

SEVEN BROTHERS SHIPPING CORPORATION, PETITIONER, VS. ORIENTAL ASSURANCE CORPORATION, RESPONDENT.

G.R. No. 140613. October 15, 2002

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

In this petition for review on certiorari,[1] Seven Brothers Shipping Corporation (Seven Brothers) assails the Decision[2] of the Court of Appeals dated July 19, 1999 in CA-G.R. SP No. 50262,[3] the dispositive portion of which reads:

"WHEREFORE, the questioned orders of the public respondent (RTC-Manila) are hereby REVERSED and SET ASIDE for having been issued with grave abuse of discretion and absence of jurisdiction. Since petitioner (Oriental Assurance) is entitled to the immediate execution of this Court's final and executory decision, the lifted levy and quashed execution of the Regional Trial Court are reinstated. It is further ordered that the final and executory Judgment in CA-G.R. CV No. 42890 be forthwith executed pending any appeal, petition for review, or petition for certiorari against this decision which may be raised by the respondents to the Supreme Court.

"Costs against the private respondent.

"SO ORDERED."

Records show that on December 20, 1998, a charter party was executed between C. Alcantara & Sons, Inc. (Alcantara & Sons) and petitioner Seven Brothers, owner of the vessel M/V "Diamond Bear." The parties agreed, among others, that the vessel would load lauan logs at Surigao del Sur with Alcantara & Sons as consignee of the cargo.

Oriental Assurance Corporation (Oriental Assurance), respondent, insured the cargo consigned to Alcantara & Sons under a valued policy of Eight Million (P8,000,000.00) Pesos. On March 9, 1989, the cargo was shipped on board the vessel M/V "Diamond Bear" to be discharged in Davao City pursuant to the charter agreement.

On March 10, 1989, the entire cargo was lost when the vessel sank off the coast of Mati, Davao Oriental while en route to its destination. Alcantara & Sons then filed its claim for compensation for the loss against both Oriental Assurance and Seven Brothers. Since Seven Brothers denied liability, Oriental Assurance paid Alcantara & Sons P8,000,000.00 – the insured value of the cargo – as full settlement of the claim.

Subsequently, on January 29, 1990, Oriental Assurance, in its capacity as subrogee, filed a complaint with the Regional Trial Court (RTC), Branch 37, Manila, against Seven Brothers, in its capacity as owner and operator of M/V "Diamond Bear," for the recovery of the P8,000,000.00 it paid to Alcantara and Sons, plus legal interests, attorney's fees and litigation expenses, docketed as Civil Case No. 90-51833, Oriental Assurance Corporation vs. Seven Brothers Shipping Corporation. On January 13, 1993, the RTC dismissed the complaint and the counterclaim. Oriental Assurance's motion for reconsideration was likewise denied on June 1, 1993.

Oriental Assurance interposed an appeal to the Court of Appeals, docketed as CA-G.R. CV No. 42890. On September 17, 1996, the appellate court rendered its Decision reversing the RTC Decision, thus:

“To the mind of this Court, the loss was due, not to force majeure, but to the unseaworthiness of defendant’s vessel. As correctly observed by the plaintiff, the vessel sank because she was not a tight, staunch and strong vessel. Hence defendant failed to exercise extraordinary diligence required of a common carrier. This being so, Article 841, not Article 840, of the Code of Commerce finds application in this case, in accordance with the pronouncement in *Tan Chiong Sian vs. Inchausti and Co.* (22 Phil. 152), thus:

‘Treating of shipwrecks, article 840 of the Code of Commerce prescribes:

‘The losses and damages suffered by a vessel and her cargo by reason of shipwreck or stranding shall be individually for the account of the owners, the part of the wreck which may be saved belonging to them in the same proportion.

‘And Article 841 of the same Code reads:

‘If the wreck or stranding should arise through malice, negligence, or lack of skill of the captain, or because the vessel put to sea insufficiently repaired and supplied, the owner or the freighters may demand indemnity of the captain for the damages caused to the vessel or cargo by the accident, in accordance with the provisions contained in articles 610, 612, 614 and 621.

‘The general rule established in the first of the foregoing articles is that the loss of the vessel and of its cargo as the result of shipwreck, shall fall upon the respective owners thereof save for the exceptions specified in the second of the said articles.

‘These legal provisions are in harmony with those of Articles 361 and 362 of the Code of Commerce, and are applicable whenever it is proved that the loss of or damage to the goods was the result of fortuitous event or of force majeure; but the carrier shall be liable for the loss or damage arising from the causes aforementioned if it shall have been proven that they occurred through his own fault or negligence or by his failure to take the same precautions usually adopted by diligent and careful persons.’ (Italics added)

“It having been shown that defendant is liable for the loss of the shipment of logs as a result of the sinking of its vessel, the MV “Diamond Bear”, on March 9, 1989, it is obliged to pay plaintiff as subrogee the amount of P8,000,000.00 which the latter paid to the consignee Alcantara and Sons, Inc., on the basis of the marine insurance policy covering said shipment. However, this Court finds no sufficient basis to award attorney’s fees in plaintiff’s favor.

“WHEREFORE, the appealed decision is hereby REVERSED and SET ASIDE and accordingly, another judgment is rendered ordering defendant to pay plaintiff the amount of P8,000,000.00, plus interest at the legal rate computed from January 11, 1990, the date the complaint was filed, until said sum shall have been fully paid.

“No pronouncement as to costs.”

Seven Brothers filed a motion for reconsideration but was denied by the Court of Appeals on April 21, 1997.

Forthwith, Seven Brothers filed with this Court a petition for review on certiorari, docketed as G.R. No. 128982. On July 16, 1997, this Court issued a Resolution dismissing the petition for lack of a certification of non-forum shopping. On October 1, 1997, Seven Brothers’ motion for reconsideration was denied with finality. On October 31, 1997, an Entry of Judgment was rendered.

On March 31, 1998, the RTC granted Oriental Assurance’s urgent motion for issuance of a writ of execution in Civil Case No. 90-51833. The writ commanded the sheriff to satisfy, out of the goods and chattels of Seven

Brothers, the sum of P8,000,000.00 with legal interest and the costs of suit in favor of Oriental Assurance. Thereupon, the sheriff levied on Seven Brothers' vessels, the M/V "Diamond Deer" and the M/V "Diamond Rabbit." The auction sale was set on April 17, 1998.

However, on April 14, 1998, Seven Brothers filed with the trial court a motion to quash the writ of execution and to lift the levy on its vessels. Seven Brothers contended that:

"a) The Sheriff's levy on M/V Diamond Deer was invalid because the vessel is not owned by Seven Brothers but by H. Superservice Shipping Corporation, ("H. Superservice") a Panama company;

"b) The levy on M/V Diamond Rabbit was in violation of the Rules of Court, Rule 39, Section 9(a) and (b) because Sheriff did not make a demand on the petitioner for payment of the judgment in cash, prior to levying on the vessel, as required by Rule 39, Section 9(a), nor allowed the petitioner to exercise the option granted to it under Section 9(b); and

"c) Their liability to Oriental Assurance had already been extinguished upon the sinking of the vessel M/V Diamond Bear, in accordance with the Limited Liability Rule in maritime law."

Surprisingly, despite the fact that the judgment in Civil Case No. 90-51833 has become final and executory, the RTC issued an order granting Seven Brother's motion on the ground that "the records of the case do not bear out an actual finding of negligence on the part of the defendant (Seven Brothers) which would preclude the application of the Limited Liability Rule;" that the documentary evidence offered by Seven Brothers during the hearing of Civil Case No. 90-51833 shows that it is not the owner of M/V "Diamond Deer;" and that without a prior demand to pay in cash, the sheriff's levy on M/V "Diamond Rabbit" violated the Rules of Civil Procedure.

Oriental Assurance filed with the Court of Appeals a petition for certiorari challenging the RTC order quashing the writ of execution and lifting the levy on Seven Brother's vessels. In its Decision,[4] the Court of Appeals held that the RTC judge acted with grave abuse of discretion and "in the absence of jurisdiction." Thus, the appellate court set aside the RTC Decision and reinstated the writ of execution and the levy on Seven Brothers M/V "Diamond Deer" and M/V "Diamond Rabbit."

Hence, this petition for review on certiorari ascribing to the Court of Appeals the following errors:

"a) The Honorable Court of Appeals seriously erred in not applying the American Limited Liability Act and pertinent decisions of the Philippine and American courts;

"b) The Honorable Court of Appeals committed reversible error in reinstating the levy on the chartered vessel, MV "Diamond Deer" owned by H. Superservice Shipping Corporation, to be sold to satisfy the obligation of the charterer, Seven Brothers.

"c) The Honorable Court of Appeals was in grave error in not ruling that the Sheriff violated the Rules of Court in levying upon the vessels MV "Diamond Deer" and "MV Diamond Rabbit."

It bears reiterating that the Court of Appeals, in its Decision in CA-G.R. CV No. 42890, reversed the RTC Decision in Civil Case No. 90-51833, holding that Seven Brothers is liable for the loss of the shipment of logs for its failure to exercise extraordinary diligence required of a common carrier. The appellate court thus ordered Seven Brothers to pay Oriental Assurance P8,000,000.00 plus interest at the legal rate computed from January 11, 1990, the date of the filing of the complaint, until fully paid.

Seven Brothers' petition for review on certiorari (G.R. No. 128982) challenging the decision of the Court of Appeals in CA-G.R. CV No. 42890 was dismissed by this Court in a Resolution dated July 16, 1997 for lack of a certification against forum shopping. The said Resolution became final and executory on October 31, 1997 per

Entry of Judgment.[5]

The rule in this jurisdiction is that once a decision has become final and executory, no further amendment or correction can be made by the court, except to order its execution and to correct clerical errors and mistakes. The court loses jurisdiction over the case and not even an appellate court would have the power to review a judgment that has acquired finality.[6] Thus, Seven Brothers can no longer raise in the instant petition matters that have been passed upon and decided with finality in a previous case.

As was long enunciated by this Court, “it is the general rule common to all civilized systems of jurisprudence that the solemn and deliberate sentence of the law, pronounced by its appointed organs, upon a disputed fact or state of facts, should be regarded as a final and conclusive determination of the question litigated and should forever set the controversy at rest. Indeed, it has been well said that this maxim is more than a mere rule of law; more even than an important principle of public policy; and that it is not too much to say that it is a fundamental concept in the organization of every jural society.”[7]

In *Lim vs. Jabalde*,[8] this Court further explained the necessity of adhering to the doctrine of immutability of final judgments, thus:

“Litigation must end and terminate sometime and somewhere and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be, not through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.”

Just recently, we emphatically declared in *In Re: Petition for Clarification as to the Validity and Forceful Effect of Two (2) Final and Executory but Conflicting Decisions of the Honorable Supreme Court*: [9]

“Every litigation must come to an end once a judgment becomes final, executory and unappealable. This is a fundamental and immutable legal principle. For ‘(j)ust as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case’ by the execution and satisfaction of the judgment, which is the ‘life of the law.’ Any attempt to thwart this rigid rule and deny the prevailing litigant his right to savour the fruit of his victory, must immediately be struck down.”

Indeed, we cannot permit a losing party to further delay or thwart the execution of judgment against it by continuously rehashing allegations that have long been rejected.

We also find untenable Seven Brothers’ contention that there was an improper levy upon the subject vessels.

Section 9, Rule 39 of the 1997 Rules of Civil Procedure, as amended, provides:

"(a) Immediate payment on demand. – The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ.

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"(b) Satisfaction by levy. – If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the

properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment. x x x"

Seven Brothers contends that the sheriff did not make a demand to pay its obligation in cash as required by the Rules and that absent such demand, the sheriff could not levy on its vessels.

Such contention lacks merit. In *Torres vs. Cabling*[10] where the sheriff immediately levied on the judgment obligor's property, this Court held:

"A sheriff is not required to give the judgment debtor some time to raise cash. If time be given, the property may be placed in danger of being lost or absconded. In the instant case, we doubt that the complainant was ready with cold cash to pay the judgment debt."

Based on evidence submitted by Oriental Assurance,[11] the Court of Appeals found that the existing assets of Seven Brothers were insufficient to satisfy the final judgment against it. Seven Brothers made no attempt to disprove such finding. In its motion to quash the writ of execution and the attendant levy, it did not even post a cash bond. Clearly, the sheriff recognized that Seven Brothers was in no position to pay its obligation in cash, hence the immediate levy. Moreover, as aptly stated by the Court of Appeals, the vessels will sail beyond the reach of Philippine courts and law enforcers.[12]

This Court recognizes the importance of procedural rules in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice.[13] However, while it is desirable that the Rules of Court be conscientiously observed, the Court has never hesitated, in meritorious cases, to interpret said rules liberally. Thus, in *Cometa vs. Court of Appeals*,[14] this Court held that "x x x since rules of procedure are mere tools designed to facilitate the attainment of justice, their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided." *Cometa* also cites *Dayag vs. Canizares*,[15] where this Court stated that "rules of procedure must be interpreted in a manner that will help secure and not defeat justice."

WHEREFORE, the instant petition is DENIED. The challenged Decision of the Court of Appeals dated July 19, 1999 in CA-G.R. SP No. 50262 is hereby AFFIRMED.

SO ORDERED.

Puno (Chairman), Panganiban, Corona, and Carpio-Morales, JJ., concur.

[1] Pursuant to Rule 45, 1997 Rules of Civil Procedure, as amended.

[2] Penned by Justice Corona Ibay-Somera, with Justices Oswaldo D. Agcaoili and Eloy R. Bello, Jr. concurring (former Eleventh Division).

[3] Entitled *Oriental Assurance Corp., Petitioner, vs. Hon. Vicente A. Hidalgo, Judge, RTC-Manila and Seven Brothers Shipping Corp., Respondents*. Rollo, pp. 81-105.

[4] CA-G.R. SP No. 50263, Rollo, p. 40.

[5] *Id.*, p. 330.

[6] *Lim vs. Jabalde*, 172 SCRA 211, 223 (1989).

[7] *Zambales Academy, Inc. vs. Villanueva*, 28 SCRA 1, 10 (1969), citing *Peñalosa vs. Tuason*, 22 Phil. 303, 310 (1912).

[8] 172 SCRA 211, 224 (1989), citing *Banogon vs. Serna*, 154 SCRA 593, 597 (1987).

[9] G.R. No. 123780, September 24, 2002, per Sandoval-Gutierrez, J.

[10] 275 SCRA 329, 334 (1997).

[11] Oriental Assurance submitted on July 13, 1998 a Manifestation before the RTC, Branch 37, Manila in Civil Case No. 90-51833, submitting for the record the certified true copy of the Financial Report of Seven Brothers for the period ending on December 31, 1997. The financial report showed that as of December 1997, Seven Brothers was operating at a loss and that there were insufficient assets on its books to cover the judgment award due to Oriental Assurance. See Rollo, p. 352-358.

[12] Decision dated July 19, 1999 of the Court of Appeals (Former Eleventh Division) in CA-G.R. No. 50262, Id., p. 103.

[13] *Santos vs. Court of Appeals*, 198 SCRA 806, 810 (1991).

[14] 351 SCRA 294, 307 (2001).

[15] 287 SCRA 181 (1998).

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