

LAURO CRUZ, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND PURE FOODS CORP., RESPONDENTS.

G.R. No. 85685. September 11, 1991

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In C.A.-G.R. CV No. 07859 (entitled Pure Foods Corporation versus Lauro Cruz, doing business under the name and style Mang Uro Store), a decision was promulgated on 9 August 1988 by respondent Court of Appeals[1] affirming in toto the decision promulgated on 28 February 1985 of the Regional Trial Court of Pasig (Branch 151) of the National Capital Judicial Region in Civil Case No. 49672[2] which, by reason of its unusual brevity, is fully reproduced as follows:

"DECISION

This is an action for sum of money. From the record, the following facts are gathered: The plaintiff is a domestic corporation engaged in the manufacture, processing and selling of various meat products while the defendant is the owner/manager of Mang Uro Store in Dela Paz Street, Marikina, Metro Manila. Sometime in November 1977, the defendant was granted by the plaintiff a credit line on which the defendant, on several occasions, bought on credit several Purefoods products. The defendant had an unpaid balance with the plaintiff in the amount of P57,897.63, from which the former was credited the amount of P2,651.42 representing the amount of returned goods, thereby leaving the balance of P55,246.21. Demands were made upon the defendant for him to settle his account with the plaintiff. A demand letter dated January 17, 1983 was sent to and was received by the defendant who failed to heed the same. The plaintiff, to protect its interest, was constrained to hire the services of counsel.

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the latter to pay the former the following:

- The sum of P55,246.21, representing his outstanding unpaid account plus interest of 12% percent per annum to be counted from the date of the filing of this case on April 15, 1983 until fully paid; and
- The sum equivalent to 15% of the total amount due as and for attorney's fees and litigation expenses.

Costs against the defendant.

SO ORDERED."

His motion for reconsideration having been denied in the resolution of respondent Court on 27 October 1988,[3] petitioner filed the instant appeal by certiorari under Rule 45 of the Rules of Court urging Us to annul and set aside the aforesaid decision and resolution because respondent Court committed the following errors — which are the very errors he ascribed to the trial court: (a) in not holding that petitioner is not a signatory to the credit application card attached as Annex "A" of private respondent's complaint as clearly evidenced by the fact that only the signatures of Me Cruz and Marilou Cruz, who are not impleaded as party defendants, appear therein; (b)

in not holding that his signature does not appear in the invoices submitted by private respondent; (c) in not holding that he did not receive the letters of demand; (d) in not finding and concluding that private respondent failed to comply with the Order of the trial court to amend the complaint; and (e) in denying his motion for reconsideration.

The antecedent facts are not disputed.

On 15 April 1983, private respondent Pure Foods Corporation filed with the trial court a complaint[4] for sum of money against petitioner alleging therein that sometime in November 1977, petitioner applied for a credit line with the plaintiff which was consequently approved by the latter subject to the conditions therein stated; pursuant to said approved credit arrangement, defendant (petitioner herein) made various purchases from plaintiff until the early part of 1982, when he accumulated a total unpaid account of P57,897.63 as evidenced by short payment notices and invoices; against this obligation, defendant was credited with the amount of P2,651.42 representing the value of returned goods, thereby leaving a balance of P55,246.21, which remained unpaid despite numerous demands made upon him.

The parties who signed the Credit Application card as applicants are Me Cruz, who signed over the printed words name of signatory, and Marilou L. Cruz, who signed over the printed words Authorized Signature. The opening paragraph thereof reads:

"I/We hereby apply for a charge account in the amount stated above, and herewith are the information for your consideration as a basis for the extension of credit to us:

TRADE NAME: MANG URO STORE

Owner/Manager: Lauro Cruz"

x x x x x x x x

Petitioner did not sign any of the invoices attached to the complaint.

For failure to file an answer within the reglementary period, and upon motion of private respondent, the trial court issued an Order on 29 September 1983 declaring the petitioner in default and authorizing the private respondent to present its evidence ex parte on 4 October 1983.[5]

On 19 October 1983, petitioner filed a motion to set aside the order of default[6] alleging therein that he did not file an answer anymore because upon examination of the records of the case, he discovered that it was his son Rodolfo who received the summons and copy of the complaint; he never entered into any transaction with private respondent and that although the store referred to is still licensed in his name, it has, since 1977, been owned and operated by his son Rodolfo Cruz for the reason that he "is getting old already and moreover, because of deteriorating physical condition;" and according to his son Rodolfo, he had already settled the matter with the private respondent under an agreement whereby Rodolfo would make partial payments and the private respondent would dismiss the case.

In its Order of 9 November 1983,[7] the trial court granted the aforesaid motion, required petitioner to file his responsive pleading within five (5) days, and to present his evidence on 6 January 1984.

Petitioner filed an Answer With Counterclaim on 28 March 1983.[8] He reiterates therein his allegations in the motion to lift the default order and further avers that his signature does not even appear on the credit application

card. On the counterclaim, he prays for judgment awarding him moral damages in an amount to be proved at the trial, and attorney's fees in the amount of P15,000.00.

Pre-trial was set on 2 January 1984. It was reset by the trial court for 19 January 1984, and further reset for 21 February 1984 at 1:00 P.M. upon motion of private respondent. On the last mentioned date, however, petitioner arrived late and by then, the court had already issued an order declaring him in default for failure to appear at the pre-trial. Forthwith, he filed a motion for reconsideration which the trial court granted in its order of 22 February 1984. Pre-trial was reset to 27 March 1984.[9]

Pre-trial was held as above scheduled and was concluded with the issuance of the following order:

"As prayed for, the plaintiff is given ten (10) days from today to file amended complaint.

By agreement, the presentation of defendant's evidence is set for May 16, 1984, at 8:30 a.m., without prejudice to the filing of a compromise agreement."[10]

As stated by petitioner,[11] which is not denied by private respondent, the purpose of the amendment was to implead Me Cruz and Marilou Cruz as parties defendants since they are the applicants in the credit application card.

Both parties did not appear on 16 May 1984. Thereupon, the trial court issued an order declaring the case as submitted for decision on the basis of the evidence on record.[12]

As adverted to earlier, on 28 February 1985, the trial court rendered its decision against petitioner who, on 21 March 1985, filed a motion to reconsider[13] the decision, which the trial court denied for lack of merit in its order of 16 May 1985.[14]

Petitioner appealed from the decision to the then Intermediate Appellate Court, now Court of Appeals.

The appeal was docketed as C.A.-G.R. CV No. 07859.

In his Brief in said case, petitioner attributes to the trial court the errors[15] which, as earlier mentioned, are the very same errors submitted before Us as having been committed by the respondent court.

According to the respondent Court, these errors bring into focus one crucial issue: the liability of petitioner for the amounts adjudged by the trial court in favor of private respondent. It held that petitioner is liable because in his motion to set aside the order of default, he admitted that the Mang Uro Store is still licensed under his name and the credit application card indicates that he is the owner/manager thereof. Hence, even on the assumption that there had been a transfer of ownership and management of the store to Rodolfo Cruz, previous to the transactions made with appellee, petitioner permitted the business to be carried on in his name as its ostensible owner. Private respondent should not be expected to be aware of such a transfer, and whatever agreement or understanding appellant had with petitioner's son Rodolfo regarding the store cannot bind or affect private respondent, for matters accomplished between two parties ought not to operate to the prejudice of a third person.[16] Accordingly, it also finds as superfluous the amendment of the complaint for the purpose of impleading Rodolfo Cruz, Marilou Cruz and Me Cruz; moreover, it contends that failure to amend the complaint is no cause for reversal because these persons were known to private respondent as petitioner's "progeny"; besides, the transfer of business, if indeed there was such, is a matter of defense which need not be "negatived" in the complaint. A complaint should not, by the averments, anticipate a defense thereto.

In respect to the failure of private respondent to comply with the order of 27 March 1984 directing it to amend the complaint, respondent Court held that the non-compliance was "muted by the subsequent order of 16 May 1984 which considered the case submitted for decision." By such order, the trial court gave its assent to resolving the

case on the basis of the unamended complaint. Section 11 of Rule 3 (erroneously stated as Section 3 of Rule 11) of the Rules of Court provides that parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just; in the instant case, it may be inferred that the trial court opted to resolve the case without the proposed change in parties defendants.

Finally, it ruled that both oral and documentary evidence presented at the hearing on 3 October 1983 proved petitioner's unsatisfied obligation to the private respondent.

To bring this petition within Our authority, petitioner asserts, in effect, that at the bottom of the assigned errors is the issue of whether the respondent Court has made conclusions of fact which are not substantiated by the evidence on record. Petitioner asserts that it did.

We have held in a long line of cases that findings of facts of the Court of Appeals are conclusive upon this Court.[17] There are, however, recognized exceptions to this rule,[18] as where the findings are totally devoid of support in the record, or are glaringly erroneous as to constitute serious abuse of discretion,[19] or when the findings are grounded entirely on speculation, surmise or conjecture.[20]

Deliberating on this case, We hold that the findings and conclusions of both the trial court and the respondent Court are not supported by the evidence and that such conclusions are glaringly erroneous. This petition is impressed with merit.

In its very brief decision, the trial court, without even laying the factual premises, made a sweeping conclusion that it was the petitioner who applied for a credit line with private respondent and which the latter approved for him; on the basis of such approval, he subsequently bought Purefoods products on credit from private respondent. Evidently, the trial court may have in mind the Credit Application Card[21] and the several invoices for the delivery of the goods.[22] But as correctly pointed out by the petitioner, and as the documents themselves show, he did not sign any of them.

It is the respondent Court which endeavored to supply the arguments in support of the foregoing conclusion. According to the respondent court:

In his Motion to Set Aside Order of Default filed on October 19, 1983, appellant[23] admitted that subject store is still licensed under his name x x x. Also, the credit application card accomplished in behalf of the store clearly indicates appellant as owner/manager thereof x x x. Hence, even on the assumption that there really had been a transfer of ownership and management of the 'Mang Uro Store' to Rodolfo Cruz previous to the transactions made with appellee,[24] the fact is that appellant permitted the carrying of the business of said store with him as ostensible owner. Appellee should not be expected to be aware of such transfer. Whatever private agreement or understanding appellant made with his son Rodolfo regarding the store cannot bind or affect appellee. Insofar as the latter is concerned, the store is business property of appellant. The maxim *res inter alios acta alteri nocere non debet* is square. Matters accomplished between two parties ought not to operate to the prejudice of a third person (*Blanza vs. Arcangel*, 21 SCRA 4; *Perez vs. Mendoza*, 65 SCRA 493; *Tinitigan vs. Tinitigan*, 100 SCRA 636)."[25]

Unfortunately, however, this conclusion is bereft of substantial factual basis and disregards fundamental principles concerning the primary duty of persons dealing with parties who act for others, and of estoppel. Indisputably, the credit application card is a form prepared and supplied by private respondent. There is no evidence, much less an allegation by private respondent, that it was petitioner who filled up the entries in said form. It is logical to presume then that the parties who signed it (Me Cruz and Marilou L. Cruz), or anyone of them, made or accomplished the entries. Needless to state, since on the face of the document, the

"owner/manager" of the "Mang Uro Store", which is written on the column Trade Name, is Lauro Cruz, and not the parties signing the same, it was incumbent upon the private respondent to inquire into the relationship of the signatories to the petitioner or to satisfy itself as to their authority to act for or represent the petitioner. Under the circumstances, it is apparent that petitioner had no direct participation and that the two applicants could have acted without authority from him or as his duly authorized representatives. In either case, for the protection of its interest, private respondent should have made the necessary inquiry verification as to the authority of the applicants and to find out from them whether Lauro Cruz is both the owner and manager or merely the owner or the manager, for that is what "owner/manager" in its form could signify.

A person dealing with an agent is put upon inquiry and must discover upon his peril the authority of the agent.[26] It is for this reason that under Article No. 1902 of the Civil Code, a third person with whom the agent wishes to contract on behalf of the principal may require the presentation of the power of attorney, or the instructions as regards the agency, and that private or secret orders and instructions of the principal do not prejudice third persons who have relied upon the power of attorney or instructions shown them.

In short, petitioner is not under estoppel, as against the claim of private respondent, which seems to be at the bottom of the respondent Court's rationalization.

In *Kalalo vs. Luz*,[27] We held that the essential elements of estoppel in respect to the party claiming it are: (a) lack of knowledge and of the means of knowledge of the truth as the facts in question; (b) reliance, in good faith, upon the conduct or statements of the party to be estopped; and (c) action or inaction based thereon of such character as to change the position or status of the party claiming the estoppel, to his injury, detriment, or prejudice.

The above disquisitions ineluctably show the absence of said elements in this case.

In the instant case, there is no showing at all that private respondent tried to ascertain the ownership of Mang Uro Store and the extent of the authority of the applicants to represent Lauro Cruz at any time before it approved the credit application card.

There is as well no evidence, much less any claim by private respondent, that before Me Cruz and Marilou Cruz signed the credit application card, it had been dealing with petitioner or the Mang Uro Store, or that for sometime prior thereto, petitioner ever represented to it as the owner of the store that he has authorized the above signatories to represent him in any transaction. Clearly, it was error for the respondent Court to conclude that petitioner should be held liable to private respondent on account of the credit application card on the theory that he permitted the carrying of the business of the store. This theory further erroneously assumes that the business of the store before the filing of the credit application card included the sale of products of private respondent. There is evidence on this point.

Moreover, it is apparent that the purpose of the request of private respondent to file an amended complaint within ten (10) days from 27 March 1984, the date when the pre-trial was held, which the trial court granted,[28] was precisely to implead the signatories to the credit application card. This was precisely prompted by the insistence of petitioner that he is not liable for the claims in the complaint because he did not sign the credit card application and the invoices. In short, he is erroneously impleaded as defendant. Since among the matters to be considered at pre-trial is the necessity or desirability of amendments to pleadings,[29] the request was seasonably and properly made.

Private respondent did not amend the complaint within the period aforesaid. So, when the case was called for hearing on 16 May 1984, pursuant to the Order of 27 March 1984, and the parties did not appear, the trial court

should have dismissed the case for failure on the part of private respondent to file the amended complaint. Such dismissal is authorized under Section 3 of Rule 17 of the Rules of Court. The respondent Court, however, brushed aside this point by holding that the non-compliance by private respondent "was muted by the subsequent order dated May 16, 1984 which submitted the case for decision;" and that by said order "the trial court appears to have given its assent to resolving the case on the basis of the unamended complaint," which is authorized by Section 11 of Rule 3 of the Rules of Court. Although this justification is flimsy and begs the question, the foregoing resolution on the issue of petitioner's liability to the private respondent renders unnecessary further discussion on the remaining assigned errors.

WHEREFORE, the instant petition is GRANTED, and the decision of the respondent Court of Appeals of 9 August 1988 and its resolution of 27 October 1988 in C.A.-G.R. CV No. 07859, as well as the decision of the trial court of 28 February 1985 in Civil Case No. 49672, are hereby REVERSED and SET ASIDE.

With costs against private respondent.

SO ORDERED.

Gutierrez, Jr., J., concur.

Fernan, C.J., no part, formerly Cebu counsel for Pure Foods Corporation.

Feliciano, J., see dissenting opinion.

Bidin, J., in the result.

[1] Per Associate Justice Manuel C. Herrera, concurred in by Associate Justices Jose A.R. Melo and Jorge S. Imperial; Annex "A" of Petition; Rollo, 26-31.

[2] Entitled Pure Foods Corporation vs. Lauro Cruz, doing business under the name and style Mang Uro Store; Annex "Q" of Petition; Id., 74-75.

[3] Annex "B" of Petition; Rollo, 32-33.

[4] Docketed as Civil Case No. 49672; Annex "C" of Petition; Rollo, 34-36.

[5] Annex "E" of petition; Rollo, 54.

[6] Annex "F" of Petition; Id., 55-57.

[7] Annex "G" of Petition; Rollo, 61.

[8] Annex "H" of Petition; Id., 62-63.

[9] Annexes "I", "J", "K", "L", "M", and "N" of Petition; Id., 64-71.

[10] Annex "O" of Petition; Rollo, 72.

[11] Id., 17.

[12] Annex "P" of Petition; Id., 73.

[13] Annex "R" of Petition; Id., 76, et seq.

[14] Annex "S" of Petition; Id., 81.

[15] Rollo, 85-86.

[16] Citing *Blanza vs. Arcangel*, 21 SCRA 4; *Perez vs. Mendoza*, 65 SCRA 493; *Tinitigan vs. Tinitigan*, 100 SCRA 636.

[17] *Chan vs. Court of Appeals*, 33 SCRA 737; *Banigued vs. Court of Appeals*, 127 SCRA 50; *Moran vs. Court of Appeals*, 133 SCRA 88; *Collector of Customs vs. IAC*, 137 SCRA 3; *Espiritu vs. Court of Appeals*, 133 SCRA 50; *Premier Insurance & Surety Corp. vs. IAC*, 141 SCRA 423; *Director of Lands vs. Funtillar*, 142 SCRA 57; *Manlapaz vs. Court of Appeals*, 147 SCRA 236; *Chua Giok Ong vs. Court of Appeals*, 149 SCRA 115; *Francisco vs. Mandi*, 152 SCRA 711; *Knecht vs. Court of Appeals*, 158 SCRA 80.

[18] *Garcia vs. Court of Appeals*, 33 SCRA 623; *Tolentino vs. de Jesus*, 56 SCRA 167; *Ramos vs. Court of Appeals*, 63 SCRA 331; *Rizal Cement Co., Inc. vs. Villareal*, 135 SCRA 15; *Municipality of Meycauayan vs. IAC*, 157 SCRA 645; *Remalante vs. Tibe, et al.*, 158 SCRA 138; *Bunag vs. Court of Appeals*, 158 SCRA 306.

[19] *Santa Ana, Jr., vs. Hernandez*, 18 SCRA 973.

[20] *Joaquin vs. Navarro*, 93 Phil. 257.

[21] Annex "A" of the Complaint; Rollo, 37.

[22] Annexes "B-1" to "B-12" of the Complaint; *Id.*, 39-50.

[23] Petitioner herein.

[24] Private respondent.

[25] *Id.*, 29-30.

[26] *National Power Corp. vs. National Merchandising Corp., et al.*, 117 SCRA 789.

[27] 34 SCRA 337.

[28] Order of 27 March 1984, Annex "O" of Petition; Rollo, 72.

[29] Section 1(c), Rule 20, Rules of Court.

DISSENTING OPINION

FELICIANO, J.:

With much regret, I am unable to join the majority opinion. Although petitioner Lauro Cruz did not personally sign the credit application nor the Pure Foods invoices issued under that credit line, I believe that he is liable for the amounts due under that credit line.

While petitioner may have turned over active management of his single proprietorship enterprise to his son, Rodolfo Cruz, petitioner remained legal or registered owner of that enterprise and he was directly or indirectly benefitting from the revenues generated by that store. Those revenues were earned over a period of approximately five (5) years from the time the credit application was signed by Me Cruz and Merle Cruz. During that five-year period, credit was drawn under the Pure Foods credit line to finance the canned goods and other items purchased from Pure Foods and sold in the Mang Uro Store and Pure Foods invoices were paid. Thus, petitioner Lauro Cruz must or should have known about the existence of the credit line supporting at least the Pure Foods inventory of the Mang Uro Store. If there was lack of formal authority on the part of Me Cruz and Merle Cruz to contract for the credit line, that lack of authority must be held to have been cured by prolonged inaction on the part of petitioner and, more importantly, by receipt of benefits by petitioner from operation of the credit line and the

purchase of Pure Foods goods on credit.

If this is a case of an unauthorized agent, I believe there was at least implied ratification on the part of the principal. It is too late for petitioner to disclaim responsibility for the amount due to Pure Foods. It seems to me that it would be grossly inequitable to permit petitioner to escape that liability on such a technical basis.

I vote to DENY the Petition for Review for lack of merit.

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