

LA CAMPANA FOOD PRODUCTS, INC., PETITIONER, VS. THE COURT OF APPEALS, TIMOTHY M. ANG AND BETHLEHEM MANUFACTURING, INC., RESPONDENTS.

G.R. No. 97838. May 12, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review on certiorari seeking reversal of the decision of public respondent Court of Appeals dated March 18, 1991, in CA-G.R. CV No. 15605 which modified the decision of the Regional Trial Court of Quezon City, in Civil Case No. Q-39428, dated August 26, 1987, dismissing petitioner's complaint and finding it liable to private respondents for damages, attorney's fees and litigation expenses.

The antecedent facts of this case are, as follows:

Petitioner La Campana Food Products, Inc. is the owner-lessor of a warehouse type building located at 37 Baler St., SFDM, Quezon City. The building is of strong materials and consisted of several partitions of concrete or hollow blocks. Each partition was occupied by the following respective lessees of petitioner company:

- a. 1st partition: By lessee Perflex Manufacturing Corporation under contract of lease dated May 18, 1981[1] and an addendum thereto dated May 31, 1982[2] with areas of 500 sq.m. and 98 sq.m. more or less;
- b. 2nd partition: By lessee Chromecraft Industries, Inc. under contract of lease dated January 30, 1982[3] with an area of 500 sq.m. more or less;
- c. 3rd partition: By private respondent Bethlehem Manufacturing, Inc. under contract of lease dated June 3, 1981[4] with an area of 1,000 sq.m. more or less;
- d. 4th and 5th partitions: By private respondent company under addendum to the contract of lease dated July 11, 1983[5] with an area of 500 sq.m. more or less;
- e. 6th partition: By lessee Concorde.[6]

The contracts of lease, Exhibits "I" and "J," were executed by private respondent Timothy M. Ang, who is the majority stockholder and director of Bethlehem Manufacturing, Inc.[7] which is engaged in the knitting and garments business, with machineries and sewing materials for knitting and manufacture of garments, hosiery, dresses and all kinds of knitted and woven materials.[8]

On August 1, 1983, at about 2:00 a.m., a fire broke out heavily damaging petitioner's building. Several machineries, equipments and materials of private respondent company therein were also heavily damaged and/or destroyed.

On August 24, 1983, petitioner filed a case for damages with preliminary attachment against Chromecraft[9] and Perflex,[10] and on September 30, 1983, against private respondent company.[11]

In all these three cases, the allegations in petitioner's complaints are substantially the same, especially the allegation on the proximate cause of the fire,[12] to wit: "x x x the negligence of defendants' domestics and/or employees, some of whom were staying inside the leased premises and were present during the fire, by storing within the leased premises flammable materials, in gross violation of the lease agreement, and by failing to put up and/or install the proper safeguards and equipments to prevent the occurrence of fire therein." In the present case, petitioner claimed that it suffered damages in the amount of P415,584.00 representing actual damages and P83,116.80 for attorney's fees.

Traversing the allegations in the complaint, private respondents, in their answer with compulsory counterclaims, alleged that the fire started somewhere else and not in the premises leased by them and that they have not done any act or omission which, factually or legally, renders them answerable for the fire and/or the resulting damages. They interposed counterclaims for P1,300,000.00 as actual damages due to the malicious filing by petitioner of the complaint; P2,000,000.00 for moral damages; P50,000.00 for exemplary damages and P100,000.00 as attorney's fees.

Petitioner, at the inception of this case, was able to obtain a writ of preliminary attachment on the properties of private respondent company upon the filing of a bond furnished by Visayan Surety and Insurance Corporation in the sum of P498,700.80, all done ex-parte as private respondents were not yet properly summoned.[13] The Sheriff was able to attach private respondents' properties still located inside the burnt building as well as on the proceeds of the insurance claim, upon the request of petitioner. However, by virtue of the trial court's order dated November 7, 1983, discharging the attachment upon private respondents' filing of a counterbond in the amount of P498,700.00 furnished by Prudential Guarantee and Assurance, Inc., the properties attached were released on November 10, 1983.[14]

On August 26, 1987, the trial court rendered its decision, the dispositive portion of which reads:[15]

"WHEREFORE, premises considered, judgment is hereby rendered:

1. DISMISSING plaintiff's complaint with costs against plaintiff; and
2. ORDERING plaintiff to pay defendants-counterclaimants the following amounts:
 - a. P900,000.00 as actual damages;
 - b. P10,000.00 as moral damages;
 - c. P10,000.00 as exemplary or corrective damages;
 - d. P50,000.00 as attorney's fees; and
 - e. P5,000.00 as litigation expenses.

SO ORDERED."

Not satisfied with said decision, both parties appealed before public respondent Court of Appeals. On March 18, 1991, respondent court rendered its decision, the dispositive portion of which reads:[16]

"PREMISES CONSIDERED, the decision appealed from is hereby MODIFIED by deleting the award of P900,000.00 actual damages in favor of the defendants-appellants and by increasing the award of moral damages from P10,000.00 to P100,000.00.

SO ORDERED."

Hence, the present petition for review on certiorari.

Petitioner assigns the following relevant errors committed by respondent court:[17]

- 1) In not rejecting as inadmissible evidence, the exhibits (Exhs. "9" to "12," with submarkings and Exhs. "15" to "51," with submarkings) formally offered by private respondents, consisting of mere xerox copies of documents purportedly marked during the trial without proper comparison and verification that the xerox copies are faithful reproductions of the exhibits so marked, despite seasonable objection thereto;
- 2) In considering the action as based on tort and not on breach of lease contracts;
- 3) In placing undue reliance on the investigation reports of the police (Exh. "24") and the insurance adjuster (Exh. "21");
- 4) In holding that the testimonies of Marcelo Salatan, Eddie Luspo and Ricardo S. Tantongco are not credible;
- 5) In not finding any significance to the unusually high fire insurance coverage of P6 million procured by private respondent company; and
- 6) That its monetary award in favor of private respondent company lacks factual and legal bases.

Petitioner asseverates that what private respondents formally offered, as Exhibits "9" to "12" and "15" to "51," with submarkings, were mere xerox copies of documents purporting to have been marked as exhibits in the course of the trial. Prior to such offer, no comparison was made between the documents purportedly marked as exhibits and the alleged xerox copies thereof, to establish their faithful reproduction; that the cause of action against private respondents was founded on breach of lease contracts rather than on tort; that the police and insurance adjuster's reports are hearsay because their findings, insofar as the origin and cause of the fire are concerned, did not stem from personal knowledge but on information from other persons who were not called to the witness stand; and that the respondent court's finding that the testimonies of Marcelo Salatan, Eddie Luspo and Ricardo Tantongco, its President and General Manager, are not credible, following the finding of Judge Tomas V. Tadeo who penned the decision but who did not hear the testimonies of these witnesses, is unfounded and springs from a gross misapprehension of the totality of their respective testimonies. Private respondent company, whose paid-up capital is only P62,500.00, procured an unusually high fire insurance coverage of P6,000,000.00 over the personal properties supposedly found inside the leased premises. Lastly, the grant of damages to private respondents is bereft of any factual or legal basis, and contravenes well-settled jurisprudence.

The voluminous pleadings filed in this case notwithstanding, this Court finds no reversible error in the decision of respondent court.

The issues raised by petitioner involve factual matters and the rule in this jurisdiction as held in *Remalante v. Tibe, et al.*, [18] is that "only questions of law may be raised in a petition for (review on) certiorari under Rule 45 of the Revised Rules of Court. 'The jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive' [Chan v. Court of Appeals, G.R. No. L-27488, June 30, 1970, 33 SCRA 737, reiterating a long line of decisions]."[19] The rule, admits of several exceptions as enumerated in *Medina, et al. v. Asistio, etc., et al.*, [20] detailing instances when findings of fact may be passed upon and reviewed by this Court.[21] Petitioner's case, however, does not fall under any of these exceptions.

The respondent court's ratiocination, being anchored on factual and legal grounds, deserves Our affirmance.

With respect to petitioner's first assignment of errors, while Exhibits "9," "10" and "11" (which are copies of the complaint filed by petitioner against Chromecraft and Perflex, and a copy of the amended complaint filed against the latter) are mere xerox copies, respondent court noted that relevant portions of said exhibits were read in evidence from certified true copies of the aforementioned complaints.[22]

As to Exhibit "12" (the lay-out of the premises leased by private respondents which was sketched by insurance adjuster Victor Mariñas and on which were indicated the locations of the knitting machines in the burnt premises), the same had been sufficiently established in the testimony of Mariñas.[23]

Concerning Exhibits "16" and "17" and its submarkings,[24] what is important are the nature and value of the stocks transferred to the additional leased premises as testified to by Mariñas.[25]

Exhibits "18" and "19" (which refer to items evidenced by invoices but which were burnt in the premises of private respondent company) were also identified and testified to by Mariñas.[26] And so with Exhibits "18" to "23," which were offered to prove that there was no over-insurance by private respondent company.[27]

Exhibit "24" (the final investigation report of the Anti-Arson Composite Team, FD 11, Northern Police District) which is also Exhibit "HH" for petitioner was identified by witness Arturo Martin (who is a signatory to such exhibit) as a xerox copy of the original brought by him to the Regional Trial Court (Branch 85) of Quezon City in the course of his testimony in said court in a complaint filed by the former in connection with the same fire incident.

As for Exhibits "25" to "46," these were offered merely to show that there were deliveries of supplies and equipments immediately before the fire as testified to by witness Timothy Ang.[28]

Exhibits "47" to "50" refer to firm offers and corresponding cancellations made as the basis for private respondents' demand for actual and consequential damages. These exhibits were identified by Timothy Ang in the hearing of April 8, 1987.

Exhibit "51" (the retainer agreement) was also identified by Ang in the course of his testimony on April 8, 1987.

In view of the foregoing, as correctly held by respondent court, the first assignment of error would not help the cause of petitioner even if it were resolved in its favor. Moreover, its objection is purely technical. It failed to show any discrepancy between the exhibits marked during the trial and those offered in evidence.

With regard to the second, third, fourth and fifth assigned errors, again, respondent court correctly ruled on these issues.

Petitioner attempted to prove private respondent company's negligence with evidence to the effect that two days before the fire, Ricardo Tantongco saw flammable materials in the leased premises after he was informed earlier by his construction workers, namely, Marcelo Salatan and Eddie Luspo, of its presence in said premises.

Salatan's testimony, however, is not credible for a good number of reasons. In one instance, he was caught lying regarding his previous claim that he was not investigated by anybody regarding the fire.[29] Subsequently, he testified that he was. Witness his testimony, to wit:[30]

Atty. Ortega:

Q About the question what made you say that you were not investigated in connection with the fire involved in this case whereas according to your subsequent testimony or previous testimony you were in fact asked so many questions by the policeman and you said that you were asked these questions outside the compound of La Campana in the afternoon of when?

A I cannot remember sir.

Q You mean to say you were not brought to any precinct or any headquarters where you were asked questions by the policeman?

A I was brought sir.

Even if Salatan's testimony were credible, it could not be relied upon to prove that the fire started simultaneously at Perflex, Chromecraft and Bethlehem because when he saw the fire after having been awakened, the fire had already affected one-half of the premises of the three establishments.[31]

Neither is Ricardo Tantongco's testimony, which at times was conspicuously evasive, credible because he had manifested extreme bias against private respondents. This is shown by the following:

1. His conclusion about over-insurance is not only baseless but was reached without any attempt at verification as shown by insurance adjuster Mariñas' findings;[32]
2. He was not truthful about the number of machines that he saw in the burnt premises;[33] and
3. His testimony that the machines in the burnt premises were under repair and were not operating[34] is traversed by Mariñas who testified that the machines were brand new and were being used just before the fire.[35]

Hereunder is a sample of Tantongco's testimony:[36]

"Atty. Ortega:

Q Did you not go to any law enforcement agency to ask them to investigate the cause of the fire?

A I did not ask.

Q How about any employee or officer of the plaintiff, have you not as a president instructed any of them to go to a law enforcement agency to secure an investigation of the cause of the fire?

A No, I did not.

Q Do you have any special reason for not being interested to have a government enforcement (sic) or investigator find out what is the cause of the fire?

A I know already, they are heavily insured, that is my conclusion."

The allegation that the judge who heard their testimonies and the one who penned the decision are not one and the same does not deserve serious consideration for being raised for the first time in this petition.[37]

Aside from the testimony of insurance adjuster Victor Mariñas that there was no over-insurance, private respondent company presented the Anti-Arson's Final Investigation Report which contained the following entry:[38]

"FINDINGS: It appears on the final investigation as jointly conducted by elements of the Anti-Arson Composite Team, this District, that this fire of accidental cause and/or origin broke out at the Production Section of Perflex Mfg. Co. Ltd. located at the ground floor.

x x x x x

Occular (sic) inspection conducted at the focal point of origin shows no sign that the incident was deliberately set because of the very extensive damage brought about by the fire. However, ashes and debris were collected at the scene and were forwarded to the PC Crime Laboratory for examination, the result of which was negative for inflammable substance, thereby ruling out incendiarism. Insurance coverage of these establishments shows that it is not enough to cover up their actual total damages brought about by this fire. With this findings, it is honestly believed that the cause of fire was purely accidental."

The said report had been assailed as hearsay for the reason that the supporting affidavits and documents on which such report was based had not been attached thereto. But the report was submitted by government officials and personnel, with expertise in the line of work they are doing, to investigate and report on the cause of the fire.

Their findings and conclusions warrant the presumption of regularity and correctness. If petitioner believed that the conclusions contained in the report is not true, then it is incumbent upon petitioner to prove the contrary. The report as well as the supporting affidavits are available for inspection and perusal. It could have compelled the production of the same and proved its suspicions before the trial court. These, petitioners failed to do. In fact Ricardo Tantongco's failure to contact the arson investigators and inform them of the flammable materials that he allegedly saw in the premises burned two days before the fire is incomprehensible.

With respect to the award of damages by respondent court subject of the sixth and seventh assigned errors, We find the same proper. It took into account the following actuations of petitioner, through Ricardo Tantongco, as indications of recklessness, insincerity, malice, oppression, and wanton bad faith in the filing of its complaint in that -

1. He knew that an investigation was conducted right after the fire on the premises in question by the Anti-Arson Team of Quezon City Police Department and yet he did nothing by way of cooperating in said investigation. He likewise knew that the investigators found out that the fire did not originate from the place of private respondents but from Perflex, that it was accidental, and that private respondent company's employees had nothing to do at all with the cause of the fire. The insurance adjuster also arrived at the same findings. In spite of all these, petitioner still filed the complaint; and

2. He filed similar cases against Perflex and Chromecraft in support of petitioner's allegation that the proximate cause of the fire is the negligence of the domestics/employees of each defendant in each case.

WHEREFORE, finding no reversible error in the decision of the Court of Appeals dated March 18, 1991, the same is hereby **AFFIRMED**. Costs de officio.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Annex "A" to Exh. "10."

[2] Annex "B" to Exh. "10."

[3] Annex "A" to Exh. "9."

[4] Exh. "I."

[5] Exh. "J."

[6] See sketch Exh. "I" and Exh. "L" and sketch Exh. "12."

[7] Exhibit "F" and series.

[8] Exhibit "F-1."

[9] Lessee of second partition, supra, docketed as Civil Case No. Q-39194 of the Regional Trial Court of Quezon City and raffled to Branch 85.

[10] Lessee of first partition, supra, docketed as Civil Case No. Q-39193 of the Regional Trial Court of Quezon City and raffled to Branch 100.

[11] Lessee of third, fourth and fifth partitions, supra, docketed as Civil Case No. Q-39428 of the Regional Trial Court of Quezon City and raffled to Branch 105.

[12] Paragraph 9 of the complaint against private respondent company; paragraph 6 of the complaint against Chromecraft; and paragraph 6 of the complaint against Perflex.

[13] Order dated October 11, 1983.

[14] Sheriff's Report dated December 8, 1983.

[15] Rollo, p. 193.

[16] Rollo, p. 86.

[17] Rollo, pp. 329-330.

[18] G.R. No. 59514, 158 SCRA 138 (1988).

[19] 158 SCRA, at 144.

[20] G.R. No. 75450, 191 SCRA 218 (1990).

[21] "(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures (*Joaquin v. Navarro*, 93 Phil. 257 [1953]); (2) When the inference made is manifestly mistaken, absurd or impossible (*Luna v. Linatok*, 74 Phil. 15 [1942]); (3) Where there is a grave abuse of discretion (*Buyco v. People*, 95 Phil. 453 [1955]); (4) When the judgment is based on a misapprehension of facts (*Cruz v. Sosing*, L-4875, Nov. 27, 1953); (5) When the findings of fact are conflicting (*Casica v. Villaseca*, L-9590 Ap. 30, 1957; unrep.); (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (*Evangelista v. Alto Surety and Insurance Co.*, 103 Phil. 401 [1958]); (7) The findings of the Court of Appeals are contrary to those of the trial court (*Garcia v. Court of Appeals*, 33 SCRA 622 [1970]); *Sacay v. Sandiganbayan*, 142 SCRA 593 [1986]); (8) When the findings of fact are conclusions without citation of specific evidence on which they are based (*Ibid.*); (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents (*Ibid.*); and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record (*Salazar v. Gutierrez*, 33 SCRA 242 [1970])." 191 SCRA, at 223-224.

[22] T.S.N., November 20, 1985, pp. 11-14.

[23] T.S.N., March 12, 1986, p. 6.

[24] Exhibit "15" was not mentioned although it was also an inventory like Exhibits "16" and "17" admittedly prepared and signed by insurance adjuster Mariñas.

[25] T.S.N., April 18, 1986, pp. 5-6.

[26] *Ibid*, pp. 6-7.

[27] T.S.N., March 12, 1986, pp. 19-10.

[28] T.S.N., March 4, 1987, pp. 17-18.

[29] T.S.N., November 6, 1984, p. 3.

[30] T.S.N., February 20, 1985, p. 6.

[31] T.S.N., October 4, 1984, pp. 13-14.

[32] T.S.N., March 13, 1986, pp. 17-20.

- [33] T.S.N., January 8, 1986, pp. 5-6 and 20.
- [34] T.S.N., January 8, 1986, pp. 20-22.
- [35] T.S.N., March 12, 1986, pp. 19, 21-22.
- [36] T.S.N., January 8, 1986, p. 10.
- [37] Cordero v. Cabral, G.R. No. L-36789, 123 SCRA 532 (1983).
- [38] Exhibits "HH" and "24," underscoring supplied.

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