

VICENTE JOSEFA, PETITIONER, VS. ZHANDONG TRADING CORPORATION, RESPONDENT.

G.R. No. 150903. December 08, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

At bar is a petition for review on certiorari of the Decision of the Court of Appeals dated June 29, 2001 and its Resolution dated November 20, 2001 in CA-G.R. CV No. 63644,[1] entitled "Zhandong Trading Corporation vs. Vicente Josefa" for sum of money.

The facts of the case as culled from the records are:

On June 6, 1996, Zhandong Trading Corporation (Zhandong), respondent, filed with the Regional Trial Court, Branch 81, Quezon City, a complaint for sum of money against Vicente Josefa, petitioner, Tan Y. Ching (also known as Antonio Tan) and Evelyn Chua (Tan's mother), docketed as Civil Case No. Q-96-27691.

The complaint alleges inter alia that respondent Zhandong is engaged in the importation and sale of hardboards/staple boards and other merchandise. In the course of its business, its president, Eleanor Chy, met Tan, who referred petitioner Vicente Josefa, as a client, to Chy. Relying on Tan's assurance that petitioner is "a good customer" and owns a construction supply store, respondent, on various dates in February, March and April, 1996, sold and delivered to said petitioner a total of 313 crates of boards, valued at P4,558,100.00 payable within sixty (60) days from date of delivery. However, petitioner, instead of paying respondent, remitted his payments to Tan. In turn, Tan delivered various checks to respondent, which accepted them upon Tan's declaration that they came from petitioner. A number of the checks bounced. When respondent confronted Tan, the latter issued his own checks and those of his mother, Evelyn Chua. Later, without any valid reason, Tan stopped payment by checks. Those issued by his mother bounced. This prompted respondent to send petitioner and Tan a demand letter dated May 14, 1996, but they ignored it. Consequently, respondent suffered damages and was constrained to file the instant complaint with the assistance of counsel for a fee.

In his answer, petitioner Vicente Josefa specifically denied the allegations in the complaint. He averred that he did not directly deal with respondent Zhandong. He transacted business with Tan and paid all his obligations to him. He is not privy to the agreement between Tan and respondent; hence, if his payments were not remitted to the latter, it should bear the consequences. He did not comply with respondent's demand letter because he had paid Tan in full. As counterclaim, petitioner prayed for an award of damages as a result of respondent's unlawful filing of the complaint and the attachment of his properties. To protect his interest, he filed a cross-claim against Tan.

After hearing, the trial court rendered its Decision,[2] the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

- Ordering defendant Vicente Josefa to pay to the plaintiff the amount of P4,558,100.00 representing the value of 47,980 pieces of hardboards at P95.00 per piece, with interest at 12% per annum from the filing of the

complaint until fully paid;

- Ordering defendant Vicente Josefa to pay to the plaintiff the amount of P200,000.00 as attorney's fees plus P100,000.00 as litigation expenses;

- Ordering defendant Tan Y Ching, aka Tony Tan, to reimburse to co-defendant Vicente Josefa the amount of P4,474,200.00 which Josefa paid to Tan with interest at the legal rate from the date Josefa paid the amount to Tan until fully paid.

- Dismissing the counterclaims of defendants Tan and Josefa for lack of merit.

"SO ORDERED."

In holding that petitioner purchased the hardboards from respondent Zhandong and not from Tan, the trial court ratiocinated as follows:

"While it is true that the sale to Josefa was negotiated by and thru' defendant Tan, what is most significant is that there is nothing in the delivery receipts or sales invoices that even remotely suggests that the seller is defendant Tan. The delivery receipts and invoices are in Zhandong's letterhead with the firm name printed in big letters it can't be missed by anyone looking at the document, contrary to Josefa's assertion that he did not see Zhandong's firm name (tsn, 9-19-97, p. 8). The sales invoices clearly indicate that the seller is Zhandong and the buyer is Josefa. Plainly written across the face of the sales invoices are the words 'GOODS/STOCK BELONG TO ZHANDONG TRADING CORPORATION UNTIL FULLY PAID' (Exhs. 'M' & 'N'). There can be no doubt at all that the seller is plaintiff Zhandong, not Tan, and that the buyer is Josefa and not Tan.

"Thus, Josefa's claim that he only learned later that the boards belonged to Zhandong is without any doubt untrue. There is also the undisputed fact that even after he was told that he should pay directly to plaintiff Zhandong, he insisted on paying to defendant Tan, claiming he had no liability to Zhandong (Affidavit of Pablito Uy, par. 3(a), p. 833, Record; tsn, 11-14-97, pp. 18 & 19). In fact, even after he received plaintiff's demand letter on May 15, 1996, Josefa persisted to pay defendant Tan by issuing a check dated May 18, 1996 (Exh. '18' – Josefa)."

On appeal, the Court of Appeals affirmed the trial court's Decision. Petitioner filed a motion for reconsideration but was denied.[3]

Hence, this petition ascribing to the Court of Appeals the following errors:

- IN AFFIRMING THE RULING OF THE LOWER COURT THAT PETITIONER IS LIABLE TO THE RESPONDENT DESPITE "THE MOUNTAIN OF EVIDENCE" SHOWING THAT BOTH PARTIES HAD NO BUSINESS TRANSACTION WITH EACH OTHER AND RESPONDENT'S ADMISSION THAT TAN WAS THE ONE WHO MADE ALL THE NEGOTIATIONS FOR THE SALE OF THE HARDBOARDS;

- IN FAILING TO RULE THAT TAN IS SOLELY RESPONSIBLE FOR THE PAYMENT OF THE HARDBOARDS HE ORDERED FROM RESPONDENT; AND

- IN AFFIRMING THE DECISION OF THE TRIAL COURT HOLDING PETITIONER LIABLE FOR ATTORNEY'S FEES AND LITIGATION EXPENSES AND DISMISSING PETITIONER'S COUNTERCLAIM.[4]

Petitioner contends that he transacted business directly with Tan, relying on the latter's representation that he was the owner of the merchandise. Inasmuch as Tan has been his supplier for a long time, there was no reason why he should not believe him. Petitioner maintains that he had paid Tan for all the hardboards delivered to him. Considering that he is not privy to the transactions between Tan and respondent, it follows that he is not liable for Tan's failure to remit his payments to respondent.

For its part, respondent Zhandong counters that only questions of law, not facts, may be raised in a petition for review on certiorari. Furthermore, findings of fact by the trial court, supported by substantial evidence and affirmed by the Court of Appeals, are final and conclusive and cannot be reviewed by this Court.

While it is firmly entrenched in our jurisdiction that only questions of law may be entertained by this Court in a petition for review on certiorari, however, such rule is not ironclad and admits certain exceptions, such as when: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[5] Here, we find that the trial court and the Court of Appeals misapprehended and overlooked relevant and established facts.

Evidence presented during the hearing before the court a quo shows that Tan negotiated the sale of the hardboards with petitioner Vicente Josefa. Eleanor Chy, president of respondent Zhandong, testified on direct examination that it was Tan who discussed with petitioner the details of the sale—the cost of the hardboards, the delivery, and the terms of payment.[6] When cross-examined, she admitted that she had no direct dealing with petitioner and that it was Tan who ordered the hardboards from her.[7] She collected the payments for the hardboards, not from petitioner, but from Tan. Thus, when the checks which Tan paid her were dishonored, she "protested" to him and came to know that those checks were issued not by petitioner, but by others, thus:

"COURT

Q:

To cut short the proceedings, how was your corporation defrauded by the defendant.

A:

Checks were given to me by Mr. Antonio Tan making me believe that these checks are from Vicente Josefa,sir,

Q:

Where are those checks?

A:

These checks were deposited and dishonored, sir.

Q:

Do you have them now?

A:

Mr. Antonio Tan got all these checks and then they were replaced again by another set of checks, his own

checks and his mother's checks. When I presented them in our bank, again they were dishonored.

x x x

ATTY. CAMARA:

Q:

Mrs. Witness, after the dishonor of these checks which you have just identified before the Honorable Court, what further action, if any, did you take?

A:

I personally went to Mr. Antonio Tan's house and protested about this matter and it was then that I discovered that these checks were not Josefa's but from others.

Q:

Which checks are you referring to when you said were not defendant Tan's check?

A:

The first batch of checks, sir.

Q:

After your protest about the dishonor of his checks, and about the fact that the checks which were given to you were not defendant Tan's but others, what further action, if any, did you take?

A:

To pacify me, Mr. Antonio Tan issued his own check to me and asked his own mother to issue several checks to me as payments, but again, these were dishonored.

Q:

Now, after the dishonor of these replacement checks, what happened next, if any?

A:

I made oral demand to Mr. Tan to make the payments but he kept on delaying the payment, so I decided to make written demand letter dated May 14 pressuring him to pay the deliveries which I made to 747." (underscoring ours)[8]

It was likewise proved during the hearing that petitioner paid Tan for all the hardboards delivered to him, P1,488,000.00 in cash and P2,986,200.00 in twelve (12) FEBTC checks, or a total of P4,474,200.00. [9] Tan, in

his answer, admitted such payments as full satisfaction of petitioner's obligation.[10]

Petitioner Vicente Josefa testified that Tan represented himself to be the owner of the merchandise; and that he had no reason to believe otherwise since Tan had been his supplier in the past. He only knew that the hardboards belonged to respondent when he received the latter's demand letter dated May 14, 1996.

These circumstances obviously indicate that Tan bought the hardboards from respondent and, in turn, sold them to petitioner. However, both the trial court and the Court of Appeals ignored this glaring reality and instead held that petitioner purchased the boards directly from respondent. Both courts based their conclusion on the following: first, the delivery receipts covering the hardboards are in the name of respondent Zhandong; and second, Joseph Pe (brother of Chy), operations manager of respondent, testified that he personally went to petitioner Vicente Josefa to confirm the latter's orders and inform him that the goods are from respondent.

We cannot go along with the conclusion drawn by both courts. Some of the delivery receipts do not bear the name of respondent Zhandong. Delivery Receipts Nos. 3456, 3454 and 3441[11] evidencing the delivery of fifty-one (51) crates of hardboards bear the name of "E. D. Hizon Customs Brokerage." If we follow the conclusion of the courts below, then the boards covered by the said receipts belong to E. D. Hizon Customs Brokerage. Moreover, the delivery receipts do not indicate the price of the hardboards and the terms of payment. As such, they merely signify that the goods were to be delivered to petitioner. Indeed, they do not ipso facto prove the existence of a perfected contract of sale between petitioner and respondent. Also, Pe's testimony only proves the delivery of the merchandise to petitioner. It does not establish that respondent is the seller of the hardboards purchased bought by petitioner.

Since petitioner had fully paid Tan for all the hardboards, respondent Zhandong has no right to demand payments from him. To be sure, he cannot be made responsible for Tan's failure to pay respondent for the subject hardboards. Contracts take effect only between the parties, their successors in interest, heirs and assigns.[12] When there is no privity of contract, there is likewise no obligation or liability to speak about and thus no cause of action arises.[13] Clearly, petitioner, not being privy to the transaction between respondent and Tan, should not be made to answer for the latter's default.

Actually, what appears to have transpired was that Tan ordered 313 crates of hardboards from respondent with instructions to deliver them to petitioner's establishment; that petitioner paid Tan the corresponding amounts; that in turn, Tan paid respondent with checks which were eventually dishonored; that Chy went to Tan's house to protest; that Tan replaced these checks with his personal checks and those of his mother; and that after these checks bounced, respondent realized that it could not collect from Tan, hence, it turned to petitioner to recover the amounts. As explained earlier, petitioner has no liability to respondent. Consequently, the latter's complaint against him cannot, in any way, prosper and must accordingly be dismissed. Since petitioner was able to prove that he paid Tan the amount of P4,474,200.00 for the hardboards, then respondent Zhandong should collect the amount from the latter.

WHEREFORE, the petition is GRANTED. The assailed Decision of the Court of Appeals dated June 29, 2001 in CA-G.R. CV No. 63644 affirming the Decision of the Regional Trial Court in Civil Case No. Q-92-27691 is REVERSED and SET ASIDE. The complaint in Civil Case No. Q-92-27691 against petitioner Vicente Josefa is DISMISSED.

SO ORDERED.

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

[1] Penned by Associate Justice Bernardo P. Abesamis, retired, and concurred in by Associate Justices Godardo A. Jacinto and Eliezer R. delos Santos.

[2] Rollo, at 90-107.

[3] Id., at 65.

[4] Id., at 8-9.

[5] Larena vs. Mapili, G.R. No. 146341, August 7, 2003, citing Gonzales v. Court of Appeals, 358 Phil. 806, 821, October 30, 1998; Polotan Sr. v. Court of Appeals, 357 Phil. 250, 256-257, September 25, 1998. See also Lacanilao v. Court of Appeals, 330 Phil. 1074, 1079-1080, September 26, 1996.

[6] TSN, June 21, 1996, p. 5.

[7] TSN, November 12, 1996, pp. 8-13.

[8] TSN, June 21, 1996, pp. 5-6, 9.

[9] Actually, the total price of the boards according to Josefa was P4,499,200.00, but Tan gave him a discount of P25,000.00.

[10] Records, Vol. 1, pp. 167-173.

[11] Id., pp. 15-17; Exhibits "D," "E" and "F," for respondent.

[12] Art. 1311, Civil Code; Visayan Surety & Insurance Corp. vs. Court of Appeals, G.R. No. 127261, September 7, 2001.

[13] Chan vs. Maceda, G.R. No. 142591, April 30, 2003; Smith Bell Co. vs. Court of Appeals, G.R. No. 110668, February 6, 1997.

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