

AMADO BELTRAN, PETITIONER, VS. MA. AMELITA VILLAROSA, RESPONDENT.

G.R. No. 165376. April 16, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari[1] of the Decision of the Court of Appeals in CA-G.R. CV No. 54395 promulgated on May 26, 2004 and its Resolution promulgated on September 7, 2004, which affirmed the Decision of the Regional Trial Court (RTC) of Makati City, Branch 66, holding petitioner Amado Beltran liable to respondent Ma. Amelita Villarosa in the amount of P740,940.00.

The facts, as summarized by the trial court,[2] are as follows:

Ana Marie Calimbas bought a Chrysler Town and Country van, 1990 model, with Motor No. LX 230853 and Serial Chassis No. ICAGY54R5LX230853,[3] from Primo Chrysler Motor Sales in Nevada. The van was shipped from Los Angeles to Manila under Bill of Lading No. ZIMOLAX9368 and consigned to Ana Marie Calimbas. The shipment arrived in Manila on January 19, 1991.

To facilitate the release of the van, Francis Calimbas, the husband of Ana Marie Calimbas, sought the assistance of Teresita Edu, President of Sokphil Corp., a brokerage corporation. When it took time for Teresita Edu to process the release of the van, she referred Francis Calimbas to petitioner, who was then the Supervising Assessor of the Liquidation Division of the Bureau of Customs.

Francis Calimbas and petitioner met at the office of Teresita Edu at the Port Area, Manila and it was agreed that petitioner would work out the release of the van for the consideration of P750,000.00, including the payment of duties, taxes and registration of the van.

In the meantime, Francis Calimbas, who was in need of money, sold the van to his sister, respondent Villarosa, for P1,300,000.00. Sometime in the last week of March 1991, respondent gave petitioner P750,000.00 in two installments per the agreement between Francis Calimbas and petitioner. The first installment in the amount of P300,000.00 was given in the morning, while the second installment in the amount of P450,000.00 was given in the afternoon of the same day in the office of Teresita Edu and in the presence of Teresita Edu, Hector Arenas and Francis Calimbas.

After three or four days, petitioner delivered the van to respondent at a place near the Lyceum of the Philippines, Intramuros, Manila, together with the original copy of the Certificate of Registration[4] and photocopies of the following documents: the Certificate of Payment[5] in the amount of P740,940.00, Confirmation Certificate of Payment,[6] Official Receipt[7] and the Motor Vehicle Inspection Report[8] dated March 27, 1991 issued by the Land Transportation Office (LTO). Petitioner gave respondent only photocopies of the said documents reasoning that the originals were filed at the Bureau of Customs and the LTO.

Sometime in 1992, respondent sought to register the van with the LTO. However, the LTO refused to register the

van on the ground that its supporting documents were spurious. Consequently, the Bureau of Customs issued a Warrant of Seizure and Detention^[9] dated October 7, 1992 covering the van for violation of the Tariffs and Customs Code for non-payment of customs duties, taxes and other charges.

Upon the advice of a Deputy Commissioner of Customs, respondent availed of the Motor Legalization Program and voluntarily appeared before the Law Division of the Bureau of Customs on October 8, 1992, the day she received the warrant, and paid the sum of P3 69,424.00 for the taxes and other charges.^[10] Consequently, the Bureau of Customs issued an Order,^[11] dated November 13, 1992, quashing the Warrant of Seizure and Detention.

Through a letter-request dated December 16, 1993 to the Bureau of Customs, respondent sought an investigation on the authenticity of the van's supporting documents given by petitioner, namely: (1) Official Receipt No. 33002410 dated October 29, 1990 for P740,940.00 in the name of respondent; (2) Certificate of Payment No. 144228 dated October 30, 1990; and (3) LTO Confirmation Certificate No. 0253864 dated April 2, 1991. Respondent also requested the Bureau of Customs to determine the veracity of the affidavit of Morren Mission, delivery checker of the Marina Port Services, Inc. (Marina).

Evert^[12] E. Samson, from the Customs Intelligence and Investigation Service, Investigation and Prosecution Division, conducted the investigation and found that the van's supporting documents (Certificate of Payment and Official Receipt) were spurious and that the papers of the van were not processed by the Bureau of Customs.

The findings of Samson were contained in a Memorandum dated February 14, 1994. The pertinent portion of the memorandum reads:

INITIAL FINDINGS:

In view of the aforementioned information, hereunder is the result of our verification:

- 1) Certification issued by Hilarion L. Amutan, Chief of the General Services Division, this Bureau, dated January 4, 1994 (Annex "E"), stated that Official Receipt No. 3300241 was issued to the Ninoy Aquino International Airport Customs' Office on October 9, 1990. Verification with that Office on January 5, 1994 disclosed that said official receipt was issued to Acting Cashier Judith Vigila on October 5, 1990.
- 2) On the same certification, it was also stated that Certificate of Payment No. 144228 is within the inclusive Serial No. issued to the Formal Entry Division, Port of Manila on October 26, 1990 but [was] returned to Mr. Isidro Estrera, then Acting Chief, General Services Division. [Verification with Mr. Amutan disclosed that CP No. 144228 is now in his custody. As shown to the undersigned, the complete booklet of Certificate of Payment (CP) No. 144221 to 144250 is still intact and remains unused.
- 3) Mr. Morren Mission, when invited to this office, admitted having issued Gate Pass No. 54492, a certified xerox copy of the said Gate Pass was furnished by Mr. Willy Telles of the Cargo Control Unit, Marina Port Services (now Asian Terminals Inc.) xxx.
- 4) LTO Confirmation Certificate No. 0253864 is yet to be verified with the Land Transportation Office (LTO) xxx.

xxxx

Further verification also disclosed that said vehicle was released on February 21, 1992 at the Stalag Car Compound, Pier 9 by virtue of Gate Pass No. 54492 issued by Mr. Morren Mission, Delivery Checker, Marina Port Services (Annex "M") after PDIG No. 923249 (Annex "N") was presented to him by Mr. Kenneth Delos Santos and a certain N. Tadeja. They also presented a Special Power of Attorney No. 91-248 (Annex "O") duly registered with the Law Division, Port of Manila on February 19, 1991 x x x. Mr. Mission also added that Mr.

N. Tadeja actually drove the said vehicle upon release.

On November 26, 1993, Joseph Encinas, Records Clerk, Collection Division, Port of Manila, issued a certification stating that as per record Entry No. 09265-91 consigned to Ana Calimbias was not received by their office and no payment of duties and taxes has been made. (Annex "Q")

OBSERVATIONS:

It was established that Official Receipt No. 33002410 dated October 29, 1990 for P740,940.00 in the name of Mrs. Amelita C. Villarosa is spurious in view of the fact that said receipt was issued to NAIA Customs Office; therefore, [it] could not be issued at the Port of Manila where the shipment was illegally released.

It was also established that Certificate of Payment (CP) No. 144228 dated October 30, 1990 is spurious. Said CP remains unused and [is] presently in the custody of the Chief, General Services Division.

The issuance of Gate Pass No. 54492 was mainly based on the submitted PDIG No. 923249 which, according to the claim of Mr. Mission, was duly processed by the Bureau of Customs. [A]s to who is responsible in the production of PDIG No. 923249 and making it appear that it was duly processed by the Bureau of Customs has yet to be investigated and carefully studied.[13]

On February 8, 1993, respondent filed a collection suit[14] against petitioner with the Regional Trial Court (RTC) of Makati City for petitioner's failure to return the sum of P740,940.00 which petitioner received from respondent in consideration of petitioner's assurance that he would facilitate the release of the subject vehicle from the Bureau of Customs, and for the payment of all duties and taxes, and the registration of the vehicle with the LTO in respondent's name. The Complaint also sought for the payment of legal interest on the amount from March 1991 until full payment thereof, as well as damages and attorney's fees.

In his defense, petitioner countered that respondent has no cause of action against him because she is a stranger to him; no contract existed between them; and respondent's allegations are fabricated. He claimed that he only met respondent for the first time at the National Bureau of Investigation when he was arrested due to the complaint of respondent. He denied liability and submitted in evidence Gate Pass No. 54492[15] dated February 21, 1991, issued by Marina, showing that the subject vehicle in the name of consignee Ana Calimbias was released on the same date to her authorized representative. Petitioner pointed out that the release of the vehicle on February 21, 1991 would attest that no transactions between him and respondent could exist sometime in the third week of March 1991 as alleged by respondent.

Petitioner presented as witness, Morren Mission, the delivery checker of Marina, now Asian Terminal Incorporated, who stated that it was his duty to prepare a gate pass in order to release a cargo in the custody of Marina. He testified that on February 21, 1991, he prepared a gate pass[16] and issued the same to Kenneth Delos Santos who had a Special Power of Attorney[17] from one Ana Calimbias, the registered consignee of the subject vehicle, and that the van was actually released on the same day to Kenneth Delos Santos' driver, N. Tadeja.[18]

Moreover, petitioner stated that his signature never appeared in the alleged falsified documents which respondent attached to her Complaint. He asserted that he could not have transacted with respondent considering that his duties as Supervising Assessor, detailed as Principal Appraiser at the Informal Entry Division of the Bureau of Customs, had nothing to do with the payment of taxes and duties on imported vehicles nor releasing vehicles from the Bureau.

In addition, Section 3505 of the Tariff and Customs Code provides:

SEC. 3505. Supervision over Attorneys-in-fact.—No person acting as agent or attorney-in-fact of other persons shall be allowed to deal in matters pertaining to customs and/or tariff unless his duly notarized power of

attorney has been approved by the Collector of the port. No more than one such continuing power may be accepted or recognized from any one person or acting as agent in the importation of articles unless he be a licensed customs broker: Provided, That in ports of entry where there are two or more licensed customs brokers doing business as such customs brokers, no person shall act as agent or attorney-in-fact for any regular importer unless he is a full-time employee or official of such importer or principal receiving fixed compensation or salary as such.

From the foregoing, petitioner contends that since he was not the attorney-in-fact of respondent or of the latter's broker, he could not possibly participate in the processing or following-up of the release of the van aside from the fact that his position in the Bureau of Customs prevents him from engaging in such activities.

On June 14, 1993, upon motion by respondent and upon filing of a bond of P200,000.00, the RTC issued a writ of preliminary attachment and levy was made on petitioner's property.

In a Decision dated July 30, 1996, the RTC of Makati City, Branch 66, rendered judgment in favor of respondent. The dispositive portion of the Decision reads:

IN VIEW OF THE FOREGOING, judgment is hereby rendered, ordering defendant Amado Beltran to pay plaintiff Ma. Amelita Villarosa the sum of P740,940.00 plus 6% interest commencing on February 8, 1993, the date when subject complaint was filed.[19]

Petitioner appealed the RTC Decision to the Court of Appeals. In a Decision promulgated on May 26, 2004, the Court of Appeals affirmed the decision of the RTC with modification. The dispositive portion of the Decision reads:

WHEREFORE, for lack of merit, the instant appeal is hereby DISMISSED. The trial court's decision is hereby AFFIRMED with modification that 12% interest per annum shall be imposed on the amount due upon finality of the trial court's decision until full payment thereof.[20]

Petitioner's motion for reconsideration was denied for lack of merit by the Court of Appeals in a Resolution[21] promulgated on September 7, 2004.

Hence, petitioner filed this petition raising the following issues:

I

THE COURT OF APPEALS' DECISION ERRED IN DISREGARDING THE FINDINGS AND DECISIONS OF ADMINISTRATIVE BODIES, INCLUDING THE OMBUDSMAN, WHICH EXTENSIVELY INVESTIGATED RESPONDENT'S COMPLAINT AGAINST HEREIN PETITIONER.

II

IT LIKEWISE VIOLATES THE FUNDAMENTAL RULE THAT GIVES GREATER WEIGHT TO DOCUMENTARY ' THAN TESTIMONIAL EVIDENCE.

III

EVEN IF RESPONDENT'S VERSION IS TRUE, THE PARTIES WERE IN PARI DELICTO[22]

The main issue is whether or not petitioner may be held liable to respondent in the amount of P740,940.00.

Petitioner claims that the Court of Appeals erred in disregarding the Resolution of the Ombudsman dismissing the administrative case against him for dishonesty on the ground of insufficient evidence and also the Ombudsman's Order dated June 23, 1999 dismissing the criminal complaints for Estafa and Falsification of Official Documents upon finding that no probable cause existed against him during the preliminary investigation. Petitioner argues

that if his liability was not proven by mere substantial evidence, how can the Court of Appeals find him liable in this case on a preponderance of evidence.

The argument does not persuade.

The dismissal by the Ombudsman of the criminal and administrative complaints against petitioner does not mean that the instant civil case can no longer prosper. The RTC and the Court of Appeals have original and appellate jurisdiction, respectively, over the collection suit and the concomitant duty to resolve it based on the evidence of the parties.

In civil cases, the burden of proof is on the plaintiff to establish his/her case by preponderance of evidence. "Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence."^[24] It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.^[25] In this case, the trial court found that respondent established her case by a preponderance of evidence, which finding was affirmed by the Court of Appeals.

Next, petitioner contends that the documentary evidence which belies respondent's story should not have been ignored. These documentary evidence are the following: the Certificate of Payment in the amount of P740,940.00. ^[26] Confirmation Certificate of Payment, ^[27] and Official Receipt.^[28] According to petitioner, the Certificate of Payment showed that the taxes were paid on October 30, 1990. He argued that it was unbelievable that, assuming it was indeed a fake document and he knew of the forgery, he would have risked being immediately detected by respondent by giving a Certificate of Payment dated October 30, 1990 when he was supposed to have paid the duties and taxes only in March or April 1991. Further, the supporting documents were only photocopies, and no one in his right mind would accept mere photocopies as documentation for a vehicle worth P1.3 million.

Moreover, petitioner averred that Morren Mission, the delivery checker of Marina, testified that the vehicle was released to the consignee's attorney-in-fact, Kenneth Delos Santos, on February 21, 1991. This was evidenced by Gate Pass No. 54492^[29] dated February 21, 1991, containing the description and engine number of the van, as well as the signatures of Mission and Kenneth Delos Santos' driver, N. Tadeja, who drove the vehicle out of the car compound. Mission's testimony was corroborated by Wilfredo Telles, gate pass clerk of Marina. The logbook of the Law Division of the Bureau of Customs also confirmed that Ana Calimbas, through Kenneth Delos Santos, was able to secure the release of the vehicle on February 19, 1991.

Petitioner alleged that the documents he relied upon were public documents and had the presumption of regularity so that to contradict the same, there must be evidence that is clear, convincing and more than merely preponderant. He cited *People v. Fabro*,^[30] which held that a writing or document made contemporaneously with a transaction in which are evidenced facts pertinent to an issue, when admitted as proof of these facts, is ordinarily regarded as more reliable proof and of greater probative value than oral testimony of a witness as to such facts based upon memory and recollection because human memory is fallible and its force diminishes with the lapse of time.

Petitioner's arguments lack merit.

The Court notes that the writing and testimony adverted to in *Fabro* is the Forensic Chemist's testimony and her written report. The Court therein held that as between the Forensic Chemist's testimony and her written report, the latter is considered as the more accurate account as to the amount of marijuana examined.

The aforementioned circumstance in *Fabro* is not similarly found in this case since the testimony of the defense witness and the document presented (gate pass) as regards the release of the subject vehicle did not vary.

Here, the trial court judge correctly weighed the testimonies and documents presented by the parties in accordance with his discretion, guided by Section 1, Rule 133 of the Rules of Court, which states:

SEC. 1. Preponderance of evidence, how determined. — In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

As regards the gate pass showing release of the van on February 21, 1991, the trial court seriously doubted its authenticity, thus:

. . . [I]f it were true that subject vehicle had long been released, then there was no reason for the plaintiff to seek assistance from defendant, who was then holding a high position in the Bureau of Customs, as Supervising Assessor of the Liquidation Division, to facilitate the release of the subject vehicle from the Bureau of Customs. For the truth is that the taxes and duties of the subject vehicle have not yet been paid and for which reason it was refused registration by the Land Transportation Office and a warrant of seizure and detention of the subject van was issued (Exh. "F").[31]

The Court also notes that Customs Investigator Evert Samson, who conducted the investigation on the authenticity of the vehicle's supporting documents, testified that when a vehicle is released from the Customs, it is presumed that tariffs and duties have been paid.[32] The fact that a Warrant of Seizure and Detention over the subject vehicle was issued by the Bureau of Customs on October 7, 1992 would show that it was not possible that the gate pass could be validly issued on February 21, 1991 to the consignee's authorized representative since the consignee, Ana Calimbas, had not paid for the customs duties and taxes of the vehicle. It appears that it was respondent who paid for the customs duties and taxes in the last week of March 1991 through petitioner, but payment to the Bureau of Customs was not made as agreed upon because the documents evidencing payment were subsequently found to be spurious; thus, respondent filed this collection suit.

In addition, the logbook entry, which allegedly showed that Ana Calimbas secured the release of the vehicle on February 19, 1991, is questionable considering that she did not pay for the customs duties and taxes.

Hence, the presumption of regularity of the issuance of the gate pass and the logbook entry is controverted by the fact that the customs duties and taxes had not been paid by Ana Calimbas when the subject vehicle was allegedly released on February 21, 1991. The customs duties, taxes and other charges were paid by respondent only on October 8, 1992,[33] which payment rendered the seizure case academic.

Further, the van's supporting documents were mere photocopies because petitioner told respondent that the original documents were with the Bureau of Customs and the LTO.[34]

The trial court gave credence to the testimonies of respondent's witnesses, namely, Hector Arenas, Francis Calimbas and Teresita Edu, who testified that they were present when respondent and petitioner met in the office of Teresita Edu at the Port Area, Manila, where petitioner agreed to facilitate the release of the subject vehicle from the Bureau of Customs for the consideration of P750,000.00, including payment of the customs duties, taxes and registration of the van. They also testified that they were present when respondent gave petitioner the agreed amount in two installments in the last week of March 1991 in the office of Teresita Edu. The finding of the trial court with respect to the credibility of witnesses is binding upon this Court. The trial court correctly pointed out that petitioner failed to give a cogent motive why respondent sued him. Thus, petitioner's denial, like alibi, is a

weak defense and cannot prevail over the positive testimonies of respondent and her witnesses.[35]

Finally/petitioner contends that even if respondent's version is true, the parties were in part delicto, and the Court of Appeals should have refused to give them any relief. He alleged that the witnesses' testimonies showed that both parties engaged in an illegal transaction amounting to tax evasion, bribery, estafa and graft. In support of his argument, petitioner cited Article 1411 of the Civil Code, which provides:

Art. 1411. When the nullity proceeds from the illegality of the cause or object of the contract, and the act constitutes a criminal offense, both parties being in *pari delicto*, they shall have no action against each other, and both shall be prosecuted. Moreover, the provisions of the Penal Code relative to the disposal of effects or instruments of a crime shall be applicable to the things or the price of the contract.

Ramirez v. Ramirez[36] held that under Article 1411, it must be shown that the nullity of the contract proceeds from an illegal cause or object, and the act of executing the contract constitutes a criminal offense.[37] Object and cause are two separate elements, and the illegality of either element gives rise to the application of the doctrine of *pari delicto*. [38] Object is the subject matter of the agreement, while cause is the essential reason which moves the parties to enter into the transaction.[39]

In this case, the object of the agreement was to facilitate the release of the vehicle, which necessarily included payment of the customs duties and taxes to effect the release, and have the vehicle registered with the LTO. The cause which moved respondent to enter into the transaction was the non-release of the van, while the cause for petitioner is the consideration given for the service.

From the foregoing, the object and cause of the contract are not illegal since respondent is entitled to the release of the vehicle after she has paid the corresponding customs duties and taxes, which she willingly did.

Petitioner's allegation that the transaction, based on respondent's version, amounts to the commission of criminal offenses is not the subject matter or issue in the instant civil action. Petitioner can file the proper complaint in the correct forum.

This civil action filed by respondent is for the reimbursement of money given to petitioner for the payment of customs duties and taxes of the subject vehicle in the amount P740,940.00 as evidenced by the Official Receipt[40] and Certificate of Payment.[41]

Considering that petitioner did not pay the customs duties and taxes as agreed upon, the trial court correctly held petitioner liable to respondent in the amount of P740,940.00, which ruling was affirmed by the Court of Appeals.

In fine, the Court of Appeals did not err in sustaining, with modification, the decision of the RTC.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CV No. 54395, promulgated on 26, 2004, and its Resolution promulgated on September 7, 2004, are hereby AFFIRMED.

Costs against petitioner.

SO ORDERED.

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

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 73-76.

- [3] Also IC4GY54LX230853, RTC Decision, rollo, p. 73; IC4GY54RLX230853, Court of Appeals' Decision, rollo, p. 27.
- [4] Exhibit "E," folder of exhibits, p. 8.
- [5] Exhibit "A," folder of exhibits, p. 4
- [6] Exhibit "B," folder of exhibits, p. 5.
- [7] Exhibit "C," folder of exhibits, p. 6.
- [8] Exhibit "D," folder of exhibits, p. 7.
- [9] Exhibit "F," folder of exhibits, p. 9.
- [10] Exhibit "H," folder of exhibits, p. 12.
- [11] Exhibit "G-I," folder of exhibits, p. 11.
- [12] Also spelled "Ebert" in Exhibit "7," folder of exhibits, p. 31.
- [14] Exhibit "7," folder of exhibits, pp. 32-33.
- [14] Docketed as Civil Case No. 93-421.
- [15] Exhibit "1," folder of exhibits, p. 22.
- [16] Id.
- [17] Exhibit "3-A," folder of exhibits, p. 25.
- [18] TSN, September 13,1994, pp. 11-13; 35-40.
- [19] Rollo, p. 79.
- [20] Id. at 41.
- [21] Id. at 42.
- [22] Id. at 12.
- [23] Ong v. Yap, G.R. No. 146797, February 18, 2005, 452 SCRA 41,50.
- [24] Id. at 49-50.
- [23] Id. at 50.
- [26] Id. at 50.
- [27] Supra note 6.
- [28] Supra note 7.
- [29] Supra note 14.
- [30] G.R. No. 114261, February 10, 2000, 325 SCRA 285, 293.
- [31] Rollo, p. 79.
- [32] TSN, December 8, 1994, p. 58.

[33] Exhibit "H," folder of exhibits, p. 12.

[34] TSN, March 15, 1993, p. 5.

[35] *People v. Vivar*, G.R. No. 110260, August 11, 1994, 235 SCRA 257.

[36] G.R. No. 165088, March 17, 2006. 485 SCRA 92.

[37] *Id.* at 96.

[38] *Id.*

[39] *Id.*

[40] *Supra* note 7

[41] *Supra* note 5.

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