

CORAZON PEREZ, PETITIONER, VS. HON. COURT OF APPEALS AND MEVER FILMS, INCORPORATED, RESPONDENTS.

G.R. No. 56101. February 20, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is a Petition for Review on Certiorari of a Decision of the then Court of Appeals. The relevant facts of the case may be stated as follows:

- CONGENERIC Development & Finance Corporation is. or was, a company engaged in "money market" operations.

- (a) On May 8, 1974, CONGENERIC issued what was in effect a promissory note in the amount of PI 11,973.58 in favor of bearer No. 049, later identified as Ramon C. MOJICA, or an entity owned by him. That promissory note, denominated hereinafter as Bill 1298, was to mature on August 6, 1974.

(b) On May 15, 1974, CONGENERIC issued another bearer promissory note for the sum of P208,666.67, also in favor of MOJICA or an entity owned by him. The note, denominated hereinafter as Bill 1419, was to mature on August 13, 1974.

- On June 5, 1974, MEVER Films, Inc. the private respondent herein, borrowed P500,000.00 from CONGENERIC, the former issuing in favor of the latter a negotiable promissory note to mature on August 5, 1974. That note shall hereinafter be referred to as NCI-0352. What may be stated in connection with the note is that it had no provision for interest, except that, if not paid on due date, it would be subject to interest at 14% per annum.

- On July 3, 1974, CONGENERIC received P200,000.00 from petitioner herein (CORAZON, for short), and issued to her, as BEARER 209, a confirmation of sale (CS) numbered 0366. Under the terms of CS-0366, CORAZON was to be paid P203,483.33 on August 5, 1974; CONGENERIC would make collection on behalf of CORAZON; and ALL OF CONGENERIC'S INTEREST IN NCI-0352 WAS BEING TRANSFERRED TO HER. Under this last provision, CORAZON, subject to defenses, could have sued MEVER for payment of the full amount of P500,000.00, specially if CONGENERIC should not object. It may also be noted that while NCI-0352 was not subject to interest prior to August 5, 1974, CONGENERIC obligated itself to pay CORAZON interest on August 5, 1974 in the amount of P3,483.33, or roughly an interest rate of 19% per annum.

- (a) On August 5, 1974, MEVER paid P100,000.00 to CONGENERIC on account of NCI-0352.

(b) On the same date of August 5, 1974, CONGENERIC paid CORAZON the sum of P103,483.33, the P3,483.33 coming from its own funds.

- (a) On August 6, 1974, CONGENERIC paid MOJICA the interest due on Bill 1298, the principal being rolled-over to mature on October 4, 1974. The roll-over was annotated on the original of Bill 1298.

(b) On August 13, 1974, CONGENERIC paid MOJICA the interest due on Bill 1419, the principal being rolled-over to mature on October 11, 1974. The roll-over was annotated on Bill 1419.

- On September 9, 1974, MOJICA assigned Bill 1298 and Bili 1419 to MEVER through a notarized deed.

- On October 3, 1974, MEVER surrendered the originals of Bill 1298 and Bill 1419 to CONGENERIC, and asked the latter to compute the balance of the account of MEVER with CONGENERIC, taking account of the amounts of the two Bills, which balance MEVER would then pay.

- (a) On October 7, 1974, MEVER was served with garnishment by the Provincial Sheriff of Rizal in two collection cases filed against CONGENERIC by two of its creditors whose credits totaled P185,693.78.

(b) On the same date of October 7, 1974, CONGENERIC advised MEVER by telephone that of the original amount of P500,000.00 of NCI-0352, the sum of P200,000.00 was sold on July 3, 1974 to a third party, but not naming CORAZON as the third party.

- On October 8, 1974, CONGENERIC confirmed in writing to MEVER the previous "sale" of P200,000.00 out of the P500,000.00 amount of NCI-0352; and advised that it could not take account of the assignment to MEVER of Bill 1298 and Bill 1419.

- On November 15, 1974, MEVER turned over to the Provincial Sheriff of Rizal (Exhibit "5"), the sum of P79,359.75, which MEVER had computed as the amount it was still owing CONGENERIC and which was subject to garnishment.

- (a) On October 23, 1974, CONGENERIC filed a Petition for Suspension of Payments in Civil Case No. 20212 of the Court of First Instance of Rizal. In that petition, MEVER was listed as a debtor.

(b) On November 11, 1974, the Court issued an order enjoining CONGENERIC from making any payment to creditors.

- In subsequent proceedings in Civil Case No. 20212, the Court promulgated an Order, dated January 24, 1975 (Exhibit "10"), to the effect that MEVER was not a debtor of CONGENERIC, and said Order has become final.

- (a) On July 14, 1975, CORAZON filed suit before the Court of First Instance of Rizal against MEVER for the recovery of P100,000.00, plus interest, damages, and attorney's fees. She admits that CS-0366 issued to her by CONGENERIC was a "without recourse" instrument.

(b) The Trial Court rendered judgment in favor of CORAZON and, upon her filing a bond, she was able to have execution pending appeal. MEVER had to pay her P131,166.00 under the Trial Court's judgment.

(c) On MEVER's appeal, the Court of Appeals reversed the judgment of the Trial Court.

Before us, petitioner has made the following Assignments of Error:

A.

"Respondent Court of Appeals erred gravely in applying Article 1626 of the Civil Code, which refers to a debtor who pays his creditor before knowledge of an assignment, when what is involved principally in the case at bar is compensation rather than payment.

B.

"Respondent Court of Appeals erred gravely in completely disregarding the essentially impersonal, Quid and mobile nature of money market transactions.

C.

"Respondent Court of Appeals erred gravely in completely disregarding the vital circumstance that respondent Mever Films, Inc. necessarily consented in advance to the purchase by petitioner Corazon Perez of part of its obligation under its Negotiable Certificate of Indebtedness (NCI).

D.

"Respondent Court of Appeals erred gravely in applying the third parag. of Article 1285 of the Civil Code allowing compensation of credits if assignment of credit is made without knowledge of the debtor, and in not applying the first paragraph of said Article 1285 barring the defense of compensation where the debtor has consented to the assignment of rights in favor of a third person.

E.

"Respondent Court of Appeals erred gravely in holding that compensation had set in and reduced respondent Mever's obligation to P79,359.75.

F.

"Respondent Court of Appeals erred gravely in holding that payment by respondent Mever of P79,359.75 to the Sheriff in connection with garnishment in certain civil cases against Congeneric extinguished Mever's obligation and could be set up as another defense to the claim of petitioner Corazon Perez.

G.

"Respondent Court of Appeals erred gravely in reversing the decision of the Trial Court, in denying the motion for reconsideration of petitioner Corazon Perez, and in granting respondent Mever's motion for resolution and/or clarification by ordering refund of P139,141.63 with interest at 14% per annum, and ordering payment of P10,000.00 as attorney's fees." [1]

The foregoing take issue with the following observations, and findings of respondent Appellate Court:

". . . We agree with the appellant (MEVER) that there was legal compensation under Article 1279 of the New Civil Code which caused the extinguishment of the obligation under Negotiable Certificate of Indebtedness No. 0352.

"The original obligation of defendant-appellant to Congeneric is P500,000.00 (Exhibit '1') out of which it paid P100,00.00 on the maturity date of the note leaving a balance of P400,000.00. pp. 1-4, Petitioner's Brief.

"By a Deed of Assignment dated September 9, 1974 executed by Ramon C. Mojica in favor of the appellant (Exhibit '2'), the latter acquired the rights of the assignor to two Congeneric bills Nos. 1298 for PI 11,973.58 which matured on August 6, 1974 (Exhibit '3') and No. 1419 for P208,666.67 which matured on August 13,

1974 (Exhibit '4') or a total of P320,640.25. As of September 9, 1974, therefore, said bills were already due and demandable.

"On the other hand, appellant's obligation in favor of Congeneric matured on August 5, 1974. As a result defendant-appellant became both a debtor and a creditor of Congeneric. A debtor to the extent of P400,000.00 under the Negotiable Certificate of Indebtedness (Exhibit T) and a creditor for the sum of P320,640.25. By operation of law, there was partial compensation to the extent of P320,640.25 (Articles 1281 & 1290, New Civil Code).

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"As a consequence of compensation, the obligation of defendant-appellant to Congeneric as of September 9, 1974 was reduced to P79,359.75.

"On October 7, 1974, defendant-appellant was served notices of garnishment in connection with Civil Cases Nos. 20043 and 20044 of the Court of First Instance of Rizal against Congeneric. It consists in the citation of some stranger to the litigation, who is debtor to one of the parties to the action. By this means such debtor stranger becomes a forced intervenor, and the court, having acquired jurisdiction over his person by means of the citation, requires him to pay his debt, not to his former creditor, but to the new creditor, who is the creditor in the main litigation. It is merely a case of involuntary novation by the substitution of one creditor for another (Tayabas Land Co. vs. Sharuff, 41 Phil. 382, 387). Consequently, defendant-appellant held the amount it still owed Congeneric, which is P79,359.75, as any payment to the creditor by the debtor after the latter has been judicially ordered to retain the debt shall not be valid (see Article 1243, New Civil Code). On November 15, 1975, the garnished amount was delivered by the appellant to the deputy sheriff (Exhibit '5'). Consequently, the balance of the obligation of defendant-appellant to Congeneric in the sum of P79,359.75 was extinguished and therefore no longer obligated under its Negotiable Certificate of Indebtedness.

"... the evidence on record disclosed no notice to defendant-appellant of the purchase by appellee of part of defendant-appellant's obligation prior to compensation and consequently its non-liability to appellee.

"Prior to the telephone call of Mr. Dumadag to Mr. Jesus G. Sanchez on October 7, 1974 disclosing the sale to appellee by Congeneric of part of its promissory note, appellant was unaware of the sale. In fact, it was the first time that it came to know of the transaction (tsn., pp. 11-12 S, August 10, 1976) so much so that upon maturity of the note on August 5, 1974, appellant made a partial payment of P100,000.00 not to appellee but to Congeneric. The telephone advice to the appellant which was confirmed in writing on October 8, 1974 was too late. By that time the entire obligation of appellant was already extinguished by payment, compensation and novation. A debtor who, before having knowledge of the assignment, pays his creditor is released from his obligation (Article 1626, New Civil Code).

"Appellant correctly invoked compensation as a defense, for under Article 1285, 3rd paragraph —

'If the assignment is made without the knowledge of the debtor, he may set up compensation of all credits prior to the same and also later ones until he had knowledge of the assignment.' "

'If, in fact, Bill No. 1298 and Bill No. 1419 were due and demandable on September 9, 1974, the date of the assignment from MOJICA to MEVER, or on October 3, 1974, the date of surrender of said Bills by MEVER to CONGENERIC, it could be rightfully said that legal compensation had taken place. As pointed out by

CORAZON, however, said two bills contain the following notations:

"Bill No. 1298 -

Paid 8/6/74 interest only, principal roll over up to 10/4/74 (Annexes A-1, A-2, Petitioner's Reply Brief; Exh. 3, Folder of Exhibits)

Bill No. 1419 -

Paid 8/13/74 interest only, principal roll over up to 10/11/74 (Annexes A, A-3, *ibid.*; Exh. 3-A, Folder of Exhibits)

Since, on the respective dates of maturity, specifically, August 6, 1974 and August 13, 1974, respectively, Ramon C. Mojica was still the holder of those bills, it can be safely assumed that it was he who had asked for the roll-overs on the said dates. MEVER was bound by the roll-overs since the assignment to it was made only on September 9, 1974. The inevitable result of the roll-overs of the principals was that Bill No. 1298 and Bill No. 1419 were not yet due and demandable as of the date of their assignment by MOJICA to MEVER on September 9, 1974, nor as of October 3, 1974 when MEVER surrendered said Bills to CONGENERIC. As a consequence, no legal compensation could have taken place because, for it to exist, the two debts, among other requisites, must be due and demandable:

"Art. 1279. In order that compensation may be proper, it is necessary:

"(1) That each one of the obligors be found principally, and that he be at the same time a principal creditor of the other;

"(2) That both debts consist in a sum of money, or if the things due are consumable, they be of the same kind, and also of the same quality if the latter has been stated;

"(3) That the two debts be due;

"(4) That they be liquidated and demandable;

"(5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor."

We note that the xerox copies of Bill No. 1298 and Bill No. 1419 attached by MEVER to its Brief do not contain the "roll-over" notations. However, MEVER's own exhibits before respondent Appellate Court, Exhibits "3" and "3-A", do show those notations and MEVER must be held bound by them. And although this issue may not have been squarely raised below, in the interest of substantial justice, this Court is not prevented from considering such a pivotal factual matter that had been overlooked by the Courts below.[2] The Supreme Court is clothed with ample authority to review palpable errors not assigned as such if it finds that their consideration is necessary in arriving at a just decision.[3]

There is another aspect to this case. What is involved here is a money market transaction. As defined by Lawrence Smith "the money market is a market dealing in standardized short-term credit instruments (involving large amounts) where lenders and borrowers do not deal directly with each other but through a middle man or dealer in the open market." It involves "commercial papers" which are instruments "evidencing indebtedness of any person or entity ..., which are issued, endorsed, sold or transferred or in any manner conveyed to another person or entity, with or without recourse".[4] The fundamental function of the money market device in its operation is to match and bring together in a most impersonal manner both the "fund users" and the "fund suppliers." The money market is an "impersonal market", free from personal considerations.[5] "The market mechanism is intended to

provide quick mobility of money and securities."[6]

The impersonal character of the money market device overlooks the individuals or entities concerned. The issuer of a commercial paper in the money market necessarily knows in advance that it would be expeditiously transacted and transferred to any investor/ lender without need of notice to said issuer. In practice, no notification is given to the borrower or issuer of commercial paper of the sale or transfer to the investor.

Accordingly, we find no applicability herein of Article 1285, 3rd paragraph of the Civil Code.[7] Rather, it is the first paragraph of the same legal provision that is applicable:

"ART. 1285. The debtor who has consented to the assignment of rights made by a creditor in favor of a third person, cannot set up against the assignee the compensation which would pertain to him against the assignor, unless the assignor was notified by the debtor at *Dela Concepcion, et al. vs. Mindanao Portland Cement Corp., et al.* the time he gave his consent, that he reserved his right to the compensation."

There is need to individuate a money market transaction, a relatively novel institution in the Philippine commercial scene. It has been intended to facilitate the flow and acquisition of capital on an impersonal basis. And as specifically required by Presidential Decree No. 678, the investing public must be given adequate and effective protection in availing of the credit of a borrower in the commercial paper market.

WHEREFORE; the judgment of respondent Appellate Court, dated September 3, 1979 as well as its Resolution dated January 16, 1981 is hereby reversed, and that of the then Court of First Instance of Manila, Branch XXXI, dated December 27, 1976, hereby reinstated.

SO ORDERED.

Teehankee (Chairman), Plana, Relova and Gutierrez, Jr., JJ., concur.

[1] pp. 1-4, Petitioner's Brief.

[2] *Heirs of Enrique ZambaJes vs. CA*, 120 SCRA 897 (1983).

[3] *Tumalad vs. Vicencio*, 41 SCRA 146 (1971).

[4] *The Money Market Industry Today - A Question of Survival* - by Horacio T. Lava, Jr., in the PNB Quarterly, A Supplement of the Philnabank News, Second Quarter 1978.

[5] *The Money Market and Monetary Management* by G. Walter Woodworth, p. 6 2nd Ed., Harper & Row, New York.

[6] Woodworth, p. 5.

[7] "Art. 1285. . . .

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"If the assignment is made without the knowledge of the debtor, he may set up the compensation of all credits prior to the same and also later ones until he had knowledge of the assignment."

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