

BANK OF THE PHILIPPINE ISLANDS, AS SUCCESSOR TO PEOPLES BANK AND TRUST COMPANY, PETITIONER, VS. BENJAMIN PINEDA, DOING BUSINESS UNDER THE NAME AND STYLE OF PIONEER IRON WORKS, R...

G.R. No. 62441. December 14, 1987

Ponente: BIDIN, J.

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BIDIN, J.:

This is a Petition for Review on certiorari, seeking the reversal of the Decision of the First Division¹ of the Court of Appeals in CA-G. R. No. 66365-R entitled "Benjamin Pineda, etc., plaintiff-appellee vs. Southern Industrial Projects Inc., Bacong Shipping Company, S.A., Gacet Inc., Interocean Shipping Corporation and Peoples Bank and Trust Co., defendant-appellant," affirming the decision of the trial court, the dispositive portion of which reads:

"Wherefore, the appealed decision being in accordance with the law and the evidence, the same is hereby affirmed, with proportionate cost against appellant."

The facts of this case as found by the Court of Appeals are as follows:

"Southern Industrial Project, Inc. (SIP for short) is a corporation the majority stockholder of which is the Concon Family. Bacong Shipping Company, S. A. (Bacong, for short) is a Panamanian corporation organized to operate vessels purchased by SIP under Panamanian Flag and its president is Gregorio A. Concon.

SIP and/or Bacong purchased the vessels SS "Southern Comet," SS "Southern Express" and SS "Southern Hope," thru financing furnished by defendant Peoples Bank and Trust Company, now the Bank of the Philippine Islands. To secure the payment of whatever amounts maybe disbursed for the aforesaid purpose, the said vessels were mortgaged to Peoples Bank and Trust Company. For the operation of the said vessels, these were placed under the booking agency of defendant Interocean Shipping Corporation, with the undertaking that the freight revenues from their charter and operation shall be deposited with the Trust Department of Peoples Bank and Trust Company and that disbursements made therefrom shall be covered by vouchers bearing the approval of SIP.

As Peoples Bank and Trust Company and SIP were not satisfied with the amount of revenues being deposited with the said Bank, it being suggested that diversions thereof were being made, Gregorio A. Concon of SIP and/or Bacong and Roman Azanza of Peoples Bank and Trust Company, organized S. A. Gacet, Inc. to manage and supervise the operation of the vessels with Ezekiel P. Toeg as the manager thereof. Accordingly, on August 15, 1966, a Management Contract (Exh. A, Exh. 1-SIP and Exh. 3-Peoples Bank) was entered into between SIP and GACET, INC., placing the supervision and management of the aforementioned vessels in the hands of GACET, Inc., which was to run for a period of six (6) months, renewable at the will of the parties, without however, terminating the booking agency of Interocean Shipping Corporation.

The said Management Contract stipulates, among others, that -

"The agent (GACET) may not borrow money for the husbanding of vessels "without special authority" from the appellant bank (5 [f]);

"All office records required as well as books of accounts" shall "be available for inspection" by the appellant bank and "may at any time temporarily take possession of such records and books to make a complete audit" (5 [h]);

"The appellant bank may - "obtain copies of documents from any or all of GACET's booking agents pertaining to transactions entered into by said booking agents" (5 h [l]);

"The appellant bank has the right "(t)o inquire and obtain information, by telephone, or otherwise such data as the name of the shippers, nature of cargo, destination of cargo, freight rates, etc. " (5 h [2]); and,

"The appellant bank has the right "(t)o check on remittances made by shipper to the booking agent" etc. (5) [3]).'

"Likewise, under the terms of said Management Contract, the Peoples Bank and Trust Company was designated as depository of all revenues coming from the operation of the subject vessels thereby enabling it to control all expenses of GACET, Inc., since they will all be drawn against said deposit.

"During the period comprising March 16, 1967 and August 25, 1967, GACET and Interocean - in performing their obligations under said Management Contract, contracted the services of herein plaintiff-appellee, Benjamin Pineda doing business under the name and style 'Pioneer Iron Works,' to carry out repairs, fabrication and installation of necessary parts in said vessels in order to make them seaworthy and in good working operation. Accordingly, repairs on the vessels were made. Labor and materials supplied in connection therewith, amounted to P84,522.70, P18,141.75 of which was advanced by Interocean, thereby leaving a balance of P62,095.95. For this balance, Interocean issued three checks (Exhibit I); and the third one for P17,377.57 (Exh. J). When these checks were however presented to the drawee, Peoples Bank and Trust Company, they were dishonored as defendant Interocean stopped payment thereon (Exhs. H-2, I-2 & J-2).

"Meanwhile and by reason of the inability of SIP and/or Bacong to pay their mortgage indebtedness which was past due since 1964, the mortgagee Peoples Bank and Trust Company threatened to foreclose the mortgage on said vessels. In order to avoid the inconvenience and expense of imminent foreclosure proceedings, SIP and/or Bacong sold said vessels to Peoples Bank by way of dacion en pago. The sale is evidenced by three (3) deeds of sale all dated January 19, 1968 (Exhs. C, D, & E). Immediately preceding the execution of said deeds of sale, SIP, Bacong and Peoples Bank executed a 'Confirmation of Obligation' (Exh. "B") whereby SIP and Bacong (1) acknowledged being indebted to defendant bank, the payment of which indebtedness was secured by chattel mortgages on said vessels, (2) agreed to sell and convey to defendant bank the aforementioned vessels by separate deed of sale for the total purchase price of P3,038,000.00 to be applied as partial payment on account of their mortgage indebtedness; and (3) expressly recognized that after such application, a substantial balance will still remain unpaid and owing by SIP and Bacong which remaining balance they have agreed to confirm and pay to the bank on demand with 12% interest per annum. Likewise, listed in the 'Confirmation of Obligation' were some of the accounts acknowledged and confirmed by the parties to be outstanding at the time, in connection with the subject vessels as follows -

'a) Accrued Salaries and allotments

- - - - - P180,687.04

b) National Shipyard

- - - - - 31,068.57

c) Pioneer Iron Works

- - - - - 82,877.57

d) Pacific Engineering Corporation

- - - - - 152,094.85

e) Esso Standard Eastern Account

- - - - -1,693,913.25

f) Cost of bailing out of the vessels in Japan crews, salaries, etc.

- - - - - 328,692.50

TOTAL

- - - **-P2,954,833.34**

"The Deed of 'Confirmation of Obligation' also provides -

"That Southern and/or Bacong acknowledge that the total purchase price of "TSS Southern Comet," "TSS Southern Hope" and "SS Southern Express" in the sum of THREE MILLION THIRTY EIGHT THOUSAND PESOS (P3,038,000.00), Philippine currency shall be applied on account of their mortgage obligations, as they appear on the books of the BANK, and whatever amount remains outstanding after application (or set off) is hereby acknowledged to be owed to the BANK and shall be payable with interest at the rate of 12% per annum.

'That part (sic) from the foregoing SOUTHERN and/or BACONG have authorized the BANK to pay certain expenses, accounts of charges in connection with the sold vessels, the principal items being those listed below.' (These are the accounts listed above). 'It is agreed that this is not a final or complete listing and the above expenses shall be subject to final adjustment after verification of the amounts actually paid or advanced by the BANK under the said authority from SOUTHERN and/or BACONG. It is further agreed that the se expenses shall also be subject to the terms of condition No. 1 above.' (Those enclosed in parenthesis are supplied)'.

"On October 1, 1968, plaintiff instituted the present action (Civil Case No. 74379) before the Court of First Instance of Manila, seeking to recover from SIP, GACET, Interocean and the Peoples Bank and Trust Company the principal sum of P62,095.92 with interests thereon from the respective dates of each repair order until the same is fully paid, which amount was allegedly the total unpaid balance of the cost of repairs, fabrication and installation of necessary parts carried out by the said plaintiff on the aforementioned vessels.

"Answering the complaint, defendants Peoples Bank and Trust Co., now bank of P. I. and Southern Industrial Projects, Inc. (SIP) allege that the above-mentioned claim is the personal responsibility of Interocean Shipping Corporation and/or Gacet, Inc. and deny liability thereon. Defendant Bacong Shipping Company, S. A. (Bacong) on its part denies knowledge of the obligation claiming it did not have any transaction whatsoever with the plaintiff while defendant Interocean Shipping Corporation and GACET, Inc. also deny liability contending that the obligation being lien on the vessels upon which services and repairs were made by the plaintiff, defendant Peoples Bank & Trust Co., now bank of P.I., being the ultimate owners thereof should be the one liable therefor.

"After trial, the court a quo rendered judgment the dispositive portion of which reads as follows -

'WHEREFORE, in view of the foregoing, judgment is hereby rendered ordering defendants Southern Industrial Projects, Inc. and Peoples Bank and Trust Company, now Bank of P.I., to pay plaintiff Benjamin Pineda doing business under the name and style of Pioneer Iron Works, jointly and severally, the amount of P62,095.92, with legal rate of interest thereon from the date of the filing of the complaint, attorney's fees in the amount of P10,000.00, and the costs of the suit. The complaint is dismissed against defendants Interocean Shipping

Corporation and Gacet, Inc.

SO ORDERED."

From the foregoing decision, defendants Bank of P.I. and Southern Industrial Projects, Inc. appealed to the Court of Appeals but the latter, finding the aforementioned decision to be in accordance with law and the evidence, affirmed the same. Hence, this petition.

Petitioner raised the following assignment of errors:

I. The Intermediate Appellate Court erred in affirming the findings of the lower court that petitioner, in purchasing the vessels, assumed the obligations of Southern Industrial Projects, Inc. and/or Bacong Shipping Company.

II. The Intermediate Appellate Court erred in affirming the ruling of the lower court that petitioner is liable to private respondent when the same was based on an erroneous interpretation of the "confirmation of obligation" in relation to the deeds of sale of the vessels.

III. The findings of the lower court as affirmed by the Intermediate Appellate Court that private respondent had a valid and subsisting repairer's lien is contrary to law as well as the rulings set forth by this Honorable Court.

IV. The Intermediate Appellate Court erred in not holding that the lower court has no jurisdiction over the subject matter of the action or suit which seeks to enforce a statutory lien under paragraph 5 of Article 2241 of the Civil Code of the Philippines.

As correctly pointed out by the Court of Appeals in its decision, the various assigned errors boil down to the issue of who should be liable for the cost of repairs undertaken on the subject vessels.

Petitioner raised the following questions: (1) whether the findings of the lower court are supported by facts and evidence; and (2) whether or not petitioner is liable to respondent on the basis of the "Confirmation of Obligation."

The general rule is that findings of facts of the Court of Appeals are not subject to review by the Supreme Court. (Alaras vs. Court of Appeals, 64 SCRA 671; Perido vs. Perido, 13 SCRA 97; Mendoza vs. Court of Appeals, 84 SCRA 67; Manlapaz vs. Court of Appeals, 147 SCRA 236 [1987]; Baniqued vs. Court of Appeals, 127 SCRA 50 [1984]; Moran vs. Court of Appeals, 133 SCRA 88 [1984]; Collector of Customs vs. Court of Appeals, 137 SCRA 3 [1985]; Espiritu vs. Court of Appeals, 137 SCRA 50 [1985]; Premier Insurance & Surety Corp. vs. Intermediate Appellate Court, et al., 141 SCRA 423 [1986]; Director of Lands vs. Funtillar, 142 SCRA 57 [1986]; Republic vs. Intermediate Appellate Court, 144 SCRA 705 [1986]; subject to the following exceptions; (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures (Joaquin vs. Navarro, 93 Phil. 257); (2) when the inference made is manifestly mistaken, absurd or impossible (Luna vs. Linatok, 74 Phil. 15); (3) where there is a grave abuse of discretion (Buyco vs. People, 51 O.G. 2927); (4) when the judgment is based on a misapprehension of facts (Cruz vs. Sosing, L-4875, November 27, 1953; (5) when the findings of fact are conflicting (Casica vs. Villaseca, L-9590, April 30, 1957); and (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (Evangelista vs. Alto Surety & Ins. Co., L-11139, April 23, 1958; Ramos vs. Pepsi Cola, L-22533, February 9, 1967, 19 SCRA 289)." (cited in Manlapaz vs. Court of Appeals, 147 SCRA 236 [1987]; Tolentino vs. de Jesus, 56 SCRA 167 [1974]; Carolina Industries, Inc. vs. CMS Stock Brokerage, Inc., et al., 97 SCRA 734 [1980]; Manero vs. Court of Appeals, 102 SCRA 817 [1981]; Moran, Jr. vs. Court of Appeals, supra; Sacay vs. Sandiganbayan, 142 SCRA 593 [1986]; Director of Lands vs. Funtillar, et al., supra).

The petitioner argued that the findings of the lower court are contrary to, and are not supported by the evidence.

There is no question that at the time subject obligation was incurred, the vessels were owned by defendant Southern Industrial Projects, Inc. although mortgaged to People's Bank and Trust Company. Hence, the former as owner is liable for the costs of repairs made on the vessels. On the other hand, Interocean Shipping Corporation and S.A. Gacet undeniably mere agents of the owner, a disclosed principal, cannot be held liable for repairs made on the vessels to keep them in good running condition in order to earn revenue, there being no showing that said agents exceeded their authority.

Ultimately therefore, the issue which remains is, whether or not People's Bank, now Bank of P.I. being the purchaser of said vessels, is jointly and severally liable for the outstanding balance of said repairs, admittedly a lien on the properties in question.

It appears that Bank of P.I. seeks shelter in a deed of "Confirmation of Obligation" entered into between buyer and seller before the execution of a deed of sale between them. Buyer, Bank of P.I., maintains that it has the option of whether or not to pay the obligations listed thereunder, one of which is the repairs undertaken by private respondent, as inferred from the phrase that the owner of the vessels merely authorized petitioner bank to pay certain expenses and charges in connection with said vessels. The latter stressed the fact that nowhere in said deed was the bank placed under obligation to pay any of the listed indebtedness of the owner.

The cardinal rule in the interpretation of contracts is to the effect that the intention of the contracting parties should always prevail because their will has the force of law between them (*Kasilag vs. Rodriguez, et al.*, 69 Phil. 217 [1939]; Sec. 10, Rule 130 of the New Rules of Court). Thus, in order to judge the intention of the contracting parties, regard must be had principally to their acts both contemporaneous and subsequent to the contract (*Atlantic Gulf Co. vs. Insular Government*, 10 Phil. 166 [1908]), "the circumstances under which it was made, including the situation of the subject thereof and of the parties to it, may be shown, so that the judge may be placed in the position of those whose language he is to interpret." (Sec. 11, Rule 130 of the New Rules of Court). It has been held that once this intention of the parties has been ascertained, it becomes an integral part of the contract as though it has been originally expressed therein in unequivocal terms (*Nielson & Co., Inc. vs. Lepanto Consolidated Mining Co.*, 18 SCRA 1040 [1966]). Likewise, well settled is the fact that in construing a writing particularly a written agreement, the reason behind the circumstances surrounding its execution are of paramount importance to place the interpreter in the situation of the parties concerned at the time the writing was executed (*Vicente Gotamco Hermanos vs. Shotwell*, 38 SCRA 107 [1971]).

It is undisputed that S. A. Gacet, Inc., the managing corporation, is only a creation of Gregorio A. Concon of Southern Industrial Projects, Inc. and of Roman Azanza of People's Bank and Trust Company obviously for the protection of their respective interests on the properties in question, after both expressed dissatisfaction with the amount of revenue being deposited with the said bank which suggests that diversions thereof were being made. Thus, although it was SIP and GACET which entered into the Management Contract, it was expressly stipulated thereunder, among others, that GACET may not borrow money for the husbanding of vessels without special authority from the petitioner bank. In addition, all office records were required to be subject to inspection and complete audit by the latter, including all remittances made by the Shipper to the booking agent. Otherwise stated, petitioner was already in control of the vessels as early as August 15, 1966, the date the Management Contract was signed (Decision, CA-G.R. No. 66365-R); (Rollo, p. 28). In fact, the contract itself for the repairs of the vessels which is now the bone of contention, was entered into by GACET and INTEROCEAN with private respondent Benjamin Pineda with the approval of petitioner Bank. This lends credence to the claim of Pineda that he was led to believe that he will be paid the corresponding amount for the repairs, as in fact he was paid with checks which were later dishonored.

The records show that SIP incurred debts by reason of these vessels not only here in the Philippines but also in Japan, notably ESSO Standard Eastern which attached said vessels in Japan. As admitted by Gregorio A. Concon, fourteen banks were after the assets of the corporation. Under this distressed financial condition and with People's Bank also threatening to foreclose the mortgages on these vessels, SIP decided to sell the vessels to People's Bank (Record on Appeal, pp. 55-56). But a deed of "Confirmation of Obligation" was first entered into between SIP and/or Bacong Shipping and People's Bank, confirming and acknowledging the obligations outstanding at the time, among which is the obligation to private respondent in the amount corresponding to the repairs in question.

Petitioner however insists on its theory based on a separate interpretation of the deed of "Confirmation of Obligation" that on the authority granted thereunder by the seller (the previous owner), responsibility to pay the listed obligations was not compulsory or mandatory (Record on Appeal, pp. 59-60).

Other fundamental rules in the interpretation of contracts no less important than those already indicated are to the effect that where the terms are doubtful, the various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly (Art. 1374, Civil Code), and if some stipulation of any contract should admit of several meanings, it shall be understood as having that import which is most adequate to render it effectual (Art. 1373, Civil Code) and the words which may have different significations shall be understood in that which is most in keeping with the nature and object of the contract (Art. 1375, Civil Code). The reason for these rules is that it must be presumed that the parties had intended an effective act and not one that is impracticable or illusory (Caguioa, Comments and Cases on Civil Law, p. 592, 1983 Ed.).

It will be observed that the deed of "Confirmation of Obligation" is but a part or a corollary to the deeds of sale of the three vessels. In fact, specific reference thereto was made by said deeds of sale as to the settlement of obligations, among which are the repairs in question. Said provision in the deeds of sale reads:

"Any amount or amounts that the Bank has voluntarily paid and/or has been compelled to pay, or hereafter will voluntarily and/or will be compelled to pay for any encumbrance, claim, lien or particular average in order to save the vessel from any legal seizure or suits by third parties, and for any repair, supplies, provisions, accrued salaries and allotment of crew, cost of bailing out of the vessel, and any other expenses or accounts of the said vessel, shall be for the account of Southern and/or Bacong in accordance with their agreement preceding this conveyance executed on January 19, 1968 x x x".

It will be observed that the above stipulation interpreted together with the deed of "Confirmation of Obligation" leaves no room for doubt that while the bank may indeed pay certain obligations voluntarily or by choice, there are those that the Bank will be compelled to pay to save the vessel from any legal seizure or suits by third parties. In other words, the primary purpose of the contracts is the protection of the vessels. Among them are liens on the same under which the obligation to private respondent properly belongs.

However, petitioner contends that assuming that such obligations are liens on said vessels, they are deemed to have been waived and discharged when respondent released and delivered said vessels to GACET and/or Interocean which ordered said repairs prior to their sale and conveyance to petitioner (Rollo, p. 117).

Such contention is untenable.

It will be recalled that private respondent was paid the sum of P18,141.75 and for the balance of P62,095.95 Interocean issued three checks. Under the circumstances, private respondent has no basis or necessity at that time to exercise his right of retention under Art. 1731 of the Civil Code. The fact that later said checks were dishonored, as correctly argued by private respondent, cannot give validity to petitioner's argument that the former has waived or abandoned his liens on the vessels. To pursue such view would put a premium on an act of

deception which led private respondent to believe that he will be fully paid. Furthermore, when the checks were dishonored, it was impossible for private respondent to enforce his lien because the vessels were already in Japan, outside the territorial jurisdiction of the Philippine courts (Brief for Plaintiff-Appellee, p. 19; Rollo, p. 128).

In view of the foregoing facts, it was aptly stated by the trial court and affirmed by the Court of Appeals that when the parties executed the deed of "Confirmation of Obligation" they really intended to confirm and acknowledge the existing obligations for the purpose of the buyer assuming liability therefor and charging them to the seller after proper accounting, verification and set offs have been made. Indeed, there is merit in the trial court's view that if there was no intention on the part of People's Bank (now Bank of P.I.) to assume responsibility for these obligations at the time of the sale of the vessels, there is no sense in executing said Deed of Confirmation together with the deeds of sale and the stipulations thereunder would be pointless (Record on Appeal, pp. 61-62, Annex "C", Rollo, p. 33).

Finally, it is indisputable that the repairs made on the vessels ultimately redounded to the benefit of the new owner for without said repairs, those vessels would not be seaworthy. Under Art. 2142 of the Civil Code, such acts "give rise to the juridical relation of quasi-contract to the end that no one shall be unjustly enriched or benefited at the expense of another."

WHEREFORE, the petition is Denied and the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

Fernan, J., (Chairman), no part. Formerly counsel of Bank of the Philippine Islands, Cebu Branch.

1 Penned by Justice Serafin R. Cuevas and concurred by Justices Emilio A. Gancayco and Edgardo L. Paras

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