

MINDEX RESOURCES DEVELOPMENT, PETITIONER, VS. EPHRAIM MORILLO, RESPONDENT.

G.R. No. 138123. March 12, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Attorney's fees cannot be granted simply because one was compelled to sue to protect and enforce one's right. The grant must be proven by facts; it cannot depend on mere speculation or conjecture -- its basis must be stated in the text of the decision.

The Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the March 26, 1999 Decision^[1] of the Court of Appeals (CA) in CA-GR CV No. 46967. The dispositive portion of the challenged Decision reads as follows:

“WHEREFORE, the appealed decision is AFFIRMED with MODIFICATION that the legal interest to be paid on the rentals of P76,000.00 and costs of repair in the amount of P132,750.00 is six (6%) percent per annum from June 22, 1994, the date of the decision of the court a quo to the date of its finality. Thereafter, if the amounts adjudged remain unpaid, the interest rate shall be twelve (12%) percent per annum from the date of finality of the decision until fully paid.”^[2]

The Facts

The factual antecedents of the case are summarized by the CA in this wise:

“On February 1991, a verbal agreement was entered into between Ephraim Morillo and Mindex Resources Corporation (MINDEX for brevity) for the lease of the former's 6 x 6 ten-wheeler cargo truck for use in MINDEX's mining operations in Binaybay, Bigaan, San Teodoro, Oriental Mindoro, at the stipulated rental of ‘P300.00 per hour for a minimum of eight hours a day or a total of P2,400.00 daily.’ MINDEX had been paying the rentals until April 10, 1991.

“Unknown to Morillo, on April 11, 1991, the truck was burned by unidentified persons while it was parked unattended at Sitio Aras, Bigaan, San Teodoro, Oriental Mindoro, due to mechanical trouble. The findings of the Mindoro Oriental Integrated National Police in their investigation report read:

‘3. On 121005H April 1991, Mr Alexander Roxas, project coordinator of MINDEX MINING CORP. reported to this office that on the morning of 12 April 1991 while he was supposed to report for his Work at their office at Sitio Tibonbon, Bigaan, San Teodoro, Oriental Mindoro, he x x x noticed that their hired 6 x 6 Ten wheeler Cargo Truck temporarily parked at Sitio Aras, Bigaan, San Teodoro, Oriental Mindoro for aplha Engine Trouble was burned on the night of April 11, 1991 by still unidentified person.

‘x x x x x x x x x

‘5. x x x Based also on the facts gathered and incident scene searched it was also found out that said 6 x 6 Ten

Wheeler Cargo Truck was burned by means of using coconut leaves and as a result of which said 6 x 6 was totally burned excluding the engine which was partially damaged by still undetermined amount.'

"Upon learning of the burning incident, Morillo offered to sell the truck to MINDEX but the latter refused. Instead, it replaced the vehicle's burned tires and had it towed to a shop for repair and overhauling.

"On April 15, 1991, Morillo sent a letter to Mr. Arni Isberg, the Finance Manager of MINDEX, thru Mr. Ramoncito Gozar, Project Manager, proposing the following:

'x x x x x x x x

'I have written to let you know that I am entrusting to you the said vehicle in the amount of P275,000.00 which is its cost price. I will not charge your company for the encumbrance of P76,800+ since you used it as my friendly gesture on account of the unforeseen adversity.

'In view of the tragic happening, I am asking you to pay us, in a way which will not be hard for you to settle to pay us in four installment monthly as follows:

'First payment - April 25/91

P[1]50,000.00

'Second payment - May 15/91

50,000.00

'Third payme(n)t - June 15/91

50,000.00

'Fourth payme(n)t - July 15/91

25,000.00

TOTAL

P275,000.00

'I promise to relinquish all the necessary documents upon full payment of said account.

'x x x x x x x x

"Through Mr. Gozar, MINDEX responded by a handwritten letter to his cousin Malou (wife of Ephraim Morillo), expressing their reservations on the above demands due to their tight financial situation. However, he made the following counter offers:

'a) Pay the rental of the 6 x 6 truck (actual) in the amount of P76,000.00.

'b) Repair and overhaul the truck on our own expenses and;

'c) Return it to you on (A1) good running condition after repair.'

"Morillo replied on April 18, 1991, (1) that he will relinquish to MINDEX the damaged truck; (2) that he is amenable to receive the rental in the amount of P76,000.00; and (3) that MINDEX will pay fifty thousand pesos (P50,000.00) monthly until the balance of P275,000.00 is fully paid. It is noteworthy that except for his acceptance of the proffered P76,000.00 unpaid rentals, Morillo's stand has virtually not been changed as he

merely lowered the first payment on the P275,000.00 valuation of the truck from P150,000.00 to P50,000.00.

“The parties had since remained intransigent and so on August 1991, Morillo pulled out the truck from the repair shop of MINDEX and had it repaired elsewhere for which he spent the total amount of P132,750.00.”[3] (Citations omitted)

Ruling of the Trial Court

After evaluating the evidence adduced by both parties, the Regional Trial Court (RTC) found petitioner responsible for the destruction or loss of the leased 6 x 6 truck and ordered it to pay respondent (1) P76,000 as balance of the unpaid rental for the 6 x 6 truck with interest of 12 percent from June 22, 1994 (the rendition of the judgment) up to the payment of the amount; (2) P132,750 representing the costs of repair and overhaul of the said truck, with interest rate of 12 percent until fully paid; and (3) P20,000 as attorney’s fees for compelling respondent to secure the services of counsel in filing his Complaint.

Ruling of the Court of Appeals

The appellate court sustained the RTC’s finding that petitioner was not without fault for the loss and destruction of the truck and, thus, liable therefor. The CA said:

“The burning of the subject truck was impossible to foresee, but not impossible to avoid. MINDEX could have prevented the incident by immediately towing the truck to a motor shop for the needed repair or by having it guarded day and night. Instead, the appellant just left the vehicle where its transfer case broke down. The place was about twelve (12) kilometers away from the camp site of the appellant corporation and was sparsely populated. It was guarded only during daytime. It stayed in that place for two (2) weeks until it was burned on April 11, 1991 while its transfer case was being repaired elsewhere. It was only after it had been burned that the appellant had it towed to a repair shop.

“The appellant [respondent] was thus not free from fault for the burning of the truck. It miserably failed to overcome the presumption of negligence against it. Neither did it rescind the lease over the truck upon its burning. On the contrary, it offered to pay P76,000.00 as rentals. It did not also complete the needed repair. Hence, the appellee was forced to pull out the truck and had it repaired at his own expense. Since under the law, the ‘lessee shall return the thing leased, upon the termination of the lease, just as he receive it, ‘the appellant stands liable for the expenses incurred for the repair in the aggregate amount of P132,750.00.”[4]

Nevertheless, the appellate court modified the Decision of the trial court. The 12 percent interest rate on the P76,000 rentals and the P132,750 repair costs, imposed by the RTC, was changed by the CA to 6 percent per annum from June 22, 1994 to the date of finality of the said Decision; and 12 percent per annum thereafter, if the amounts adjudged would remain unpaid from such date of finality until the rentals and the repair costs were fully paid. It affirmed the award of attorney’s fees.

Hence, this Petition.[5]

Issues

In its Memorandum, petitioner raises the following issues for the Court’s consideration:

“4.1. Whether or not the Court of Appeals gravely erred in finding that petitioner failed to overcome the presumption of negligence against it considering that the facts show, as admitted by the respondent, that the burning of the truck was a fortuitous event.

“4.2. Whether or not the Court of Appeals gravely erred in affirming the decision of the trial court finding petitioner liable to pay unpaid rentals and cost of repairs.

“4.3. Whether or not the Court of Appeals also erred in affirming the decision of the trial court finding petitioner liable to pay attorney’s fees.”[6]

This Court’s Ruling

The Petition is partly meritorious; the award of attorney’s fees should be deleted.

First Issue:

Petitioner’s Negligence

Petitioner claims that the burning of the truck was a fortuitous event, for which it should not be held liable pursuant to Article 1174[7] of the Civil Code. Moreover, the letter of respondent dated April 15, 1991, stating that the burning of the truck was an “unforeseen adversity,” was an admission that should exculpate the former from liability.

We are not convinced. Both the RTC and the CA found petitioner negligent and thus liable for the loss or destruction of the leased truck. True, both parties may have suffered from the burning of the truck; however, as found by both lower courts, the negligence of petitioner makes it responsible for the loss. Well-settled is the rule that factual findings of the trial court, particularly when affirmed by the Court of Appeals, are binding on the Supreme Court. Contrary to its allegations, petitioner has not adequately shown that the RTC and the CA overlooked or disregarded significant facts and circumstances that, when considered, would alter the outcome of the disposition.[8] Article 1667 of the Civil Code[9] holds lessees responsible for the deterioration or loss of the thing leased, unless they prove that it took place without their fault.

Fortuitous Event

In order for a fortuitous event to exempt one from liability, it is necessary that one has committed no negligence or misconduct that may have occasioned the loss.[10] An act of God cannot be invoked to protect a person who has failed to take steps to forestall the possible adverse consequences of such a loss. One’s negligence may have concurred with an act of God in producing damage and injury to another; nonetheless, showing that the immediate or proximate cause of the damage or injury was a fortuitous event would not exempt one from liability. When the effect is found to be partly the result of a person’s participation -- whether by active intervention, neglect or failure to act -- the whole occurrence is humanized and removed from the rules applicable to acts of God.[11]

This often-invoked doctrine of “fortuitous event” or “caso fortuito” has become a convenient and easy defense to exculpate an obligor from liability. To constitute a fortuitous event, the following elements must concur: (a) the cause of the unforeseen and unexpected occurrence or of the failure of the debtor to comply with obligations must be independent of human will; (b) it must be impossible to foresee the event that constitutes the caso fortuito or, if it can be foreseen, it must be impossible to avoid; (c) the occurrence must be such as to render it impossible for the debtor to fulfill obligations in a normal manner; and (d) the obligor must be free from any participation in the aggravation of the injury or loss.[12]

Article 1174 of the Civil Code states that no person shall be responsible for a fortuitous event that could not be foreseen or, though foreseen, was inevitable. In other words, there must be an exclusion of human intervention from the cause of injury or loss.[13]

A review of the records clearly shows that petitioner failed to exercise reasonable care and caution that an ordinarily prudent person would have used in the same situation. Witness Alexander Roxas testified how petitioner fell short of ordinary diligence in safeguarding the leased truck against the accident, which could have been avoided in the first place. Pertinent portions of his testimony are reproduced hereunder:

“ATTY. ACERON

Q

Now, this Barangay Aras where the 6 x 6 truck had transmission trouble, how far is it from the camp site of the defendant corporation?

ALEXANDER ROXAS

A

Twelve (12) kilometers, more or less, sir.

Q

Is this Barangay Aras populated?

A

Not so many, sir.

Q

The place where the 6 x 6 truck had transmission trouble, how far is the nearest house from it?

A

Perhaps three hundred meters, sir.

Q

And how many houses are within the three hundred meter radius from the place where the truck had engine trouble?

A

Ten, more or less, in scattered.

Q

You said that after hauling several sand to be used in the camp site the 6 x 6 truck had transmission trouble, what did the company do after the truck had that engine trouble?

A

For at least two weeks the truck was installed in the place where the said truck had engine trouble.

Q

Meaning in Barangay Aras?

A

Yes, sir.

Q

Was there any guard in that place by the company during the time that the truck was in that place?

A

Yes, sir, during daytime but at nighttime, there was no guard.

Q

What happened to that 6 x 6 truck?

A

In the month of March, 1991, the company dismissed thirteen (13) to seventeen (17) employees and these employees came from Barangays Aras, Botolan, Calsapa, Camatis and Tibonbon and on April 11, 1991, the 6 x 6 truck was burned.

Q

How did you come to know that the 6 x 6 truck was burned on April 11, 1991?

A

I together with my daughter, I met the service of the company near the ORMECO and I was informed by the Project Engineer that the 6 x 6 truck was burned, so, we returned to San Teodoro and have the incident blottered at the police station.

Q

Aside from that, what other action did you undertake in connection with the burning of the 6 x 6 truck?

A

When we were at the police station, the Project Manager of the company arrived and from the police station we proceeded to the place where the 6 x 6 truck was burned and the Project Manager took pictures of the 6 x 6 truck.

Q

Now, did you come to know who was responsible or who were responsible for the burning of the 6 x 6 truck?

A

The responsible is the Mindex Resources Development Corporation, and as far as I know, the persons who actually burned the said 6 x 6 truck were the dismissed employees of the Mindex Resources Development Corporation.

Q

These dismissed employees of the corporation, why were they employed by the corporation?

A

Because we have to make a road going to the mining site and in the process of opening the road these dismissed employees happened to be the owners of the land where the road will pass, so, we paid the land. The corporation likewise gave jobs to the owners of the land.”[14]

As can be gleaned from the foregoing testimony, petitioner failed to employ reasonable foresight, diligence and care that would have exempted it from liability resulting from the burning of the truck. Negligence, as commonly understood, is that conduct that naturally or reasonably creates undue risk or harm to others. It may be a failure to observe that degree of care, precaution or vigilance that the circumstances justly demand;[15] or to do any other act that would be done by a prudent and reasonable person, who is guided by considerations that ordinarily regulate the conduct of human affairs.[16]

Second Issue:

Unpaid Rentals and Cost of Repairs

Petitioner proceeds to argue that “it should be deemed to have already paid the unpaid rentals in the amount of P76,000.00,” and that it should not be made to pay the P132,750 repair and overhaul costs. Nothing in the records, not even in the documentary evidence it presented, would show that it already paid the aforesaid amounts. In fact, it seeks to avoid payment of the rental by alleging that respondent already condoned it in his letter dated April 15, 1991. However, a perusal of the letter would show that his offer not to charge petitioner for the P76,000 rental was premised on the condition that it would buy the truck.[17]

Moreover, the RTC based the P76,000 rental and the costs of repair and overhaul on Exhibit “B,” wherein Chito Gozar, the Project Manager of Mindex Resources Development Corporation, proposed through a letter dated April 17, 1991, the following: (1) to pay the P76,000 rental, (2) to repair the truck at the expense of petitioner, and (3) to return the truck in good running condition after the repair.

Likewise, the nonpayment of the said amount was corroborated by Roxas thus:

“Q

During that time when the 6 x 6 truck was already burned and when you went to the Petron Gasoline Station to inform plaintiff about the burning, was the plaintiff paid any amount for the rental of the 6 x 6 truck?

A

:Before the burning of the 6 x 6 truck, the plaintiff Morillo was already paid partially and there was a balance of P76,000.00.”[18]

The P132,750 repair and overhaul costs was correctly granted by the lower courts. Article 1667 of the Civil Code

holds the lessee responsible for the deterioration or loss of the thing leased. In addition, Article 1665 of the same Code provides that “the lessee shall return the thing leased, upon the termination of the lease, just as he received it, save what has been lost or impaired by the lapse of time, or by ordinary wear and tear, or from an inevitable cause.”

Courts begin with the assumption that compensatory damages are for pecuniary losses that result from an act or omission of the defendant. Having been found to be negligent in safeguarding the leased truck, petitioner must shoulder its repair and overhaul costs to make it serviceable again. Such expenses are duly supported by receipts; thus, the award of P132,750 is definitely in order.

Third Issue:

Attorney’s Fees

We find the award of attorney’s fees to be improper. The reason which the RTC gave -- because petitioner had compelled respondent to file an action against it -- falls short of our requirement in *Scott Consultants and Resource Development v. CA*, [19] from which we quote:

“It is settled that the award of attorney’s fees is the exception rather than the rule and counsel’s fees are not to be awarded every time a party wins suit. The power of the court to award attorney’s fees under Article 2208 of the Civil Code demands factual, legal, and equitable justification; its basis cannot be left to speculation or conjecture. Where granted, the court must explicitly state in the body of the decision, and not only in the dispositive portion thereof, the legal reason for the award of attorney’s fees.”

Moreover, a recent case [20] ruled that “in the absence of stipulation, a winning party may be awarded attorney’s fees only in case plaintiff’s action or defendant’s stand is so untenable as to amount to gross and evident bad faith.”

Indeed, respondent was compelled to file this suit to vindicate his rights. However, such fact by itself will not justify an award of attorney’s fees, when there is no sufficient showing of petitioner’s bad faith in refusing to pay the said rentals as well as the repair and overhaul costs. [21]

WHEREFORE, the Petition is DENIED, but the assailed CA Decision is MODIFIED by DELETING the award of attorney’s fees. Costs against petitioner.

SO ORDERED.

Melo, (Chairman), Vitug, Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Special Tenth Division. Written by Justice Salvador J. Valdez Jr. (Acting Division chair) and concurred in by Justices Eloy R. Bello Jr. and Renato C. Dacudao (members).

[2] Assailed Decision, p. 10; rollo, p. 35.

[3] CA Decision, pp. 1-4; rollo, pp. 26-29.

[4] *Ibid.*, pp. 8 & 33.

[5] The case was deemed submitted for decision on June 21, 2001, upon the Court’s receipt of respondent’s Memorandum, which was signed by Atty. Filibon Fabela Tacardon. Petitioner’s Memorandum, signed by Atty. Ricardo P. C. Castro Jr., was received by the Court on January 29, 2001.

[6] Petitioner’s Memorandum, p. 6; rollo, p. 114.

[7] Article 1174 provides:

“Except in cases expressly specified by the law, or when it is otherwise declared by stipulation or when the nature of the obligation requires the assumption of risk, no person shall be responsible for those events which could not be foreseen, or which though foreseen, were inevitable.”

[8] *Spouses Belo v. Philippine National Bank*, GR No. 134330, March 1, 2001; *Republic v. CA*, 349 SCRA 451, January 18, 2001; *Halili v. CA*, 287 SCRA 465, March 12, 1998.

[9] “Art. 1667. The lessee is responsible for the deterioration or loss of the thing leased, unless he proves that it took place without his fault. This burden of proof on the lessee does not apply when the destruction is due to earthquake, flood, storm or other natural calamity.”

[10] Tolentino, *Civil Code of the Philippines*, Vol. IV, 1991 ed., p. 126, citing *Tan Chiong Sian v. Inchausti & Co.*, 22 Phil. 152, March 8, 1912; *Juan F. Nakpil & Sons v. CA*, 144 SCRA 596, 607, October 3, 1986. Cf. *Metal Forming Corporation v. Office of the President*, 247 SCRA 731, 738-739, August 28, 1995.

[11] *Nakpil & Sons v. CA*, *supra*, pp. 606-607.

[12] *Metal Forming Corp. v. Office of the President*, 317 Phil. 853, 859, August 28, 1995; *Vasquez v. Court of Appeals*, 138 SCRA 553, 557, September 13, 1985, citing *Lasam v. Smith Jr.* 45 Phil. 657, 661, February 2, 1924; *Austria v. CA*, 148-A Phil. 462, June 10, 1971; *Estrada v. Consolacion*, 71 SCRA 523, 530, June 29, 1976.

[13] *Vasquez v. CA*, *supra*, p. 557.

[14] TSN, November 24, 1992, pp. 9-13.

[15] *Valenzuela v. CA*, 253 SCRA 303, February 7, 1996. Cf. *Quibal v. Sandiganbayan (Second Division)*, 244 SCRA 224, May 22, 1995; *Citibank, NA v. Gatchalian*, 240 SCRA 212, January 18, 1995.

[16] *Layugan v. Intermediate Appellate court*, 167 SCRA 363, 372-373, November 14, 1988; *Bulilan v. COA*, 300 SCRA 445, December 22, 1998.

[17] See Exh. “C”; records, p. 220.

[18] TSN, November 24, 1992, pp. 14-15.

[19] 242 SCRA 393, 406, March 16, 1995, per Davide Jr., CJ; see also *Valiant Machinery & Metal Corp. v. NLRC*, 252 SCRA 369, January 25, 1996.

[20] *National Power Corporation v. Philipp Brothers*, GR No. 126204, November 20, 2001, per Sandoval-Gutierrez, J.

[21] *National Steel Corporation v. CA*, 283 SCRA 45, December 12, 1997.

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