

FORT BONIFACIO DEVELOPMENT CORPORATION, PETITIONER, VS. VALENTIN L. FONG, RESPONDENT.*G.R. No. 209370. March 25, 2015*

Ponente: PERLAS-BERNABE, J.

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Assailed in this petition for review on certiorari[1] are the Decision[2] dated May 17, 2013 and the Resolution[3] dated September 2, 2013 rendered by the Court of Appeals (CA) in CA-G.R. CV. No. 93407, which affirmed the Decision[4] dated January 28, 2009 of the Regional Trial Court of Mandaluyong City, Branch 214 (RTC) in Civil Case No. MC06-2928, finding petitioner Fort Bonifacio Development Corporation (FBDC) liable to respondent Valentin L. Fong (Fong), as proprietor of VF Industrial Sales, for the amount of P1,577,115.90 with legal interest computed from February 13, 2006.

The Facts

On June 5, 2000, FBDC, a domestic corporation engaged in the real estate development business,[5] entered into a Trade Contract[6] with MS Maxco Company, Inc. (MS Maxco), then operating under the name “L&M Maxco, Specialist Engineering Construction,” for the execution of the structural and partial architectural works of one of its condominium projects in Taguig City, the Bonifacio Ridge Condominium (Project).[7] Records show that FBDC had the right to withhold five percent (5%) of the contract price as retention money.[8]

Under the Trade Contract, FBDC had the option to hire other contractors to rectify any errors committed by MS Maxco by reason of its negligence, act, omission, or default, as well as to deduct or set-off any amount from the contract price in such cases.[9] Hence, when MS Maxco incurred delays and failed to comply with the terms of the Trade Contract, FBDC took over and hired other contractors to complete the unfinished construction.[10] Unfortunately, corrective work had to likewise be done on the numerous defects and irregularities caused by MS Maxco, which cost P11,567,779.12.[11] Pursuant to the Trade Contract, FBDC deducted the said amount from MS Maxco’s retention money.[12]

The Trade Contract likewise provided that MS Maxco is prohibited from assigning or transferring any of its rights, obligations, or liabilities under the said Contract without the written consent of FBDC.[13]

Sometime in April 2005, FBDC received a letter[14] dated April 18, 2005 (April 18, 2005 letter) from the counsel of Fong informing it that MS Maxco had already assigned its receivables from FBDC to him (Fong) by virtue of a notarized Deed of Assignment[15] dated February 28, 2005.[16] Under the Deed of Assignment, MS Maxco assigned the amount of P1,577,115.90 to Fong as payment of the former’s obligation to the latter, which amount was to be taken from the retention money with FBDC.[17] In its letter-reply[18] dated October 11, 2005, FBDC acknowledged the five percent (5%) retention money of MS Maxco, but asserted that the same was not yet due and demandable and that it was already the subject of garnishment[19] by MS Maxco’s other creditors.

Despite Fong’s repeated requests,[20] FBDC refused to deliver to Fong the amount assigned by MS Maxco.

Finally, in a letter[21] dated January 31, 2006, FBDC informed Fong that after the rectification of the defects in the Project, as well as the garnishment made by MS Maxco's creditors, nothing was left of its retention money with FBDC from which Fong's claims may be satisfied. This prompted Fong, doing business under the name "VF Industrial Sales" to file the instant civil case,[22] before the RTC, against MS Maxco or FBDC for the payment of the sum of P1,577,115.90, with legal interest due, costs of suit, and litigation expenses.[23]

In its defense,[24] FBDC reiterated its position that, since MS Maxco incurred delays and rendered defective works on the Project, FBDC was constrained to hire other contractors to repair the defects and complete the work therein, the cost of which it deducted from MS Maxco's retention money, pursuant to the express stipulations in the Trade Contract.[25] Likewise, the said retention money was due only in January 2006, and was already garnished in favor of MS Maxco's other creditors.[26] As a result of the deductions and the garnishment, no amount due to MS Maxco was left from the retention money; and, FBDC was, therefore, under no obligation to satisfy Fong's claim.[27] FBDC likewise asserted, *inter alia*, that it was not bound by the Deed of Assignment between Fong and MS Maxco, not being a party thereto.[28] However, Fong, being a mere substitute or assignee of MS Maxco, was bound to observe the terms and conditions of the Trade Contract.[29] FBDC also stressed that it paid the creditors of MS Maxco in compliance with valid court orders.[30]

The RTC Ruling

In a Decision[31] dated January 28, 2009, the RTC found FBDC liable to pay Fong the amount of P1,577,115.90, with legal interest computed from the time of the filing of the complaint on February 13, 2006.[32]

In so ruling, the RTC held that the instant case was one of assignment of credit under Article 1624[33] of the Civil Code, hence, did not require FBDC's consent as debtor for its validity and enforceability.[34] What the law requires is not the consent of the debtor, but merely notice to him, as the assignment takes effect only from the time of his knowledge thereof.[35] With respect to third persons without notice of the assignment, the same becomes effective only if the assignment appears in a public instrument.[36]

Also, the RTC observed that FBDC did not dispute the genuineness and due execution of the Deed of Assignment between MS Maxco and Fong. As such, FBDC became bound thereby upon its receipt of Fong's April 18, 2005 letter informing it of the assignment. Effectively, Fong became subrogated to the right of MS Maxco to collect from FBDC the credit assigned to him.[37] Likewise, FBDC was bound to recognize the assignment, which appears in a public instrument.[38]

With respect to the garnishment of the retention money, the RTC held that it could not adversely affect Fong's rights as assignee of MS Maxco, considering that the amount indicated in the Deed of Assignment was no longer MS Maxco's property, but Fong's. Effectively, when MS Maxco assigned the sum of P1,577,115.90 to Fong, the said amount can no longer be considered MS Maxco's property that could be garnished or attached by its creditors. As records show that the garnishment of the retention money was made on July 30, 2005 and January 26, 2006, or after FBDC was notified of MS Maxco's assignment in favor of Fong on April 18, 2005, for all intents and purposes, FBDC must be considered to have paid MS Maxco's other creditors out of its own funds.[39]

Finally, with regard to the provision in the Trade Contract requiring the written consent of FBDC before MS Maxco may validly assign or transfer any of its rights, obligations, or liabilities thereunder, the RTC held that Fong was not bound thereby. It ruled that Fong did not automatically become party to the provisions of the Trade Contract by virtue of its being the assignee of MS Maxco, as the said provisions are matters which exclusively pertain to the parties thereto.[40]

In any event, however, the RTC recognized FBDC's right of recourse against its co-defendant MS Maxco for the latter's breach of undertaking under the Trade Contract.[41]

Aggrieved, FBDC appealed[42] to the CA, assailing the RTC's conclusion that the Deed of Assignment was binding upon it and that it was liable to satisfy Fong's claims.

The CA Ruling

In a Decision[43] dated May 17, 2013, the CA denied FBDC's appeal and affirmed the RTC ruling,[44] concurring with the latter's finding that when FBDC was notified of the assignment through the April 18, 2005 letter, the assignment produced legal effects and operated as a transfer of a portion of the receivables of MS Maxco to Fong.[45] Considering that FBDC's consent as debtor is not required under the law, as mere notice to it is sufficient, and taking into account the fact that the Deed of Assignment was a public instrument, the assignment therefore bound FBDC and third persons as well.[46]

Likewise, upon a review of the evidence offered by FBDC, the CA found that as of December 6, 2005, there was still sufficient amount left in the retention money with which to pay Fong even after the deduction of the rectification costs for the Project. As correctly held by the RTC, the payments made by FBDC to MS Maxco's judgment creditors cannot prejudice Fong since the Deed of Assignment was valid and enforceable against FBDC and the said creditors.[47]

FBDC's motion for reconsideration[48] was denied in a Resolution[49] dated September 2, 2013, hence, this petition.

The Issues Before the Court

The issues for the Court's resolution are whether or not the CA erred in ruling that FBDC was bound by the Deed of Assignment between MS Maxco and Fong, and even assuming that it was, whether or not FBDC was liable to pay Fong the amount of ₱1,577,115.90, representing a portion of MS Maxco's retention money.

The Court's Ruling

The petition is meritorious.

Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.[50] As such, the stipulations in contracts are binding on them unless the contract is contrary to law, morals, good customs, public order or public policy.[51]

The same principle on obligatory force applies by extension to the contracting party's assignees, in turn, by virtue of the principle of relativity of contracts which is fleshed out in Article 1311 of the Civil Code, viz.:

Art. 1311. Contracts take effect only between the parties, their assigns and heirs, except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law. The heir is not liable beyond the value of the property he received from the decedent.

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(Emphasis supplied)

The reason that a contracting party's assignees, although seemingly a third party to the transaction, remain bound by the original party's transaction under the relativity principle further lies in the concept of subrogation, which inheres in assignment.

Case law states that when a person assigns his credit to another person, the latter is deemed subrogated to the

rights as well as to the obligations of the former.[52] By virtue of the Deed of Assignment, the assignee is deemed subrogated to the rights and obligations of the assignor and is bound by exactly the same conditions as those which bound the assignor.[53] Accordingly, an assignee cannot acquire greater rights than those pertaining to the assignor.[54] The general rule is that an assignee of a non-negotiable chose in action acquires no greater right than what was possessed by his assignor and simply stands into the shoes of the latter.[55]

Applying the foregoing, the Court finds that MS Maxco, as the Trade Contractor, cannot assign or transfer any of its rights, obligations, or liabilities under the Trade Contract without the written consent of FBDC, the Client, in view of Clause 19.0 on “Assignment and Sub-letting” of the Trade Contract between FBDC and MS Maxco which explicitly provides that:

19.0 ASSIGNMENT AND SUB-LETTING

19.1 The Trade Contractor [Ms Maxco] shall not, without written consent of the Client [FBDC], assign or transfer any of his rights, obligations or liabilities under this Contract. The Trade Contractor shall not, without the written consent of the Client, sub-let any portion of the Works and such consent, if given, shall not relieve the Trade Contractor from any liability or obligation under this Contract.[56] (Emphases supplied)

Fong, as mere assignee of MS Maxco’s rights under the Trade Contract it had previously entered with FBDC, i.e., the right to recover any credit owing to any unutilized retention money, is equally bound by the foregoing provision and hence, cannot validly enforce the same without FBDC’s consent.

Without any proof showing that FBDC had consented to the assignment, Fong cannot validly demand from FBDC the delivery of the sum of P1,577,115.90 that was supposedly assigned to him by MS Maxco as a portion of its retention money with FBDC. The practical efficacy of the assignment, although valid between Fong and MS Maxco, remains contingent on FBDC’s consent. Without the happening of said condition, only MS Maxco, and not Fong, can collect on the credit. Note, however, that this finding does not preclude any recourse that Fong may take against MS Maxco. After all, an assignment of credit for a consideration and covering a demandable sum of money is considered as a sale of personal property.[57] To this, Article 1628 of the Civil Code provides:

Art. 1628. The vendor in good faith shall be responsible for the existence and legality of the credit at the time of the sale, unless it should have been sold as doubtful; but not for the solvency of the debtor, unless it has been so expressly stipulated or unless the insolvency was prior to the sale and of common knowledge.

Even in these cases he shall only be liable for the price received and for the expenses specified in No. 1 of Article 1616.[58]

The vendor in bad faith shall always be answerable for the payment of all expenses, and for damages.

WHEREFORE, the petition is GRANTED. The assailed Decision dated May 17, 2013 and the Resolution dated September 2, 2013 rendered by the Court of Appeals in CA-G.R. CV. No. 93407 are hereby REVERSED and SET ASIDE, and a new one is entered DISMISSING the instant complaint against petitioner Fort Bonifacio Development Corporation.

SO ORDERED.

Sereno, C.J. (Chairperson,) Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

[1] Rollo, pp. 3-37.

[2] Id. at 40-54. Penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Isaias P.

Didican and Myra V. Garcia-Fernandez concurring.

[3] Id. at 55-56.

[4] Id. at 219-228. Penned by Judge Edwin D. Sorongon.

[5] Id. at 5.

[6] Id. at 118-154.

[7] Id. at 122.

[8] See id. at 63 and 133.

[9] See id. at 133. Sections 6.9 and 6.10 of the Trade Contract provide:

6.9

Without prejudice to his other rights and remedies, the Client [FBDC] or Construction Manager on behalf of the Client shall be entitled to employ and pay other persons to remedy any negligence, act, omission or default of the Trade Contractor [MS Maxco] where notice has been given under Clause 5.13 and the Trade Contractor has failed to remedy or take steps diligently to remedy the same.

All damages, loss, and/or expense suffered or incurred by the Client in doing so shall be borne by the Trade Contractor and may be deducted from the Contract Sum and approximate adjustments made to the interim certificates.

6.10

Nothing contained elsewhere in this Contract shall in any way limit or exclude any of the rights of the Client to deduct or set-off (whether under this Contract or otherwise) any sums to which he is or may become entitled whether as damages or otherwise from or against the Contract Sum or from or against any monies otherwise due to the Trade Contractor under this Contract. The Construction Manager shall give the Trade Contractor ten working days notice of any such deduction or set-off and such [w]ithholding [n]otice shall specify the reasons for the deduction or set-off and shall state the amount of it or them.

[10] See id. at 8 and 222.

[11] See id. at 47.

[12] Id.

[13] See Section 19.1 of the Trade Contract; id. at 144.

[14] Id. at 62.

[15] Id. at 60-61.

[16] See id. at 9 and 221.

[17] Id. at 60.

[18] Id. at 63.

[19] Records show that MS Maxco was also impleaded in other cases, to wit: CIAC Case No. 11-2002 entitled “Asia-Con Builders Inc. v. L&M Maxco Company, Inc. and Lee Meng Yong” pending before the Construction Industry Arbitration Commission; and Civil Case No. 05-164 entitled “Concrete Masters, Inc. v. L&M Maxco

Company, Inc.” pending before the Regional Trial Court of Makati City. See *id.* at 43-44.

[20] See letters dated October 14, 2005 (*id.* at 64); dated October 26, 2005 (*id.* at 65); and January 17, 2006 (*id.* at 67).

[21] *Id.* at 68.

[22] See Complaint For Sum of Money filed on February 13, 2006; *id.* at 57-59.

[23] *Id.* at 59.

[24] See Answer Ex Abundanti Ad Cautelam dated July 14, 2006; *id.* at 167-218.

[25] See *id.* at 176-180.

[26] See *id.* at 183.

[27] See *id.* at 186.

[28] See *id.* at 188-189.

[29] See *id.* at 192 and 195.

[30] See *id.* at 210.

[31] *Id.* at 219-228.

[32] *Id.* at 228.

[33] Art. 1624. An assignment of credits and other incorporeal rights shall be perfected in accordance with the provisions of Article 1475.

[34] *Id.* at 225.

[35] *Id.* at 225-226.

[36] *Id.* at 226.

[37] See *id.*

[38] *Id.* at 226-227.

[39] *Id.* at 226.

[40] *Id.* at 228.

[41] *Id.*

[42] See Notice of Appeal Ex Abundanti Ad Cautelam dated March 17, 2009; *id.* at 229-230.

[43] *Id.* at 40-54.

[44] *Id.* at 53.

[45] *Id.* at 52.

[46] See *id.* at 51-53.

[47] See *id.* at 53.

[48] Dated June 10, 2013. Id. at 299-318.

[49] Id. at 55-56.

[50] See Article 1159 of the Civil Code.

[51] *Mendiola v. Commerz Trading Int'l., Inc.*, G.R. No. 200895, July 31, 2013, 703 SCRA 137, 142-143.

[52] See *BA Finance Corporation v. CA*, 278 Phil. 176, 182 (1991).

[53] See *Mercantile Insurance Co., Inc. v. Felipe Ysmael, Jr. & Co., Inc.*, 251 Phil. 66 (1989); *BPI Credit Corporation v. CA*, G.R. No. 96755, December 4, 1991, 204 SCRA 601.

[54] *Gonzales vs. Land Bank of the Philippines*, 262 Phil. 568, 574 (1990).

[55] *Koa v. CA*, G.R. No. 84847, March 5, 1993, 219 SCRA 541, 546, citing *Fidelita Mut. L. Ins. Co. v. Clark*, 203 U.S. 64, 51 L. ed., 91 27 s. Ct. 19; *Judson v. Corcoran*, 17 How (US) 612, 156 L. ed. 231.

[56] *Rollo*, p. 144.

[57] See *Lo v. KJS Eco-Formwork System Phil., Inc.*, 459 Phil. 532, 539 (2003), citing Article 417 of the Civil Code which provides:

Art. 417. The following are also considered as personal property:

(1) Obligations and actions which have for their object movables or demandable sums; and

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[58] Art. 1616. The vendor cannot avail himself of the right of repurchase without returning to the vendee the price of the sale, and in addition:

(1) The expenses of the contract, and any other legitimate payments made by reason of the sale[.]

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