

JUANITA SALAS, PETITIONER, VS. HON. COURT OF APPEALS AND FILINVEST FINANCE & LEASING CORPORATION, RESPONDENTS.

G.R. No. 76788. January 22, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

Assailed in this petition for review on certiorari is the decision of the Court of Appeals in C.A.-G.R. CV No. 00757 entitled "Filinvest Finance & Leasing Corporation v. Salas", which modified the decision of the Regional Trial Court of San Fernando, Pampanga in Civil Case No. 5915, a collection suit between the same parties.

Records disclose that on February 6, 1980, Juanita Salas (hereinafter referred to as petitioner) bought a motor vehicle from the Violago Motor Sales Corporation (VMS for brevity) for P58,138.20 as evidenced by a promissory note. This note was subsequently endorsed to Filinvest Finance & Leasing Corporation (hereinafter referred to as private respondent) which financed the purchase.

Petitioner defaulted in her installments beginning May 21, 1980 allegedly due to a discrepancy in the engine and chassis numbers of the vehicle delivered to her and those indicated in the sales invoice, certificate of registration and deed of chattel mortgage, which fact she discovered when the vehicle figured in an accident on 9 May 1980.

This failure to pay prompted private respondent to initiate Civil Case No. 5915 for a sum of money against petitioner before the Regional Trial Court of San Fernando, Pampanga.

In its decision dated September 10, 1982, the trial court held, thus:

"WHEREFORE, and in view of all the foregoing, judgment is hereby rendered ordering the defendant to pay the plaintiff the sum of P28,414.40 with interest thereon at the rate of 14% from October 2, 1980 until the said sum is fully paid; and the further amount of P1,000.00 as attorney's fees.

"The counterclaim of defendant is dismissed.

"With costs against defendant." [1]

Both petitioner and private respondent appealed the aforesaid decision to the Court of Appeals.

Imputing fraud, bad faith and misrepresentation against VMS for having delivered a different vehicle to petitioner, the latter prayed for a reversal of the trial court's decision so that she may be absolved from the obligation under the contract.

On October 27, 1986, the Court of Appeals rendered its assailed decision, the pertinent portion of which is quoted hereunder:

"The allegations, statements, or admissions contained in a pleading are conclusive as against the pleader. A party cannot subsequently take a position contradictory of, or inconsistent with his pleadings (Cunanan vs. Amparo, 80 Phil. 227). Admissions made by the parties in the pleadings, or in the course of the trial or other

proceedings, do not require proof and cannot be contradicted unless previously shown to have been made through palpable mistake (Sec. 2, Rule 129, Revised Rules of Court; Sta. Ana vs. Maliwat, L-23023, Aug. 31, 1968, 24 SCRA 1018).

"When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denied them, and sets forth what he claims to be the facts (Sec. 8, Rule 8, Revised Rules of Court; Hibberd vs. Rohde and Mc Millian, 32 Phil. 476).

"A perusal of the evidence shows that the amount of P58,138.20 stated in the promissory note is the amount assumed by the plaintiff in financing the purchase of defendant's motor vehicle from the Violago Motor Sales Corp., the monthly amortization of which is P1,614.95 for 36 months. Considering that the defendant was able to pay twice (as admitted by the plaintiff, defendant's account became delinquent only beginning May, 1980) or in the total sum of P3,229.90, she is therefore liable to pay the remaining balance of P54,908.30 at 14% per annum from October 2, 1980 until full payment.

"WHEREFORE, considering the foregoing, the appealed decision is hereby modified ordering the defendant to pay the plaintiff the sum of P54,908.30 at 14% per annum from October 2, 1980 until full payment. The decision is AFFIRMED in all other respects. With costs to defendant."[2]

Petitioner's motion for reconsideration was denied; hence, the present recourse.

In the petition before us, petitioner assigns twelve (12) errors which focus on the alleged fraud, bad faith and misrepresentation of Violago Motor Sales Corporation in the conduct of its business and which fraud, bad faith and misrepresentation supposedly released petitioner from any liability to private respondent who should instead proceed against VMS.[3]

Petitioner argues that in the light of the provision of the law on sales by description[4] which she alleges is applicable here, no contract ever existed between her and VMS and therefore none had been assigned in favor of private respondent.

She contends that it is not necessary, as opined by the appellate court, to implead VMS as a party to the case before it can be made to answer for damages because VMS was earlier sued by her for "breach of contract with damages" before the Regional Trial Court of Olongapo City, Branch LXXII, docketed as Civil Case No. 2916-0. She cites as authority the decision therein where the court originally ordered petitioner to pay the remaining balance of the motor vehicle installments in the amount of P31,644.30 representing the difference between the agreed consideration of P49,000.00 as shown in the sales invoice and petitioner's initial downpayment of P17,855.70 allegedly evidenced by a receipt. Said decision was however reversed later on, with the same court ordering defendant VMS instead to return to petitioner the sum of P17,855.70. Parenthetically, said decision is still pending consideration by the First Civil Case Division of the Court of Appeals, upon an appeal by VMS, docketed as AC-G.R. No. 02922.[5]

Private respondent in its comment, prays for the dismissal of the petition and counters that the issues raised and the allegations adduced therein are a mere rehash of those presented and already passed upon in the court below, and that the judgment in the "breach of contract" suit cannot be invoked as an authority as the same is still pending determination in the appellate court.

We see no cogent reason to disturb the challenged decision.

The pivotal issue in this case is whether the promissory note in question is a negotiable instrument which will bar completely all the available defenses of the petitioner against private respondent.

Petitioner's liability on the promissory note, the due execution and genuineness of which she never denied under oath is, under the foregoing factual milieu, as inevitable as it is clearly established.

The records reveal that involved herein is not a simple case of assignment of credit as petitioner would have it appear, where the assignee merely steps into the shoes of, is open to all defenses available against and can enforce payment only to the same extent as, the assignor-vendor.

Recently, in the case of Consolidated Plywood Industries Inc. v. IFC Leasing and Acceptance Corp.,[6] this Court had the occasion to clearly distinguish between a negotiable and a non-negotiable instrument.

Among others, the instrument in order to be considered negotiable must contain the so-called "words of negotiability — i.e., must be payable to 'order' or 'bearer'". Under Section 8 of the Negotiable Instruments Law, there are only two ways by which an instrument may be made payable to order. There must always be a specified person named in the instrument and the bill or note is to be paid to the person designated in the instrument or to any person to whom he has indorsed and delivered the same. Without the words "or order" or "to the order of", the instrument is payable only to the person designated therein and is therefore non-negotiable. Any subsequent purchaser thereof will not enjoy the advantages of being a holder of a negotiable instrument, but will merely "step into the shoes" of the person designated in the instrument and will thus be open to all defenses available against the latter. Such being the situation in the above-cited case, it was held that therein private respondent is not a holder in due course but a mere assignee against whom all defenses available to the assignor may be raised.[7]

In the case at bar, however, the situation is different. Indubitably, the basis of private respondent's claim against petitioner is a promissory note which bears all the earmarks of negotiability.

The pertinent portion of the note reads:

"PROMISSORY NOTE
(MONTHLY)

"P58,138.20
San Fernando, Pampanga, Philippines
Feb. 11, 1980

"For value received, I/We jointly and severally, promise to pay Violago Motor Sales Corporation or order, at its office in San Fernando, Pampanga, the sum of FIFTY EIGHT THOUSAND ONE HUNDRED THIRTY EIGHT & 20/100 ONLY (P58,138.20) Philippine currency, which amount includes interest at 14% per annum based on the diminishing balance, the said principal sum, to be payable, without need of notice or demand, in installments of the amounts following and at the dates hereinafter set forth, to wit: P1,614.95 monthly for '36' months due and payable on the 21st day of each month starting March 21, 1980 thru and inclusive of February 21, 1983. P _____ monthly for _____ months due and payable on the _____ day of each month starting _____, 198 _____ thru and inclusive of _____, 198 _____ provided that interest at 14% per annum shall be added on each unpaid installment from maturity hereof until fully paid.

x x x x x x x x

"Maker: Co-Maker:

(SIGNED) JUANITA SALAS

Address:

"W I T N E S S E S

SIGNED: ILLEGIBLE

SIGNED: ILLEGIBLE

TAN #

TAN #

"PAY TO THE ORDER OF
FILINVEST FINANCE AND LEASING CORPORATION

"VIOLAGO MOTOR SALES CORPORATION

By: (SIGNED) GENEVEVA V. BALTAZAR
Cash Manager"[8]

A careful study of the questioned promissory note shows that it is a negotiable instrument, having complied with the requisites under the law as follows: [a] it is in writing and signed by the maker Juanita Salas; [b] it contains an unconditional promise to pay the amount of P58,138.20; [c] it is payable at a fixed or determinable future time which is "P1,614.95 monthly for 36 months due and payable on the 21st day of each month starting March 21, 1980 thru and inclusive of Feb. 21, 1983;" [d] it is payable to Violago Motor Sales Corporation, or order and as such, [e] the drawee is named or indicated with certainty.[9]

It was negotiated by indorsement in writing on the instrument itself payable to the Order of Filinvest Finance and Leasing Corporation[10] and it is an indorsement of the entire instrument.[11]

Under the circumstances, there appears to be no question that Filinvest is a holder in due course, having taken the instrument under the following conditions: [a] it is complete and regular upon its face; [b] it became the holder thereof before it was overdue, and without notice that it had previously been dishonored; [c] it took the same in good faith and for value; and [d] when it was negotiated to Filinvest, the latter had no notice of any infirmity in the instrument or defect in the title of VMS Corporation.[12]

Accordingly, respondent corporation holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof.[13] This being so, petitioner cannot set up against respondent the defense of nullity of the contract of sale between her and VMS.

Even assuming for the sake of argument that there is an iota of truth in petitioner's allegation that there was in fact deception made upon her in that the vehicle she purchased was different from that actually delivered to her, this matter cannot be passed upon in the case before us, where the VMS was never impleaded as a party.

Whatever issue is raised or claim presented against VMS must be resolved in the "breach of contract" case.

Hence, we reach a similar opinion as did respondent court when it held:

“We can only extend our sympathies to the defendant (herein petitioner) in this unfortunate incident. Indeed, there is nothing We can do as far as the Violago Motor Sales Corporation is concerned since it is not a party in this case. To even discuss the issue as to whether or not the Violago Motor Sales Corporation is liable in the transaction in question would amount to a denial of due process, hence, improper and unconstitutional. She should have impleaded Violago Motor Sales.”[14]

IN VIEW OF THE FOREGOING, the assailed decision is hereby **AFFIRMED**. With costs against petitioner.

SO ORDERED.

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

[1] Rollo, p. 21.

[2] Rollo, pp. 23-24.

[3] Rollo, pp. 57-59.

[4] Art. 1481, New Civil Code.

[5] Rollo, p. 10.

[6] 149 SCRA 459 (1987).

[7] Ibid.

[8] Exh. "7"; Folder of Exhibits.

[9] Section 1, Negotiable Instruments Law, underscoring supplied.

[10] Section 31, NIL.

[11] Section 32, NIL.

[12] Section 52, NIL.

[13] Section 57, Negotiable Instruments Law; Consolidated Plywood Industries, Inc. v. IFC Leasing and Acceptance Corporation, (supra).

[14] Rollo, pp. 22-23.

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