

SEVENTEENTH DIVISION

[CA-G.R. CV NO. 55432, August 09, 2006]

**INVESTORS FINANCE CORPORATION (CITYTRUST FINANCE CORP.),
PLAINTIFF-APPELLEE, VS. R. C. GONZALES COMPANY, INC., AND RAMON
GONZALES AND MARIA CARMEN GONZALES, DEFENDANTS-APPELLANTS.**

DECISION

SANTIAGO-LAGMAN, J.:

Assailed in this appeal is the September 29, 1995 Decision^[1] of the Regional Trial Court (RTC) of Makati City , Branch 138, in Civil Case No. 3900, entitled "Investors Finance Corporation (Citytrust Finance Corp.), plaintiff ("*Appellee*" herein), vs. R. C. Gonzales Co. Inc., Ramon C. Gonzales and Maria Carmen Gonzales, defendants ("*Appellants*")", which ordered the appellants, jointly and severally, to pay the appellee certain sums of money with corresponding interests and attorney's fees. The decretal portion of the said decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Ordering the defendants to pay the plaintiff jointly and severally the following amounts:

a) On the first cause of action the sum of P1,000,000.00 with past due charges thereon at the rate of 2% per month or P666.67 daily from 30 July 1980, until fully paid plus legal interest thereon from the time the complaint was filed;

b) On the second cause of action, the sum of P557,016.06 plus P3,217.58 per day from 21 September 1981 plus the stipulated interest of P14% per annum until all the leased equipment are returned to the plaintiff with legal interest from the time the complaint was filed;

c) On the third cause of action, ordering the defendants to return the leased property or jointly and severally to pay the value of the leased property in case of failure to return;

d) The sum of P50,000.00 as and for attorney's fees.

2. Dismissing defendants' counterclaim.

SO ORDERED."^[2]

The factual antecedents as summarized by the RTC in its decision, are:

"Plaintiff (appellee herein) brought this action to recover a sum of money and damages against the defendant R.C. Gonzales Co., Inc. (defendant company) (herein referred to as **Appellant Company**) and spouses Ramon and Carmen Gonzales (herein referred to as **Appellant-Spouses**) in their capacity as guarantors of the obligations contracted by the defendant company. The complaint includes a prayer for the issuance of the writ of preliminary attachment on the ground that defendants have removed or disposed or are so planning to remove or dispose of their properties with intent to defraud the plaintiff.

After plaintiff filed the attachment bond and the Affidavit in support of its application for the issuance of the writ of preliminary attachment, the Court by Order dated 15 June 1983, issued the writ of attachment ex parte. This writ was later lifted by Order dated 1 August 1983, after defendant filed an Urgent Motion for Recall and Quashal of the Writ of Preliminary Attachment and the Court made a finding that defendants obligation to the plaintiff remains fully secured.

As a backgrounder, plaintiff is a corporation duly organized and existing under the laws of the Philippines doing business under the name and style FNCB Finance Corporation. During the pendency of this action, plaintiff, with the approval of the Securities and Exchange Commission changed its corporate name to Citytrust Finance Corporation.

Defendant R.C. Gonzales Co. Inc., on the other hand is a corporation duly organized and existing under the laws of the Philippines and engaged in the general construction business, while defendant spouses Ramon and Carmen Gonzales are the president and treasurer of the defendant company respectively.

It appears from the records that prior to the commencement of the instant suit, defendants availed of various credit facilities extended by the plaintiff. These credit facilities include the receivables purchase financing facility and the purchase-lease-back financing facility.

On 7 July 1978, plaintiff extended to the defendant company a receivable purchase financing facility for up to P 1 million. As agreed upon by the parties, each availment was to have a maximum term of sixty (60) days with the plaintiff earning a purchase discount at 2% on the receivables purchased. The parties stipulated that there shall be additional charges of two percent (2%) per month (past due charges) in case certain stipulations are not met by the debtor. This financing facility was to be secured by the following:

- a) a Continuing Guaranty to be executed by the defendant Spouses Ramon and Carmen Gonzales;

- b) Chattel Mortgage of various construction equipment owned by the defendant company;

- c) Assignment of receivables due to the defendant company for the construction of a provincial road in Mindoro Oriental.

Under the Continuing Guaranty, . Spouses Ramon and Carmen Gonzales agreed to guarantee the punctual payment of any and all such instruments, loans, advances, credits and any other indebtedness which are due or may become due or owing to the plaintiff by defendant company. Defendant spouses also waived the benefit of excussion it being agrees that their liability under the Continuing Guaranty is joint and several with the defendant company.

Pursuant also to the agreed financing facility, defendant company mortgaged in favor of the plaintiff various items of construction equipment under Chattel Mortgage dated 12 July 1978. These mortgaged equipment were later substituted with three Mercedes Benz dump trucks in a deed denominated by the parties as "Release and Substitution of Collaterals" dated September 15, 1978.

On 27 July 1978, defendant company mortgaged additional construction equipment which were later substituted with two Mercedes Benz dump trucks in another Release and Substitution of Collaterals dated September 15, 1978.

On various occasions, defendant company availed itself of the receivables purchase financing facility and one such occasion was in June 1980, when defendant availed itself of the facility by discounting receivables valued at P600,000.00 and P400,000.00. The availments are each evidenced by a Disclosure Statement of Loan/Credit Transaction both dated 18 June 1980.

As security for the availments, in addition to the Continuing Guaranty of the defendant spouses and the mortgage of various construction equipment, defendant company assigned to the plaintiff receivables from the Ministry of Public Works for the construction of a provincial road in Mindoro Oriental.

Defendant company's total obligations under the receivables purchase financing facility arising from two availments of P600,000. and P400,000 have become due and demandable as of 29 July 1980. Despite repeated demands made by the plaintiff, defendants refused and failed to pay their outstanding obligations. As stipulated in their agreement, defendants shall pay past due charges at the rate of 2% per month (if computed daily will result to P666.67 daily interest) in case the obligation is not paid at maturity.

As a second cause of action, plaintiff alleged that defendants likewise availed of the purchase-lease-back financing facility. Under this scheme, plaintiff purchased various items of construction equipment and leased the same back to the defendant company for a period of two years commencing on 20 September 1979 and ending on 20 September 1981, pursuant to the Lease Agreement. Defendants Ramon and Carmen Gonzales likewise executed a Continuing Guaranty of Lease Obligations dated 5 September 1978.

The aggregate amount of rentals to be paid under the agreement is P2,316.656.64 payable in twenty-four (24) equal monthly installments of P96,527.36 each. The parties stipulated that in the event the defendants fail to return any leased property on the date required, the defendants shall continue to pay rent at a rate per month equal to the monthly rent payable during the original term divided by thirty (30) which is equivalent to P3,217.57 daily rental. Under paragraph 17 of the Lease Agreement, the parties stipulated that delinquent rent shall earn late charges of fourteen percent (14%) per annum.

Plaintiff alleged that of the P2,316.656.54 rental stipulated under their Lease Agreement, defendants were able to pay only P1,759,595.58, leaving a balance of P557,016.06 in unpaid rentals for the regular term of the lease. There was likewise failure on the part of the defendants to return the properties subject of the lease despite the expiration of the term on 21 September 1981.

Plaintiff sent several demands to the defendants for the settlement of their outstanding obligations on both financing facilities but defendants failed to fully settle their obligations, Hence the suit.

The third, fourth, and fifth causes of action pleaded by the plaintiff in its complaint

merely seek the enforcement of the stipulation regarding damages and attorney's fees in all the loan agreements with the defendants.

On 23 August 1983, defendants filed their Answer with Compulsory Counterclaim. Defendants admitted having availed of both financing facilities extended by the plaintiff. Spouses Ramon and Carmen Gonzales likewise admitted the execution of the Continuing Guaranty but denied liability under the same alleging that it was a mere formality in the extension of the credit facilities and is in no way intended to bind them.

With respect to the purchase-lease-back financing facility, defendants admitted the execution of the Lease Agreement but raised as an affirmative defense that the contract does not express the true intent and agreement between them. They denied that the transaction was a lease and alleged that it was in effect a conditional sale of the equipment listed in the Annex to the Lease Schedule (Exhibit P) and they are therefore under no obligation to return the equipment much less to pay the additional rentals.

In their counterclaim, defendants seek to recover the following amounts: P3 million for damages allegedly sustained by reason of the implementation of the writ of preliminary attachment which was later lifted; P 1 million for the value of the payload which fell off the bridge in the course of the attachment; P50,000 as and for attorney's fees and P1 million for moral damages.

On September 29, 1995, the court *a quo* issued the challenged decision. In resolving the case against the appellants spouses, the court *a quo* anchored its findings on the admission of the appellants that they have availed of the financing facility extended to them by the appellee secured by collaterals owned by the appellant company as represented by the appellant-Spouses. The same holds true as regards the purchase lease back financing facility considering that appellee was able to prove its ownership over the leased machineries and equipment leased by the appellants, in addition to the fact that the latter admitted the execution of the Lease Agreement in favor of the appellee. More importantly, the trial court likewise debunked the contention raised by the appellants that the contracts they executed in favor of the appellee was a mere formality which, in any manner, cannot bind them.

Undaunted by the said decision, appellants now come to Us via the present appeal, raising the following **assignment of errors**:

"I.) THE TRIAL COURT ERRED IN ORDERING APPELLANTS GONZALES TO PAY APPELLEE JOINTLY AND SEVERALLY THE SUM OF P1 MILLION PESOS PLUS 2% INTEREST MONTHLY INTEREST OR P666.67 DAILY INTEREST FROM JULY 30, 1980, UNTIL FULLY PAID PLUS LEGAL INTEREST THEREON FROM THE TIME THE COMPLAINT WAS FILED;

II.) THE TRIAL COURT ERRED IN DECLARING AS A CONTRACT OF LEASE THE DOCUMENT DENOMINATED "PURCHASE LEASE BACK AGREEMENT;

III.) THE TRIAL COURT ERRED IN ORDERING APPELLANTS TO RETURN THE ALLEGED LEASED PROPERTY OR JOINTLY AND SEVERALLY TO PAY THE VALUE OF THE ALLEGED LEASED PROPERTY IN CASE OF FAILURE TO RETURN;

IV.) THE TRIAL COURT ERRED IN AWARDING ATTORNEY'S FEES IN THE AMOUNT OF OF P50,000.00 TO THE APPELLEE;

V.) THE TRIAL COURT ERRED IN DISMISSING APPELLANT'S COUNTERCLAIM."^[3]