As to respondent Alcron, it is bound by the Letter of Guaranty executed by its representative Hans-Joachim Schloer. As to the other respondents, not to be overlooked is the fact that, the "Suretyship Agreement" they executed, expressly contemplated a solidary obligation, providing as it did that "... the sureties hereby guarantee jointly and severally the punctual payment of any and all such credit accommodations, instruments, loans, ... which is/are now or may hereafter become due or owing ... by the borrower".[18] It is a cardinal rule that if the terms of a contract are clear and leave no doubt as to the intention of the contracting parties, the literal meaning of its stipulation shall control.[19] In the present case, there can be no mistaking about respondents' intent, as sureties, to be jointly and severally obligated with respondent G.G. Sportswear.

Respondents also aver that, (1) they only signed said documents in blank; (2) they were never made aware that said documents will cover the payment of the export bill; and (3) laches have set in.

Respondents' stance lacks merit. Under Section 3 (d), Rule 131 of the Rules of Court, it is presumed that a person takes ordinary care of his concerns. Hence, the natural presumption is that one does not sign a document without first informing himself of its contents and consequences. Said presumption acquires greater force in the case at bar where not only one document but several documents were executed at different times and at different places by the herein respondent guarantors and sureties.[20]

In this case, having affixed their consenting signatures in several documents executed at different times, it is safe to presume that they had full knowledge of its terms and conditions, hence, they are precluded from asserting ignorance of the legal effects of the undertaking they assumed thereunder. It is also presumed that private transactions have been fair and regular[21] and that he who alleges has the burden of proving his allegation with the requisite quantum of evidence.[22] But here the records of this case do not support their claims.

Last, we find the defense of laches unavailing. The question of laches is addressed to the sound discretion of the court and since laches is an equitable doctrine, its application is controlled by equitable considerations.[23] Respondents, however, failed to show that the collection suit against them as sureties was inequitable. Remedies in equity address only situations tainted with inequity, not those expressly governed by statutes.[24]

After considering the facts of this case vis-á-vis the pertinent laws, we are constrained to rule for the petitioner.

WHEREFORE, the instant petition is GRANTED. The assailed Decision of the Court of Appeals is hereby MODIFIED, and we hold that respondent Alcron International Ltd. is subsidiarily liable, while respondents Nari Gidwani, and Spouses Leon and Leticia de Villa are jointly and severally liable together with G.G. Sportswear, to pay petitioner Bank the sum of P151,474.52 with interest at the legal rate from the filing of the complaint, and the costs.

SO ORDERED.

Carpio, (Chairperson), Carpio-Morales, Tinga, and Velasco, Jr., JJ concur.

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[1] Rollo, pp. 31-37. Penned by Associate Justice Alfredo L. Benipayo, with Associate Justices Buenaventura J. Guerrero, and Romeo A. Brawner concurring.

[2] Id. at 38. Penned by Associate Justice Romeo A. Brawner, with Associate Justices Minerva P. Gonzaga Reyes, and Buenaventura J. Guerrero concurring.

[3] Rollo, p. 36.

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[4] Id. at 23.

[5] Sec. 152 – In what cases protest necessary – Where a foreign bill appearing on its face to be such is dishonored by non-acceptance, it must be duly protested for non-acceptance, and where such a bill which has not been previously been dishonored by non-acceptance is dishonored by non-payment, it must be duly protested for non-payment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary.

[6] Bank of America, NT & SA v. Court of Appeals, G.R. No. 105395, December 10, 1993, 228 SCRA 357, 366.

[7] Id. at 369.

[8] Records, p. 12. The Letters of Guaranty provides that,

x x x x

If for any reason, my/our draft is not finally honored or retired by the drawee, I/We hereby further undertake and bind myself/ourselves to refund to you, on demand, the full amount of this negotiation, together with the corresponding interest thereon as well as your correspondent's charges and expenses thereon, if any; and to compensate you fully for any damages that you might incur arising out of any suit, action or proceedings, whether judicial or extra-judicial that might be instituted by the buyer or importer on the ground of lack of faithful performance of the contract between said buyer or importer and myself/ourselves. . . (Emphasis supplied.)

[9] Id. at 14. Paragraph I of the surety provides:

I. For and in consideration of any accommodation which you have extended and/or will extend to G.G. Sportswear Manufacturing Corporation (hereinafter called the "Borrower") with or without security, singularly or jointly and severally with others, . . . the undersigned agree(s) to guarantee, and does hereby guarantee jointly and severally the punctual payment at maturity to you of any and all such credit accommodations, instruments, loans, advances, credits and/or other obligations, hereinbefore referred to, which is/are now or may hereafter become due or owing to you by the Borrower . . .

[10] Id. at 15. Paragraph VIII of the surety provides:

VIII. The undersigned hereby waives . . . protest and notice of dishonor of any and all such instruments, loans, advances, credits or other indebtedness or obligation herein-before referred to, . . .

[11] New Civil Code, Art. 1159.

[12]Id. at Art. 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.

[13]Rollo, p. 158.

[14] Acme Shoe, Rubber & Plastic Corp. v. Court of Appeals, G.R. No. 103576, August 22, 1996, 260 SCRA 714, 719.

[15]Supra note 5.

[16] Umali v. Court of Appeals, G.R. No. 89561, September 13, 1990, 189 SCRA 529, 545.

[17] Palmares v. Court of Appeals, G.R. No. 126490, March 31, 1998, 288 SCRA 422, 439.

[18]Records, p. 14.

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[19] new civil code, Art. 1370.

[20] Lee v. Court of Appeals, G.R. No. 117913, February 1, 2002, 375 SCRA 579, 601.

[21]Revised Rules of Court, Rule 131, Sec. 3 (p).

[22]Heirs of Basanes v. Cortes, OCA IPI No. 01-1065-P, March 31, 2003 citing People v. Topaguen, G.R. Nos. 116596-98, March 31, 1997, 269 SCRA 601, 614.

[23] Agra v. Philippine National Bank, G.R. No. 133317, June 29, 1999, 309 SCRA 509, 520.

[24] Id.

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