

SONNY LO, PETITIONER, VS. KJS ECO-FORMWORK SYSTEM PHIL., INC., RESPONDENT.

G.R. No. 149420. October 08, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Respondent KJS ECO-FORMWORK System Phil., Inc. is a corporation engaged in the sale of steel scaffoldings, while petitioner Sonny L. Lo, doing business under the name and style San's Enterprises, is a building contractor. On February 22, 1990, petitioner ordered scaffolding equipments from respondent worth P540,425.80. [1] He paid a downpayment in the amount of P150,000.00. The balance was made payable in ten monthly installments.

Respondent delivered the scaffoldings to petitioner. [2] Petitioner was able to pay the first two monthly installments. His business, however, encountered financial difficulties and he was unable to settle his obligation to respondent despite oral and written demands made against him. [3]

On October 11, 1990, petitioner and respondent executed a Deed of Assignment, [4] whereby petitioner assigned to respondent his receivables in the amount of P335,462.14 from Jomero Realty Corporation. Pertinent portions of the Deed provide:

WHEREAS, the ASSIGNOR is the contractor for the construction of a residential house located at Greenmeadow Avenue, Quezon City owned by Jomero Realty Corporation;

WHEREAS, in the construction of the aforementioned residential house, the ASSIGNOR purchased on account scaffolding equipments from the ASSIGNEE payable to the latter;

WHEREAS, up to the present the ASSIGNOR has an obligation to the ASSIGNEE for the purchase of the aforementioned scaffoldings now in the amount of Three Hundred Thirty Five Thousand Four Hundred Sixty Two and 14/100 Pesos (P335,462.14);

NOW, THEREFORE, for and in consideration of the sum of Three Hundred Thirty Five Thousand Four Hundred Sixty Two and 14/100 Pesos (P335,462.14), Philippine Currency which represents part of the ASSIGNOR's collectible from Jomero Realty Corp., said ASSIGNOR hereby assigns, transfers and sets over unto the ASSIGNEE all collectibles amounting to the said amount of P335, 462.14;

And the ASSIGNOR does hereby grant the ASSIGNEE, its successors and assigns, the full power and authority to demand, collect, receive, compound, compromise and give acquittance for the same or any part thereof, and in the name and stead of the said ASSIGNOR;

And the ASSIGNOR does hereby agree and stipulate to and with said ASSIGNEE, its successors and assigns that said debt is justly owing and due to the ASSIGNOR for Jomero Realty Corporation and that said ASSIGNOR has not done and will not cause anything to be done to diminish or discharge said debt, or delay or to prevent the ASSIGNEE, its successors or assigns, from collecting the same;

And the ASSIGNOR further agrees and stipulates as aforesaid that the said ASSIGNOR, his heirs, executors,

administrators, or assigns, shall and will at times hereafter, at the request of said ASSIGNEE, its successors or assigns, at his cost and expense, execute and do all such further acts and deeds as shall be reasonably necessary to effectually enable said ASSIGNEE to recover whatever collectibles said ASSIGNOR has in accordance with the true intent and meaning of these presents. xxx [5] (Italics supplied)

However, when respondent tried to collect the said credit from Jomero Realty Corporation, the latter refused to honor the Deed of Assignment because it claimed that petitioner was also indebted to it. [6] On November 26, 1990, respondent sent a letter [7] to petitioner demanding payment of his obligation, but petitioner refused to pay claiming that his obligation had been extinguished when they executed the Deed of Assignment.

Consequently, on January 10, 1991, respondent filed an action for recovery of a sum of money against the petitioner before the Regional Trial Court of Makati, Branch 147, which was docketed as Civil Case No. 91-074. [8]

During the trial, petitioner argued that his obligation was extinguished with the execution of the Deed of Assignment of credit. Respondent, for its part, presented the testimony of its employee, Almeda Bañaga, who testified that Jomero Realty refused to honor the assignment of credit because it claimed that petitioner had an outstanding indebtedness to it.

On August 25, 1994, the trial court rendered a decision [9] dismissing the complaint on the ground that the assignment of credit extinguished the obligation. The decretal portion thereof provides:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of the defendant and against the plaintiff, dismissing the complaint and ordering the plaintiff to pay the defendant attorney's fees in the amount of P25,000.00.

Respondent appealed the decision to the Court of Appeals. On April 19, 2001, the appellate court rendered a decision, [10] the dispositive portion of which reads:

WHEREFORE, finding merit in this appeal, the court REVERSES the appealed Decision and enters judgment ordering defendant-appellee Sonny Lo to pay the plaintiff-appellant KJS ECO-FORMWORK SYSTEM PHILIPPINES, INC. Three Hundred Thirty Five Thousand Four Hundred Sixty-Two and 14/100 (P335,462.14) with legal interest of 6% per annum from January 10, 1991 (filing of the Complaint) until fully paid and attorney's fees equivalent to 10% of the amount due and costs of the suit.

SO ORDERED. [11]

In finding that the Deed of Assignment did not extinguish the obligation of the petitioner to the respondent, the Court of Appeals held that (1) petitioner failed to comply with his warranty under the Deed; (2) the object of the Deed did not exist at the time of the transaction, rendering it void pursuant to Article 1409 of the Civil Code; and (3) petitioner violated the terms of the Deed of Assignment when he failed to execute and do all acts and deeds as shall be necessary to effectually enable the respondent to recover the collectibles. [12]

Petitioner filed a motion for reconsideration of the said decision, which was denied by the Court of Appeals. [13]

In this petition for review, petitioner assigns the following errors:

I

THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE ERROR IN DECLARING THE DEED OF ASSIGNMENT (EXH. "4") AS NULL AND VOID FOR LACK OF OBJECT ON THE BASIS OF A MERE HEARSAY CLAIM.

II

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE DEED OF ASSIGNMENT (EXH. "4") DID NOT EXTINGUISH PETITIONER'S OBLIGATION ON THE WRONG NOTION THAT PETITIONER FAILED TO COMPLY WITH HIS WARRANTY THEREUNDER.

III

THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE TRIAL COURT AND IN ORDERING PAYMENT OF INTERESTS AND ATTORNEY'S FEES. [14]

The petition is without merit.

An assignment of credit is an agreement by virtue of which the owner of a credit, known as the assignor, by a legal cause, such as sale, dacion en pago, exchange or donation, and without the consent of the debtor, transfers his credit and accessory rights to another, known as the assignee, who acquires the power to enforce it to the same extent as the assignor could enforce it against the debtor. [15]

Corollary thereto, in dacion en pago, as a special mode of payment, the debtor offers another thing to the creditor who accepts it as equivalent of payment of an outstanding debt. [16] In order that there be a valid dation in payment, the following are the requisites: (1) There must be the performance of the prestation in lieu of payment (*animo solvendi*) which may consist in the delivery of a corporeal thing or a real right or a credit against the third person; (2) There must be some difference between the prestation due and that which is given in substitution (*aliud pro alio*); (3) There must be an agreement between the creditor and debtor that the obligation is immediately extinguished by reason of the performance of a prestation different from that due. [17] The undertaking really partakes in one sense of the nature of sale, that is, the creditor is really buying the thing or property of the debtor, payment for which is to be charged against the debtor's debt. As such, the vendor in good faith shall be responsible, for the existence and legality of the credit at the time of the sale but not for the solvency of the debtor, in specified circumstances. [18]

Hence, it may well be that the assignment of credit, which is in the nature of a sale of personal property, [19] produced the effects of a dation in payment which may extinguish the obligation. [20] However, as in any other contract of sale, the vendor or assignor is bound by certain warranties. More specifically, the first paragraph of Article 1628 of the Civil Code provides:

The vendor in good faith shall be responsible for the existence and legality of the credit at the time of the sale, unless it should have been sold as doubtful; but not for the solvency of the debtor, unless it has been so expressly stipulated or unless the insolvency was prior to the sale and of common knowledge.

From the above provision, petitioner, as vendor or assignor, is bound to warrant the existence and legality of the credit at the time of the sale or assignment. When Jomero claimed that it was no longer indebted to petitioner since the latter also had an unpaid obligation to it, it essentially meant that its obligation to petitioner has been extinguished by compensation. [21] In other words, respondent alleged the non-existence of the credit and asserted its claim to petitioner's warranty under the assignment. Therefore, it behooved on petitioner to make good its warranty and paid the obligation.

Furthermore, we find that petitioner breached his obligation under the Deed of Assignment, to wit:

And the ASSIGNOR further agrees and stipulates as aforesaid that the said ASSIGNOR, his heirs, executors, administrators, or assigns, shall and will at times hereafter, at the request of said ASSIGNEE, its successors or assigns, at his cost and expense, execute and do all such further acts and deeds as shall be reasonably necessary to effectually enable said ASSIGNEE to recover whatever collectibles said ASSIGNOR has in accordance with the true intent and meaning of these presents. [22] (underscoring ours)

Indeed, by warranting the existence of the credit, petitioner should be deemed to have ensured the performance thereof in case the same is later found to be inexistent. He should be held liable to pay to respondent the amount of his indebtedness.

Hence, we affirm the decision of the Court of Appeals ordering petitioner to pay respondent the sum of P335,462.14 with legal interest thereon. However, we find that the award by the Court of Appeals of attorney's fees is without factual basis. No evidence or testimony was presented to substantiate this claim. Attorney's fees, being in the nature of actual damages, must be duly substantiated by competent proof.

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals dated April 19, 2001 in CA-G.R. CV No. 47713, ordering petitioner to pay respondent the sum of P335,462.14 with legal interest of 6% per annum from January 10, 1991 until fully paid is AFFIRMED with MODIFICATION. Upon finality of this Decision, the rate of legal interest shall be 12% per annum, inasmuch as the obligation shall thereafter become equivalent to a forbearance of credit. [23] The award of attorney's fees is DELETED for lack of evidentiary basis.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio and Azcuna, JJ., concur.

[1] Exhibit "A," Records, p. 128.

[2] Exhibits "B-B-8," Records, pp. 130-138.

[3] Exhibit "C," Records, p. 139.

[4] Records, pp. 142-143.

[5] Records, p. 142.

[6] TSN, April 28, 1993, p. 25.

[7] Exhibit "C," Records, p. 139.

[8] Records, pp. 1-6.

[9] Penned by Judge Teofilo L. Guadiz, Jr.

[10] Penned by Justice Hilarion L. Aquino with Justices Ma. Alicia Austria-Martinez (now a member of this Court) and Jose L. Sabio, Jr., concurring.

[11] Decision, CA-G.R. CV No. 47713, p. 6; Rollo, p. 14.

[12] Rollo, pp. 9-14.

[13] Rollo, p. 50.

[14] Petition, pp. 6-7, Rollo, pp. 24-25.

[15] South City Homes, Inc., et al. v. BA Finance Corporation, G.R. No. 135462, 7 December 2001.

[16] Filinvest Credit Corporation v. Philippine Acetylene, Co., Inc., G.R. No. L-50449, January 30, 1982.

[17] 3 Castan, Vol. I, 8th Ed., page 283 cited in IV Caguioa 'Comments and Cases in Civil Law, page 325.

[18] Civil Code, Article 1628. The vendor in good faith shall be responsible for the existence and legality of the

credit at the time of the sale unless it should have been sold as doubtful; but not for the solvency of the debtor, unless it has been so expressly stipulated or unless the solvency was prior to the sale and of common knowledge.
xxx

[19] Civil Code, Art. 417. The following are also considered as personal property:

(1) Obligations and actions which have for their object movables or demandable sums, and xxx.

[20] Civil Code, Art. 1231. Obligations are extinguished:

(1) By payment or performance; xxx.

[21] Civil Code, Art. 1278. Compensation shall take place when two persons, in their own rights, are creditors and debtors of each other.

[22] Records, p. 143.

[23] Eastern Shipping Lines, Inc. v. Court of Appeals, G.R. No. 97412, 12 July 1994, 234 SCRA 78.

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