

STRONGHOLD INSURANCE COMPANY, INC., PETITIONER, VS. HON. COURT OF APPEALS AND DIESEL INJECTION AND MAGNETO SERVICE COMPANY, RESPONDENTS.

G.R. No. 97793, November 19, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

Private respondent Diesel Injection and Magneto Service Co. (DIMSCO) sued Lepol Trading and Stronghold Insurance Co. (formerly Mabuhay Insurance and Guaranty Co.), as principal debtor and surety, respectively, for the sum of P49,217.62, representing the former's unpaid accounts, including interests and attorney's fees. Both defendants filed separate answers.

Pre-trial was scheduled but postponed several times, and the parties finally agreed to proceed to trial on the merits. Before this could begin, however, the plaintiff filed a motion for judgment on the pleadings, which both defendants opposed. When the parties failed to appear at the hearing of the motion, the same was considered submitted for resolution. In a decision dated May 2, 1987, the Regional Trial Court of Pasay City held both defendants solidarily liable for the amount demanded.[1]

Both defendants appealed to the respondent court, but the appeal was dismissed. Only Stronghold moved for reconsideration, which was denied.[2] Stronghold then came to us for relief in this petition for review on certiorari.

The sole issue for resolution is the propriety of the judgment on the pleadings rendered against the petitioner.

The trial court did not elaborate on this issue and simply said in its decision that it was being rendered "in accordance with Section 1, Rule 19, of the Rules of Court." The respondent court sustained it, holding that the averments in the complaint had not been specifically denied (although it did not specify by whom). It went on to say that "If the principal debtor, like Lepol in this case, has admitted its liability, the Surety or Mabuhay cannot assume an inconsistent stance."

In so saying, the respondent court practically suggested that the surety was bound by the answer of the principal debtor and could not or need not file its own answer to plead its own defenses. We hold at the outset that this was erroneous. In fact, the surety has the right to resist the complaint independently of the principal debtor and, if it sees fit, may even set up a cross-claim against the former. The answer of the surety has its own separate existence and function and may not be faulted or disregarded solely on the basis of the answer filed by the principal debtor.

In its Comment on the petition, the private respondent discussed at length the failure only of Lepol to specifically deny the allegations in the complaint filed by Dimsco. Thus, it spoke of "the answer of LEPOL,"[3] "the reason for LEPOL's denial of paragraph 2.1,"[4] "a mere perusal of LEPOL's answer,"[5] and "an admission by LEPOL,"[6] to justify the judgment on the pleadings. But nowhere was it asserted that the petitioner did not adequately traverse or otherwise admitted the plaintiff's averments to justify a judgment on the pleadings against

Stronghold.

A careful scrutiny of Stronghold's answer discloses that it has tendered an issue which precludes judgment on the pleadings insofar as it is concerned.

Paragraph 3 of its answer stated that for "lack of knowledge or information sufficient to form a belief as to the truth or falsity of the allegation set forth in paragraph 2.1 (of the complaint) the same are specifically denied, subject to its Special and Affirmative Defenses hereinbelow indicated."

In an action filed against a contractor and his surety to recover for materials furnished, it was held that the answer of the surety stating that it was without knowledge or information to form a belief as to the truth of the allegations with respect to the work and materials supplied by the plaintiff and the amount due was sufficient and had the effect of a denial.[7]

Paragraph 14 of Stronghold's answer, under the heading Special and Affirmative defenses, alleged "that some of the obligations of co-defendant Lepol Trading during the effectivity of the bond had been paid." The petitioner thus also raised a genuine issue by pleading this affirmative defense. It has also been held that it is sufficient to allege payment generally without stating the amount paid, the date of payment, or the person to whom made.[8]

The following excerpt from *Santiago v. Conde*[9] is in point:

When it appears that not all the material allegations of the complaint were admitted in the answer for some of them were either denied or disputed, the defendant going to the extent of setting up certain special defenses which, if proven, would have the effect of nullifying plaintiff's main cause of action, judgment on the pleadings cannot be rendered.

In the case before us, the petitioner's answer tendered an issue, for it did not only deny the material allegations of the complaint but even set up certain special and affirmative defenses. As the nature of the answer called for presentation of evidence, it was error for the lower court to simply render a decision thereon without a trial.[10]

Lepol's liability as principal debtor has clearly been conceded because of its failure to adequately deny the allegations in the complaint, but this cannot be said also of Stronghold. The defendant's assertions, such as the payments already made by Lepol, the inapplicability of the 1-1/2% interest to the surety, and the invalidity of the award of attorney's fees against it, are matters appropriate for a full-blown trial on the merits. It was clearly incorrect for the trial court to foreclose all these defenses by rendering judgment on the pleadings against both Lepol and Stronghold.

WHEREFORE, the appealed decision of the respondent court sustaining the judgment on the pleadings of the trial court is SET ASIDE. Civil Case No. 0807-P is remanded to the Regional Trial Court of Pasay City, Branch 108, for trial on the merits of the complaint against petitioner Stronghold Insurance Co., Inc. No costs.

SO ORDERED.

Narvasa, (Chairman), Feliciano, Griño-Aquino, and Medialdea, JJ., concur.

[1] Through Judge Priscilla C. Mijares.

[2] Penned by Rasul, J.; with de Paño, Jr. and Imperial, JJ., concurring.

[3] Rollo, p. 75.

[4] Ibid., p. 76.

[5] Id., 77.

[6] id.

[7] Francisco, Revised Rules of Court in the Philippines, Vol. 1, 1973 ed., p. 604.

[8] Ibid., p. 452 citing *Corbett v. Hughes*, 75 Iowa 281; 39 N.W. 300.

[9] 105 Phil. 298.

[10] *Benavides v. Alabastro*, 12 SCRA 553.

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