GUEVENT INDUSTRIAL DEVELOPMENT CORPORATION, PETITIONER, VS. PHILIPPINE LEXUS AMUSEMENT CORPORATION, RESPONDENT.

G.R. NO. 159279. July 11, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Decision[1] dated July 31, 2002 of the Court of Appeals in CA-G.R. CV No. 54291 which reversed the Decision[2] dated August 5, 1996 of the Regional Trial Court, Pasig City, Branch 156. Also assailed is the Resolution[3] dated July 24, 2003 denying petitioner's motion for reconsideration.

Respondent leased for the period of December 11, 1993 to December 10, 1994, petitioner's warehouse at Libertad St., Mandaluyong, Metro Manila for the storage of its video machines. On September 25, 1994, heavy rains flooded Libertad St. and damaged the video machines.

United Adjustment Company (UAC), commissioned by respondent, estimated the value of the damage at P865,149.25 and concluded that the clogged storm drainage and sewer pipes installed underground along petitioner's private road caused the flooding. On the basis of this report, respondent demanded the payment of the value of the damage from petitioner. When petitioner refused, respondent filed a complaint for damages with the Regional Trial Court (RTC) of Pasig City docketed as Civil Case No. 64924.

In its Answer, petitioner averred that it was the clogged public drainage of Mandaluyong City that caused the flood. It said that it was respondent's fault that it did not insure its machines as stipulated in their lease contract. During trial, petitioner showed evidence that it had regularly de-clogged its private drainage and had constantly requested the city to de-clog and rehabilitate the public sewers.

On August 5, 1996, the RTC dismissed the case for lack of merit. It ruled that petitioner was not negligent since it did all that it could. It cleaned its own drainage, and solicited the help of the city engineer and mayor to repair the public drainage system. The RTC found that the damage was caused by a fortuitous event and exempted petitioner from liability.

On appeal, the Court of Appeals reversed the trial court. It ruled that the flooding was not due to a fortuitous event but caused by the clogging of petitioner's internal drainage system as reported by UAC. It further ruled that respondent's failure to insure the machines did not excuse petitioner from liability. Petitioner sought reconsideration but the same was denied.

Petitioner now comes before us raising the following issues:

- WHETHER OR NOT THE PETITIONER IS LIABLE TO RESPONDENT FOR DAMAGES SUSTAINED BY RESPONDENT DUE TO THE CLOGGING OF THE INTERNAL DRAINAGE SYSTEM IN (sic) PETITIONER IN ITS COMPOUND.

- WHETHER OR NOT THE PROPER MAINTENANCE OF PETITIONER'S INTERNAL DRAINAGE SYSTEM WAS IMMATERIAL BECAUSE THE CAUSE OF THE DAMAGE SUSTAINED BY RESPONDENT WAS THE DEFECTIVE INTERNAL DRAINAGE SYSTEM OF PETITIONER.

- WHETHER OR NOT RESPONDENT WAS NEGLIGENT WHEN IT DID NOT PROCURE THE STIPULATED INSURANCE OVER ITS VIDEO MACHINES AGAINST FIRE AND ALLEGED RISKS INCLUDING TYPHOONS, FLOODS, ETC.

- WHETHER OR NOT PETITIONER IS LIABLE TO RESPONDENT FOR DAMAGES IN THIS INSTANT CASE AT BENCH.[4]

For our initial resolution is the question, what caused the flooding? Then, we will consider whether the petitioner is liable for damages.

Though the jurisdiction of this Court in cases brought before it from the Court of Appeals is limited to reviewing or revising errors of law, findings of facts of the latter may be reviewed in exceptional cases.[5] Such exception takes place where the findings of fact of the Court of Appeals are at variance with those of the trial court,[6] in which case the Court reviews the evidence in order to arrive at the correct findings based on the records.

After our review of the records, we are inclined to agree with the Court of Appeals that the cause of flooding was not a fortuitous event but the clogging of the drainage pipes. We ask then, did petitioner's private pipes cause the flooding or was it due to the clogging of the public drainage system?

The Court of Appeals based its ruling on the assessment report of the respondent-commissioned UAC pointing to the clogged internal pipes as the cause of the flooding. Yet, the UAC did not explain how it arrived at its conclusions. Neither are we told of UAC's qualifications to determine the conditions of the drainage pipes. At this juncture, worth stressing, UAC was commissioned by respondent, and UAC is not an independent, impartial nor neutral investigator.

Before the trial court, petitioner showed that it had maintained and regularly de-clogged its own drainage as evidenced by its Daily Deployment of Personnel Report. We note also that there was proof that the public drainage system needed de-clogging. Petitioner also presented a barangay certification that the area is always flooded whenever there is heavy downpour. The Office of the City Mayor also does not deny that the public drainage system needed rehabilitation. All these lead us to conclude that the poor condition of the public drainage, and not the private pipes, primarily caused the flooding. Conformably then, we cannot hold petitioner negligent, for the record reveals that it had constantly requested the local government to dredge and de-clog the public sewers.[7]

The maintenance of the public drainage system could not have been contemplated by the lease contract when it provided that the lessor shall maintain the premises in good and tenantable condition. The law on contract does not force the performance of impossible obligations by the parties,[8] and the maintenance of the public sewers is something impossible to expect from the lessor.[9] The petitioner is accountable only for its pipes, and it should not be held responsible for the maintenance of the public sewers.

WHEREFORE, the petition is GRANTED. The Decision dated July 31, 2002 and the Resolution dated July 24, 2003 of the Court of Appeals in CA-G.R. CV No. 54291 are hereby SET ASIDE. The Decision dated August 5, 1996 of the Regional Trial Court of Pasig City, Branch 156, in Civil Case No. 64924, dismissing the case for lack of merit, is REINSTATED.

Costs against the respondent.

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SO ORDERED.

Carpio, (Chairman), Carpio-Morales, Tinga, and Velasco, Jr. JJ., concur.

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[1] Rollo, pp. 40-46. Penned by Associate Justice Hilarion L. Aquino, with Justices Edgardo P. Cruz, and Regalado E. Maambong concurring.

[2] Id. at 95-100.

[3] Id. at 48-49.

[4] Id. at 28.

[5] See Pastor v. Philippine National Bank, G.R. No. 141316, November 20, 2003, 416 SCRA 283, 295.

[6] See Serrano v. Court of Appeals, G.R. No. 123896, June 25, 2003, 404 SCRA 639, 649.

[7] Exhibits "8, 8-A, 9, 9-C, 10, 11 and 12", records, pp. 255-264.

[8] Civil Code, Art. 1348. Impossible things or services cannot be the object of contracts.

[9] See Edgardo L. Paras, Civil code of the Philippines Annotated, Volume IV, 642 (14th ed. 2000).

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