

GOLD LINE TOURS, INC., PETITIONER, VS. HEIRS OF MARIA CONCEPCION LACSA, RESPONDENTS.

G.R. No. 159108. June 18, 2012

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The veil of corporate existence of a corporation is a fiction of law that should not defeat the ends of justice.

Petitioner seeks to reverse the decision promulgated on October 30, 2002[1] and the resolution promulgated on June 25, 2003,[2] whereby the Court of Appeals (CA) upheld the orders issued on August 2, 2001[3] and October 22, 2001[4] by the Regional Trial Court (RTC), Branch 51, in Sorsogon in Civil Case No. 93-5917 entitled Heirs of Concepcion Lacsa, represented by Teodoro Lacsa v. Travel & Tours Advisers, Inc., et al. authorizing the implementation of the writ of execution against petitioner despite its protestation of being a separate and different corporate personality from Travel & Tours Advisers, Inc. (defendant in Civil Case No. 93-5917).

In the orders assailed in the CA, the RTC declared petitioner and Travel & Tours Advisers, Inc. to be one and the same entity, and ruled that the levy of petitioner's property to satisfy the final and executory decision rendered on June 30, 1997 against Travel & Tours Advisers, Inc. in Civil Case No. 93-5917[5] was valid even if petitioner had not been impleaded as a party.

Antecedents

On August 2, 1993, Ma. Concepcion Lacsa (Concepcion) and her sister, Miriam Lacsa (Miriam), boarded a Goldline passenger bus with Plate No. NXM-105 owned and operated by Travel & Tours Advisers, Inc. They were enroute from Sorsogon to Cubao, Quezon City.[6] At the time, Concepcion, having just obtained her degree of Bachelor of Science in Nursing at the Ago Medical and Educational Center, was proceeding to Manila to take the nursing licensure board examination.[7] Upon reaching the highway at Barangay San Agustin in Pili, Camarines Sur, the Goldline bus, driven by Rene Abania (Abania), collided with a passenger jeepney with Plate No. EAV-313 coming from the opposite direction and driven by Alejandro Belbis.[8] As a result, a metal part of the jeepney was detached and struck Concepcion in the chest, causing her instant death.[9]

On August 23, 1993, Concepcion's heirs, represented by Teodoro Lacsa, instituted in the RTC a suit against Travel & Tours Advisers Inc. and Abania to recover damages arising from breach of contract of carriage.[10] The complaint, docketed as Civil Case No. 93-5917 and entitled Heirs of Concepcion Lacsa, represented by Teodoro Lacsa v. Travel & Tours Advisers, Inc. (Goldline) and Rene Abania, alleged that the collision was due to the reckless and imprudent manner by which Abania had driven the Goldline bus.[11]

In support of the complaint, Miriam testified that Abania had been occasionally looking up at the video monitor installed in the front portion of the Goldline bus despite driving his bus at a fast speed;[12] that in Barangay San Agustin, the Goldline bus had collided with a service jeepney coming from the opposite direction while in the process of overtaking another bus;[13] that the impact had caused the angle bar of the jeepney to detach and to go

through the windshield of the bus directly into the chest of Concepcion who had then been seated behind the driver's seat;[14] that concerned bystanders had hailed another bus to rush Concepcion to the Ago Foundation Hospital in Naga City because the Goldline bus employees and her co-passengers had ignored Miriam's cries for help;[15] and that Concepcion was pronounced dead upon arrival at the hospital.[16]

To refute the plaintiffs' allegations, the defendants presented SPO1 Pedro Corporal of the Philippine National Police Station in Pili, Camarines Sur, and William Cheng, the operator of the Goldline bus.[17] SPO1 Corporal opined that based on his investigation report, the driver of the jeepney had been at fault for failing to observe precautionary measures to avoid the collision;[18] and suggested that criminal and civil charges should be brought against the operator and driver of the jeepney.[19] On his part, Cheng attested that he had exercised the required diligence in the selection and supervision of his employees; and that he had been engaged in the transportation business since 1980 with the use of a total of 60 units of Goldline buses, employing about 100 employees (including drivers, conductors, maintenance personnel, and mechanics);[20] that as a condition for regular employment, applicant drivers had undergone a one-month training period and a six-month probationary period during which they had gotten acquainted with Goldline's driving practices and demeanor;[21] that the employees had come under constant supervision, rendering improbable the claim that Abania, who was a regular employee, had been glancing at the video monitor while driving the bus;[22] that the incident causing Concepcion's death was the first serious incident his (Cheng) transportation business had encountered, because the rest had been only minor traffic accidents;[23] and that immediately upon being informed of the accident, he had instructed his personnel to contact the family of Concepcion.[24]

The defendants blamed the death of Concepcion to the recklessness of Bilbes as the driver of the jeepney, and of its operator, Salvador Romano;[25] and that they had consequently brought a third-party complaint against the latter.[26]

After trial, the RTC rendered its decision dated June 30, 1997, disposing:

ACCORDINGLY, judgment is hereby rendered:

(1) Finding the plaintiffs entitled to damages for the death of Ma. Concepcion Lacsa in violation of the contract of carriage;

(2) Ordering defendant Travel & Tours Advisers, Inc. (Goldline) to pay plaintiffs:

- a. P30,000.00 – expenses for the wake;
- b. P 6,000.00 – funeral expenses;
- c. P50,000.00 – for the death of Ma. Concepcion Lacsa;
- d. P150,000.00 – for moral damages;
- e. P20,000.00 – for exemplary damages;
- f. P8,000.00 – for attorney's fees;
- g. P2,000.00 – for litigation expenses;
- h. Costs of suit.

(3) Ordering the dismissal of the case against Rene Abania;

(4) Ordering the dismissal of the third-party complaint.

SO ORDERED.[27]

The RTC found that a contract of carriage had been forged between Travel & Tours Advisers, Inc. and Concepcion as soon as she had boarded the Goldline bus as a paying passenger; that Travel & Tours Advisers, Inc. had then become duty-bound to safely transport her as its passenger to her destination; that due to Travel &

Tours Advisers, Inc.'s inability to perform its duty, Article 1786 of the Civil Code created against it the disputable presumption that it had been at fault or had been negligent in the performance of its obligations towards the passenger; that Travel & Tours Advisers, Inc. failed to disprove the presumption of negligence; and that a rigid selection of employees was not sufficient to exempt Travel & Tours Advisers, Inc. from the obligation of exercising extraordinary diligence to ensure that its passenger was carried safely to her destination.

Aggrieved, the defendants appealed to the CA.

On June 11, 1998,[28] the CA dismissed the appeal for failure of the defendants to pay the docket and other lawful fees within the required period as provided in Rule 41, Section 4 of the Rules of Court (1997). The dismissal became final, and entry of judgment was made on July 17, 1998.[29]

Thereafter, the plaintiffs moved for the issuance of a writ of execution to implement the decision dated June 30, 1997.[30] The RTC granted their motion on January 31, 2000,[31] and issued the writ of execution on February 24, 2000.[32]

On May 10, 2000, the sheriff implementing the writ of execution rendered a Sheriff's Partial Return,[33] certifying that the writ of execution had been personally served and a copy of it had been duly tendered to Travel & Tours Advisers, Inc. or William Cheng, through his secretary, Grace Miranda, and that Cheng had failed to settle the judgment amount despite promising to do so. Accordingly, a tourist bus bearing Plate No. NWW-883 was levied pursuant to the writ of execution.

The plaintiffs moved to cite Cheng in contempt of court for failure to obey a lawful writ of the RTC.[34] Cheng filed his opposition.[35] Acting on the motion to cite Cheng in contempt of court, the RTC directed the plaintiffs to file a verified petition for indirect contempt on February 19, 2001.[36]

On April 20, 2001, petitioner submitted a so-called verified third party claim,[37] claiming that the tourist bus bearing Plate No. NWW-883 be returned to petitioner because it was the owner; that petitioner had not been made a party to Civil Case No. 93-5917; and that petitioner was a corporation entirely different from Travel & Tours Advisers, Inc., the defendant in Civil Case No. 93-5917.

It is notable that petitioner's Articles of Incorporation was amended on November 8, 1993,[38] shortly after the filing of Civil Case No. 93-5917 against Travel & Tours Advisers, Inc.

Respondents opposed petitioner's verified third-party claim on the following grounds, namely: (a) the third-party claim did not comply with the required notice of hearing as required by Rule 15, Sections 4 and 5 of the Rules of Court; (b) Travel & Tours Advisers, Inc. and petitioner were identical entities and were both operated and managed by the same person, William Cheng; and (c) petitioner was attempting to defraud its creditors – respondents herein – hence, the doctrine of piercing the veil of corporate entity was squarely applicable.[39]

On August 2, 2001, the RTC dismissed petitioner's verified third-party claim, observing that the identity of Travel & Tours Advisers, Inc. could not be divorced from that of petitioner considering that Cheng had claimed to be the operator as well as the President/Manager/incorporator of both entities; and that Travel & Tours Advisers, Inc. had been known in Sorsogon as Goldline.[40]

Petitioner moved for reconsideration,[41] but the RTC denied the motion on October 22, 2001.[42]

Thence, petitioner initiated a special civil action for certiorari in the CA,[43] asserting:

THE RESPONDENT HONORABLE RTC JUDGE HAD ACTED WITHOUT JURISDICTION OR COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ISSUING THE: (A) ORDER DATED 2 AUGUST 2001, COPY OF WHICH IS HERETO ATTACHED AS

ANNEX A, DISMISSING HEREIN PETITIONER'S THIRD PARTY CLAIM; AND (B) ORDER DATED 22 OCTOBER 2001, COPY OF WHICH IS HERETO ATTACHED AS ANNEX B DENYING SAID PETITIONER'S MOTION FOR RECONSIDERATION; AND THAT THERE IS NO APPEAL, OR ANY PLAIN, SPEEDY AND ADEQUATE REMEDY AVAILABLE TO SAID PETITIONER.

On October 30, 2002, the CA promulgated its decision dismissing the petition for certiorari,[44] holding as follows:

The petition lacks merit.

As stated in the decision supra, William Ching disclosed during the trial of the case that defendant Travel & Tours Advisers, Inc. (Goldline), of which he is an officer, is operating sixty (60) units of Goldline buses. That the Goldline buses are used in the operations of defendant company is obvious from Mr. Cheng's admission. The Amended Articles of Incorporation of Gold Line Tours, Inc. disclose that the following persons are the original incorporators thereof: Antonio O. Ching, Maribel Lim Ching, witness William Ching, Anita Dy Ching and Zosimo Ching. (Rollo, pp. 105-106) We see no reason why defendant company would be using Goldline buses in its operations unless the two companies are actually one and the same.

Moreover, the name Goldline was added to defendant's name in the Complaint. There was no objection from William Ching who could have raised the defense that Gold Line Tours, Inc. was in no way liable or involved. Indeed, it appears to this Court that rather than Travel & Tours Advisers, Inc., it is Gold Line Tours, Inc., which should have been named party defendant.

Be that as it may, We concur in the trial court's finding that the two companies are actually one and the same, hence the levy of the bus in question was proper.

WHEREFORE, for lack of merit, the petition is DISMISSED and the assailed Orders are AFFIRMED.

SO ORDERED.

Petitioner filed a motion for reconsideration,[45] which the CA denied on June 25, 2003.[46]

Hence, this appeal, in which petitioner faults the CA for holding that the RTC did not act without jurisdiction or grave abuse of discretion in finding that petitioner and Travel & Tours Advisers, Inc., the defendant in Civil Case No. 5917, were one and same entity, and for sustaining the propriety of the levy of the tourist bus with Plate No. NWW-883 in satisfaction of the writ of execution. [47]

In the meantime, respondents filed in the RTC a motion to direct the sheriff to implement the writ of execution in view of the non-issuance of any restraining order either by this Court or the CA.[48] On February 23, 2007, the RTC granted the motion and directed the sheriff to sell the Goldline tourist bus with Plate No. NWW-883 through a public auction.[49]

Issue

Did the CA rightly find and conclude that the RTC did not gravely abuse its discretion in denying petitioner's verified third-party claim?

Ruling

We find no reason to reverse the assailed CA decision.

In the order dated August 2, 2001, the RTC rendered its justification for rejecting the third-party claim of petitioner in the following manner:

x x x

The main contention of Third Party Claimant is that it is the owner of the Bus and therefore, it should not be seized by the sheriff because the same does not belong to the defendant Travel & Tours Advisers, Inc. (GOLDLINE) as the third party claimant and defendant are two separate corporation with separate juridical personalities. Upon the other hand, this Court had scrutinized the documents submitted by the Third party Claimant and found out that William Ching who claimed to be the operator of the Travel & Tours Advisers, Inc. (GOLDLINE) is also the President/Manager and incorporator of the Third Party Claimant Goldline Tours Inc. and he is joined by his co-incorporators who are “Ching” and “Dy” thereby this Court could only say that these two corporations are one and the same corporations. This is of judicial knowledge that since Travel & Tours Advisers, Inc. came to Sorsogon it has been known as GOLDLINE.

This Court is not persuaded by the proposition of the third party claimant that a corporation has an existence separate and/or distinct from its members insofar as this case at bar is concerned, for the reason that whenever necessary for the interest of the public or for the protection of enforcement of their rights, the notion of legal entity should not and is not to be used to defeat public convenience, justify wrong, protect fraud or defend crime.

Apposite to the case at bar is the case of *Palacio vs. Fely Transportation Co.*, L-15121, May 31, 1962, 5 SCRA 1011 where the Supreme Court held:

“Where the main purpose in forming the corporation was to evade one’s subsidiary liability for damages in a criminal case, the corporation may not be heard to say that it has a personality separate and distinct from its members, because to allow it to do so would be to sanction the use of fiction of corporate entity as a shield to further an end subversive of justice (*La Campana Coffee Factory, et al. v. Kaisahan ng mga Manggagawa, etc., et al.*, L-5677, May 25, 1953). The Supreme Court can even substitute the real party in interest in place of the defendant corporation in order to avoid multiplicity of suits and thereby save the parties unnecessary expenses and delay. (*Alfonso vs. Villamor*, 16 Phil. 315).”

This is what the third party claimant wants to do including the defendant in this case, to use the separate and distinct personality of the two corporation as a shield to further an end subversive of justice by avoiding the execution of a final judgment of the court.[50]

As we see it, the RTC had sufficient factual basis to find that petitioner and Travel and Tours Advisers, Inc. were one and the same entity, specifically:– (a) documents submitted by petitioner in the RTC showing that William Cheng, who claimed to be the operator of Travel and Tours Advisers, Inc., was also the President/Manager and an incorporator of the petitioner; and (b) Travel and Tours Advisers, Inc. had been known in Sorsogon as Goldline. On its part, the CA cogently observed:

As stated in the (RTC) decision supra, William Ching disclosed during the trial of the case that defendant Travel & Tours Advisers, Inc. (Goldline), of which he is an officer, is operating sixty (60) units of Goldline buses. That the Goldline buses are used in the operations of defendant company is obvious from Mr. Cheng’s admission. The Amended Articles of Incorporation of Gold Line Tours, Inc. disclose that the following persons are the original incorporators thereof: Antonio O. Ching, Maribel Lim Ching, witness William Ching, Anita Dy Ching and Zosimo Ching. (Rollo, pp. 105-108) We see no reason why defendant company would be using Goldline buses in its operations unless the two companies are actually one and the same.

Moreover, the name Goldline was added to defendant’s name in the Complaint. There was no objection from William Ching who could have raised the defense that Gold Line Tours, Inc. was in no way liable or involved. Indeed it appears to this Court that rather than Travel & Tours Advisers, Inc. it is Gold Line Tours, Inc., which should have been named party defendant.

Be that as it may, We concur in the trial court’s finding that the two companies are actually one and the same, hence the levy of the bus in question was proper.[51]

The RTC thus rightly ruled that petitioner might not be shielded from liability under the final judgment through the use of the doctrine of separate corporate identity. Truly, this fiction of law could not be employed to defeat the ends of justice.

But petitioner continues to challenge the RTC orders by insisting that the evidence to establish its identity with Travel and Tours Advisers, Inc. was insufficient.

We cannot agree with petitioner. As already stated, there was sufficient evidence that petitioner and Travel and Tours Advisers, Inc. were one and the same entity. Moreover, we remind that a petition for the writ of certiorari neither deals with errors of judgment nor extends to a mistake in the appreciation of the contending parties' evidence or in the evaluation of their relative weight.[52] It is timely to remind that the petitioner in a special civil action for certiorari commenced against a trial court that has jurisdiction over the proceedings bears the burden to demonstrate not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the respondent trial court in issuing the impugned order.[53] The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.[54] Mere abuse of discretion is not enough; it must be grave.[55] Yet, here, petitioner did not discharge its burden because it failed to demonstrate that the CA erred in holding that the RTC had not committed grave abuse of discretion. A review of the records shows, indeed, that the RTC correctly rejected petitioner's third-party claim. Hence, the rejection did not come within the domain of the writ of certiorari's limiting requirement of excess or lack of jurisdiction.[56]

WHEREFORE, the Court DENIES the petition for review on certiorari, and AFFIRMS the decision promulgated by the Court of Appeals on October 30, 2002. Costs of suit to be paid by petitioner.

SO ORDERED.

Leonardo-De Castro, (Acting Chairperson), Del Castillo, Villarama, Jr., and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 23-26; penned by Associate Justice Portia Aliño-Hormachuelos (retired) and concurred in by Associate Justice Eliezer R. Delos Santos (deceased) and Associate Justice Amelita G. Tolentino.

[2] Id., pp. 27-28.

[3] Id., pp. 53-54.

[4] Id., p. 55.

[5] Id., pp. 38-43.

[6] Records, pp. 1-2.

[7] Id., p. 2.

[8] Id.

[9] Id.

[10] Id., pp. 1-4.

[11] Id., p. 2.

[12] Id., p. 168

- [13] Id.
- [14] Id.
- [15] Id.
- [16] Id.
- [17] Id., pp. 168-169.
- [18] Id., p. 169.
- [19] Id.
- [20] Id.
- [21] Id.
- [22] Id.
- [23] Id.
- [24] Id., p. 170.
- [25] Id., pp. 21-22.
- [26] Id., pp. 31-34.
- [27] Rollo, pp. 42-43.
- [28] Records, p. 177.
- [29] Id., p. 178.
- [30] Id., p. 182.
- [31] Id., p. 184.
- [32] Id., pp. 185-186.
- [33] Id., p. 189.
- [34] Id., pp. 190-191.
- [35] Id., pp. 192-194.
- [36] Id., p. 204.
- [37] Id., pp. 205-207.
- [38] Id., pp. 214-217.
- [39] Id., pp. 218-220.
- [40] Id., pp. 254-255.
- [41] Id., pp. 256-258.
- [42] Id., p. 261.
- [43] Rollo, p. 14.

[44] *Id.*, pp. 23-26.

[45] *Id.*, pp. 56-61.

[46] *Id.*, pp. 27-28.

[47] *Id.*, p. 25.

[48] *Records*, pp. 266-268.

[49] *Id.*, p. 271.

[50] *Id.*, pp. 53-54.

[51] *Rollo*, pp. 25-26.

[52] *Romy's Freight Service v. Castro*, G.R. No. 141637, June 8, 2006, 490 SCRA 160, 166; *Cruz v. People*, G.R. No. 134090, July 2, 1999, 309 SCRA 714.

[53] *Tan v. Antazo*, G.R. No. 187208, February 23, 2011, 644 SCRA 337, 342.

[54] *Office of the Ombudsman v. Magno*, G.R. No. 178923, November 27, 2008, 572 SCRA 272, 287 citing *Microsoft Corporation v. Best Deal Computer Center Corporation*, G.R. No. 148029, September 24, 2002, 389 SCRA 615, 619-620; *Suliguin v. Commission on Elections*, G.R. No. 166046, March 23, 2006, 485 SCRA 219, 233; *Natalia Realty, Inc. v. Court of Appeals*, G.R. No. 126462, November 12, 2002, 370 SCRA 371, 384; *Philippine Rabbit Bus Lines, Inc. v. Goimco, Sr.*, G.R. No. 135507, November 29, 2005, 476 SCRA 361, 366 citing *Land Bank of the Philippines v. Court of Appeals*, 456 Phil. 755, 786 (2003); *Duero v. Court of Appeals*, G.R. No. 131282, January 4, 2002, 373 SCRA 11, 17 citing *Cuison v. Court of Appeals*, G.R. No. 128540, 15 April 1998, 289 SCRA 159, 171.

[55] *Tan v. Antazo*. *supra*, note 53.

[56] *De Vera v. De Vera*, G.R. No. 172832, April 7, 2009, 584 SCRA 506, 515.

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