

MR. WEE SION BEN, PRESIDENT OF BEST EMPORIUM, AND BEST EMPORIUM, PAGADIAN CITY, PETITIONERS, VS. SEMEXCO/ZEST-O MARKETING CORPORATION, REPRESENTED BY MISS SYLVIA R. OCER, ATTORN...

G.R. NO. 153898. October 18, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, questioning the Decision^[1] dated February 2, 2002 and Resolution dated May 2, 2002 of the Court of Appeals in CA-G.R. CV No. 58421.

Best Emporium (in Pagadian City) and its president, Wee Sion Ben, petitioners, purchased fruit juices from SEMEXCO/ZEST-O Marketing Corporation, respondent, for the period from January to August 1995. Respondent issued petitioners a Charge Invoice in the amount of P104,277.80 which bears this term/condition:

Note: Please make all checks payable to SEMEXCO Marketing Corporation only.^[2]

In payment for the fruit juices, petitioners issued Metro Bank Pagadian City Branch Check No. PYD 1090770187 dated August 15, 1995 in the sum of P104,277.80 payable to cash. Maloney Sorolla, respondent corporation's sales representative, received the check. Sorolla encashed the check but did not remit the money to herein respondent.

Upon learning of the delivery of the check to Sorolla, Nelson Azarcon, district sales manager of respondent corporation, inquired from petitioner Wee Sion Ben why he issued a "pay to cash" check when the Charge Invoice states that all payments must be made payable to the order of respondent corporation. Thereupon, petitioner Wee Sion Ben issued Metro Bank Pagadian City Branch Check No. PYD 1090770320 dated September 1, 1995 to replace the "pay to cash" check. However, when presented for payment, respondent was informed by the drawee bank that petitioner Wee Sion Ben directed it to "stop payment" or not to pay the new check.

Consequently, respondent made oral and written demands upon petitioners^[3] to pay P104,277.80, but to no avail.

Respondent thus filed with the Regional Trial Court, Branch 35, Ozamis City a complaint for sum of money, docketed as Civil Case No. 96-34. On April 30, 1997, the trial court rendered its Decision finding that petitioners' obligation had been extinguished when they delivered the "pay to cash" check to respondent through Sorolla. The trial court then dismissed both the complaint and the counterclaim.

[4]

On appeal by respondent, the Court of Appeals rendered a Decision affirming with modification the trial court's judgment, thus:

Wherefore, premises considered, the appeal is granted; and the assailed 30 April 1997 Decision of the court a quo is hereby AFFIRMED with MODIFICATION, as follows:

- Defendants-appellees are jointly and severally liable to pay the sum of P104,277.80 to plaintiffs-appellants plus 12% interest per annum from September 1995 until fully paid;
- As stipulated in the Charge Invoice, defendants-appellees are hereby ordered to pay 25% of the total monetary award to plaintiffs-appellants.
- The rest of the court a quo's dispositions are hereby affirmed.

Petitioners filed a motion for reconsideration but it was denied by the appellate court in its Resolution dated May 2, 2002.

Hence, the present petition.

The issue for our resolution is whether petitioner Wee Sion Ben's issuance of the check payable to cash delivered and received by Sorolla constitutes a valid payment of petitioners' obligation to respondent.

As mentioned earlier, the Charge Invoice issued by respondent to petitioners clearly states that they shall "make all checks payable to SEMEXCO Marketing Corporation only."

Evidently, both parties in their business transaction are bound by this term or condition.

Petitioners contend that since the Charge Invoice is a contract of adhesion,[5] they are not obliged to comply with its term or condition. Petitioners' contention lacks merit. We have repeatedly held that contracts of adhesion are as binding as ordinary contracts.[6] Those who adhere to the contract are in reality free to reject it entirely and if they adhere, they give their consent.[7]

Clearly then, petitioners' issuance of the "pay to cash" check is a clear violation on their part of the term or condition stipulated in the Charge Invoice.

Petitioners should have been wary in issuing such check. Records show that it was Sorolla himself who requested them to issue the check payable to cash. This should have warned them of the possible risk – that the check may not reach respondent.

At any rate, when petitioners realized they made a serious mistake in issuing the "pay to cash" check to Sorolla, they readily issued a second check payable to respondent corporation. For reason they only know, petitioners directed the drawee bank to stop its payment. Obviously, they admitted that they violated the condition in the Charge Invoice. Hence, their obligation to pay the fruit juices delivered to them is not extinguished.

Article 1595(1) of the Civil Code provides:

Where, under a contract of sale, the ownership of the goods has passed to the buyer and he wrongfully neglects or refuses to pay for the goods according to the terms of the contract of sale, the seller may maintain an action against him for the price of the goods.

WHEREFORE, we DENY the petition and AFFIRM the assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 58421.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justice Conrado M. Vasquez, Jr. and Associate Justice Amelita G. Tolentino, Rollo, p. 31.

[2] Rollo, p. 101.

[3] Id., p. 33.

[4] Id., p. 50.

[5] A contract prepared by only one party, while the other party merely affixes his signature signifying his adhesion thereto.

[6] Titan Construction Corporation v. Unifield Enterprises, Inc., G.R. No. 153874, March 1, 2007, 517 SCRA 180, citing Ermitaño v. Court of Appeals, 306 SCRA 218 (1999), and Ayala Corp. v. Ray Burton Development Corp., 294 SCRA 48 (1998).

[7] Ibid., citing Ermitaño v. Court of Appeals, supra.

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