

**FAR EAST BANK AND TRUST CO., TRUST AND INVESTMENT GROUP,
AND FEB INVESTMENT, INC., PETITIONERS, VS. TRUST UNION
SHIPPING CORP., SWEET LINES, INC., AND THE VESSEL M/V
“SWEET GLOR...**

G.R. No. 154716. September 16, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is an Omnibus Motion praying, among others, for this Court to render judgment based on a Compromise Agreement entered into by the parties in this case. The original Petition for Review on Certiorari under Rule 45 filed by petitioners prayed for the reversal of the Court of Appeals Decision[1] dated March 13, 2002 in CA-G.R. CV No. 50036, which reversed the Decision[2] of the Regional Trial Court (RTC) of Manila, Branch 35, dated January 16, 1995 in Civil Case No. 92-59963.

The factual antecedents of this case are as follows:

Sweet Lines, Inc. leased under a bareboat charter with option to buy the ship M/V Sweet Glory from respondent Trust Union Shipping Corporation, a foreign corporation based in Panama.

Sometime in 1988, Sweet Lines applied for and obtained a credit line from petitioners Far East Bank and Trust Company (FEBTC) and FEB Investment, Inc. (FEBI). Sweet Lines originally applied for a P30 million credit facility but petitioners, through FEBTC, approved the application only to the extent of P20 million credit line and P500,000.00 Bills Purchase Line, or a total of P20.5 million credit facility.[3]

On August 31, 1988, Trust Union Shipping Corp. and FEBTC executed a Deed of Ship Mortgage over M/V Sweet Glory to secure payment of Sweet Lines' P20.5 million loan under the 1988 credit line agreement.[4]

The credit line expired with Sweet Lines failing to pay the P20.5 million loan. Nonetheless, the credit line was renewed, with FEBTC extending an additional P9.5 million loan to Sweet Lines[5] secured by chattel mortgages over M/V Sweet Time and M/V Sweet Sail and a real estate mortgage over certain Cebu properties.[6]

Sweet Lines still failed to pay its outstanding obligation in the total amount of P30 million.

FEBTC filed a case before the RTC of Manila for judicial foreclosure of the ship mortgage in payment of the sum of P30 million. Upon FEBTC's posting of a P20.5 million bond, the trial court issued an order for the arrest of M/V Sweet Glory.[7]

On January 16, 1995, the RTC issued a Decision,[8] the dispositive portion of which reads:

WHEREFORE, judgment is rendered ordering defendant Sweet Lines, Inc. to pay plaintiff Far East Bank and Trust Company within ninety (90) days from service of this judgment the principal sum of P30,000,000.00; the interest thereon computed from January 27, 1992, at the following rates: (a) 26.8839% per annum on the sum of P26,000,000.00 (Exhibit C); (b) 27.50% per annum on the sum of P2,000,000.00 (Exhibit D); and (c)

29.00% on the sum of P2,000,000.00 (Exhibit E) until the principal obligation is fully paid; another sum equivalent to 25% of the principal amount due for attorney's fees; and the costs, inclusive of the port usage fees claimed by intervenor Philippine Ports Authority computed from January 30, 1992 until the departure of defendant "M/V Sweet Glory" also known as "M/V Sweet Roro 2", (sic) at the rates prescribed in the Port Tariff Rates for Vessels (Exhibits 11, 11-A, 12 and (sic) 12-A), minus the sum of P65,346.02. This part of the costs should be paid directly to the intervenor.

In the event defendant Sweet Lines, Inc. fails to pay in full the aforementioned amounts, the vessel "M/V Sweet Glory" also known as "M/V Sweet Roro 2" is ordered sold at public auction in accordance with the procedures prescribed in Rule 68 of the Rules of Court which are not inconsistent with Presidential Decree No. 1521, the proceeds thereof to be applied in the order as follows:

- To pay the port usage fees claimed by intervenor Philippine Port Authority computed from the date and at the rates, minus the amount indicated above;
- To pay the residue to the plaintiff until the amount of P20,500,000.00 is covered inclusive of the sum awarded to the intervenor;
- To turn over the amount realized in excess of P20,500,000.00, if any, to defendant Trust Union Shipping Corporation; (sic)

In the event the proceeds realized in the foreclosure sale is less than P20,500,000.00, after the claim of the intervenor has been satisfied, defendant Trust Union Shipping Corporation is ordered to pay the deficiency to the plaintiff until the sum of P20,500,000.00 is realized; (sic)

The principal balance, if any, of the principal obligation of defendant Sweet Lines, Inc., inclusive of attorney's fees and other costs, shall subsist as ordinary credits enforceable against the said defendant.

Defendant Sweet Lines, Inc. is ordered to reimburse to defendant Trust Union Shipping Corporation the full amount the latter actually paid to the plaintiff, not exceeding P20,500,000.00, plus another amount equal to 20% of the sum actually paid, as attorney's fees.

The Deputy Sheriff of this Court is hereby authorized and directed to take possession of the mortgaged vessel, the "M/V Sweet Glory", (sic) to enforce and undertake the foreclosure sale of said vessel in the event such sale becomes necessary.

SO ORDERED.[9]

Trust Union appealed the RTC Decision. In a Decision[10] dated March 13, 2002, the Court of Appeals (CA) reversed and set aside the RTC Decision, thus:

WHEREFORE, the Decision of the Regional Trial Court of Manila, Branch 31, dated January 16, 1995, is hereby REVERSED and SET ASIDE, and a new one entered as follows:

- The foreclosure of the mortgage constituted over M/V Sweet Glory is declared null and void and the arrest of M/V Sweet Glory wrongful and unjustified. Plaintiffs/appellees are ordered to pay in solidum defendant/appellant Trust Union as reparation of damages occasioned by the loss of its vessel, M/V Sweet Glory, the amount of P45 million and ten (10%) percent thereof attorney's fees.
- Defendant Sweet Lines, Inc. is ordered to pay plaintiff Far East Bank and Trust Company, within ninety (90) days from service of this judgment, the principal sum of P30,000,000.00; the interest thereon computed from January 27, 1992, at the following rates: 26.8839% per annum on the sum of P26,000,000.00 (Exhibit C); (b) 27.50% per annum on the sum of P2,000,000.00 (Exhibit D); and (c) 29.00% per annum on the sum of P2,000,000.00 (Exhibit E) until the principal obligation is fully paid; another sum equivalent to ten (10%) percent of the principal amount due for attorney's fees; and the costs, inclusive of the port usage fees claimed

by intervenor Philippine Ports Authority computed from January 30, 1992 at the rates prescribed in the Port Tariff Rates for Vessels (Exhibits 11, 11-A, 12 and (sic) 12-A), minus the sum of P65,346.02. This part of the costs should be paid directly to the intervenor.

- The compromise agreement between Far East Bank and Philippine Ports Authority is approved, and payment of Far East Bank to PPA in the total amount of P682,170.82 by way of port/berthing fees incurred by M/V Sweet Glory is noted.

- The principal balance, if any, of the principal obligation of the defendant Sweet Lines, Inc., inclusive of attorney's fees and other costs, shall subsists (sic) as ordinary credits enforceable against SLI.

SO ORDERED.[11]

Petitioners then filed the present Petition for Review on Certiorari[12] before this Court. The same was given due course in a Resolution[13] dated June 29, 2005.

In an Omnibus Motion, Trust Union and Philippine Investment One (SPV-AMC), Inc. (PI One) prayed for, among others, this Court to render judgment on the Compromise Agreement they had entered into settling all claims, disputes, and courses of action arising from the foreclosure of the vessel M/V Sweet Glory.[14] They also prayed for the substitution of the petitioners FEBTC and FEBI by PI One. They alleged that when petitioners merged with the Bank of the Philippine Islands (BPI), the latter assigned the rights, title, interest, and causes of action in this case to Philippine Assets Investment (SPV-AMC), Inc. (PAII), which in turn assigned the same to PI One. They also prayed for this Court to direct Banco de Oro, Julia Vargas Branch, to close the escrow account deposited with it at the maturity next succeeding the receipt of this Court's resolution and to divide equally on a 50%-50% basis the remaining escrow deposit accruing interest between Trust Union and PI One. Lastly, they prayed for the dismissal of the appeal without prejudice to the right of PI One to further collect on Sweet Lines, Inc. pursuant to the Decision rendered by the CA on March 13, 2002.

The Compromise Agreement reads:

This Compromise Agreement (this "Agreement") is entered into at Makati City, Philippines on June 26, 2008, and at Tokyo, Japan on July 11, 2008 by and between:

PHILIPPINE INVESTMENT ONE (SPV-AMC), INC. ("PI One"), a corporation organized and existing under the laws of the Philippines, with principal office address at Unit 1615 Tower One, Exchange Plaza, corner Paseo de Roxas and Ayala Avenue, Makati City, herein represented by its Director, MR. NORMAN MACASAET;

- and -

TRUST UNION SHIPPING CORPORATION ("TUSC"), a corporation organized and existing under the laws of Panama, with address at P.O. Box 4493 Panama 5, Republic of Panama, herein represented by its Director and President, MR. JUN ISHIHARA,

(each, a "Party," and collectively, the "Parties").

WHEREAS, the Parties make the following recitals:

- TUSC is a respondent in an ongoing litigation before the Supreme Court in Far East Bank and Trust Co., et al. v. Trust Union Shipping Corp., et al. docketed as G.R. No. 1547169 (sic) (the "Case") which is an appeal from the Decision of the Court of Appeals dated March 13, 2002 in the case docketed as CA-G.R. CV No. 50036;

- Far East Bank and Trust Co. ("FEBTC"), Trust Investment Group and FEB Investment, Inc. ("FEBI") are the petitioners in the Case. FEBTC/FEBI have been acquired by the Bank of the Philippine Islands ("BPI") through a

merger where BPI was the surviving entity. Attached as Annexes A and B are the Certificate of Filing of the Articles of Merger and Plan of Merger, respectively, between BPI and FEBTC/FEBI;

- On January 5, 2005, BPI assigned all its rights, title, interest and causes of action in the Case to Philippine Assets Investment (SPV-AMC), Inc. ("PAII");
- On May 11, 2007, PAII assigned the subject credit involved in the case to PI One;
- On June 16, 1997, the Court of Appeals ordered FEBTC/FEBI to deposit with Banco de Oro ("BDO") in a trust account (the "Trust Account") the amount of Nine Million Pesos (Php9,000,000.00) which constitutes sales proceeds of the sale of the vessel, M/V "Sweet Glory," in favor of Bacolod Metal.
- The Trust Account is held in escrow in BDO - Julia Vargas Branch under Account No. 102-78313-1 (the "Escrow Account"), which shall mature on May 19, 2008 (the "Maturity Date"); and
- PI One and TUSC have agreed to amicably settle their respective claims, counterclaims, and causes of action in this Case by way of this Agreement.

WHEREFORE, the Parties agree as follows:

- For and in consideration of the full and faithful compliance by the Parties with their respective undertakings in paragraph 2 below, and to avoid the expenses and inconveniences of a prolonged litigation, the Parties hereby release, remise and forever discharge one another, their respective stockholders, officers, directors, agents or employees, including their respective counsels, from any causes of action, claims/counterclaims for sum of money, or other obligations arising from or relative to the subject matter of this Case.

- The Parties agree that:

2.1 They shall, on the date this Agreement is signed, execute and file, by July 20, 2008 or soon thereafter, an Omnibus Motion in the Case for the (1) substitution of PI One as petitioner, in lieu of FEBTC/FEBI, (2) approval of this Agreement, and (3) dismissal of the appeal;

2.2 They shall equally divide, on a 50%-50% basis, all the proceeds stored in the Escrow Account, including all income and interests earned, and net of all expenses and costs incurred for sheriff's fees, as well as bank fees and charges, excluding remittance or transfer and related fees and charges which shall be for the account of the Party requiring remittance or transfer.

The amount payable to TUSC in Philippine currency shall be forthwith converted by BDO into U.S. Dollars and BDO shall immediately transfer such U.S. Dollar amount to the following bank account of TUSC:

Bank:

The Shinwa Bank, Ltd.

Branch:

Nagasaki branch

Number of Account:

101-N0-000004-0

Name of Account:

TRUST UNION SHIPPING

CORPORATION

2.3 They shall cause the renewal of the terms of the Escrow Account during the Maturity Date for another month, or until June 19, 2008, and thereafter on a 14-day maturity period, until such time that the Supreme Court has approved this Agreement, in which case, the escrow account shall be closed on the maturity date subsequent to BDO's receipt of the original or certified true copy of the Supreme Court's Resolution/Decision/Order approving this Agreement.

2.4 Upon receipt of all the proceeds of the Escrow Account, including all income and interests earned, they shall jointly cause the dismissal of the Case as between them with prejudice.

2.5 Their entering into this Agreement shall not be taken as a confession or an admission of liability, fault, and/or negligence by either of them, or by their respective stockholders, officers, directors, agents or employees, relative to the subject matter of the Case;

2.6 They shall not disclose any information concerning the terms of this Compromise Agreement to any third party; and

2.7 This Agreement shall constitute a full and complete satisfaction of any and all of their respective claims, counterclaims, and causes of action against the other in the Case.

- The Parties have read this Agreement and have entered into it willingly, voluntarily, and with full knowledge of their rights.

- This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the parties have signed this Agreement at Makati City, Philippines, and at [Tokyo, Japan] on the date specified above.

PHILIPPINE INVESTMENT ONE

(SPV-AMC), INC.

Petitioners

TRUST UNION SHIPPING CORP.

Respondents

By: By:

(Signed)

Mr. Norman H. Macasaet

Director

(Signed)

Mr. Jun Ishihara

Director and President

Assisted by:

Assisted by:

SyCip Salazar Hernandez & Gatmaitan

7th Floor SSHG Law Centre

105 Paseo de Roxas

Makati City

Yulo & Bello Law Offices
4th Floor, La Paz Centre
Rufino cor. Salcedo Streets
Legaspi Village, Makati City

By: By:

(Signed)
DOMINGO G. CASTILLO

(Signed)
LUCAS C. CAPRIO, JR.

A compromise is a contract whereby the parties, by making reciprocal concessions, avoid litigation or put an end to one already commenced.[15] It is an accepted and desirable practice in courts of law and administrative tribunals.[16] Settlement of disputes brought before the courts is, in fact, encouraged.[17]

It is settled that contracting parties may establish such stipulations, clauses, terms and conditions as they deem convenient, provided that these are not contrary to law, morals, good customs, public order, or public policy.[18]

The Court finds that the above Compromise Agreement has been validly executed and not contrary to law, morals, good customs, public order, or public policy.

WHEREFORE, the Omnibus Motion is GRANTED. The Compromise Agreement is APPROVED and judgment is hereby rendered in accordance therewith. By virtue of such approval, this case is now deemed TERMINATED. No pronouncement as to costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Alicia L. Santos, with Associate Justices Cancio C. Garcia (now a retired member of this Court) and Marina L. Buzon, concurring; rollo, pp. 15-36.

[2] Penned by Judge Ramon P. Makasiar; id. at 285-293.

[3] Petition, id. at 581-582.

[4] Id. at 582.

[5] Id. at 585.

[6] Id. at 586-587.

[7] Id. at 592.

[8] Id. at 285-293.

[9] Id. at 292-293.

[10] Id. at 61-83.

[11] Id. at 81-82.

[12] Id. at 569-650.

[13] Id. at 1389.

[14] Omnibus Motion, p. 3.

[15] Civil Code, Art. 2028.

[16] Philippine National Oil Company-Energy Development Corporation (PNOC-EDC) v. Abella, G.R. No. 153904, January 17, 2005, 448 SCRA 549, 565, citing Santiago v. De Guzman, 177 SCRA 344 (1989).

[17] Viesca v. Gilinsky, G.R. No. 171698, July 4, 2007, 526 SCRA 533, 558.

[18] Civil Code, Art. 1306.

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