

RUSTAN PULP & PAPER MILLS, INC., BIENVENIDO R. TANTOCO, SR., AND ROMEO S. VERGARA, PETITIONERS, VS. THE INTERMEDIATE APPELLATE COURT AND ILIGAN DIVERSIFIED PROJECTS, INC., ROMEO...

G.R. No. 70789. October 19, 1992

Ponente: MELO, J.

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MELO, J.:

When petitioners informed herein private respondents to stop the delivery of pulp wood supplied by the latter pursuant to a contract of sale between them, private respondents sued for breach of their covenant. The court of origin dismissed the complaint but at the same time enjoined petitioners to respect the contract of sale if circumstances warrant the full operation in a commercial scale of petitioners' Baloi plant and to continue accepting and paying for deliveries of pulp wood products from Romeo Lluch (page 14, Petition; page 20, Rollo). On appeal to the then Intermediate, Appellate Court, Presiding Justice Ramon G. Gaviola, Jr., who spoke for the First Civil Cases Division, with Justices Caguioa, Quetulio-Losa, and Luciano, concurring, modified the judgment by directing herein petitioners to pay private respondents, jointly and severally, the sum of P30,000.00 as moral damages and P15,000.00 as attorney's fees (pages 48-58, Rollo).

In the petition at bar, it is argued that the Appellate Court erred:

"A. ... IN HOLDING PERSONALLY LIABLE UNDER THE CONTRACT OF SALE PETITIONER TANTOCO WHO SIGNED MERELY AS REPRESENTATIVE OF PETITIONER RUSTAN, AND PETITIONER VERGARA WHO DID NOT SIGN AT ALL;

B. ... IN HOLDING THAT PETITIONER RUSTAN'S DECISION TO SUSPEND TAKING DELIVERY OF PULP WOOD FROM RESPONDENT LLUCH, WHICH WAS PROMPTED BY SERIOUS AND UNFORESEEN DEFECTS IN THE MILL, WAS NOT IN THE LAWFUL EXERCISE OF ITS RIGHT UNDER THE CONTRACT OF SALE; and

C. ... IN AWARDING MORAL DAMAGES AND ATTORNEY'S FEES IN THE ABSENCE OF FRAUD OR BAD FAITH."

(page 18, Petition; page 24, Rollo)

The generative facts of the controversy, as gathered from the pleadings, are fairly simple.

Sometime in 1966, petitioner Rustan established a pulp and paper mill in Baloi, Lanao del Norte. On March 20, 1967, respondent Lluch, who is a holder of a forest products license, transmitted a letter to petitioner Rustan for the supply of raw materials by the former to the latter. In response thereto, petitioner Rustan proposed, among other things, in the letter-reply:

"2. That the contract to supply is not exclusive because Rustan shall have the option to buy from other suppliers who are qualified and holder of appropriate government authority or license to sell and dispose pulp

wood.”

These prefatory business proposals culminated in the execution, during the month of April, 1968, of a contract of sale whereby Romeo A. Lluch agreed to sell, and Rustan Pulp and Paper Mill, Inc. undertook to pay the price of P30.00 per cubic meter of pulp wood raw materials to be delivered at the buyer's plant in Baloi, Lanao del Norte. Of pertinent significance to the issue at hand are the following stipulations in the bilateral undertaking:

“3. That BUYER shall have the option to buy from other SELLERS who are equally qualified and holders of appropriate government authority or license to sell or dispose, that BUYER shall not buy from any other seller whose pulp woods being sold shall have been established to have emanated from the SELLER'S lumber and/or firewood concession. . . .”

And that SELLER has the priority to supply the pulp wood materials requirement of the BUYER;

x x x

7. That the BUYER shall have the right to ‘stop delivery of the said raw materials by the seller covered by this contract when supply of the same shall become sufficient until such time when need for said raw materials shall have become necessary provided, however, that the SELLER is given sufficient notice.”

(pages 8-9, Petition; pages 14-15, Rollo)

In the installation of the plant facilities, the technical staff of Rustan Pulp and Paper Mills, Inc. recommended the acceptance of deliveries from other suppliers of the pulp wood materials for which the corresponding deliveries were made. But during the test run of the pulp mill, the machinery line thereat had major defects while deliveries of the raw materials piled up, which prompted the Japanese supplier of the machinery to recommend the stoppage of the deliveries. The suppliers were informed to stop deliveries and the letter of similar advice sent by petitioners to private respondents reads:

“September 30, 1968

Iligan Diversified Projects, Inc.

Iligan City

Attention: Mr. Romeo A. Lluch

Dear Mr. Lluch:

This is to inform you that the supply of raw materials to us has become sufficient and we will not be needing further delivery from you. As per the terms of our contract, please stop delivery thirty (30) days from today.

Very truly yours,

RUSTAN PULP AND PAPER MILLS, INC.

By:

DR. ROMEO S. VERGARA

Resident Manager”

Private respondent Romeo Lluch sought to clarify the tenor of the letter as to whether stoppage of delivery or termination of the contract of sale was intended, but the query was not answered by petitioners. This alleged ambiguity notwithstanding, Lluch and the other suppliers resumed deliveries after the series of talks between Romeo S. Vergara and Romeo Lluch.

On January 23, 1969, the complaint for contractual breach was filed which, as earlier noted, was dismissed. In the process of discussing the merits of the appeal interposed therefrom, respondent Court clarified the eleven errors assigned below by herein petitioners and it seems that petitioners were quite satisfied with the Appellate Court's in seriatim response since petitioners trimmed down their discourse before this Court to three basic matters, relative to the nature of liability, the propriety of the stoppage, and the feasibility of awarding moral damages including attorney's fees.

Respondent Court found it ironic that petitioners had to exercise the prerogative regarding the stoppage of deliveries via the letter addressed to Iligan Diversified Projects, Inc. on September 30, 1968 because petitioners never really stopped accepting deliveries from private respondents until December 23, 1968. Petitioners' paradoxical stance was portrayed in this manner:

“... We cannot accept the reasons given by appellees as to why they were stopping deliveries of pulp wood materials. First, We find it preposterous for a business company like the appellee to accumulate stockpiles of cut wood even after its letter to appellants dated September 30, 1968 stopping the deliveries because the supply of raw materials has become sufficient. The fact that appellees were buying and accepting pulp wood materials from other sources other than the appellants even after September 30, 1968 belies that they have more than sufficient supply of pulp wood materials, or that they are unable to go into full commercial operation or that their machineries are defective or even that the pulp wood materials coming from appellants are sub-standard. Second, We likewise find the court a quo's finding that “even with one predicament in which defendant Rustan found itself wherein commercial operation was delayed, it accommodated all its suppliers of raw materials, including plaintiff, Romeo Lluch, by allowing them to deliver all its stockpiles of cut wood” (Decision, page 202, Record on Appeal) to be both illogical and inconsistent. Illogical, because as appellee Rustan itself claimed “if the plant could not be operated on a commercial scale, it would then be illogical for defendant Rustan to continue accepting deliveries of raw materials.” Inconsistent because this kind of “concern” or “accommodation” is not usual or consistent with ordinary business practice considering that this would mean adequate losses to the company. More so, if We consider that appellee is a new company and could not therefore afford to absorb more losses than it already allegedly incurred by the consequent defects in the machineries.

Clearly therefore, this is a breach of the contract entered into by and between appellees and appellants which warrants the intervention of this Court.”

x x x

x x x

... The letter of September 30, 1968, Exh. “D” shows that defendants were terminating the contract of sale (Exh. “A”), and refusing any future or further delivery --- whether on the ground that they had sufficient supply of pulp wood materials or that appellants cannot meet the standard of quality of pulp wood materials that Rustan needs or that there were defects in appellees' machineries resulting in an inability to continue full commercial operations.

Furthermore, there is evidence on record that appellees have been accepting deliveries of pulp wood materials from other sources, i.e. Salem Usman, Fermin Villanueva and Pacasum even after September 30, 1968.

Lastly, it would be unjust for the court a quo to rule that the contract of sale be temporarily suspended until Rustan, et al., are ready to accept deliveries from appellants. This would make the resumption of the contract purely dependent on the will of one party --- the appellees, and they could always claim, as they did in the instant case, that they have more than sufficient supply of pulp wood when in fact they have been accepting the same from other sources. Added to this, the court a quo was imposing a new condition in the contract, one that was not agreed upon by the parties.”

(Pages 8-10, Decision; Pages 55-57, Rollo)

The matter of Tantoco's and Vergara's joint and several liability as a result of the alleged breach of the contract is dependent, first of all, on whether Rustan Pulp and Paper Mills may legally exercise the right of stoppage should there be a glut of raw materials at its plant.

And insofar as the express discretion on the part of petitioners is concerned regarding the right of stoppage, We feel that there is cogent basis for private respondents' apprehension on the illusory resumption of deliveries inasmuch as the prerogative suggests a condition solely dependent upon the will of petitioners. Petitioners can stop delivery of pulp wood from private respondents if the supply at the plant is sufficient as ascertained by petitioners, subject to re-delivery when the need arises as determined likewise by petitioners. This is Our simple understanding of the literal import of paragraph 7 of the obligation in question. A purely potestative imposition of this character must be obliterated from the face of the contract without affecting the rest of the stipulations considering that the condition relates to the fulfillment of an already existing obligation and not to its inception (Civil Code Annotated, by Padilla, 1987 Edition, Volume 4, Page 160). It is, of course, a truism in legal jurisprudence that a condition which is both potestative (or facultative) and resolutive may be valid, even though the saving clause is left to the will of the obligor like what this Court, through Justice Street, said in *Taylor vs. Uy Tieng Piao and Tan Liuan* (43 Phil. 873; 879; cited in *Commentaries and Jurisprudence on the Civil Code*, by Tolentino, Volume 4, 1991 edition, page 152). But the conclusion drawn from the *Taylor* case, which allowed a condition for unilateral cancellation of the contract when the machinery to be installed on the factory did not arrive in Manila, is certainly inappropriate for application to the case at hand because the factual milieu in the legal tussle dissected by Justice Street conveys that the proviso relates to the birth of the undertaking and not to the fulfillment of an existing obligation.

In support of the second ground for allowance of the petition, petitioners are of the impression that the letter dated September 30, 1968 sent to private respondents is well within the right of stoppage guaranteed to them by paragraph 7 of the contract of sale which was construed by petitioners to be a temporary suspension of deliveries. There is no doubt that the contract speaks loudly about petitioners' prerogative but what diminishes the legal efficacy of such right is the condition attached to it which, as aforesaid, is dependent exclusively on their will for which reason, We have no alternative but to treat the controversial stipulation as inoperative (Article 1306, New Civil Code). It is for this same reason that We are not inclined to follow the interpretation of petitioners that the suspension of delivery was merely temporary since the nature of the suspension itself is again conditioned upon petitioners' determination of the sufficiency of supplies at the plant.

Neither are We prepared to accept petitioners' exculpation grounded on frustration of the commercial object under Article 1267 of the New Civil Code, because petitioners continued accepting deliveries from the suppliers. This conduct will estop petitioners from claiming that the breakdown of the machinery line was an extraordinary obstacle to their compliance to the prestation. It was indeed incongruous for petitioners to have sent the letters calling for suspension and yet, they in effect disregarded their own advice by accepting the deliveries from the suppliers. The demeanor of petitioners along this line was sought to be justified as an act of generous accommodation, which entailed greater loss to them and "was not motivated by the usual businessman's obsession with profit" (Page 34, Petition; Page 40, Rollo). Altruism may be a noble gesture but petitioners' stance in this respect hardly inspires belief for such an excuse is inconsistent with a normal business enterprise which takes ordinary care of its concern in cutting down on expenses (Section 3, (d), Rule 131, Revised Rules of Court). Knowing fully well that they will encounter difficulty in producing output because of the defective machinery line, petitioners opted to open the plant to greater loss, thus compounding the costs by accepting additional supply to the stockpile. Verily, the Appellate Court emphasized the absurdity of petitioners' action when they

acknowledged that “if the plant could not be operated on a commercial scale, it would then be illogical for defendant Rustan to continue accepting deliveries of raw materials.” (Page 202, Record on Appeal; Page 8, Decision; Page 55, Rollo).

Petitioners argue next that Tantoco and Vergara should not have been adjudged to pay moral damages and attorney's fees because Tantoco merely represented the interest of Rustan Pulp and Paper Mills, Inc. while Romeo S. Vergara was not privy to the contract of sale. On this score, We have to agree with petitioners' citation of authority to the effect that the President and Manager of a corporation who entered into and signed a contract in his official capacity, cannot be made liable thereunder in his individual capacity in the absence of stipulation to that effect due to the personality of the corporation being separate and distinct from the persons composing it (*Bangue Generale Belge vs. Walter Bull and Co., Inc.*, 84 Phil. 164). And because of this precept, Vergara's supposed non--participation in the contract of sale although he signed the letter dated September 30, 1968 is completely immaterial. The two exceptions contemplated by Article 1897 of the New Civil Code where agents are directly responsible are absent and wanting.

WHEREFORE, the decision appealed from is hereby MODIFIED in the sense that only petitioner Rustan Pulp and Paper Mills is ordered to pay moral damages and attorney's fees as awarded by respondent Court.

SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

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