

PAN MALAYAN INSURANCE CORPORATION, PETITIONER, VS. COURT OF APPEALS, ERLINDA FABIE AND HER UNKNOWN DRIVER, RESPONDENTS.

G.R. NO. 81026. April 03, 1990

Ponente: CORTES, J.

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CORTES, J.:

Petitioner Pan Malayan Insurance Company (PANMALAY) seeks the reversal of a decision of the Court of Appeals which upheld an order of the trial court dismissing for no cause of action PANMALAY's complaint for damages against private respondents Erlinda Fabie and her driver.

The principal issue presented for resolution before this Court is whether or not the insurer PANMALAY may institute an action to recover the amount it had paid its assured in settlement of an insurance claim against private respondents as the parties allegedly responsible for the damage caused to the insured vehicle.

On December 10, 1985, PANMALAY filed a complaint for damages with the RTC of Makati against private respondents Erlinda Fabie and her driver. PANMALAY averred the following: that it insured a Mitsubishi Colt Lancer car with plate no. DDZ-431 and registered in the name of Canlubang Automotive Resource Corporation [CANLUBANG]; that on May 26, 1985, due to the "carelessness, recklessness and imprudence" of the unknown driver of a pick-up with plate no. PCR-220, the insured car was hit and suffered damages in the amount of P42,052.00; that PANMALAY defrayed the cost of repair of the insured car and, therefore, was subrogated to the rights of CANLUBANG against the driver of the pick-up and his employer, Erlinda Fabie; and that, despite repeated demands, defendants failed and refused to pay the claim of PANMALAY.

Private respondents, thereafter, filed a Motion for Bill of Particulars and a supplemental motion thereto. In compliance therewith, PANMALAY clarified, among others, that the damage caused to the insured car was settled under the "own damage" coverage of the insurance policy, and that the driver of the insured car was, at the time of the accident, an authorized driver duly licensed to drive the vehicle. PANMALAY also submitted a copy of the insurance policy and the Release of Claim and Subrogation Receipt executed by CANLUBANG in favor of PANMALAY.

On February 12, 1986, private respondents filed a Motion to Dismiss alleging that PANMALAY had no cause of action against them. They argued that payment under the "own damage" clause of the insurance policy precluded subrogation under Article 2207 of the Civil Code, since indemnification thereunder was made on the assumption that there was no wrongdoer or no third party at fault.

After hearings conducted on the motion, opposition hereto, reply and rejoinder, the RTC issued an order dated June 16, 1986 dismissing PANMALAY's complaint for no cause of action. On August 19, 1986, the RTC denied PANMALAY's motion for reconsideration.

On appeal taken by PANMALAY, these orders were upheld by the Court of Appeals on November 27, 1987.

Consequently, PANMALAY filed the present petition for review.

After private respondents filed its comment to the petition, and petitioner filed its reply, the Court considered the issues joined and the case submitted for decision.

Deliberating on the various arguments adduced in the pleadings, the Court finds merit in the petition.

PANMALAY alleged in its complaint that, pursuant to a motor vehicle insurance policy, it had indemnified CANLUBANG for the damage to the insured car resulting from a traffic accident allegedly caused by the negligence of the driver of private respondent, Erlinda Fabie. PANMALAY contended, therefore, that its cause of action against private respondents was anchored upon Article 2207 of the Civil Code, which reads:

If the plaintiff's property has been insured, and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract. . . .

PANMALAY is correct.

Article 2207 of the Civil Code is founded on the well-settled principle of subrogation. If the insured property is destroyed or damaged through the fault or negligence of a party other than the assured, then the insurer, upon payment to the assured, will be subrogated to the rights of the assured to recover from the wrongdoer to the extent that the insurer has been obligated to pay. Payment by the insurer to the assured operates as an equitable assignment to the former of all remedies which the latter may have against the third party whose negligence or wrongful act caused the loss. The right of subrogation is not dependent upon, nor does it grow out of, any privity of contract or upon written assignment of claim. It accrues simply upon payment of the insurance claim by the insurer [*Compania Maritima v. Insurance Company of North America*, G.R. No. L-18965, October 30, 1964, 12 SCRA 213; *Fireman's Fund Insurance Company v. Jamilla & Company, Inc.*, G.R. No. L-27427, April 7, 1976, 70 SCRA 323.]

There are a few recognized exceptions to this rule. For instance, if the assured by his own act releases the wrongdoer or third party liable for the loss or damage, from liability, the insurer's right of subrogation is defeated [*Phoenix Ins. Co. of Brooklyn v. Erie & Western Transport, Co.*, 117 US 312, 29 L. Ed. 873 (1886); *Insurance Company of North America v. Elgin, Joliet & Eastern Railway Co.*, 229 F 2d 705 (1956).] Similarly, where the insurer pays the assured the value of the lost goods without notifying the carrier who has in good faith settled the assured's claim for loss, the settlement is binding on both the assured and the insurer, and the latter cannot bring an action against the carrier on his right of subrogation [*McCarthy v. Barber Steamship Lines, Inc.*, 45 Phil. 488 (1923).] And where the insurer pays the assured for a loss which is not a risk covered by the policy, thereby effecting "voluntary payment", the former has no right of subrogation against the third party liable for the loss [*Sveriges Angfartygs Assurans Forening v. Qua Chee Gan*, G.R. No. L-22146, September 5, 1967, 21 SCRA 12.]

None of the exceptions are availing in the present case.

The lower court and Court of Appeals, however, were of the opinion that PANMALAY was not legally subrogated under Article 2207 of the Civil Code to the rights of CANLUBANG, and therefore did not have any cause of action against private respondents. On the one hand, the trial court held that payment by PANMALAY of CANLUBANG's claim under the "own damage" clause of the insurance policy was an admission by the insurer that the damage was caused by the assured and/or its representatives. On the other hand, the Court of Appeals in applying the ejusdem generis rule held that Section III-1 of the policy, which was the basis for settlement of CANLUBANG's claim, did not cover damage arising from collision or overturning due to the negligence of third parties as one of the insurable risks. Both tribunals concluded that PANMALAY could not now invoke Article 2207 and claim reimbursement from private respondents as

alleged wrongdoers or parties responsible for the damage.

The above conclusion is without merit.

It must be emphasized that the lower court's ruling that the "own damage" coverage under the policy implies damage to the insured car caused by the assured itself, instead of third parties, proceeds from an incorrect comprehension of the phrase "own damage" as used by the insurer. When PANMALAY utilized the phrase "own damage" -- a phrase which, incidentally, is not found in the insurance policy -- to define the basis for its settlement of CANLUBANG's claim under the policy, it simply meant that it had assumed to reimburse the costs for repairing the damage to the insured vehicle [See PANMALAY's Compliance with Supplementary Motion for Bill of Particulars, p. 1; Record, p. 31.] It is in this sense that the so-called "own damage" coverage under Section III of the insurance policy is differentiated from Sections I and IV-1 which refer to "Third Party Liability" coverage (liabilities arising from the death of, or bodily injuries suffered by, third parties) and from Section IV-2 which refer to "Property Damage" coverage (liabilities arising from damage caused by the insured vehicle to the properties of third parties).

Neither is there merit in the Court of Appeals ruling that the coverage of insured risks under Section III-1 of the policy does not include damage to the insured vehicle arising from collision or overturning due to the negligent acts of a third party. Not only does it stem from an erroneous interpretation of the provisions of the section, but it also violates a fundamental rule on the interpretation of property insurance contracts.

It is a basic rule in the interpretation of contracts that the terms of a contract are to be construed according to the sense and meaning of the terms which the parties thereto have used. In the case of property insurance policies, the evident intention of the contracting parties, i.e., the insurer and the assured, determine the import of the various terms and provisions embodied in the policy. It is only when the terms of the policy are ambiguous, equivocal or uncertain, such that the parties themselves disagree about the meaning of particular provisions, that the courts will intervene. In such an event, the policy will be construed by the courts liberally in favor of the assured and strictly against the insurer [Union Manufacturing Co., Inc. v. Philippine Guaranty Co., Inc., G.R. No. L-27932, October 30, 1972, 47 SCRA 271; National Power Corporation v. Court of Appeals, G.R. No. L-43706, November 14, 1986, 145 SCRA 533; Pacific Banking Corporation v. Court of Appeals, G.R. No. L-41014, November 28, 1988, 168 SCRA 1. Also Articles 1370-1378 of the Civil Code.]

Section III-1 of the insurance policy which refers to the conditions under which the insurer PANMALAY is liable to indemnify the assured CANLUBANG against damage to or loss of the insured vehicle, reads as follows:

SECTION III - LOSS OR DAMAGE

1. The Company will, subject to the Limits of Liability, indemnify the Insured against loss of or damage to the Scheduled Vehicle and its accessories and spare parts whilst thereon: -

(a) by accidental collision or overturning, or collision or overturning consequent upon mechanical breakdown or consequent upon wear and tear;

(b) by fire, external explosion, self ignition or lightning or burglary, housebreaking or theft;

(c) by malicious act;

d) whilst in transit (including the processes of loading and unloading) incidental to such transit by road, rail, inland, waterway, lift or elevator.

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[Annex "A-1" of PANMALAY's Compliance with Supplementary Motion for Bill of Particulars; Record, p.

34; Underscoring supplied.]

PANMALAY contends that the coverage of insured risks under the above section, specifically Section III-1 (a), is comprehensive enough to include damage to the insured vehicle arising from collision or overturning due to the fault or negligence of a third party. CANLUBANG is apparently of the same understanding. Based on a police report wherein the driver of the insured car reported that after the vehicle was sideswiped by a pick-up, the driver thereof fled the scene [Record, p. 20], CANLUBANG filed its claim with PANMALAY for indemnification of the damage caused to its car. It then accepted payment from PANMALAY, and executed a Release of Claim and Subrogation Receipt in favor of latter.

Considering that the very parties to the policy were not shown to be in disagreement regarding the meaning and coverage of Section III-1, specifically sub-paragraph (a) thereof, it was improper for the appellate court to indulge in contract construction, to apply the ejusdem generis rule, and to ascribe meaning contrary to the clear intention and understanding of these parties.

It cannot be said that the meaning given by PANMALAY and CANLUBANG to the phrase "by accidental collision or overturning" found in the first part of sub-paragraph (a) is untenable. Although the terms "accident" or "accidental" as used in insurance contracts have not acquired a technical meaning, the Court has on several occasions defined these terms to mean that which takes place "without one's foresight or expectation, an event that proceeds from an unknown cause, or is an unusual effect of a known cause and, therefore, not expected" [De la Cruz v. The Capital Insurance & Surety Co., Inc., G.R. No. L-21574, June 30, 1966, 17 SCRA 559; Filipino Merchants Insurance Co., Inc. v. Court of Appeals, G.R. No. 85141, November 28, 1989.] Certainly, it cannot be inferred from jurisprudence that these terms, without qualification, exclude events resulting in damage or loss due to the fault, recklessness or negligence of third parties. The concept of "accident" is not necessarily synonymous with the concept of "no fault". It may be utilized simply to distinguish intentional or malicious acts from negligent or careless acts of man.

Moreover, a perusal of the provisions of the insurance policy reveals that damage to, or loss of, the insured vehicle due to negligent or careless acts of third parties is not listed under the general and specific exceptions to the coverage of insured risks which are enumerated in detail in the insurance policy itself [See Annex "A-1" of PANMALAY's Compliance with Supplementary Motion for Bill of Particulars, supra.]

The Court, furthermore, finds it noteworthy that the meaning advanced by PANMALAY regarding the coverage of Section III-1 (a) of the policy is undeniably more beneficial to CANLUBANG than that insisted upon by respondents herein. By arguing that this section covers losses or damages due not only to malicious, but also to negligent acts of third parties, PANMALAY in effect advocates for a more comprehensive coverage of insured risks. And this, in the final analysis, is more in keeping with the rationale behind the various rules on the interpretation of insurance contracts favoring the assured or beneficiary so as to effect the dominant purpose of indemnity or payment [See Calanoc v. Court of Appeals, 98 Phil. 79 (1955); Del Rosario v. The Equitable Insurance and Casualty Co., Inc., G.R. No. L-16215, June 29, 1963, 8 SCRA 343; Serrano v. Court of Appeals, G.R. No. L-35529, July 16, 1984, 130 SCRA 327.]

Parenthetically, even assuming for the sake of argument that Section III-1 (a) of the insurance policy does not cover damage to the insured vehicle caused by negligent acts of third parties, and that PANMALAY's settlement of CANLUBANG's claim for damages allegedly arising from a collision due to private respondents' negligence would amount to unwarranted or "voluntary payment", dismissal of PANMALAY's complaint against private respondents for no cause of action would still be a grave error of law.

For even if under the above circumstances PANMALAY could not be deemed subrogated to the rights of its

assured under Article 2207 of the Civil Code, PANMALAY would still have a cause of action against private respondents. In the pertinent case of *Sveriges Angfartygs Assurans Forening v. Qua Chee Gan*, supra.] the Court ruled that the insurer who may have no rights of subrogation due to "voluntary" payment may nevertheless recover from the third party responsible for the damage to the insured property under Article 1236 of the Civil Code.

In conclusion, it must be reiterated that in this present case, the insurer PANMALAY as subrogee merely prays that it be allowed to institute an action to recover from third parties who allegedly caused damage to the insured vehicle, the amount which it had paid its assured under the insurance policy. Having thus shown from the above discussion that PANMALAY has a cause of action against third parties whose negligence may have caused damage to CANLUBANG's car, the Court holds that there is no legal obstacle to the filing by PANMALAY of a complaint for damages against private respondents as the third parties allegedly responsible for the damage. Respondent Court of Appeals therefore committed reversible error in sustaining the lower court's order which dismissed PANMALAY's complaint against private respondents for no cause of action. Hence, it is now for the trial court to determine if in fact the damage caused to the insured vehicle was due to the "carelessness, recklessness and imprudence" of the driver of private respondent Erlinda Fabie.

WHEREFORE, in view of the foregoing, the present petition is GRANTED. Petitioner's complaint for damages against private respondents is hereby REINSTATED. Let the case be remanded to the lower court for trial on the merits.

SO ORDERED.

Fernan, (C.J.), Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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