

NEW LIFE ENTERPRISES AND JULIAN SY, PETITIONERS, VS. HON. COURT OF APPEALS, EQUITABLE INSURANCE CORPORATION, RELIANCE SURETY AND INSURANCE CO., INC. AND WESTERN GUARANTY CORPORA...

G.R. No. 94071. March 31, 1992

Ponente: REGALADO, J.

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REGALADO, J.:

This appeal by certiorari seeks the nullification of the decision[1] of respondent Court of Appeals in CA-G.R. CV No. 13866 which reversed the decision of the Regional Trial Court, Branch LVII at Lucena City, jointly deciding Civil Cases Nos. 6-84, 7-84 and 8-84 thereof and consequently ordered the dismissal of the aforesaid actions filed by herein petitioners.

The undisputed background of this case as found by the court a quo and adopted by respondent court, being sustained by the evidence on record, we hereby reproduce the same with approval.[2]

"The antecedents of this case show that Julian Sy and Jose Sy Bang have formed a business partnership in the City of Lucena. Under the business name of New Life Enterprises, the partnership engaged in the sale of construction materials at its place of business, a two storey building situated at Iyam, Lucena City. The facts show that Julian Sy insured the stocks in trade of New Life Enterprises with Western Guaranty Corporation, Reliance Surety and Insurance Co. Inc., and Equitable Insurance Corporation.

"On May 15, 1981, Western Guaranty Corporation issued Fire Insurance Policy No. 37201 in the amount of P350,000.00. This policy was renewed on May 13, 1982.

"On July 30, 1981, Reliance Surety and Insurance Co., Inc. issued Fire Insurance Policy No. 69135 in the amount of P300,000.00 (Renewed under Renewal Certificate No. 41997). An additional insurance was issued by the same company on November 12, 1981 under Fire Insurance Policy No. 71547 in the amount of P700,000.00.

"On February 8, 1982, Equitable Insurance Corporation issued Fire Insurance Policy No. 39328 in the amount of P200,000.00.

"Thus when the building occupied by the New Life Enterprises was gutted by fire at about 2:00 o'clock in the morning of October 19, 1982, the stocks in trade inside said building were insured against fire in the total amount of P1,550,000.00. According to the certification issued by the Headquarters, Philippine Constabulary/Integrated National Police, Camp Crame, the cause of fire was electrical in nature. According to the plaintiffs, the building and the stocks inside were burned. After the fire, Julian Sy went to the agent of Reliance Insurance whom he asked to accompany him to the office of the company so that he can file his claim. He averred that in support of his claim, he submitted the fire clearance, the insurance policies and inventory of stocks. He further testified that the three insurance companies are sister companies, and as a matter of fact when he was following-up his claim with Equitable Insurance, the Claims Manager told him to go first to Reliance Insurance and if said company agrees to pay, they would also pay. The same treatment was

given him by the other insurance companies. Ultimately, the three insurance companies denied plaintiffs' claim for payment.

"In its letter of denial dated March 9, 1983, (Exhibit 'C' No. 8-84) Western Guaranty Corporation through Claims Manager Bernard S. Razon told the plaintiff that his claim 'is denied for breach of policy conditions.' Reliance Insurance purveyed the same message in its letter dated November 23, 1982 and signed by Executive Vice-President Mary Dee Co (Exhibit 'C' No. 7-84) which said that "plaintiff's claim is denied for breach of policy conditions." The letter of denial received by the plaintiff from Equitable Insurance Corporation (Exhibit 'C' No. 6-84) was of the same tenor, as said letter dated February 22, 1983, and signed by Vice-President Elma R. Bondad, said 'we find that certain policy conditions were violated, therefore, we regret, we have to deny your claim, as it is hereby denied in its entirety.'

"In relation to the case against Reliance Surety and Insurance Company, a certain Atty. Serafin D. Dator, acting in behalf of the plaintiff, sent a letter dated February 13, 1983 (Exhibit 'G-1' No. 7-84) to Executive Vice-President Mary Dee Co asking that he be informed as to the specific policy conditions allegedly violated by the plaintiff. In her reply-letter dated March 30, 1983, Executive Vice-President Mary Dee Co informed Atty. Dator that Julian Sy violated Policy Condition No. '3' which requires the insured to give notice of any insurance or insurances already effected covering the stocks in trade."[3]

Because of the denial of their claims for payment by the three (3) insurance companies, petitioner filed separate civil actions against the former before the Regional Trial Court of Lucena City, which cases were consolidated for trial and thereafter the court below rendered its decision on December 19, 1986 with the following disposition:

"WHEREFORE, judgment in the above-entitled cases is rendered in the following manner, viz:

1. In Civil Case No. 6-84, judgment is rendered for the plaintiff New Life Enterprises and against the defendant Equitable Insurance Corporation ordering the latter to pay the former the sum of Two Hundred Thousand (P200,000.00) Pesos and considering that payment of the claim of the insured has been unreasonably denied, pursuant to Sec. 244 of the Insurance Code, defendant is further ordered to pay the plaintiff attorney's fees in the amount of Twenty Thousand (P20,000.00) Pesos. All sums of money to be paid by virtue hereof shall bear interest at 12% per annum (pursuant to Sec. 244 of the Insurance Code) from February 14, 1983, (91st day from November 16, 1982, when Sworn Statement of Fire Claim was received from the insured) until they are fully paid;

2. In Civil Case No. 7-84, judgment is rendered for the plaintiff Julian Sy and against the defendant Reliance Surety and Insurance Co., Inc., ordering the latter to pay the former the sum of P1,000,000.00 (P300,000.00 under Policy No. 69135 and P700,000.00 under Policy No. 71547) and considering that payment of the claim of the insured has been unreasonably denied, pursuant to Sec. 244 of the Insurance Code, defendant is further ordered to pay the plaintiff the amount of P100,000.00 as attorney's fees.

All sums of money to be paid by virtue hereof shall bear interest at 12% per annum (pursuant to Sec. 244 of the Insurance Code) from February 14, 1983, (91st day from November 16, 1982 when Sworn Statement of Fire Claim was received from the insured) until they are fully paid;

3. In Civil Case No. 8-84, judgment is rendered for the plaintiff New Life Enterprises and against the defendant Western Guaranty Corporation ordering the latter to pay the sum of P350,000.00 to the Consolidated Bank and Trust Corporation, Lucena Branch, Lucena City, as stipulated on the face of Policy No. 37201, and considering that payment of the aforementioned sum of money has been unreasonably denied, pursuant to Sec. 244 of the Insurance Code, defendant is further ordered to pay the plaintiff attorney's fees in the amount of P35,000.00.

All sums of money to be paid by virtue hereof shall bear interest at 12% per annum (pursuant to Sec. 244 of the Insurance Code) from February 5, 1982, (91st day from 1st week of November 1983 when insured filed

formal claim for full indemnity according to adjuster Vetremar Dela Merced) until they are fully paid." [4]

As aforesaid, respondent Court of Appeals reversed said judgment of the trial court, hence this petition the crux wherein is whether or not Conditions Nos. 3 and 27 of the insurance contracts were violated by petitioners thereby resulting in their forfeiture of all the benefits thereunder.

Condition No. 3 of said insurance policies, otherwise known as the "Other Insurance Clause," is uniformly contained in all the aforesaid insurance contracts of herein petitioners, as follows:

"3. The insured shall give notice to the Company of any insurance or insurances already effected, or which may subsequently be effected, covering any of the property or properties consisting of stocks in trade, goods in process and/or inventories only hereby insured, and unless such notice be given and the particulars of such insurance or insurances be stated therein or endorsed on this policy pursuant to Section 50 of the Insurance Code, by or on behalf of the Company before the occurrence of any loss or damage, all benefits under this policy shall be deemed forfeited, provided however, that this condition shall not apply when the total insurance or insurances in force at the time of loss or damage is not more than P200,000.00." [5]

Petitioners admit that the respective insurance policies issued by private respondents did not state or endorse thereon the other insurance coverage obtained or subsequently effected on the same stocks in trade for the loss of which compensation is claimed by petitioners. [6] The policy issued by respondent Western Guaranty Corporation (Western) did not declare respondent Reliance Surety and Insurance Co., Inc. (Reliance) and respondent Equitable Insurance Corporation (Equitable) as co-insurers on the same stocks, while Reliance's policies covering the same stocks did not likewise declare Western and Equitable as such co-insurers. It is further admitted by petitioners that Equitable's policy stated "nil" in the space thereon requiring indication of any co-insurance although there were three (3) policies subsisting on the same stocks in trade at the time of the loss, namely, that of Western in the amount of P350,000.00 and two (2) policies of Reliance in the total amount of P1,000,000.00. [7]

In other words, the coverage by other insurance or co-insurance effected or subsequently arranged by petitioners were neither stated nor endorsed in the policies of the three (3) private respondents, warranting forfeiture of all benefits thereunder if we are to follow the express stipulation in the aforequoted Policy Condition No. 3.

Petitioners contend that they are not to be blamed for the omissions, alleging that insurance agent Leon Alvarez (for Western) and Yap Kam Chuan (for Reliance and Equitable) knew about the existence of the additional insurance coverage and that they were not informed about the requirement that such other or additional insurance should be stated in the policy, as they have not even read said policies. [8] These contentions cannot pass judicial muster.

The terms of the contract are clear and unambiguous. The insured is specifically required to disclose to the insurer any other insurance and its particulars which he may have effected on the same subject matter. The knowledge of such insurance by the insurer's agents, even assuming the acquisition thereof by the former, is not the "notice" that would estop the insurers from denying the claim. Besides, the so-called theory of imputed knowledge, that is, knowledge of the agent is knowledge of the principal, aside from being of dubious applicability here has likewise been roundly refuted by respondent court whose factual findings we find acceptable.

Thus, it points out that while petitioner Julian Sy claimed that he had informed insurance agent Alvarez regarding the co-insurance on the property, he contradicted himself by inexplicably claiming that he had not read the terms of the policies; that Yap Kam Chuan could not likewise have obtained such knowledge for the same reason, aside from the fact that the insurance with Western was obtained before those of Reliance and Equitable; and that the conclusion of the trial court that Reliance and Equitable are "sister companies" is an unfounded conjecture drawn from the mere fact that Yap Kam Chuan was an agent for both companies which also had the same insurance

claims adjuster. Availment of the services of the same agents and adjusters by different companies is a common practice in the insurance business and such facts do not warrant the speculative conclusion of the trial court.

Furthermore, when the words and language of documents are clear and plain or readily understandable by an ordinary reader thereof, there is absolutely no room for interpretation or construction anymore.[9] Courts are not allowed to make contracts for the parties; rather, they will intervene only when the terms of the policy are ambiguous, equivocal, or uncertain.[10] The parties must abide by the terms of the contract because such terms constitute the measure of the insurer's liability and compliance therewith is a condition precedent to the insured's right of recovery from the insurer.[11]

While it is a cardinal principle of insurance law that a policy or contract of insurance is to be construed liberally in favor of the insured and strictly against the insurer company, yet contracts of insurance, like other contracts, are to be construed according to the sense and meaning of the terms which the parties themselves have used. If such terms are clear and unambiguous, they must be taken and understood in their plain, ordinary and popular sense.[12] Moreover, obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.[13]

Petitioners should be aware of the fact that a party is not relieved of the duty to exercise the ordinary care and prudence that would be exacted in relation to other contracts. The conformity of the insured to the terms of the policy is implied from his failure to express any disagreement with what is provided for.[14] It may be true that the majority rule, as cited by petitioners, is that insured persons may accept policies without reading them, and that this is not negligence per se.[15] But, this is not without any exception. It is and was incumbent upon petitioner Sy to read the insurance contracts, and this can be reasonably expected of him considering that he has been a businessman since 1965[16] and the contract concerns indemnity in case of loss in his money-making trade of which important consideration he could not have been unaware as it was precisely the reason for his procuring the same.

We reiterate our pronouncement in *Pioneer Insurance and Surety Corporation vs. Yap*:^[17]

"x x x 'And considering the terms of the policy which required the insured to declare other insurances, the statement in question must be deemed to be a statement (warranty) binding on both insurer and insured, that there were no other insurance on the property. x x x

`The annotation then, must be deemed to be a warranty that the property was not insured by any other policy. Violation thereof entitled the insurer to rescind (Sec. 69, Insurance Act). Such misrepresentation is fatal in the light of our views in *Santa Ana vs. Commercial Union Assurance Company, Ltd.*, 55 Phil. 329. The materiality of non-disclosure of other insurance policies is not open to doubt.'

x x x

"The obvious purpose of the aforesaid requirement in the policy is to prevent over-insurance and thus avert the perpetration of fraud. The public, as well as the insurer, is interested in preventing the situation in which a fire would be profitable to the insured. According to Justice Story: 'The insured has no right to complain, for he assents to comply with all the stipulations on his side, in order to entitle himself to the benefit of the contract, which, upon reason or principle, he has no right to ask the court to dispense with the performance of his own part of the agreement, and yet to bind the other party to obligations, which, but for those stipulations, would not have been entered into.'"

Subsequently, in the case of *Pacific Banking Corporation vs. Court of Appeals, et al.*,^[18] we held:

"It is not disputed that the insured failed to reveal before the loss three other insurances. As found by the Court

of Appeals, by reason of said unrevealed insurances, the insured had been guilty of a false declaration; a clear misrepresentation and a vital one because where the insured had been asked to reveal but did not, that was deception. Otherwise stated, had the insurer known that there were many co-insurances, it could have hesitated or plainly desisted from entering into such contract. Hence, the insured was guilty of clear fraud (Rollo, p. 25).

"Petitioner's contention that the allegation of fraud is but a mere inference or suspicion is untenable. In fact, concrete evidence of fraud or false declaration by the insured was furnished by the petitioner itself when the facts alleged in the policy under clauses 'Co-Insurances Declared' and 'Other Insurance Clause' are materially different from the actual number of co-insurances taken over the subject property. Consequently, 'the whole foundation of the contract fails, the risk does not attach and the policy never becomes a contract between the parties.' Representations of facts are the foundation of the contract and if the foundation does not exist, the superstructure does not arise. Falsehood in such representations is not shown to vary or add to the contract, or to terminate a contract which has once been made, but to show that no contract has ever existed (Tolentino, Commercial Laws of the Philippines, p. 991, Vol. II, 8th Ed.) A void or inexistent contract is one which has no force and effect from the very beginning, as if it had never been entered into, and which cannot be validated either by time or by ratification (Tongoy vs. C.A., 123 SCRA 99 (1983); Avila v. C.A. 145 SCRA, 1986).

"As the insurance policy against fire expressly required that notice should be given by the insured of other insurance upon the same property, the total absence of such notice nullifies the policy."

To further warrant and justify the forfeiture of the benefits under the insurance contracts involved, we need merely to turn to Policy Condition No. 15 thereof, which reads in part:

"15. x x x if any false declaration be made or used in support thereof, x x x all benefits under this Policy shall be forfeited x x x." [19]

Additionally, insofar as the liability of respondent Reliance is concerned, it is not denied that the complaint for recovery was filed in court by petitioners only on January 31, 1984, or after more than one (1) year had elapsed from petitioners' receipt of the insurers' letter of denial on November 29, 1982. Policy Condition No. 27 of their insurance contract with Reliance provides:

"27. Action or suit clause. - If a claim be made and rejected and an action or suit be not commenced either in the Insurance Commission or any court of competent jurisdiction of notice of such rejection, or in case of arbitration taking place as provided herein, within twelve (12) months after due notice of the award made by the arbitrator or arbitrators or umpire, then the claim shall for all purposes be deemed to have been abandoned and shall not thereafter be recoverable hereunder." [20]

On this point, the trial court ruled:

"x x x However, because of the peculiar circumstances of this case, we hesitate in concluding that plaintiff's right to ventilate his claim in court has been barred by reason of the time constraint provided in the insurance contract. It is evident that after the plaintiff had received the letter of denial, he still found it necessary to be informed of the specific causes or reasons for the denial of his claim, reason for which his lawyer, Atty. Dator deemed it wise to send a letter of inquiry to the defendant which was answered by defendant's Executive Vice-President in a letter dated March 30, 1983, x x x. Assuming, gratuitously, that the letter of Executive Vice-President Mary Dee Co dated March 30, 1983, was received by plaintiff on the same date, the period of limitation should start to run only from said date in the spirit of fair play and equity. x x x" [21]

We have perforce to reject this theory of the court below for being contrary to what we have heretofore declared:

"It is important to note the principle laid down by this Court in the case of Ang vs. Fulton Fire Insurance Co. (2 SCRA 945 [1961]) to wit:

"The condition contained in an insurance policy that claims must be presented within one year after rejection is not

merely a procedural requirement but an important matter essential to a prompt settlement of claims against insurance companies as it demands that insurance suits be brought by the insured while the evidence as to the origin and cause of destruction have not yet disappeared.'

"In enunciating the above-cited principle, this Court had definitely settled the rationale for the necessity of bringing suits against the Insurer within one year from the rejection of the claim. The contention of the respondents that the one-year prescriptive period does not start to run until the petition for reconsideration had been resolved by the insurer, runs counter to the declared purpose for requiring that an action or suit be filed in the Insurance Commission or in a court of competent jurisdiction from the denial of the claim. To uphold respondents' contention would contradict and defeat the very principle which this Court had laid down. Moreover, it can easily be used by insured persons as a scheme or device to waste time until any evidence which may be considered against them is destroyed.

x x x

"While in the *Eagle Star* case (96 Phil. 701), this Court uses the phrase 'final rejection', the same cannot be taken to mean the rejection of a petition for reconsideration as insisted by respondents. Such was clearly not the meaning contemplated by this Court. The insurance policy in said case provides that the insured should file his claim first, with the carrier and then with the insurer. The 'final rejection' being referred to in said case is the rejection by the insurance company." [22]

Furthermore, assuming *arguendo*, that petitioners felt the legitimate need to be clarified as to the policy condition violated, there was a considerable lapse of time from their receipt of the insurer's clarificatory letter dated March 30, 1983, up to the time the complaint was filed in court on January 31, 1984. The one-year prescriptive period was yet to expire on November 29, 1983 or about eight (8) months from the receipt of the clarificatory letter, but petitioners let the period lapse without bringing their action in court. We accordingly find no "peculiar circumstances" sufficient to relax the enforcement of the one-year prescriptive period and we, therefore, hold that petitioners' claim was definitely filed out of time.

WHEREFORE, finding no cogent reason to disturb the judgment of respondent Court of Appeals, the same is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), and Nocon, JJ., concur.

Paras, J., No part Gloria has concurred.

Padilla, J., No part; related to senior partner of private respondents' counsel.

[1] Justice Serafin V.C. Guingona, ponente, with Justices Gloria C. Paras and Bonifacio A. Cacdac, Jr. concurring; Rollo, 51.

[2] Per Judge Hoover S. Ablang.

[3] Rollo, 34-36.

[4] *Ibid.*, 32-33.

[5] Exhibits "20-c", "18-b", "14-b"; Folder of Exhibits, 20, 29, 31.

[6] Memorandum for Petitioners, 13.

[7] Rollo, 35.

- [8] Memorandum for the Petitioners, 13.
- [9] Marina Port Services, Inc. vs. Iniego, et al., 181 SCRA 304 (1990).
- [10] Pan Malayan Insurance Corporation vs. Court of Appeals, et al., 184 SCRA 54 (1990).
- [11] Perla Compania de Seguros, Inc. vs. Court of Appeals, et al., 185 SCRA 741 (1990).
- [12] Sun Insurance Office, Ltd. vs. Court of Appeals, et al., 195 SCRA 193 (1991).
- [13] Article 1159, Civil Code.
- [14] Ang Giok Chip, etc. vs. Springfield Fire & Marine Insurance Company, 56 Phil. 375 (1931).
- [15] Vance on Insurance, 1951 ed., 257; Memorandum for the Petitioners, 22.
- [16] TSN, February 11, 1986, 28.
- [17] 61 SCRA 426 (1974), citing General Insurance & Surety Corporation vs. Ng Hua, 106 Phil. 1117, 1119-1120 (1960).

[18] 168 SCRA 1 (1988).

- [19] Exhibits "20-d", "18-e", "14-e"; Folder of Exhibits, 21, 30, 33.
- [20] Exhibit "14-f"; Folder of Exhibits, 33.
- [21] Rollo, 49.
- [22] Sun Insurance Office, Ltd. vs. Court of Appeals, et al., supra, Fn. 12.

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