

**JOSE MARQUES AND MAXILITE TECHNOLOGIES, INC., PETITIONERS,
VS. FAR EAST BANK AND TRUST COMPANY, FAR EAST BANK
INSURANCE BROKERS, INC., AND MAKATI INSURANCE COMPANY,
RESPONDENTS.**

G.R. No. 171379. January 10, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

These consolidated petitions for review[1] assail the 31 May 2005 Decision[2] and the 26 January 2006 Resolution[3] of the Court of Appeals-Cebu City in CA-G.R. CV No. 62105. The Court of Appeals affirmed with modifications the 4 September 1998 Decision[4] of the Regional Trial Court of Cebu City, Branch 58, in Civil Case No. CEB-18979.

The Facts

Maxilite Technologies, Inc. (Maxilite) is a domestic corporation engaged in the importation and trading of equipment for energy-efficiency systems. Jose N. Marques (Marques) is the President and controlling stockholder of Maxilite.

Far East Bank and Trust Co. (FEBTC)[5] is a local bank which handled the financing and related requirements of Marques and Maxilite. Marques and Maxilite maintained accounts with FEBTC. Accordingly, FEBTC financed Maxilite's capital and operational requirements through loans secured with properties of Marques under the latter's name. Among Maxilite's and Marques' transactions with FEBTC were:

- a. A straight loan in the name of Jose N. Marques for Maxilite at the original principal amount of P1 million. This is secured by real estate mortgage. From said original principal amount, the bank increased it by P300,000.00 about 26 October 1994 to enable the wiping out of Maxilite's Trust Receipts Account and simplify the remaining accounts into straight loan accounts.
- b. A straight loan in the name of Maxilite Technologies, Inc. for a principal amount of P2 million. This is secured with a Real Estate Mortgage of Marques' residential property.
- c. Master Card transactions covering two (2) Master Card Accounts of Marques, and
- d. Local credit card transactions covering one credit card account of Marques.[6]

Far East Bank Insurance Brokers, Inc. (FEBIBI) is a local insurance brokerage corporation while Makati Insurance Company[7] is a local insurance company. Both companies are subsidiaries of FEBTC.[8]

On 17 June 1993, Maxilite and Marques entered into a trust receipt transaction with FEBTC, in the sum of

US\$80,765.00, for the shipment of various high-technology equipment from the United States,[9] with the merchandise serving as collateral. The foregoing importation was covered by a trust receipt document signed by Marques on behalf of Maxilite, which pertinently reads:

The undersigned (Marques) further agree(s) to keep said merchandise insured against fire to its full value, payable to the said bank, at the cost and expense of the undersigned, who hereby further agree(s) to pay all charges for storage on said merchandise or any or other expenses incurred thereon.

x x x x[10]

Sometime in August 1993, FEBIBI, upon the advice of FEBTC, facilitated the procurement and processing from Makati Insurance Company of four separate and independent fire insurance policies over the trust receipted merchandise: (1) Policy No. BR-F-1016333, issued on 15 September 1993, covering the period 12 August 1993 to 12 November 1993 in the amount of P1,000,000.00;[11] (2) Policy No. BR-F-1016888, issued on 15 September 1993 covering the period 8 September 1993 to 8 December 1993 in the amount of P605,494.28;[12] (3) Policy No. BR-F-1016930, issued on 18 October 1993, covering the period 14 October 1993 to 12 January 1994 in the amount of P527,723.66;[13] and (4) Policy No. BR-F-1018392, issued on 14 December 1993, covering the period 1 December 1993 to 1 March 1994 in the amount of P725,000.00.[14] Maxilite paid the premiums for these policies through debit arrangement. FEBTC would debit Maxilite's account for the premium payments, as reflected in statements of accounts sent by FEBTC to Maxilite.

On 19 August 1994, Insurance Policy No. 1024439, covering the period 24 June 1994 to 24 June 1995, was released to cover the trust receipted merchandise. The policy relevantly provides:

2. This policy including any renewal thereof and/or any endorsement thereon is not in force until the premium has been fully paid to and duly received by the Company in the manner provided herein.

Any supplementary agreement seeking to amend this condition prepared by agent, broker or Company official, shall be deemed invalid and of no effect.[15]

Finding that Maxilite failed to pay the insurance premium in the sum of P8,265.60 for Insurance Policy No. 1024439 covering the period 24 June 1994 to 24 June 1995, FEBIBI sent written reminders to FEBTC, dated 19 October 1994,[16] 24 January 1995,[17] and 6 March 1995, to debit Maxilite's account.[18]

On 24 and 26 October 1994, Maxilite fully settled its trust receipt account.

On 9 March 1995, a fire gutted the Aboitiz Sea Transport Building along M.J. Cuenco Avenue, Cebu City, where Maxilite's office and warehouse were located. As a result, Maxilite suffered losses amounting to at least P2.1 million, which Maxilite claimed against the fire insurance policy with Makati Insurance Company. Makati Insurance Company denied the fire loss claim on the ground of non-payment of premium. FEBTC and FEBIBI disclaimed any responsibility for the denial of the claim.

Maxilite and Marques sued FEBTC, FEBIBI, and Makati Insurance Company. Maxilite prayed for (1) actual damages totaling P2.3 million representing full insurance coverage and "business opportunity losses," (2) moral damages, and (3) exemplary damages.[19] On the other hand, Marques sought payment of actual, moral and exemplary damages, attorney's fees, and litigation expenses. Maxilite and Marques also sought the issuance of a preliminary injunction or a temporary restraining to enjoin FEBTC from (1) imposing penalties on their obligations; (2) foreclosing the real estate mortgage securing their straight loan accounts; and (3) initiating actions to collect their obligations.

FEBTC, FEBIBI, and Makati Insurance Company countered that Maxilite and Marques have no cause of action

against them and essentially denied the allegations in the complaint.

The Ruling of the Trial Court

In ruling in favor of Maxilite and Marques, the Regional Trial Court of Cebu City, Branch 58, explained:

Considering the interest of the defendant FEBTC in the property insured, hence, its concern that the insurance policy therefor has to be effected and enforceable, and considering that the payment of the premium thereof was the procedure adopted by debiting the plaintiffs' account, the Court is of the view that the non-payment of the premium of the insurance policy in question was due to the fault or negligence of the defendant FEBTC. What could have happened to the interest of the defendant FEBTC in the insurance policy in question had the fire occurred prior to the full settlement and payment of plaintiff's Maxilite trust receipt account? Would defendant FEBTC have tossed the blame on the non-payment of premium to the plaintiffs?

Although there were reminders by defendant FEBIBI of the non-payment of the premium, the same were made by said defendant through the defendant FEBTC and not to the plaintiffs directly. Despite said reminders, the first of which was made on October 19, 1994 when plaintiff Maxilite has sufficient fund in its trust receipt account, defendant FEBTC did not heed the same and more so did it not care to pay the premium after the plaintiff Maxilite fully and finally settled its trust receipt account with defendant FEBTC as the latter has already lost its interest in the insurance policy in question by virtue of said full payment. But despite the non-payment of the insurance premium, the defendant Makati Insurance did not cancel the policy in question nor informed plaintiffs of its cancellation if the insurance premium should not be paid. Just as defendant FEBIBI failed to notify directly the plaintiffs of the said non-payment. Considering the relationship of the three (3) defendants herein, as undeniably sister companies, the non-payment of the premium of the insurance policy in question should be imputable to their fault or negligence. Under the factual milieu in the case at bar, the Court finds it just and equitable to hold said defendants liable to pay all the consequent damages suffered by the plaintiffs and their liability is solidary (Art. 2194, Civil Code).[20]

The trial court disposed of the case as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering the defendants to pay jointly and severally to the plaintiff Maxilite the sum of Two Million One Hundred Thousand Pesos (P2,100,000.00), Philippine Currency, representing the full coverage of Insurance Policy No. 1024439 (Exh. 'A'), as actual damages, plus interest of 12% per annum from filing of Complaint on July 11, 1996 until fully paid, to the plaintiff Marque[s] the sum of P400,000.00 as moral damages, to both plaintiffs the sum of P500,000.00 as exemplary damages, the sum of P50,000.00 as attorney's fees, the sum of P23,082.50, representing the filing fees, as litigation expenses, and to pay the costs.

The counter-claims are hereby dismissed.

The writ of preliminary injunction is hereby made permanent.

SO ORDERED.[21]

The Ruling of the Court of Appeals

The Court of Appeals affirmed the trial court's decision, with modifications, on the following grounds:

First, the relations among defendants with each other are closely related and so intertwined. The said three defendants, FEBTC, FEBIBI and MICI, are sister companies. This was never denied by the defendants themselves.

Second, the insurance coverage was the business of sister companies FEBIBI and Makati Insurance, not with FEBTC, which has been the bank of plaintiffs which handled the latter's financing and related transactions. Stated a bit differently, defendant FEBTC handled the financing and related requirements of plaintiffs;

defendant FEBIBI on the other hand is an insurance brokerage company of defendant FEBTC, while Makati Insurance is the insurance (arm) company of both defendants FEBIBI and FEBTC.

Third, defendant FEBTC caused FEBIBI to facilitate the insurance coverage of plaintiffs. FEBIBI then asked Makati Insurance to issue the subject policy. Makati Insurance delivered the policy to FEBIBI which it tasked with the collection of premium. FEBIBI in turn delivered the policy to FEBTC from where it sought the payment of the premiums.

Fourth, it must be noted that the cover note and policy was supposedly issued and made effective on June 24, 1994, when the trust receipt account was still outstanding and the insured merchandise was still theoretically owned by the bank. Thus, for all intents and purposes, it was to the best interest and protection of the bank to see to it that the goods were properly covered by insurance.

Fifth, the payment of premium has never been made an issue when the subject policy was still separated into three. Or even after the said consolidation into one policy (No. 1024439), still, payment of the premium has never become an issue.

x x x x

For another, if We were to believe defendants' claim that the premium for the subject policy was not paid, then defendants should have cancelled the policy long before. But even up to the time the fire gutted plaintiffs' warehouse in March 1995, defendants acknowledged that the subject policy remained effective. x x x

Furthermore, there was no notice of cancellation or any communication from defendants sent to plaintiffs that the policy shall be cancelled because of non-payment of premiums. Thus, the more reasonable and logical conclusion is that the subject policy was still fully in force because plaintiffs are still paying its premiums and defendants are collecting the same through debit account.[22]

The Court of Appeals disposed of the case as follows:

UPON THE VIEW WE TAKE OF THIS CASE, judgment appealed from is hereby MODIFIED in such that:

- a. the interest shall be at the rate of six percent (6%) per annum to run from the time of demand on April 11, 1995, in accordance with Article 1589 of the Civil Code, until the finality of this decision;
- b. the moral damages of P400,000.00 is reduced to P50,000.00;
- c. the exemplary damages of P500,000.00 is reduced to P50,000.00; and
- d. the writ of preliminary injunction previously issued lifted and set aside.

In all other respects, judgment appealed from is AFFIRMED. Without pronouncement as to costs.

SO ORDERED.[23]

Hence, these petitions.

The Issues

In G.R. No. 171379, petitioners assail the Court of Appeals' reduction of (1) the interest rate from 12% to 6% per annum to be imposed on respondents' liabilities; and (2) the award of moral and exemplary damages. Petitioners also question the portion of the Court of Appeals' judgment allowing FEBTC to foreclose the real estate mortgage securing petitioners' loans and disallowing legal compensation for the parties' mutual obligations.

In G.R. No. 171419, petitioners challenge the Court of Appeals' findings that (1) the premium for the subject insurance policy has in fact been paid; (2) FEBTC, FEBIBI and Makati Insurance Company are jointly and

severally liable to pay respondents the full coverage of the subject insurance policy despite (a) their separate juridical personalities; (b) the absence of any fault or negligence on their part; and (c) respondents' failure to prove the extent of the alleged loss. Petitioners further impugn the award of damages and attorney's fees.

The Court's Ruling

The petition in G.R. No. 171319 lacks merit, whereas the petition in G.R. No. 171419 is partially meritorious.

Essentially, Maxilite and Marques invoke estoppel in claiming against FEBTC, FEBIBI, and Makati Insurance Company the face value of the insurance policy. In their complaint, Maxilite and Marques alleged they were led to believe and they in fact believed that the settlement of Maxilite's trust receipt account included the payment of the insurance premium.[24] Maxilite and Marques faulted FEBTC "if it failed to transmit the premium payments on subject insurance coverage contrary to its represented standard operating procedure of solely handling the insurance coverage and past practice of debiting [Maxilite's] account." [25]

Article 1431 of the Civil Code defines estoppel as follows:

Art. 1431. Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

Meanwhile, Section 2(a), Rule 131 of the Rules of Court provides:

SEC. 2. Conclusive presumptions. - The following are instances of conclusive presumptions:

(a) Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing is true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it.

In estoppel, a party creating an appearance of fact, which is false, is bound by that appearance as against another person who acted in good faith on it.[26] Estoppel is based on public policy, fair dealing, good faith and justice.[27] Its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one who reasonably relied thereon.[28] It springs from equity, and is designed to aid the law in the administration of justice where without its aid injustice might result.[29]

In *Santiago Syjuco, Inc. v. Castro*, [30] the Court stated that "estoppel may arise from silence as well as from words." 'Estoppel by silence' arises where a person, who by force of circumstances is obliged to another to speak, refrains from doing so and thereby induces the other to believe in the existence of a state of facts in reliance on which he acts to his prejudice.[31] Silence may support an estoppel whether the failure to speak is intentional or negligent.[32]

Both trial and appellate courts basically agree that FEBTC is estopped from claiming that the insurance premium has been unpaid. That FEBTC induced Maxilite and Marques to believe that the insurance premium has in fact been debited from Maxilite's account is grounded on the the following facts: (1) FEBTC represented and committed to handle Maxilite's financing and capital requirements, including the related transactions such as the insurance of the trust receipted merchandise; (2) prior to the subject Insurance Policy No. 1024439, the premiums for the three separate fire insurance policies had been paid through automatic debit arrangement; (3) FEBIBI sent FEBTC, not Maxilite nor Marques, written reminders dated 19 October 1994, 24 January 1995, and 6 March 1995 to debit Maxilite's account, establishing FEBTC's obligation to automatically debit Maxilite's account for the premium amount; (4) there was no written demand from FEBTC or Makati Insurance Company for Maxilite or Marques to pay the insurance premium; (5) the subject insurance policy was released to Maxilite on 19 August 1994; and (6) the subject insurance policy remained uncanceled despite the alleged non-payment of the premium,

making it appear that the insurance policy remained in force and binding.

Moreover, prior to the full settlement of the trust receipt account on 24 and 26 October 1994, FEBTC had insurable interest over the merchandise, and thus had greater reason to debit Maxilite's account. Further, as found by the trial court, and apparently undisputed by FEBTC, FEBIBI and Makati Insurance Company, Maxilite had sufficient funds at the time the first reminder, dated 19 October 1994, was sent by FEBIBI to FEBTC to debit Maxilite's account for the payment of the insurance premium. Since (1) FEBTC committed to debit Maxilite's account corresponding to the insurance premium; (2) FEBTC had insurable interest over the property prior to the settlement of the trust receipt account; and (3) Maxilite's bank account had sufficient funds to pay the insurance premium prior to the settlement of the trust receipt account, FEBTC should have debited Maxilite's account as what it had repeatedly done, as an established practice, with respect to the previous insurance policies. However, FEBTC failed to debit and instead disregarded the written reminder from FEBIBI to debit Maxilite's account. FEBTC's conduct clearly constitutes negligence in handling Maxilite's and Marques' accounts. Negligence is defined as "the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent man and reasonable man could not do." [33]

As a consequence of its negligence, FEBTC must be held liable for damages pursuant to Article 2176 of the Civil Code which states "whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done." Indisputably, had the insurance premium been paid, through the automatic debit arrangement with FEBTC, Maxilite's fire loss claim would have been approved. Hence, Maxilite suffered damage to the extent of the face value of the insurance policy or the sum of P2.1 million.

Contrary to Maxilite's and Marques' view, FEBTC is solely liable for the payment of the face value of the insurance policy and the monetary awards stated in the Court of Appeals' decision. Suffice it to state that FEBTC, FEBIBI, and Makati Insurance Company are independent and separate juridical entities, even if FEBIBI and Makati Insurance Company are subsidiaries of FEBTC. Absent any showing of its illegitimate or illegal functions, a subsidiary's separate existence shall be respected, and the liability of the parent corporation as well as the subsidiary shall be confined to those arising in their respective business. [34] Besides, the records are bereft of any evidence warranting the piercing of corporate veil in order to treat FEBTC, FEBIBI, and Makati Insurance Company as a single entity. Likewise, there is no evidence showing FEBIBI's and Makati Insurance Company's negligence as regards the non-payment of the insurance premium.

The Court agrees with the Court of Appeals in reducing the interest rate from 12% to 6% as the obligation to pay does not arise from a loan or forbearance of money. In *Eastern Shipping Lines, Inc. v. Court of Appeals*, [35] the Court laid down the following guidelines for the application of the proper interest rates:

I. When an obligation, regardless of its source, i.e., law, contracts, quasi-contracts, delicts or quasi-delicts is breached, the contravenor can be held liable for damages. The provisions under Title XVIII on "Damages" of the Civil Code govern in determining the measure of recoverable damages.

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

1. When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, i.e., from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be . . . the amount finally adjudged.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to forbearance of credit.(Emphasis supplied)

With respect to Maxilite's and Marques' invocation of legal compensation, we find the same devoid of merit. Aside from their bare allegations, there is no clear and convincing evidence that legal compensation exists in this case. In other words, Maxilite and Marques failed to establish the essential elements of legal compensation. Therefore, Maxilite's and Marques' claim of legal compensation must fail.

WHEREFORE, we AFFIRM with MODIFICATION the 31 May 2005 Decision and the 26 January 2006 Resolution of the Court of Appeals-Cebu City in CA-G.R. CV No. 62105. Only Far East Bank and Trust Company, and not Far East Bank Insurance Brokers, Inc. or Makati Insurance Company, is ORDERED to PAY the face value of the subject insurance policy and the monetary awards stated in the Court of Appeals' decision.

SO ORDERED.

Brion,[*] Peralta, Abad, and Mendoza, JJ., concur.

[*] Designated additional member per Raffle dated 9 June 2010.

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

[2] Rollo (G.R. No. 171419), pp. 94-113. Penned by Associate Justice Vicente L. Yap, with Associate Justices Isaias P. Dicdican and Enrico A. Lanzanas concurring.

[3] Id. at 114-118.

[4] Id. at 631-664. Penned by Judge Jose P. Soberano, Jr.

[5] FEBTC has been merged with Bank of the Philippine Islands (BPI), which is the surviving corporation.

[6] Rollo (G.R. No. 171379), p. 157.

[7] Now known as BPI/MS Insurance Corporation (BPI/MS-IC), id. at 198.

[8] Rollo (G.R. No. 171419), p. 330; TSN, 9 February 1998, p. 20.

[9] Id. at 251.

[10] Id. at 225; TSN, 31 July 1997, p. 8 (Benjamin Torno).

[11] Id. at 306.

[12] Id. at 309.

[13] Id. at 310.

[14] Id. at 308.

[15] Id. at 414.

[16] Id. at 403.

[17]] Id. at 404.

[18]] Id. at 405.

[19] Id. at 616-617.

[20] Id. at 661-662.

[21] Id. at 663-664.

[22] Id. at 107-109.

[23] Id. at 112-113.

[24] Id. at 605.

[25] Id. at 608.

[26] Aquino, Ramon C., *The Civil Code of the Philippines*, Vol. 2, 1990 Edition, p. 508, citing *Strong v. Gutierrez Repide*, 6 Phil. 680, 685.

27 Id. at 509.

[28] Id.

[29] Id., citing 28 Am Jur 2[nd] 28; *PNB v. Perez*, 183 Phil. 54 (1979); *Lazo v. Republic Surety & Ins. Co., Inc.*, 142 Phil. 158 (1970).

[30] G.R. No. 70403, 7 July 1989, 175 SCRA 171, 192, citing 31 C.J.S., pp. 490-494.

[31] Id.

[32] Id.

[33] *Bank of the Philippine Islands v. Suaez*, G.R. No. 167750, 15 March 2010, 615 SCRA 291, 298.

[34] *Nisce v. Equitable PCI Bank, Inc.*, G.R. No. 167434, 19 February 2007, 516 SCRA 231, 258.

[35] G.R. No. 97412, 12 July 1994, 234 SCRA 78, 95-97.

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