

**SANTOS B. AREOLA AND LYDIA D. AREOLA,
PETITIONERS-APPELLANTS, VS. COURT OF APPEALS AND
PRUDENTIAL GUARANTEE AND ASSURANCE, INC.,
RESPONDENTS-APPELLEES.**

G.R. No. 95641. September 22, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

On June 29, 1985, seven months after the issuance of petitioner Santos Areola's Personal Accident Insurance Policy No. PA-20015, respondent insurance company unilaterally cancelled the same since company records revealed that petitioner-insured failed to pay his premiums.

On August 3, 1985, respondent insurance company offered to reinstate same policy it had previously cancelled and even proposed to extend its lifetime to December 17, 1985, upon a finding that the cancellation was erroneous and that the premiums were paid in full by petitioner-insured but were not remitted by Teofilo M. Malapit, respondent insurance company's branch manager.

These, in brief, are the material facts that gave rise to the action for damages due to breach of contract instituted by petitioner-insured before Branch 40 RTC, Dagupan City against respondent insurance company.

There are two issues for resolution in this case:

- (1) Did the erroneous act of cancelling subject insurance policy entitle petitioner-insured to payment of damages?
- (2) Did the subsequent act of reinstating the wrongfully cancelled insurance policy by respondent insurance company, in an effort to rectify such error, obliterate whatever liability for damages it may have to bear, thus absolving it therefrom?

From the factual findings of the trial court, it appears that petitioner-insured, Santos Areola, a lawyer from Dagupan City, bought, through the Baguio City branch of Prudential Guarantee and Assurance, Inc. (hereinafter referred to as Prudential), a personal accident insurance policy covering the one-year period between noon of November 28, 1984 and noon of November 28, 1985.[1] Under the terms of the statement of account issued by respondent insurance company, petitioner-insured was supposed to pay the total amount of P1,609.65 which included the premium of P1,470.00, documentary stamp of P110.25 and 2% premium tax of P29.40.[2] At the lower left-hand corner of the statement of account, the following is legibly printed:

"This Statement of Account must not be considered a receipt. Official Receipt will be issued to you upon payment of this account.

If payment is made to our representative, demand for a Provisional Receipt and if our Official Receipts is (sic) not received by you within 7 days please notify us.

If payment is made to our office, demand for an OFFICIAL RECEIPT."

On December 17, 1984, respondent insurance company issued collector's provisional receipt No. 9300 to petitioner-insured for the amount of P1,609.65.[3] On the lower portion of the receipt the following is written in capital letters:

"Note: This collector's provisional receipt will be confirmed by our official receipt. If our official receipt is not received by you within 7 days, please notify us."[4]

On June 29, 1985, respondent insurance company, through its Baguio City manager, Teofilo M. Malapit, sent petitioner-insured Endorsement No. BG-002/85 which "cancelled flat" Policy No. PA BG-20015 "for non-payment of premium effective as of inception dated."[5] The same endorsement also credited "a return premium of P1,609.65 plus documentary stamps and premium tax" to the account of the insured.

Shocked by the cancellation of the policy, petitioner-insured confronted Carlito Ang, agent of respondent insurance company, and demanded the issuance of an official receipt. Ang told petitioner-insured that the cancellation of the policy was a mistake but he would personally see to its rectification. However, petitioner-insured failed to receive any official receipt from Prudential.

Hence, on July 15, 1985, petitioner-insured sent respondent insurance company a letter demanding that he be insured under the same terms and conditions as those contained in Policy No. PA-BG-20015 commencing upon its receipt of his letter, or that the current commercial rate of increase on the payment he had made under provisional receipt No. 9300 be returned within five days.[6] Areola also warned that should his demands be unsatisfied, he would sue for damages.

On July 17, 1985, he received a letter from production manager Malapit informing him that the "partial payment" of P1,000.00 he had made on the policy had been "exhausted pursuant to the provisions of the Short Period Rate Scale" printed at the back of the policy. Malapit warned Areola that should he fail to pay the balance, the company's liability would cease to operate.[7]

In reply to the petitioner-insured's letter of July 15, 1985, respondent insurance company, through its Assistant Vice-President Mariano M. Ampil III, wrote Areola a letter dated July 25, 1985 stating that the company was verifying whether the payment had in fact been remitted to said company and why no official receipt had been issued therefor. Ampil emphasized that the official receipt should have been issued seven days from the issuance of the provisional receipt but because no official receipt had been issued in Areola's name, there was reason to believe that no payment had been made. Apologizing for the inconvenience, Ampil expressed the company's concern by agreeing "to hold you cover (sic) under the terms of the referenced policy until such time that this matter is cleared."[8]

On August 3, 1985, Ampil wrote Areola another letter confirming that the amount of P1,609.65 covered by provisional receipt No. 9300 was in fact received by Prudential on December 17, 1984. Hence, Ampil informed Areola that Prudential was "amenable to extending PGA-PA-BG-20015 up to December 17, 1985 or one year from the date when payment was received." Apologizing again for the inconvenience caused Areola, Ampil exhorted him to indicate his conformity to the proposal by signing on the space provided for in the letter.[9]

The letter was personally delivered by Carlito Ang to Areola on August 13, 1985[10] but unfortunately, Areola and his wife, Lydia, as early as August 6, 1985 had filed a complaint for breach of contract with damages before the lower court.

In its Answer, respondent insurance company admitted that the cancellation of petitioner-insured's policy was due to the failure of Malapit to turn over the premiums collected, for which reason no official receipt was issued to him. However, it argued that, by acknowledging the inconvenience caused on petitioner-insured and after taking

steps to rectify its omission by reinstating the cancelled policy prior to the filing of the complaint, respondent insurance company had complied with its obligation under the contract. Hence, it concluded that petitioner-insured no longer has a cause of action against it. It insists that it cannot be held liable for damages arising from breach of contract, having demonstrated fully well its fulfillment of its obligation.

The trial court, on June 30, 1987, rendered a judgment in favor of petitioner-insured, ordering respondent insurance company to pay the former the following:

- "a) P1,703.65 as actual damages;
 - b) P200,000.00 as moral damages; and
 - c) P50,000.00 as exemplary damages;
2. To pay to the plaintiff, as and for attorney's fees the amount of P10,000.00; and
3. To pay the costs."

In its decision, the court below declared that respondent insurance company acted in bad faith in unilaterally cancelling subject insurance policy, having done so only after seven months from the time that it had taken force and effect and despite the fact of full payment of premiums and other charges on the issued insurance policy. Cancellation from the date of the policy's inception, explained the lower court, meant that the protection sought by petitioner-insured from the risks insured against was never extended by respondent insurance company. Had the insured met an accident at the time, the insurance company would certainly have disclaimed any liability because technically, the petitioner could not have been considered insured. Consequently, the trial court held that there was breach of contract on the part of respondent insurance company, entitling petitioner-insured to an award of the damages prayed for.

This ruling was challenged on appeal by respondent insurance company, denying bad faith on its part in unilaterally cancelling subject insurance policy.

After consideration of the appeal, the appellate court issued a reversal of the decision of the trial court, convinced that the latter had erred in finding respondent insurance company in bad faith for the cancellation of petitioner-insured's policy. According to the Court of Appeals, respondent insurance company was not motivated by negligence, malice or bad faith in cancelling subject policy. Rather, the cancellation of the insurance policy was based on what the existing records showed, i.e., absence of an official receipt issued to petitioner-insured confirming payment of premiums. Bad faith, said the Court of Appeals, is some motive of self-interest or ill-will; a furtive design or ulterior purpose, proof of which must be established convincingly. On the contrary, it further observed, the following acts indicate that respondent insurance company did not act precipitately or willfully to inflict a wrong on petitioner-insured: (a) the investigation conducted by Alfredo Bustamante to verify if petitioner-insured had indeed paid the premium; (b) the letter of August 3, 1985 confirming that the premium had been paid on December 17, 1984; (c) the reinstatement of the policy with a proposal to extend its effective period to December 17, 1985; and (d) respondent insurance company's apologies for the "inconvenience" caused upon petitioner-insured. The appellate court added that respondent insurance company even relieved Malapit, its Baguio City manager, of his job by forcing him to resign.

Petitioner-insured moved for the reconsideration of the said decision which the Court of Appeals denied. Hence, this petition for review on certiorari anchored on these arguments:

I

Respondent Court of Appeals is guilty of grave abuse of discretion and committed a serious and reversible error in not holding Respondent Prudential liable for the cancellation of the insurance contract which was admittedly caused by the fraudulent acts and bad faith of its own officers.

II

Respondent Court of Appeals committed serious and reversible error and abused its discretion in ruling that the defenses of good faith and honest mistake can co-exist with the admitted fraudulent acts and evident bad faith.

III

Respondent Court of Appeals committed a reversible error in not finding that even without considering the fraudulent acts of its own officer in misappropriating the premium payment, the act itself in cancelling the insurance policy was done with bad faith and/or gross negligence and wanton attitude amounting to bad faith, because among others, it was Mr. Malapit - the person who committed the fraud - who sent and signed the notice of cancellation.

IV

Respondent Court of Appeals has decided a question of substance contrary to law and applicable decision of the Supreme Court when it refused to award damages in favor of herein Petitioner-Appellants."

It is petitioner-insured's submission that the fraudulent act of Malapit, manager of respondent insurance company's branch office in Baguio, in misappropriating his premium payments is the proximate cause of the cancellation of the insurance policy. Petitioner-insured theorized that Malapit's act of signing and even sending the notice of cancellation himself, notwithstanding his personal knowledge of petitioner-insured's full payment of premiums, further reinforces the allegation of bad faith. Such fraudulent act committed by Malapit, argued petitioner-insured, is attributable to respondent insurance company, an artificial corporate being which can act only through its officers or employees. Malapit's actuation, concludes petitioner-insured, is therefore not separate and distinct from that of respondent insurance company, contrary to the view held by the Court of Appeals. It must, therefore, bear the consequences of the erroneous cancellation of subject insurance policy caused by the non-remittance by its own employee of the premiums paid. Subsequent reinstatement, according to petitioner-insured, could not possibly absolve respondent insurance company from liability, there being an obvious breach of contract. After all, reasoned out petitioner-insured, damage had already been inflicted on him and no amount of rectification could remedy the same.

Respondent insurance company, on the other hand, argues that where reinstatement, the equitable relief sought by petitioner-insured was granted at an opportune moment i.e. prior to the filing of the complaint, petitioner-insured is left without a cause of action on which to predicate his claim for damages. Reinstatement, it further explained, effectively restored petitioner-insured to all his rights under the policy. Hence, whatever cause of action there might have been against it, no longer exists and the consequent award of damages ordered by the lower court is unsustainable.

We uphold petitioner-insured's submission. Malapit's fraudulent act of misappropriating the premiums paid by petitioner-insured is beyond doubt directly imputable to respondent insurance company. A corporation, such as respondent insurance company, acts solely thru its employees. The latter's acts are considered as its own for which it can be held to account.[11] The facts are clear as to the relationship between private respondent insurance company and Malapit. As admitted by private respondent insurance company in its answer,[12] Malapit was the

manager of its Baguio branch. It is beyond doubt that he represented its interests and acted in its behalf. His act of receiving the premiums collected is well within the province of his authority. Thus, his receipt of said premiums is receipt by private respondent insurance company who, by provision of law, particularly under Article 1910 of the Civil Code, is bound by the acts of its agent.

Article 1910 thus reads:

"ART. 1910. The principal must comply with all the obligations which the agent may have contracted within the scope of his authority.

As for any obligation wherein the agent has exceeded his power, the principal is not bound except when he ratifies it expressly or tacitly."

Malapit's failure to remit the premiums he received cannot constitute a defense for private respondent insurance company; no exoneration from liability could result therefrom. The fact that private respondent insurance company was itself defrauded due to the anomalies that took place in its Baguio branch office, such as the non-accrual of said premiums to its account, does not free the same from its obligation to petitioner Areola. As held in *Prudential Bank v. Court of Appeals*[13] citing the ruling in *McIntosh v. Dakota Trust Co.*: [14]

"A bank is liable for wrongful acts of its officers done in the interests of the bank or in the course of dealings of the officers in their representative capacity but not for acts outside the scope of their authority. A bank holding out its officers and agent as worthy of confidence will not be permitted to profit by the frauds they may thus be enabled to perpetrate in the apparent scope of their employment; nor will it be permitted to shirk its responsibility for such frauds, even though no benefit may accrue to the bank therefrom. Accordingly, a banking corporation is liable to innocent third persons where the representation is made in the course of its business by an agent acting within the general scope of his authority even though, in the particular case, the agent is secretly abusing his authority and attempting to perpetrate a fraud upon his principal or some other person, for his own ultimate benefit."

Consequently, respondent insurance company is liable by way of damages for the fraudulent acts committed by Malapit that gave occasion to the erroneous cancellation of subject insurance policy. Its earlier act of reinstating the insurance policy can not obliterate the injury inflicted on petitioner-insured. Respondent company should be reminded that a contract of insurance creates reciprocal obligations for both insurer and insured. Reciprocal obligations are those which arise from the same cause and in which each party is both a debtor and a creditor of the other, such that the obligation of one is dependent upon the obligation of the other.[15]

Under the circumstances of instant case, the relationship as creditor and debtor between the parties arose from a common cause: i.e., by reason of their agreement to enter into a contract of insurance under whose terms, respondent insurance company promised to extend protection to petitioner-insured against the risk insured for a consideration in the form of premiums to be paid by the latter. Under the law governing reciprocal obligations, particularly the second paragraph of Article 1191,[16] the injured party, petitioner-insured in this case, is given a choice between fulfillment or rescission of the obligation in case one of the obligors, such as respondent insurance company, fails to comply with what is incumbent upon him. However, said article entitles the injured party to payment of damages, regardless of whether he demands fulfillment or rescission of the obligation. Untenable then is respondent insurance company's argument, namely, that reinstatement being equivalent to fulfillment of its obligation, divests petitioner-insured of a rightful claim for payment of damages. Such a claim finds no support in our laws on obligations and contracts.

The nature of damages to be awarded, however, would be in the form of nominal damages[17] contrary to that granted by the court below. Although the erroneous cancellation of the insurance policy constituted a breach of

contract, private respondent insurance company, within a reasonable time took steps to rectify the wrong committed by reinstating the insurance policy of petitioner. Moreover, no actual or substantial damage or injury was inflicted on petitioner Areola at the time the insurance policy was cancelled. Nominal damages are "recoverable where a legal right is technically violated and must be vindicated against an invasion that has produced no actual present loss of any kind, or where there has been a breach of contract and no substantial injury or actual damages whatsoever have been or can be shown." [18]

WHEREFORE, the petition for review on certiorari is hereby GRANTED and the decision of the Court of Appeals in CA-GR. No. 16902 on May 31, 1990, REVERSED. The decision of Branch 40, RTC Dagupan City, in Civil Case No. D-7972 rendered on June 30, 1987 is hereby REINSTATED subject to the following modifications: (a) that nominal damages amounting to P30,000.00 be awarded petitioner in lieu of the damages adjudicated by court a quo; and (b) that in the satisfaction of the damages awarded therein, respondent insurance company is ORDERED to pay the legal rate of interest computed from date of filing of complaint until final payment thereof.

SO ORDERED.

Feliciano, J., (Chairman), concur.
Melo and Vitug, JJ., in the result.
Bidin, J., on leave.

[1] Exh. "A."

[2] Exh. "B."

[3] Exh. "C."

[4] Exh. "2."

[5] Exh. "D."

[6] Exh. "F."

[7] Exh. "E."

[8] Exh. "G."

[9] Exh. "H."

[10] Notation on upper right hand corner of Exh. "H."

[11] Radio Communications of the Philippines v. Court of Appeals, et al., No. L-44748, August 29, 1986, 143 SCRA 657.

[12] Rollo, p. 35.

[13] G.R. No. 108957, June 14, 1993, 223 SCRA 350.

[14] 52 ND 752, 204 NW 818, 40 ALR 1021.

[15] Tolentino, Arturo, Civil Code of the Philippines Commentaries and Jurisprudence, Vol. IV, p. 175.

[16] ART. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should

not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with articles 1385 and 1388 and the Mortgage Law.

[17] Article 2221 (Civil Code) - Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

[18] *Algarra v. Sandejas*, No. 8385, March 24, 1914, 27 Phil. 284.

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