

ACI PHILIPPINES, INC., PETITIONER, VS. EDITHA C. COQUIA, DOING BUSINESS IN THE NAME OF E. CARDOZO COQUIA ENTERPRISE, RESPONDENT.*G.R. No. 174466. July 14, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-174466/>**TINGA, J.:**

Petitioner ACI Philippines, Inc.[1] is engaged in the business of manufacturing fiberglass, which is used in both commercial and industrial equipment for thermal and acoustic insulation. In 1993, it ceased from using silica sand in the manufacture of fiberglass and started using instead recycled broken glass or flint cullets to save on manufacturing costs.[2]

Petitioner contracted with respondent Editha C. Coquia for the purchase of one (1) lot of flint cullets, consisting of 2,500 to 3,000 metric tons, at a price of P4.20 per kilo under Purchase Order No. 106211[3] dated 6 October 1994. Several deliveries made by respondent were accepted and paid for by petitioner at the unit price of P4.20 per kilo as indicated in Purchase Order No. 106211.[4]

However, on 28 October 1994, petitioner demanded the reduction of the purchase price from P4.20 per kilo to P3.65 per kilo to which respondent acceded, albeit allegedly under duress. Petitioner accordingly issued Purchase Order No. 106373[5] explicitly superseding Purchase Order No. 106211. Deliveries were again made by respondent on 5, 8 and 12 November 1994 under Delivery Receipt Nos. 901, 719 and 735,[6] respectively. Petitioner accepted the deliveries but refused to pay for them even at the reduced price of P3.65 per kilo, demanding instead that the unit price be further reduced to P3.10 per kilo.[7]

Respondent then filed a Complaint[8] for specific performance and damages against petitioner seeking payment for the deliveries made under Delivery Receipt Nos. 901, 719 and 735, amounting to 46,390 kilos at the renegotiated price of P3.65 per kilo. Respondent further demanded that petitioner be directed to accept and pay for the remaining deliveries to complete the one (1) lot of flint cullets originally contracted for.

On 26 November 1994, three (3) days after the complaint against it was filed, petitioner paid for the flint cullets under Delivery Receipt Nos. 901, 719 and 735 at the unit price of P3.65 per kilo.

Ruling in favor of the respondent, the trial court ordered petitioner to accept deliveries of the flint cullets contracted for under Purchase Order No. 106211 and to pay for the said deliveries within ten (10) days from each delivery at the unit price of P4.20 per kilo. It further directed petitioner to pay P2,540,300.00 in damages plus interest at the legal rate from the time of the filing of the complaint on 23 November 1994 until fully paid. The trial court also awarded respondent attorney's fees in the amount of P200,000.00, litigation expenses in the amount of P20,000.00 and costs of suit.

The Court of Appeals affirmed the decision of the trial court but deleted the award of attorney's fees, litigation expenses and costs of suit. In its Decision[9] dated 15 September 2005, the appellate court held that Purchase Order No. 106211 is a contract of adhesion whose terms must be strictly construed against petitioner. It also

deemed as contrary to the original agreement, which pegged the unit price of flint cullets at P4.20 per kilo, petitioner's willful refusal to pay for the deliveries unless the price is reduced, for which petitioner should be held liable.

The appellate court denied petitioner's Partial Motion for Reconsideration,[10] as well as respondent's Urgent Ex Parte Application for Attachment,[11] in its Resolution[12] dated 30 August 2006.

Petitioner claims that the Court of Appeals erred in ruling that Purchase Order No. 106211 is a contract of adhesion despite the fact that respondent is an established businesswoman who has the freedom to negotiate the terms and conditions of any contract she enters into. It stresses that Purchase Order No. 106211 was superseded by Purchase Order No. 106373 and that in both contracts, it was made clear to respondent that her assurance of prompt delivery of the flint cullets motivated the transaction.

Petitioner asserts that the appellate court erred in affirming the trial court's decision which compelled it to accept and pay for the deliveries at the price of P4.20 per kilo and at the same required it to pay damages representing respondent's alleged unrealized profits. It also alleges that the appellate court erroneously applied Article 21 of the Civil Code despite the existence of purchase orders which should govern the contractual obligations of the parties.

Apart from stating that petitioner appears to have shut down its operations, respondent's Comment[13] dated 12 January 2007 merely reiterates her position that Purchase Order No. 106373 was a product of intimidation practiced upon her by petitioner.

In its Reply[14] dated 22 April 2007, petitioner asserts that its juridical personality continues to subsist despite the change of its corporate name from ACI Philippines, Inc. to Asia Pacific Insulation Corporation. It emphasizes that Purchase Order No. 106211 is not a contract of adhesion and should be considered valid and binding considering that the parties voluntarily executed the same and that, furthermore, Purchase Order No. 106211 had already been superseded by Purchase Order No. 106373.

Petitioner maintains that it did not exercise any intimidation on respondent to force the latter to acquiesce to the new purchase order and that assuming that it did, the resultant voidable contract was ratified by respondent's delivery of the flint cullets and the fact that the Statement of Account dated 28 October and 16 November 1994 sent by respondent to petitioner already reflected the reduced unit price of P3.65 per kilo.

Petitioner also maintains that it entered into a contract with respondent upon the latter's assurance that she could promptly deliver the 2,500-3,000 metric tons of flint cullets required by petitioner. However, it believes that the trial court and the appellate court erroneously refused to receive evidence aliunde to prove that time was an important element of the agreement.

The Court of Appeals identified the three issues for resolution: (1) whether petitioner may be bound to accept the deliveries of washed cullets from respondent; (2) what is the unit price applicable; and (3) who is entitled to damages. Central to these issues is the soundness of the appellate court's pronouncement that the purchase orders in question are contracts of adhesion whose terms must be strictly construed against petitioner.

A contract of adhesion is one wherein a party, usually a corporation, prepares the stipulations in the contract, and the other party merely affixes his signature or his "adhesion" thereto. Through the years, the courts have held that in this type of contract, the parties do not bargain on equal footing, the weaker party's participation being reduced to the alternative to take it or leave it. Thus, adhesion contracts are viewed as traps for the weaker party whom the courts of justice must protect. However, we have also been steadfast in reminding courts to be careful in their evaluation of allegations of blind adherence to contracts.[15]

There is every indication in this case that respondent, a presumably astute businesswoman who has dealings with big corporations such as La Tondeña as the latter's sole buyer of cullets and has the financial savvy to obtain a loan from a bank,[16] gave her assent to Purchase Order No. 106211 with full knowledge. She was, in fact, the one who sought a contract with petitioner upon learning of the latter's need for a supply of flint cullets. Respondent testified:

Q:

Could you tell the Court how you were able to get this PO?

A:

I went to ACI, sir.

Q:

You went to ACI because you have knowledge that they were in need of flint cullets?

A:

Yes, sir.

Q:

And who told you that ACI is in need of flint cullets?

A:

With information, I learned that ACI is in need of cullets, so I went to ACI.

Q:

You went to ACI to see a person, who is that person?

A:

I went to see ACI that I will deliver cullets, and then I was ordered to go to the purchasing department, sir.

Q:

When you went to ACI, you said to deliver cullets?

A:

To sell cullets, sir.[17]

We cannot, therefore, apply the rule on contracts of adhesion in construing the provisions of the purchase orders in this case. Even the conditions of purchase enumerated at the reverse side of the purchase orders, which uniformly provide —

- Acknowledgement by the Vendor to the Purchaser or any delivery made by the Vendor pursuant to this order

shall constitute acceptance by the Vendor of this order and a contract between the Vendor and the Purchaser in terms of this order to the exclusion of all other terms and conditions between them.

- The Vendor guarantees the goods ordered to be of merchantable quality and condition and this condition shall apply notwithstanding any examination of the goods by or on behalf of the Purchaser. Any stipulation as to the quality of goods is also a condition of any contract arising from this order. If a sample of the goods has been made available to the Purchaser then contract arising from this order shall have contract for sale by sample as well as a contract for sale by descriptions.

- The prices stated in this order are firm prices save that any reduction in price resulting from a reduction in customs duties or sales tax from those in force at the date hereof is to be allowed to the Purchase in reduction of the price agreed hereunder.

- Delivery of the goods must be made at the Purchaser's address shown on the face of this order or as otherwise directed, on a working day between the hours of 8:00 and 3:30 p.m. Until delivery the goods shall be at the Vendor's risk. Any delivery date shown on this order shall be of the essence of any contract arising. Delivery must be made in strict accordance with the order or delivery schedule and any quantities delivered in excess of that specified on the order may be returned by the Purchaser at the Vendor's risk and expense.

- All goods must be suitably packed or otherwise prepared for delivery to the satisfaction of the carrier. No charges are to be made for wrapping packing cartons boxes or crating unless authorized by this order.

- The Purchaser may without prejudice to any other rights at any time after delivery of the good reject them if on inspection the Purchaser considers them not to be in conformity with any contract arising from this order. Goods rejected will be held at the vendor's risk and are returnable at the Vendor's risk and expense.

- All drawings, blueprints, tools or patterns furnished in connection with this order at any time, are confidential to the Vendor and Purchaser and shall be used solely to complete this contract or any other contract relating to the products between the Vendor and the Purchaser, and for no other purpose, except with the prior consent in writing of the Purchaser, and shall remain the property of the Purchaser and be returned to the Purchaser on demand. The Vendor shall not without the written prior approval of the Purchaser furnish to any third party any goods for the manufacture of which drawings, blueprints, tools, patterns, specifications or samples have been supplied to the Vendor by the Purchaser, or manufacture such articles except for the Purchaser. This restriction shall continue notwithstanding termination of this order.

- The Purchaser reserves the right to cancel or suspend this order or any part thereof, if the goods are not delivered according to deliveries as specified, or if the Purchaser is unable to accept delivery for any cause beyond the Purchaser's control.

The Purchaser further reserves the right to cancel this order if the goods are not in accordance with drawings, blueprints, approved samples or specifications, or are defective in workmanship or material or are not otherwise satisfactory to the Purchaser.

- Vendor warrants that the sale to the Purchaser and the use by the Purchaser of the goods in any way will not infringe any patent, [trademark], [copyright], industrial design or process of manufacture, and covenants that Vendor will, at Vendor's own expense, upon demand of Purchaser, investigate and deal with every claim and/or suit or action, which may be brought against Purchaser or against those selling or using any goods or products of Purchaser for any alleged infringement or claim of infringement of any patent, [trademark], [copyright], industrial design, or process of manufacture by reason of the sale or use of the goods by the Purchaser and will pay all costs[,] damages and expenses which Purchaser may sustain by reason of any such claim and/or suit [or] action.

- Invoices quoting this Order number and Vendor's packing slip numbers are required for each individual order and shipment, and shall be mailed to the Purchaser not later than the day of despatch of the goods. All products

shall be accompanied by original packing slips. Overseas Vendors must render an additional certified invoice for Philippines Customs purposes. Negotiable bills of lading or consignment notes properly signed by the Carrier must be attached to the Vendor's invoices.

- Waiver by the Purchaser of any specific defaults by the Vendor, or failure of the Purchaser to cancel this order or any part thereof when such a right arises shall not constitute a waiver by the Purchaser of any of the conditions of this order except such defaults as are specifically waived and then only in respect of the actual defaults.[18]

— do not reveal any hint of one-sidedness in favor of petitioner.

If anything, in fact, Condition 4 above seems to have worked to petitioner's disadvantage as it underpins the refusal of the trial court to accept evidence aliunde to show that time was of the essence in the transaction. The said condition specifically mentions that the "delivery date shown on (the purchase order) shall be of the essence of any contract arising" and that "delivery must be made in strict accordance with the order or delivery schedule..." Purchase Order No. 106211, however, is unusually silent as to the date the flint cullets are needed.

Petitioner remedied this seeming inadvertence by squarely raising the failure of the purchase order to express the true intent of the parties, i.e., that petitioner entered into a contract with respondent conditioned upon the latter's prompt delivery of flint cullets, as an issue in its Answer with Counterclaims.[19] Unfortunately, the trial court sustained respondent's objection based on the parol evidence rule.

It is a cardinal rule of evidence, not just one of technicality but of substance, that the written document is the best evidence of its own contents. It is also a matter of both principle and policy that when the written contract is established as the repository of the parties' stipulations, any other evidence is excluded and the same cannot be used as a substitute for such contract, nor even to alter or contradict them.[20] This rule, however, is not without exception. Section. 9, Rule 130 of the Rules of Court states that a party may present evidence to modify, explain or add to the terms of the agreement if he puts in issue in his pleading the failure of the written agreement to express the true intent and agreement of the parties. Since an exception to the parol evidence rule was squarely raised as an issue in the answer, the trial court should not have been so inflexible as to completely disregard petitioner's evidence.

Sifting through the testimony of respondent, we find that although she was not given definite days during which she should deliver the flint cullets, she was indeed apprised of petitioner's urgent need for large quantities thereof.[21] Furthermore, petitioner presented the un rebutted testimony of Ermilinda Batalon, its materials control manager, to prove that it agreed to the P4.20 per kilo purchase price only because respondent assured it of prompt deliveries sufficient for petitioner's production requirements.[22] These testimonies give us a more complete picture of the transaction between the parties and allow for a more reasoned resolution of the issues, without over-reliance on the tenuous application of the rule on contracts of adhesion.

Coming now to the second purchase order, we find that Purchase Order No. 106211 had indeed been superseded by Purchase Order No. 106373 as the latter plainly states. Respondent testified that the deliveries of flint cullets on 28 October 1994 and on subsequent dates were already covered by the new purchase order which did indicate the reduced unit price but did not mention the quantity to be delivered. She said:

Q:

And of course you were told by Mrs. Batalon that the PO that will be issued to you is an open PO?

Atty. Tanopo:

What do you mean by open PO?

Atty. Buyco:

It does not indicate the quantity that will deliver.

Q:

There is no quantity mentioned as to how much you are going to deliver, you deliver as they come. [I]n other words at P3.65?

A:

Yes, sir.

Q:

So much so that your subsequent deliveries after October 28 is already on the basis of this PO?

A:

Yes, sir.

Q:

Exhibit D?

A:

Yes, sir.

Q:

Now, your counsel earlier manifested that he filed this complaint on November 24, 1994, it was after November 23, 1994 Mrs. Coquia [sic] that there were developments that substantially affected the allegations in this complaint, like substantial payments made by you by ACI, Philippines?

Atty. Tanopo:

Counsel may show us, your Honor.

Court:

Counsel may stipulate.

Q:

Did the deliveries of invoices no. [901, 719] and 735[,] Exhibits F, F1 and F2 has already been paid by the plaintiff?

Atty. Tanopo:

Admitted, paid at the rate of P3.65.[23]

Clearly, respondent knew, at the time she made the deliveries on 28 October 1994 and thereafter, that Purchase Order No. 106373 would already govern the transaction. Significantly, payments on these deliveries were made by petitioner on 26 November and 8 December 1994, after the complaint for specific performance was filed and without respondent making as much as a whimper of protest against the terms of the new purchase order or the reduced purchase price indicated therein.

By acquiescing to the new purchase order which no longer indicated a specific quantity of flint cullets to be delivered, respondent knew or should be presumed to have known that deliveries made thereafter were no longer meant to complete the original quantity contracted for under Purchase Order No. 106211.

The foregoing leads us to resolve the first and second issues framed by the Court of Appeals in favor of petitioner. Petitioner accepted deliveries under Purchase Order No. 106211 on 8, 12, 15, 18, 20 and 22 October 1994 and paid for these deliveries in accordance with the terms of the purchase order, i.e., at the contract price of P4.20 per kilo. However, the original contract between the parties evidenced by Purchase Order No. 106211 was unequivocally novated by Purchase Order No. 106373, thereby extinguishing the original obligation of petitioner to accept deliveries from respondent until the 2,500-3,000 metric tons of flint cullets originally contracted for is filled.[24] Petitioner, therefore, cannot be compelled to accept more deliveries of flint cullets from respondent to complete the quantity originally contracted for.

By the same token, petitioner cannot be tied down to the P4.20 per kilo unit price under Purchase Order No. 106211, nor even to the P3.65 per kilo indicated in Purchase Order No. 106373, the latter contract not having stated the quantity petitioner is willing to accept delivery of and pay for under that price.

As regards damages, we find the award thereof to respondent to be without factual basis. Respondent sought to prove the actual damages she incurred merely through her own testimony, without adducing any documentary evidence to substantiate her alleged losses. While she claims that she obtained a bank loan at an interest rate of 21%, respondent did not present any document to prove the said loan or the use thereof to purchase flint cullets for delivery to petitioner. Neither did respondent present documents to prove her alleged stock of 1,000 metric tons of flint cullets for which she allegedly invested P2,500,000.00.

The claim for actual damages in this case should be admitted with extreme caution since it is based only on bare assertions without support from independent evidence. In determining actual damages, the Court cannot rely on mere assertions, speculations, conjectures or guesswork but must depend on competent proof and on the best evidence obtainable regarding the actual amount of loss.[25]

Finally, we find the appellate court's citation of Article 21 of the Civil Code misplaced not only because of the

pre-existing contractual relation between the parties which bars the application of this provision, but more importantly because we do not deem petitioner to have acted fraudulently or in bad faith.[26]

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CV No. 57678 dated 15 September 2005, and its Resolution dated 30 August 2006 are REVERSED. The complaint dated 23 November 1994 filed by Editha C. Coquia against ACI Philippines, Inc. is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, p. 264. Petitioner has changed its corporate name from ACI Philippines, Inc. to Asia Pacific Insulation Corporation.

[2] Id. at 7-8; Petition.

[3] Records, p. 7.

[4] Rollo, p. 90; RTC Decision.

[5] Records, p. 15.

[6] Id. at 18-20.

[7] Rollo, p. 10; RTC Decision.

[8] Records, pp. 1-6.

[9] Rollo, pp. 50-64; Penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Mariano Del Castillo and Mariflor P. Punzalan Castillo.

[10] CA rollo, pp. 162-177.

[11] Id. at 156-161.

[12] Id. at 66-67.

[13] Id. at 226-232.

[14] Id. at 263-283.

[15] Gulf Resorts, Inc. v. Philippine Charter Insurance Corporation, G.R. No. 156167, May 16, 2005, 458 SCRA 550, 575.

[16] Rollo, p. 85; RTC Decision.

[17] TSN, December 11, 1995, pp. 32-33.

[18] Records, pp. 7, 15.

[19] Records, pp. 38-46.

[20] Sabio v. The International Corporate Bank, Inc. G.R. No. 132709, September 4, 2001.

[21] TSN, December 11, 1995, p. 39.

[22] Rollo, p. 89; RTC Decision.

[23] TSN, December 11, 1995, pp. 52-54.

[24] Art. 1292. In order that an obligation may be extinguished by another which substitute the same, it is imperative that it be so declared in unequivocal terms, or that the old and the new obligations be on every point incompatible with each other.

[25] Premiere Development Bank v. Court of Appeals, G.R. No. 159352, April 14, 2004, 427 SCRA 686, 699.

[26] GF Equity, Inc. v. Valenzona, G.R. No. 156841, June 30, 2005, 462 SCRA 466; Far East Bank and Trust Company v. Court of Appeals, 311 Phil. 783 (1995).

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