

MISAMIS LUMBER CORPORATION, PLAINTIFF AND APPELLEE, VS. CAPITAL INSURANCE & SURETY CO., INC., DEFENDANT AND APPELLANT.

G.R. No. 21380, May 20, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Plaintiff-appellee Misamis Lumber Corporation, under its former name, Lanao Timber Mills, Inc., insured its Ford Falcon motor car for the amount of P14,000 with the defendant-appellant, Capital Insurance & Surety Company, Inc. The pertinent provisions of the policy provided, as follows:

"1. The Company will subject to the Limits of Liability indemnify the Insured against loss or damage to the Motor Vehicle and its accessories and spare parts whilst thereon.

(a) by accidental collision or overturning or collision or overturning consequent when mechanical breakdown or consequent upon wear and tear.

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"2. At its option the Company may pay in cash the amount of the loss or damage or may repair, reinstate or replace the Motor Vehicle or any part thereof or its accessories or spare parts. The liability of the Company shall not exceed the value of the parts lost or damaged and the reasonable cost of fitting such parts or the value of the Motor Vehicle at the time of the loss or damage whichever is the less. The Insured's estimate of value stated in the schedule shall be the maximum amount payable by the Company in respect of any claim for loss or damage.

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"4. The insured may authorize the repair of the Motor Vehicle necessitated by damage for which the Company may be liable under this policy provided that:

(a) the estimated cost of such repair does not exceed the Authorized Repair Limit.

(b) a detailed estimate of the cost is forwarded to the Company without delay."

and providing also that the authorized repair limit is P150.00.

At around eleven o'clock in the evening of 25 November 1961, and while the above-mentioned insurance policy was in force, the insured car, while traveling- along Aurora Boulevard in front of the Pepsi Cola plant in Quezon City, passed over a water hole which the driver did not see because an oncoming car did not dim its light. The crank-case and flywheel housing of the car broke when it hit a hollow block lying alongside the water hole. At the instance of the plaintiff-appellee, the car was towed and repaired by Morosi Motors at its shop at 1906 Taft Avenue Extension at a total cost of P302.27.

On 29 November 1961, when the repairs on the oar had already been made, the plaintiff-appellee made a report of the accident to the defendant-appellant Capital Insurance & Surety Company.

Since the defendant-appellant refused to pay for the total cost of towage and repairs, suit was filed in the municipal court originally.

The case before Us is now a direct appeal on a point of law from the judgment of the Court of First Instance of Manila finding for the plaintiff and against the defendant-insurer in its Civil Case No. 51757. Per our resolution on 13 February 1964, it was resolved to proceed with the case without the appellee's brief, which was filed late.

The defendant-appellant admits liability in the amount of P150, but not for any excess thereof.

The lower court did not exonerate the said appellant for the excess because, according to it, the company's absolution would render the insurance contract one-sided and that the said insurer had not shown that the cost of repairs in the sum of P302.27 is unreasonable, excessive or padded, nor had it shown that it could have undertaken the repairs itself at less expense.

The above reasoning is beside the point, because the insurance policy stipulated in paragraph 4 that if the insured authorizes the repair, the liability of the insurer, per its sub-paragraph (a), is limited to P150.00;. The literal meaning of this stipulation must control, it being the actual contract, expressly and plainly provided for in the policy (Art. 1370, Civil Code, *Young vs. Midland Textile Ins. Co.*, 30 Phil. 617; *Ty vs. First Nat. Surety & Assur. Co., Inc.*, L-16138-45, 29 April 1961).

The lower court's recourse to legal hermeneutics is not called for because paragraph 4 of the policy is clear and specific and leaves no room for interpretation. The interpretation given is even unjustified because it opposes what was specifically stipulated. Thus, it will be observed that the policy drew out not only the limits of the insurer's liability but also the mechanics that the insured had to follow to be entitled to full indemnity of repairs. The option to undertake the repairs is accorded to the insurance company per paragraph 2. The said company was deprived of the option because the insured took it upon itself to have the repairs made, and only notified the insurer when the repairs were done. As a consequence, paragraph 4, which limits the company's liability to P150.00, applies. The insurance contract may be rather onerous ("onesided", as the lower court put it), but that in itself does not justify the abrogation of its express terms, terms which the insured accepted or adhered to and which is the law between the contracting parties.

Finally, to require the insurer to prove that the cost of the repairs ordered by the insured is unreasonable, as the appealed decision does, when the insurer was not given an opportunity to inspect and assess the damage before the repairs were made, strikes us as contrary to elementary justice and equity.

For the foregoing reasons, the appealed decision is hereby modified by ordering the defendant-appellant Capital Insurance & Surety Company, Inc. to pay not more, than P150.00 to the plaintiff-appellee Misamis Lumber Corporation. Each party shall bear its own costs and attorney's fees.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Dizon, Regala, Makalintal, Bengzon, J.P. and Sanchez, JJ., concur.

Judgment modified.

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