

ANGELITO COLMENARES, PETITIONER, VS. HAND TRACTOR PARTS AND AGRO-INDUSTRIAL CORP., RESPONDENT.

G.R. No. 170790. October 23, 2009

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioner Angelito Colmenares assails the Decision[1] dated July 27, 2005 of the Court of Appeals in CA-G.R. CV No. 57877 and its Resolution[2] dated November 15, 2005, denying his motion for reconsideration. The Court of Appeals had affirmed the judgment of the trial court which ordered petitioner to pay a sum of money to respondent Hand Tractor Parts and Agro-Industrial Corporation.

The facts, culled from the records, are briefly as follows:

Respondent is a domestic corporation[3] engaged in selling tractor and agro-industrial parts. Petitioner is one of its customers.[4]

On June 15, 1988, petitioner bought on credit paddle wheels from respondent.[5] The paddle wheels were delivered on June 18 and 29, 1988.[6] On November 9, 1988, respondent issued to petitioner a charge invoice[7] for P80,200, the price of the paddle wheels and their accessories. Petitioner paid P25,000 on November 16, 1988, P10,000 on May 18, 1991 and P3,000 on April 17, 1993[8] or a total of P38,000.

In a letter[9] dated September 18, 1995, respondent's counsel demanded that petitioner pay P156,266 for his unpaid account, including interest computed at 3% per month.[10] In response, petitioner wrote:

X X X X

While I do not deny the fact that I have purchased some tractor parts from your client on credit, my records of my account with your client do not show that I am indebted to your client in the amount of P156,266.00.

May I ask therefore from your client a period of 45 days from today, to check my records, compare them with the records of your client and settle my actual accountability with your client within said period.[11]

On November 28, 1995, respondent sued petitioner for a sum of money.[12] Respondent claimed that despite demand, petitioner failed to pay.

For his defense, petitioner testified that he did not purchase the paddle wheels and accessories stated in the November 9, 1988 charge invoice.[13]

The Regional Trial Court (RTC) of Bacolod City, Branch 44, found petitioner liable to respondent. It ruled that petitioner's denial of his obligation was insufficient against the invoices, delivery receipts, and official receipts showing his partial payments. Petitioner was ordered to pay respondent P166,466 plus 3% interest per month from June 1996 and 25% of the net amount due as attorney's fees and cost of collection.[14]

On appeal, the Court of Appeals affirmed the decision of the trial court.[15] It found respondent's testimonial and

documentary evidence sufficient to support the trial court's decision. The Court of Appeals ruled:

Exhibit "A" [charge invoice] ... will show that, on June 18, 1988, [petitioner] purchased from [respondent] several farm implements.

Other than his bare denial, [petitioner] failed to present other convincing testimonial and documentary evidence to rebut [respondent's] evidence.

Exhibits "B" and "C" [delivery receipts] ... will show that the farm implements ... were delivered to [petitioner] through his representative.

It is easy for the [petitioner] to deny outright receiving such items and likewise deny to have authorized persons to receive said items. However, again, [petitioner] failed to present witnesses and other documentary evidence to support his allegation.

As to the rest of the evidence adduced by the [respondent], we find the [trial court] to have correctly weighed and appreciated the same when it held:

"The [petitioner's] mere denial of his obligation would not suffice against the invoices and delivery receipts, especially the official receipts issued by the [respondent]. It would be absurd for the [respondent] to fabricate official receipts just to solicit a phony obligation. As agreed upon by the [petitioner] himself, he was a customer of the [respondent] before the controversial sale was made. Thus, the general manager of the [respondent] cannot mistake him for anyone of their other clients, considering their transactions were done in personal.xxx"[16]

After his motion for reconsideration was denied, petitioner filed the instant petition which raised the following issues:

I.

WHETHER OR NOT THE DECISION OF THE COURT OF APPEALS IS IN ACCORD WITH LAW AND SUPREME COURT DECISIONS ON SUFFICIENCY OF EVIDENCE TO MEET THE QUANTUM OF PROOF IN CIVIL CASES WHICH IS "PREPONDERANCE OF EVIDENCE."

II.

WHETHER OR NOT THE DECISION OF THE COURT OF APPEALS IS IN ACCORD WITH LAW AND SUPREME COURT DECISIONS ON "BURDEN OF PROOF" IN CIVIL CASES.

III.

WHETHER OR NOT THE DECISION OF THE COURT OF APPEALS IS IN ACCORD WITH LAW AND SUPREME COURT DECISIONS ON "AWARD OF DAMAGES." [17]

Essentially, the issues are: (1) Was respondent able to prove by a preponderance of evidence its claim for a sum of money against petitioner? (2) Was the award of interest and attorney's fees proper?

Petitioner contests the finding that he was respondent's customer even before the sale of the paddle wheels. He says that respondent's lone witness even testified that the first and last transaction between him (witness) and petitioner was on June 29, 1988. He adds that the Court of Appeals also made a presumptuous finding that on June 18, 1988 he purchased from respondent several farm implements and the same were delivered to him. Petitioner claims that he or his duly authorized representative never signed the exhibits cited for this finding. The delivery receipts are also anomalous or questionable because they are consecutively numbered although the deliveries had a gap of 11 days. Moreover, the statement of account and the demand letter cannot prove his account. Not all statements of account are truthful statements and not all demand letters contain valid demands. In

addition, the official receipts may be good proof of payment but they are not good proof of the existence of his account. While the transaction was in June 1988, the official receipts show that the first payment was made five months after the purchase, the second payment was made two years and six months after the first payment, the third payment was made one year and 11 months after the second payment, and respondent sued him seven years after he obtained credit. Petitioner concludes that respondent failed to prove its affirmative assertions and there is no evidence to prove the existence of his account with respondent. Consequently, he avers, the decision of the Court of Appeals is not supported by sufficient evidence. For it to conclude that "it would be absurd for the [respondent] to fabricate official receipts just to solicit a phony obligation" is error because said documents, according to petitioner, are plainly and simply self-serving, fabricated pieces of evidence with no probative value.[18]

Respondent counters that petitioner has raised factual issues, and that petitioner assails its evidence but has failed to present his own countervailing evidence other than mere denial.[19]

On the first issue, we find for the respondent.

Indeed, it is obvious that petitioner's submissions involve factual issues that call for review of all evidence presented before the trial court. Whether petitioner was respondent's customer before the subject transaction, whether petitioner purchased the paddle wheels, whether his unpaid account exists, whether the documents presented as evidence are questionable, anomalous or fabricated, are all questions of fact.

It is settled that questions of fact cannot be the subject of a petition for review under Rule 45 of the Rules of Court. The rule finds more stringent application where the Court of Appeals upholds the findings of fact of the trial court. In such instance, as in this case, this Court is generally bound to adopt the facts as determined by the lower courts.[20] This Court has held also that when supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court.[21] Needless to stress, under Section 1, Rule 45 of the Rules of Court, the petition shall raise only questions of law.[22] The reason is that this Court is not a trier of facts, and is not to review and calibrate the evidence on record.[23]

Here, we find no exception to the general rule. The trial court and the Court of Appeals are one in finding that petitioner bought paddle wheels from respondent, that the same were delivered to petitioner through his representative, and that petitioner failed to fully pay the price as he made partial payments only. This finding is amply supported by the evidence on record. Raul Chua, respondent's general manager, testified on petitioner's credit purchase. Respondent also presented the delivery receipts, charge invoice, official receipts of partial payment, and petitioner's reply to the demand letter.

Regarding petitioner's denial of his obligation, we find him less than candid in his submissions. He conveniently ignores his admission captured by the transcripts and the evidence he himself wrote. First, he contests the finding that he was respondent's customer before the subject transaction. But he has testified that he used to purchase farm implements from respondent in cash or credit.[24] Thus, we see nothing wrong in the conclusion of the trial court and the Court of Appeals which was based on his testimony. Second, petitioner assails the finding that the paddle wheels were delivered to him through his representative. We note that Raul Chua identified petitioner's secretary as the one who received the deliveries.[25] Petitioner, on the other hand, denied knowing the person who received the deliveries and having said person in his employ.[26] Interestingly, petitioner's counsel, Atty. Cris Dionela, manifested after petitioner's testimony that he will present petitioner's secretary during the next hearing.[27] Since petitioner denied knowing the person who received the deliveries, the reason should be clear why we do not find on record the testimony of his secretary. This time, however, petitioner laments that "the persons who only the respondent claimed to be [petitioner's] employees" were never presented in court to be identified and confronted

by him.[28] Third, that there is no evidence of petitioner's account with respondent is belied by petitioner himself when he replied to the demand letter and said that he will check his records and settle his actual accountability within 45 days.

Relatedly, petitioner's unpaid account was duly proven by the charge invoice for his credit purchase worth P80,200 and official receipts for his partial payment of P38,000 only. Petitioner, in his belabored challenge to respondent's evidence, has not informed the Court what other evidence could possibly prove his unpaid account. Perhaps he could think of no other because any evidence other than proof of credit and proof of partial payment would only be superfluous in proving his unpaid account. And his reply to the demand letter only confirms what he has to settle.

Thus, we are in agreement that respondent was able to prove by preponderant evidence, which means evidence which is of greater weight or is more convincing than that which is in opposition to it,[29] that petitioner ought to pay his unpaid account.

On the matter of damages, petitioner contends that the award of 3% interest per month is baseless because the legal rate is 12% per annum. The charge invoice also states 12% interest per annum on overdue accounts. The award of attorney's fees and cost of collection is also baseless in view of the policy that no premium should be placed on the right to litigate.

Respondent counters that attorney's fees may be awarded when a party is compelled to litigate.

On this issue, petitioner is partly correct. The interest payable for an overdue account as stated in the charge invoice is only 12% per annum,[30] not 3% per month. The handwritten modification to 36% was not explained by respondent. In its comment,[31] respondent did not even dispute petitioner's assertion and limited its argument on the propriety of attorney's fees.

Accordingly, as of November 28, 2008, 13 years after respondent's judicial demand, petitioner's unpaid account amounts to P108,032, computed as follows:

Unpaid Account = Unpaid Price + Interest
Unpaid Account = (80,200 - 38,000) + [(80,200-38,000)x .12 x 13]
Unpaid Account = 42,200 + 65,832
Unpaid Account = P108,032

Additional interest can be computed after November 28, 2008.

Finally, we agree with the lower courts on the award of attorney's fees. Article 2208[32] of the Civil Code provides that in the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered. In this case, however, the charge invoice provides that "25% of the amount due is further charged for attorney's fees and cost of collection in case of suit." Thus, we agree that respondent is also entitled to 25% of P108,032 or P27,008 as attorney's fees.

WHEREFORE, the petition is PARTLY GRANTED. The assailed Decision dated July 27, 2005 and Resolution dated November 15, 2005 of the Court of Appeals in CA-G.R. CV No. 57877 are hereby MODIFIED. Petitioner is ORDERED to pay respondent (a) P108,032 plus additional interest after November 28, 2008, and (b) P27,008 as attorney's fees.

No pronouncement as to costs.

SO ORDERED.

Carpio[*], Carpio Morales, Bersamin[**], and Abad, JJ., concur.

[*] Additional member per Special Order No. 757.

[**] Additional member per Special Order No. 765.

[1] Rollo, pp. 28-33. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Vicente L. Yap and Enrico A. Lanzanas concurring.

[2] Id. at 35-36.

[3] Records, p. 1.

[4] Id. at 92.

[5] TSN, March 10, 1997, pp. 5-6.

[6] Records, pp. 55-56.

[7] Id. at 54.

[8] Id. at 59-60.

[9] Id. at 58.

[10] Id. at 57.

[11] Id. at 61.

[12] Id. at 1-4.

[13] TSN, June 5, 1997, pp. 10-11.

[14] Records, p. 109.

[15] Rollo, p. 33.

[16] Id. at 32.

[17] Id. at 133.

[18] Id. at 139-140.

[19] Id. at 107.

[20] Ong v. Ong, G.R. No. 153206, October 23, 2006, 505 SCRA 76, 85.

[21] Ontimare, Jr. v. Elep, G.R. No. 159224, January 20, 2006, 479 SCRA 257, 265; Ramirez v. National Labor Relations Commission, G.R. No. 155150, August 29, 2006, 500 SCRA 104, 106.

[22] Section 1. Filing of petition with Supreme Court. -- xxx The petition shall raise only questions of law which must be distinctly set forth.

[23] JMM Promotions and Management, Inc. v. Court of Appeals, G.R. No. 139401, October 2, 2002, 390 SCRA 223, 229-230; Honoridez v. Mahinay, G.R. No. 153762, August 12, 2005, 466 SCRA 646, 654; Boston Bank of the Philippines v. Manalo, G.R. No. 158149, February 9, 2006, 482 SCRA 108, 127.

[24] TSN, June 5, 1997, p. 7.

[25] TSN, March 10, 1997, p. 8.

[26] TSN, June 5, 1997, pp. 13-16.

[27] Id. at 30.

[28] Rollo, p. 135.

[29] Reyes v. Court of Appeals, G.R. No. 147758, June 26, 2002, 383 SCRA 471, 480.

[30] Records, p. 54.

[31] Rollo, pp. 106-107.

[32] ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered,...

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