

PHILIPPINE CREOSOTING CORPORATION, MONINA REALTY CORPORATION AND SPOUSES PETER C. NEPOMUCENO AND MONINA B. NEPOMUCENO, PETITIONERS, VS. COURT OF APPEALS AND PACWOOD, INC., RESPO...

G.R. No. 128121. October 09, 2000

Ponente: PARDO, J.

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PARDO, J.:

These are separate appeals via certiorari of the parties from the decision of the Court of Appeals, the decretal portion of which reads as follows:

"WHEREFORE, foregoing considered, the appealed decision and order are hereby REVERESED and SET ASIDE. A new one is rendered as follows:

"1. Ordering defendants-appellees to pay plaintiff-appellant their unpaid obligation in the amount of P406,866.04 as of November 10, 1984 plus 12% interest per annum until fully paid.

"2. Ordering plaintiff-appellant to pay defendants-appellees P10,000.00 attorney's fees.

"3. No pronouncement as to cost.

"SO ORDERED."[1]

We shall refer to the parties for brevity as Creosoting and Pacwood.

The facts, taken from the findings of the Court of Appeals, are as follows:

"On March 11, 1982, defendant Philippine Creosoting Corporation (defendant PCC, for brevity) ordered from plaintiff treated creosoted wood poles pursuant to Purchase Order No. 2395 signed by defendant corporation's president, defendant Monina Nepomuceno.

"Because of the failure of plaintiff to complete the delivery of the ordered items, defendants cancelled Purchase Order No. 2395.

"On March 8, 1993, defendants ordered from plaintiff the delivery of 145 pcs. of creosoted wood poles. On different occasions, plaintiff delivered all the ordered items.

"On March 20, 1984, defendants through a letter called the attention of plaintiff regarding the alleged discrepancy of defendant PCC's account as reflected in plaintiff's book which stood at P988,611.16 and as reflected in defendant PCC's book which stood at P537,579.42. Defendants explained that the discrepancy was the result of the failure of the plaintiff to deduct the 20% discount given by plaintiff to defendants.

"On July 18, 1984, plaintiff sent defendants a letter explaining that the ordered items were priced at P2,731.55 each and no 20% discount was granted to defendants. Plaintiff demanded payment of the outstanding balance in the amount of P406,866.04.

"Defendants however refused to pay.

"On account of said refusal, plaintiff filed a civil complaint against defendants for the collection of P406,866.04 with prayer for the Issuance of Writ of Attachment.

"Plaintiff insisted therein that the price for each creosoted wood pole is P2,731.55 and that no 20% discount was ever granted to defendants.

"Defendants insisted that they were given a 20% discount by plaintiff; that it would be illogical for them to agree to purchase the pole at P2,731.55 each because at said price, they would be operating in a losing scheme; that if computed properly, they have already paid their obligation.

"On December 5, 1984, the trial court issued a writ of attachment ordering the Sheriff of Makati to attach whatever properties of the defendant PCC equivalent to the amount of P406,866.04. Plaintiff, for the same amount, posted the corresponding bond.

"On December 17, 1984, the 8-toner FUSO crane of defendant PCC was attached.

"After trial on the merits, the assailed decision was rendered. Thus, this appeal."[2]

On March 16, 1992, the trial court rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of the defendants Philippine Creosoting Corporation, Monina Realty Corporation, and spouses Peter G. Nepomuceno and Monina B. Nepomuceno and against the plaintiff Pacwood, Incorporated, dismissing the instant complaint; favorable judgment is hereby rendered relative to defendants' counterclaim and ordering, therefore, plaintiff to pay:

"1) Defendants by way of attorney's fees, in the sum of Fifty Thousand Pesos (P50,000.00);

"2) Defendant Molina Nepomuceno by way of moral damages in the sum of Fifty Thousand Pesos (P50,000.00); and

"3) The costs of the suit.

"SO ORDERED."[3]

On April 8, 1992, Creosoting filed with the trial court a motion for reconsideration.[4]

On July 1, 1992, the trial court issued an order disposing as follows:

"WHEREFORE, premises considered, the Motion for Reconsideration is, therefore, granted. The decision of this Court dated March 16, 1992 is hereby amended by ordering plaintiff, in addition to its paying moral damages and attorney's fees to the defendant, to also:

"1. Return to defendant Philippine Creosoting Corporation the 8-toner Fuso Mobile Crane immediately;

"2. In case of failure to so deliver the aforesaid crane to the defendant, plaintiff is ordered to pay defendant the amount of P500,000.00 as reasonable value of said crane and to earn interest at six per cent (6%) per annum from January 17, 1984 until fully paid; and

"3. To compensate said defendant for the loss of the use of the aforesaid crane from April, 1984 up to the present time in the amount of P300,000.00.

"SO ORDERED."[5]

On April 15, 1995, Pacwood appealed to the Court of Appeals.[6]

On October 08, 1996, the Court of Appeals rendered a decision reversing the trial court, as set out in the opening paragraph of this opinion.[7]

Both parties appealed to this Court.[8]

The issue raised is whether Creosoting is liable to pay Pacwood's claim for unpaid balance on the purchase of 145 pieces of creosoted wood poles 55 feet, at the unit price of P2,731.55 per pole, duly delivered and accepted. The dispute arose on the question of whether Pacwood gave Creosoting a trade discount of twenty (20%) per cent on the price.

Creosoting claimed that its account was fully paid because at a meeting of the parties at Red Ribbon in Greenhills, to clarify matters, Creosoting gave a payment of US\$ 10,000.00 (equivalent to P225,000.00) to Pacwood as full payment of the account.

On the other hand, Pacwood claimed that the account remained unpaid because it did not agree to give Creosoting a trade discount of twenty (20%) per cent on the subject purchase.

The issue is factual. Ordinarily, a factual ruling of the Court of Appeals is binding on the parties and may not be reviewed on appeal via certiorari.[9]

However, when such ruling conflicts with the findings of the trial court, we are justified in reviewing the appellate court's ruling.[10]

We agree with the Court of Appeals that Pacwood did not give a trade discount of twenty (20%) per cent on the purchase price.

The preponderance of evidence shows that the invoices and delivery receipts did not indicate any discount which Creosoting tried to prove by testimonial evidence. Such testimonial evidence will not prevail over documentary proof showing otherwise.

It is thus shown by incontrovertible evidence that Pacwood delivered to Creosoting, upon the latter's purchase orders on various dates in April and May 1983, 145 pieces of creosoted wood poles, 55 feet, at a unit price of P2,731.55 each, with no discount. Pacwood demanded payment of the outstanding balance in the amount of P406,866.04, including interest at 14% per annum and penalty charges of 2% a month, detailed as follows:

"x x x

P351,228.29

"Add: Interest of 14%/month

20,498.12

Penalty of 2%/month

35,139.63

P406,866.04"[11]

Creosoting, however, refused to pay.

At a conciliation meeting held in April 1984, at Red Ribbon in Greenhills between Pacwood's Cesar Ocampo and Creosoting's Monina Nepomuceno, they resolved the differences between them and Creosoting gave Pacwood the amount of P225,000 which is equivalent to US\$10,000.00 in full payment of its account. Repudiating the agreement reached at the Red Ribbon meeting, on November 22, 1984, Pacwood instituted action in the Regional Trial Court, Makati, for collection.[12]

We find Creosoting still liable to Pacwood for the unpaid balance of its purchase of 145 pieces of creosoted wood poles, 55 feet, computed at P2,731.55 multiplied by 145 equals P396,074.75, less payment of P225,000.00, leaving a balance of P171,074.75. To this balance, legal interest at six per cent (6%) per annum may be added counted from the filing of the complaint on November 22, 1984, until fully paid.

WHEREFORE, the Court hereby REVERSES and SETS ASIDE the decision of the Court of Appeals in CA-G. R. CV No. 41634 and the decision of the Regional Trial Court, Makati, Branch 139, in Civil Case No. 9083. In lieu thereof, the Court renders judgment sentencing Philippine Creosoting Corporation to pay Pacwood, Inc. the sum of P171,074.75, with interest at the legal rate of six per cent (6%) per annum from November 22, 1984, until fully paid, and P10,000.00 as attorney's fees and costs of suit.

No costs in this instance.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] G. R. No. 128121, Petition, Annex "A", CA Decision, promulgated on October 8, 1996, Rollo, pp. 52-63. (Labitoria, J., ponente, Garcia and Tuquero, JJ., concurring).

[2] Ibid., at pp. 54-55.

[3] Petition, Annex "1-A" of Annex "G", G. R. No. 128121, Rollo, pp. 129-144.

[4] Petition, Annex "I", G. R. No. 128121, Rollo, pp. 145-152.

[5] Petition, Annex "J", G. R. No. 128121, Rollo, pp. 153-157.

[6] Docketed as CA-G. R. CV No. 41634; Petition, Annex "K", Rollo, G. R. No. 128121, p. 158.

[7] Petition, Annex "A", Rollo G. R. No. 128121, pp. 52-63. (Labitoria, J., ponente, Garcia and Tuquero, JJ., concurring).

[8] Creosoting Petition filed on March 14, 1997, G. R. No. 128121, Rollo, pp. 13-51; Pacwood Petition filed on

May 13, 1997, G. R. No. 128993, Rollo, pp. 3-23. On October 15, 1997, we gave due course to the Creosoting petition, G. R. No. 128121, Rollo, p. 454.

[9] *Mari v. Court of Appeals*, G. R. No. 127694, May 31, 2000, citing *Maglaque v. Planters Development Bank*, 307 SCRA 156, 161 [1999], citing *Guerrero v. Court of Appeals*, 285 SCRA 670 [1998]; *Rongavilla v. Court of Appeals*, 294 SCRA 289 [1998]; *Cristobal v. Court of Appeals*, 291 SCRA 122 [1998]; *Sarmiento v. Court of Appeals*, 291 SCRA 656 [1998]. *Atillo III v. Court of Appeals*, 266 SCRA 596 [1997]; *Don Orestes Romualdez Electric Cooperative, Inc. v. NLRC*, G. R. No. 128389, November 25, 1999; *Cebu Shipyard and Engineering Works, Inc. v. William Lines, Inc.*, 306 SCRA 762, 774-775 [1999]; *Fuentes v. Court of Appeals*, 268 SCRA 703 [1997].

[10] *Yobido v. Court of Appeals*, 281 SCRA 1 [1997]; *Mari v. Court of Appeals*, *supra*, Note 9.

[11] Rollo, G. R. No. 128121, p. 98.

[12] Petition, Annex "C", Rollo, G. R. No. 128121, pp. 65-74.

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