

SPOUSES TIRSO I. VINTOLA AND LORETO DY VINTOLA, DEFENDANTS-APPELLANTS, VS. INSULAR BANK OF ASIA AND AMERICA, PLAINTIFF-APPELLEE.

G.R. No. 73271. May 29, 1987

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This case was appealed to the Intermediate Appellate Court which, however, certified the same to this Court, the issue involved being purely legal.

The facts are not disputed.

On August 20, 1975 the spouses Tirso and Loreta Vintola (the VINTOLAS, for short), doing business under the name and style "Dax Kin International," engaged in the manufacture of raw sea shells into finished products, applied for and were granted a domestic letter of credit by the Insular Bank of Asia and America (IBAA), Cebu City,[1] in the amount of P40,000.00. The Letter of Credit authorized the bank to negotiate for their account drafts drawn by their supplier, one Stalin Tan, on Dax Kin International for the purchase of puka and olive seashells. In consideration thereof, the VINTOLAS, jointly and severally, agreed to pay the bank "at maturity, in Philippine currency, the equivalent of the aforementioned amount or such portion thereof as may be drawn or paid, upon the faith of the said credit together with the usual charges."

On the same day, August 20, 1975, having received from Stalin Tan the puka and olive shells worth P40,000.00, the VINTOLAS executed a Trust Receipt agreement with IBAA, Cebu City. Under that Agreement, the VINTOLAS agreed to hold the goods in trust for IBAA as the "latter's property with liberty to sell the same for its account," and "in case of sale" to turn over the proceeds as soon as received to IBAA. The due date indicated in the document was October 19, 1975.

Having defaulted on their obligation, IBAA demanded payment from the VINTOLAS in a letter dated January 1, 1976. The VINTOLAS, who were unable to dispose of the shells, responded by offering to return the goods. IBAA refused to accept the merchandise, and due to the continued refusal of the VINTOLAS to make good their undertaking, IBAA charged them with Estafa for having misappropriated, misapplied and converted for their own personal use and benefit the aforesaid goods. During the trial of the criminal case the VINTOLAS turned over the seashells to the custody of the Trial Court.

On April 12, 1982, the then Court of First Instance of Cebu, Branch VII, acquitted the VINTOLAS of the crime charged, after finding that the element of misappropriation or conversion was inexistent. Concluded the Court:

"Finally, it should be mentioned that under the trust receipt, in the event of default and/or non-fulfillment on the part of the accused of their undertaking, the bank is entitled to take possession of the goods or to recover its equivalent value together with the usual charges. In either case, the remedy of the Bank is civil and not criminal in nature. x x x "[2]

Shortly thereafter, IBAA commenced the present civil action to recover the value of the goods before the Regional Trial Court of Cebu, Branch XVI.

Holding that the complaint was barred by the judgment of acquittal in the criminal case, said Court dismissed the complaint. However, on IBAA's motion, the Court granted reconsideration and:

"1. Order(ed) defendants jointly and severally to pay the plaintiff the sum of Seventy Two Thousand Nine Hundred Eighty Two and 27/100 (P72,982.27), Philippine Currency, plus interest of 14% per annum and service charge of one (1%) per cent per annum computed from judicial demand and until the obligation is fully paid;

"2. Order(ed) defendants jointly and severally to pay attorney's fees to the plaintiff in the sum of Four Thousand (P4,000.00) pesos, Philippine Currency, plus costs of the suit."[3]

The VINTOLAS rest their present appeal on the principal allegation that their acquittal in the Estafa case bars IBAA's filing of the civil action because IBAA had not reserved in the criminal case its right to enforce separately their civil liability. They maintain that by intervening actively in the prosecution of the criminal case through a private prosecutor, IBAA had chosen to file the civil action impliedly with the criminal action, pursuant to Section 1, Rule III of the 1985 Rules on Criminal Procedure, reading:

"Section 1. Institution of criminal and civil action. - When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged is impliedly instituted with the criminal action, unless the offended party expressly waives the civil action or reserves his right to institute it separately. x x x "

and that since the judgment in the criminal case had made a declaration that the facts from which the civil action might arise did not exist, the filing of the civil action arising from the offense is now barred, as provided by Section 3-b of Rule III of the same Rules providing:

"(b) Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In other cases, the person entitled to the civil action may institute it in the jurisdiction in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damage suffered."

Further, the VINTOLAS take the position that their obligation to IBAA has been extinguished inasmuch as, through no fault of their own, they were unable to dispose of the seashells, and that they have relinquished possession thereof to the IBAA, as owner of the goods, by depositing them with the Court.

The foregoing submission overlooks the nature and mercantile usage of the transaction involved. A letter of credit-trust receipt arrangement is endowed with its own distinctive features and characteristics. Under that set-up, a bank extends a loan covered by the Letter of Credit, with the trust receipt as a security for the loan. In other words, the transaction involves a loan feature represented by the letter of credit, and a security feature which is in the covering trust receipt.

Thus, Section 4 of P.D. No. 115 defines a trust receipt transaction as:

"x x x any transaction by and between a person referred to in this Decree as the entruster, and another person referred to in this Decree as the trustee, whereby the entruster, who owns or holds absolute title or security interests over certain specified goods, documents or instruments, releases the same to the possession of the trustee upon the latter's execution and delivery to the entruster of a signed document called a 'trust receipt' wherein the trustee binds himself to hold the designated goods, documents or instruments in trust for the entruster and to sell or otherwise dispose of the goods, documents or instruments thereof to the extent of the amount owing to the entruster or as appears in the trust receipt or the goods, documents or instruments

themselves if they are unsold or not otherwise disposed of, in accordance with the terms and conditions specified in the trust receipt, or for other purposes substantially equivalent to any one of the following:

1. In the case of goods or documents, (a) to sell the goods or procure their sale, x x x "

A trust receipt, therefore, is a security agreement, pursuant to which a bank acquires a "security interest" in the goods. "It secures an indebtedness and there can be no such thing as security interest that secures no obligation".[4] As defined in our laws:

(h) "Security Interest means a property interest in goods, documents or instruments to secure performance of some obligations of the entrustee or of some third persons to the entruster and includes title, whether or not expressed to be absolute, whenever such title is in substance taken or retained for security only."[5]

As elucidated in *Samo vs. People*[6] "a trust receipt is considered as a security transaction intended to aid in financing importers and retail dealers who do not have sufficient funds or resources to finance the importation or purchase of merchandise, and who may not be able to acquire credit except through utilization, as collateral, of the merchandise imported or purchased".

Contrary to the allegation of the VINTOLAS, IBAA did not become the real owner of the goods. It was merely the holder of a security title for the advances it had made to the VINTOLAS. The goods the VINTOLAS had purchased through IBAA financing remain their own property and they hold it at their own risk. The trust receipt arrangement did not convert the IBAA into an investor; the latter remained a lender and creditor.

"x x x for the bank has previously extended a loan which the L/C represents to the importer, and by that loan, the importer should be the real owner of the goods. If under the trust receipt, the bank is made to appear as the owner, it was but an artificial expedient, more of a legal fiction than fact, for if it were so, it could dispose of the goods in any manner it wants, which it cannot do, just to give consistency with the purpose of the trust receipt of giving a stronger security for the loan obtained by the importer. To consider the bank as the true owner from the inception of the transaction would be to disregard the loan feature thereof, x x x "[7]

Since the IBAA is not the factual owner of the goods, the VINTOLAS cannot justifiably claim that because they have surrendered the goods to IBAA and subsequently deposited them in the custody of the court, they are absolutely relieved of their obligation to pay their loan because of their inability to dispose of the goods. The fact that they were unable to sell the seashells in question does not affect IBAA's right to recover the advances it had made under the Letter of Credit. In so arguing, the VINTOLAS conveniently close their eyes to their application for a Letter of Credit wherein they expressly obligated themselves in these terms:

"IN CONSIDERATION THEREOF, I/we promise and agree to pay you at maturity in Philippine Currency the equivalent of the above amount or such portion thereof as may be drawn or paid upon the faith of said credit together with the usual charges. x x x " (Exhibit "A")

They further agreed that their marginal deposit of P8,000.00, later increased to P11,000.00

'be applied, without further proceedings or formalities to pay or reduce our obligation under this letter of credit or its corresponding Trust Receipt." (Underlining supplied)[8]

The foregoing premises considered, it follows that the acquittal of the VINTOLAS in the *Estafa* case is no bar to the institution of a civil action for collection. It is inaccurate for the VINTOLAS to claim that the judgment in the *estafa* case had declared that the facts from which the civil action might arise, did not exist, for, it will be recalled that the decision of acquittal expressly declared that "the remedy of the Bank is civil and not criminal in nature." This amounts to a reservation of the civil action in IBAA's favor, for the Court would not have dwelt on a civil liability that it had intended to extinguish by the same decision.[9] The VINTOLAS are liable *ex contractu* for

breach of the Letter of Credit - Trust Receipt, whether they did or they did not "misappropriate, misapply or convert" the merchandise as charged in the criminal case.[10] Their civil liability does not arise ex delicto, the action for the recovery of which would have been deemed instituted with the criminal action (unless waived or reserved) and where acquittal based on a judicial declaration that the criminal acts charged do not exist would have extinguished the civil action.[11] Rather, the civil suit instituted by IBAA is based ex contractu and as such is distinct and independent from any criminal proceedings and may proceed regardless of the result of the latter. Under the situational circumstances of the parties, they are governed by Article 31 of the Civil Code, explicitly providing:

"Art. 31. When the civil action is based on an obligation not arising from the act or omission complained of as a felony, such civil action may proceed independently of the criminal proceedings and regardless of the result of the latter."

WHEREFORE, finding no reversible error in the judgment appealed from, the same is hereby **AFFIRMED**. No costs.

SO ORDERED.

Yap, (Chairman), Narvasa, Cruz, Gancayco, and Sarmiento, JJ., concur.
Feliciano, J., on leave.

[1] The IBAA has since merged with the Philippine Commercial and Industrial Bank, with the latter as the surviving bank.

[2] pp. 11 & 12, Original Record.

[3] p. 2, Appellants' Brief, p. 16, Rollo.

[4] 48 Cal. Jur. 633, section 4.

[5] Section 3, P.D. No. 115.

[6] L-17603-04, May 31, 1962, 5 SCRA 354, citing 53 Am. Jur. 961.

[7] *Sia vs. People*, L-30896, April 28, 1983, 121 SCRA 655.

[8] Application for Commercial Letter of Credit, Exhibit "A", p. 5, Original Record.

[9] *PNB vs. Catipon*, L-6662, January 31, 1956, 98 Phil. 286.

[10] *PNB vs. Catipon*, *supra*.

[11] Section 3 (b) Rule III, Rules of Court.

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