VISITACION GAVINA GAW, PETITIONER, VS. COURT OF APPEALS, REGIONAL TRIAL COURT OF PASAY CITY (BRANCH 113), PACIFIC PLANS, INC. AND ESPIRIDION HACETA, JR., RESPONDENTS.

G.R. NO. 147748. April 19, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

In 1982, Visitacion Gavina Gaw (petitioner) bought a pre-need Provincial Memorial Plan with Pacific Plans, Inc. (private respondent) under Pre-Need Agreement No. 93945-5. In the morning of July 9, 1996, petitioner's mother died. Immediately thereafter, petitioner's brother engaged Funeraria Baluyot to perform the mortuary services on their mother's remains. It was in the evening of the same date that petitioner informed private respondent of her intention to assign her plan to her mother. When private respondent's representative arrived to pick up the corpse, private respondent found out that it had already been embalmed and a casket provided. Thus, private respondent denied petitioner's request for the rendition of memorial services.

Later, petitioner negotiated with Funeraria Tolete, a servicing mortuary accredited by private respondent, for viewing and interment, and for the replacement of the casket that was to be provided under the memorial plan.

Aggrieved by private respondent's acts, petitioner filed on December 12, 1996, a complaint for damages with the Metropolitan Trial Court (MeTC) of Pasay City, Branch 44. Petitioner alleged that because of private respondent's failure to render the necessary memorial services, she was constrained to sell her family's farm lot valued at P150,000.00 for only P50,000.00 in order to pay for the memorial services, and she also incurred additional funeral expenses amounting to P23,500.00. Petitioner sought actual damages totaling P123,500.00, moral and exemplary damages and attorney's fees.[1]

In its Answer, private respondent claimed that its refusal to render the memorial services was due to petitioner's violation of the terms of Pre-Need Agreement No. 93945-5.[2]

In a Decision dated January 5, 1999, the MeTC ruled in favor of petitioner and adjudged the following sums to be paid by private respondent:

1. P125,000.00 as actual damages;

2. P30,000.00 as moral and exemplary damages;

3. P30% of the amount recovered as and for attorney's fees; and

4. the costs of suit.[3]

Private respondent appealed to the Regional Trial Court (RTC) of Pasay City, Branch 113, which reversed the decision of the MeTC per Decision dated November 9, 1999. The dispositive portion of the Decision reads:

> WHERFORE, there being reversible errors in the assailed decision dated January 5, 1999, the same is hereby

ordered REVERSED. The case filed by the herein plaintiff-appellee against the defendant-appellants is hereby ordered DISMISSED, without pronouncement as to costs, considering that the plaintiff-appellee was allowed to litigate as pauper.

SO ORDERED.[4]

This compelled petitioner to file a petition for review with the Court of Appeals (CA). On October 31, 2000, the CA[5] rendered its Decision dismissing the petition for lack of merit.[6] Petitioner filed a motion for reconsideration, but the CA denied it in its Resolution dated April 6, 2001.[7]

Hence, the herein petition for review on certiorari under Rule 45 of the Rules of Court, based on the following grounds:

I

THAT THE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE NOT YET DETERMINED BY THE SUPREME COURT.

II

THAT THE COURT OF APPEALS GRAVELY ERRED WHEN IT MISAPPREHENDED AND SANCTIONED THE FOLLOWING GRAVE ERRORS COMMITED BY THE REGIONAL TRIAL COURT: (A) WHEN IT REVERSED THE DECISION OF THE METROPOLITAN TRIAL COURT BASED ON ALLEGED REVERSIBLE ERRORS; AND

(B) WHEN IT MISAPPREHENDED THE FACTS IN FAVOR OF PRIVATE RESPONDENT.[8]

The issue in this case is simple: whether private respondent is liable for the damages sought by petitioner.

Before delving into the matter, however, the Court finds it necessary to state that the petition filed in this case is one under Rule 45 of the Rules of Court which involves only questions of law. Questions of fact are not reviewable for, as a rule, the findings of fact of the CA are final and conclusive which the Court will not review on appeal. One of the exceptions to the rule is when the findings of the appellate court conflict with the findings of the trial court.[9] This case falls under the exception since the findings of the trial court - the MeTC - differed from the findings of the two appellate courts - the RTC and the CA.

Petitioner's arguments are puerile. She believes that private respondent is liable for damages for the following reasons: (1) at the time petitioner opted for the casket provided under the Provincial Plan, it was to her liking; however, the casket available at the time of her mother's death was one of "cheaper" value, which "she did not like"; (2) her brother was constrained to immediately contract with a funeral parlor for the memorial services in order to preserve the cadaver, and because he did not know of the memorial plan available to petitioner; and (3) the cause for damages is based, not so much on private respondent's late response, but on its refusal to reimburse petitioner of the expenses she incurred.[10]

On the other hand, private respondent claims that it was released from any obligation under the memorial plan due to petitioner's violation of its terms and conditions. Private respondent insists that petitioner failed to promptly inform private respondent of the fact of death, and that the transactions petitioner had with Funeraria Baluyot and Funeraria Tolete were separate contracts in which private respondent had no participation or knowledge of, and therefore, cannot be liable for.[11]

The resolution of this dispute hinges on the terms and conditions of Pre-Need Agreement No. 93945-5, a contract freely entered into by petitioner and private respondent. The pre-need plan is the law between petitioner and

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private respondent and they are bound by its stipulations. If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.[12]

Pre-Need Agreement No. 93945-5 contain the following stipulations:

> III. REQUEST FOR RENDITION OF MEMORIAL SERVICES
>
> PACIFIC shall have the sole and exclusive right to make all negotiations and necessary arrangements with a mortuary of its choice for the rendition of memorial services provided for in this Pre-Need Agreement. When memorial services contracted for is requested to be rendered and performed in a locality where such is not available, PACIFIC shall be allowed and authorized to make reasonable substitution and/or adjustments thereof.
>
> Time, being of essence, it is, therefore, imperative for the planholder, his heirs, successors and assigns, to give immediate notification directly to, and acknowledged by PACIFIC, for the latter to make said arrangements. Such notice may be communicated to PACIFIC either in person, by telephone or cable.
>
> x x x x
>
> V. ASSIGNMENT
>
> The planholder may designate another member of his family or any third person alive on the date of this Pre-Need Agreement and located at the time of assignment within 25 kilometers from the nearest branch of PACIFIC, to receive the memorial services described herein, subject to the following conditions:
>
> - Any and all installments due on the Pre-Need Agreement shall be accelerated and the outstanding balance thereon fully paid before the memorial services contracted for can be effected.
>
> - The designation shall be in writing, in proper form, and shall become valid and effective only upon approval thereof by PACIFIC.
>
> - Such transfer shall automatically terminate all insurance coverages being then enjoyed by the planholder under Paragraph VI.
>
> x x x x[13]

Private respondent's refusal to reimburse petitioner of the expenses she incurred for her mother's funeral is not without basis. The provisions of Pre-Need Agreement No. 93945-5 set out in clear terms the respective rights and obligations of petitioner and private respondent. Under paragraph III, private respondent had the sole right to make all negotiations and necessary arrangements for the memorial services. On the other hand, it was necessary for petitioner to immediately notify private respondent of the need for the memorial services. Thus, when petitioner's mother died in the morning of July 9, 1996, it was petitioner's responsibility to notify private respondent immediately; however, it was only in the evening of said date that petitioner informed private respondent, and at that juncture, the remains were already embalmed and a casket provided for. This, of course, pre-empted private respondent from exercising its sole prerogative of arranging for the memorial services on the remains of petitioner's mother, and effectively violated the terms of the pre-need plan.

The "upgrading" of the casket likewise violated the terms of the pre-need plan. Under paragraph 1A (SERVICES) of Pre-Need Agreement No. 93945-5, one of the services to be provided by private respondent is a memorial casket pre-selected by petitioner. When petitioner opted for another casket, again, this contravened the terms of the pre-need plan inasmuch as there is already a casket that has been selected by petitioner herself at the time the contract was entered into. Petitioner cannot complain that she did not like the casket that was made available because the memorial plan clearly provided that the casket to be used is the one that she pre-selected. Whatever

expenses she incurred for the purchase of the different casket should be solely borne by her, as private respondent did not consent thereto and was never a party to the transaction. It is fundamental that contracts can only bind the parties who had entered into it, and it cannot favor or prejudice a third person. Parties to a contract cannot thereby impose any liability on one who, under its terms, is a stranger to the contract.[14]

Thus, the CA was correct in upholding the ruling of the RTC that private respondent is not liable for any damages. As correctly stated by the CA:

> Evidently, petitioner not only failed to comply with her obligation to immediately inform respondent PPI of the fact of death, she encroached on respondent PPI's sole and exclusive right to make all negotiations and necessary arrangements with a mortuary of its choice for the rendition of memorial services. She likewise breached the contract when she availed of a coffin different from that provided under her memorial plan. Verily, she must be solely responsible for the expenses incurred.[15]

Pre-Need Agreement No. 93945-5 is, indeed, a contract of adhesion in that the stipulations therein were unilaterally prepared and imposed by private respondent on a take-it-or-leave-it basis. This does not mean, however, that petitioner cannot be bound by its terms nor can she unilaterally change it to suit her whim. A contract of adhesion is "as binding as ordinary contracts, the reason being that the party who adheres to the contract is free to reject it entirely."[16] Neither will the Court interpret the terms and conditions of the pre-need plan since its language is explicit and leaves no doubt as to the intention of the parties. As the Court held in The Insular Life Assurance Company, Ltd. v. Court of Appeals:[17]

> [A] court, even the Supreme Court, has no right to make new contracts for the parties or ignore those already made by them, simply to avoid seeming hardships. Neither abstract justice nor the rule of liberal construction justifies the creation of a contract for the parties which they did not make themselves or the imposition upon one party to a contract of an obligation not assumed.[18]

WHEREFORE, the petition is DENIED. The Decision dated October 31, 2000 and Resolution dated April 6, 2001 of the Court of Appeals are AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1]Records, pp. 1-2.

[2] Id. at 34-38.

[3] Id. at 321.

[4] Id. at 393.

[5]Composed of Associate Justice Buenaventura J. Guerrero (ret.) as ponente, and with Associate Justices Jose L. Sabio, Jr. and Eliezer R. Delos Santos, concurring.

[6] CA rollo, p. 225.

[7] Id. at 246.

[8] Rollo, p. 10.

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[9] Microsoft Corporation v. Maxicorp Inc., G.R. No. 140946, September 13, 2004, 438 SCRA 224, 230.

[10] Rollo, pp. 10-13.

[11] Id. at 123-127.

[12] Salvador v. Court of Appeals, G.R. No. 124899, March 30, 2004, 426 SCRA 433, 446.

[13] Records, p. 277, Exhibit "1-a".

[14] Garcia v. Court of Appeals, 327 Phil. 1097, 1113 (1996).

[15] CA rollo, p. 223.

[16] Equitable Banking Corporation v. Calderon, G.R. No. 156168, December 14, 2004, 446 SCRA 271, 281.

[17] G.R. No. 126850, April 28, 2004, 428 SCRA 79.

[18] Id. at 92; citing Riviera Filipina, Inc. vs. Court of Appeals, G.R. No. 117355, April 5, 2002, 380 SCRA 245, 263.

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