

SECOND DIVISION

[G.R. No. 167615, January 11, 2016]

SPOUSES ALEXANDER AND JULIE LAM, DOING BUSINESS UNDER THE NAME AND STYLE "COLORKWIK LABORATORIES" AND "COLORKWIK PHOTO SUPPLY", PETITIONERS, VS. KODAK PHILIPPINES, LTD., RESPONDENT.

D E C I S I O N

LEONEN, J.:

This is a Petition for Review on Certiorari filed on April 20, 2005 assailing the March 30, 2005 Decision^[1] and September 9, 2005 Amended Decision^[2] of the Court of Appeals, which modified the February 26, 1999 Decision^[3] of the Regional Trial Court by reducing the amount of damages awarded to petitioners Spouses Alexander and Julie Lam (Lam Spouses).^[4]

The Lam Spouses argue that respondent Kodak Philippines, Ltd.'s breach of their contract of sale entitles them to damages more than the amount awarded by the Court of Appeals.^[5]

I

On January 8, 1992, the Lam Spouses and Kodak Philippines, Ltd. entered into an agreement (Letter Agreement) for the sale of three (3) units of the Kodak Minilab System 22XL^[6] (Minilab Equipment) in the amount of P1,796,000.00 per unit,^[7] with the following terms:

This confirms our verbal agreement for Kodak Phils., Ltd. to provide Colorkwik Laboratories, Inc. with three (3) units Kodak Minilab System 22XL . . . for your proposed outlets in Rizal Avenue (Manila), Tagum (Davao del Norte), and your existing Multicolor photo counter in Cotabato City under the following terms and conditions:

1. Said Minilab Equipment packages will avail a total of 19% multiple order discount based on prevailing equipment price provided said equipment packages will be purchased not later than June 30, 1992.

2. 19% Multiple Order Discount shall be applied in the form of merchandise and delivered in advance immediately after signing of the contract.

* Also includes start-up packages worth P61,000.00.

3. NO DOWNPAYMENT.

4. Minilab Equipment Package shall be payable in 48 monthly installments at THIRTY FIVE THOUSAND PESOS (P35,000.00) inclusive of 24% interest rate for the first 12 months; the balance shall be re-amortized for the remaining 36 months and the prevailing interest shall be applied.

5. Prevailing price of Kodak Minilab System 22XL as of January 8, 1992 is at ONE MILLION SEVEN HUNDRED NINETY SIX THOUSAND PESOS.

6. Price is subject to change without prior notice.

* Secured with PDCs; 1st monthly amortization due 45 days after installation[.]^[8]

On January 15, 1992, Kodak Philippines, Ltd. delivered one (1) unit of the Minilab Equipment in Tagum, Davao Province.^[9] The delivered unit was installed by Noritsu representatives on March 9, 1992.^[10] The Lam Spouses issued postdated checks amounting to P35,000.00 each for 12 months as payment for the first delivered unit, with the first check due on March 31, 1992.^[11]

The Lam Spouses requested that Kodak Philippines, Ltd. not negotiate the check dated March 31, 1992 allegedly due to insufficiency of funds.^[12] The same request was made for the check due on April 30, 1992. However, both checks were negotiated by Kodak Philippines, Ltd. and were honored by the depository bank.^[13] The 10 other checks were subsequently dishonored after the Lam Spouses ordered the depository bank to stop payment.^[14]

Kodak Philippines, Ltd. canceled the sale and demanded that the Lam Spouses return the unit it delivered together with its accessories.^[15] The Lam Spouses ignored the demand but also rescinded the contract through the letter dated November 18, 1992 on account of Kodak Philippines, Ltd.'s failure to deliver the two (2) remaining Minilab Equipment units.^[16]

On November 25, 1992, Kodak Philippines, Ltd. filed a Complaint for replevin and/or recovery of sum of money. The case was raffled to Branch 61 of the Regional Trial Court, Makati City.^[17] The Summons and a copy of Kodak Philippines, Ltd.'s Complaint was personally served on the Lam Spouses.^[18]

The Lam Spouses failed to appear during the pre-trial conference and submit their pre-trial brief despite being given extensions.^[19] Thus, on July 30, 1993, they were declared in default.^[20] Kodak Philippines, Ltd. presented evidence ex-parte.^[21] The trial court issued the Decision in favor of Kodak Philippines, Ltd. ordering the seizure of the Minilab Equipment, which included the lone delivered unit, its standard accessories, and a separate generator set.^[22] Based on this Decision, Kodak Philippines, Ltd. was able to obtain a writ of seizure on December 16, 1992 for the Minilab Equipment installed at the Lam Spouses' outlet in Tagum, Davao Province.^[23] The writ was enforced on December 21, 1992, and Kodak Philippines, Ltd. gained possession of the Minilab Equipment unit, accessories, and the generator set.^[24]

The Lam Spouses then filed before the Court of Appeals a Petition to Set Aside the Orders issued by the trial court dated July 30, 1993 and August 13, 1993. These Orders were subsequently set aside by the Court of Appeals Ninth Division, and the case was remanded to the trial court for pre-trial.^[25]

On September 12, 1995, an Urgent Motion for Inhibition was filed against Judge Fernando V. Gorospe, Jr.,^[26] who had issued the writ of seizure.^[27] The ground for the motion for inhibition was not provided. Nevertheless, Judge Fernando V. Gorospe Jr. inhibited himself, and the case was reassigned to Branch 65 of the Regional Trial Court, Makati City on October 3, 1995.^[28]

In the Decision dated February 26, 1999, the Regional Trial Court found that Kodak Philippines, Ltd. defaulted in the performance of its obligation under its Letter Agreement with the Lam Spouses.^[29] It held that Kodak Philippines, Ltd.'s failure to deliver two (2) out of the three (3) units of the Minilab Equipment caused the Lam Spouses to stop paying for the rest of the installments.^[30] The trial court noted that while the Letter Agreement did not specify a period within which the delivery of all units was to be made, the Civil Code provides "reasonable time" as the standard period for compliance:

The second paragraph of Article 1521 of the Civil Code provides:

Where by a contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

What constitutes reasonable time is dependent on the circumstances availing both on the part of the seller and the buyer. In this case, delivery of the first unit was made five (5) days after the date of the agreement. Delivery of the other two (2) units, however, was never made despite the lapse of at least three (3) months.^[31]

Kodak Philippines, Ltd. failed to give a sufficient explanation for its failure to deliver all three (3) purchased units within a reasonable time.^[32]

The trial court found:

Kodak would have the court believe that it did not deliver the other two (2) units due to the failure of defendants to make good the installments subsequent to the second. The court is not convinced. First of all, there should have been simultaneous delivery on account of the circumstances surrounding the transaction. . . . Even after the first delivery ... no delivery was made despite repeated demands from the defendants and despite the fact no installments were due. Then in March and in April (three and four months respectively from the date of the agreement and the first delivery) when the installments due were both honored, still no

delivery was made.

Second, although it might be said that Kodak was testing the waters with just one delivery - determining first defendants' capacity to pay - it was not at liberty to do so. It is implicit in the letter agreement that delivery within a reasonable time was of the essence and failure to so deliver within a reasonable time and despite demand would render the vendor in default.

. . . .

Third, at least two (2) checks were honored. If indeed Kodak refused delivery on account of defendants' inability to pay, non-delivery during the two (2) months that payments were honored is unjustified.^[33]

Nevertheless, the trial court also ruled that when the Lam Spouses accepted delivery of the first unit, they became liable for the fair value of the goods received:

On the other hand, defendants accepted delivery of one (1) unit. Under Article 1522 of the Civil Code, in the event the buyer accepts incomplete delivery and uses the goods so delivered, not then knowing that there would not be any further delivery by the seller, the buyer shall be liable only for the fair value to him of the goods received. In other words, the buyer is still liable for the value of the property received. Defendants were under obligation to pay the amount of the unit. Failure of delivery of the other units did not thereby give unto them the right to suspend payment on the unit delivered. Indeed, in incomplete deliveries, the buyer has the remedy of refusing payment unless delivery is first made. In this case though, payment for the two undelivered units have not even commenced; the installments made were for only one (1) unit.

Hence, Kodak is right to retrieve the unit delivered.^[34]

The Lam Spouses were under obligation to pay for the amount of one unit, and the failure to deliver the remaining units did not give them the right to suspend payment for the unit already delivered.^[35] However, the trial court held that since Kodak Philippines, Ltd. had elected to cancel the sale and retrieve the delivered unit, it could no longer seek payment for any deterioration that the unit may have suffered while under the custody of the Lam Spouses.^[36]

As to the generator set, the trial court ruled that Kodak Philippines, Ltd. attempted to mislead the court by claiming that it had delivered the generator set with its accessories to the Lam Spouses, when the evidence showed that the Lam Spouses had purchased it from Davao Ken Trading, not from Kodak Philippines, Ltd.^[37] Thus, the generator set that Kodak Philippines, Ltd. wrongfully took from the Lam Spouses should be replaced.^[38]

The dispositive portion of the Regional Trial Court Decision reads:

PREMISES CONSIDERED, the case is hereby dismissed. Plaintiff is ordered to pay the following:

- 1) PHP 130,000.00 representing the amount of the generator set, plus legal interest at 12% per annum from December 1992 until fully paid; and
- 2) PHP 1,300,000.00 as actual expenses in the renovation of the Tagum, Davao and Rizal Ave., Manila outlets.

SO ORDERED.^[39]

On March 31, 1999, the Lam Spouses filed their Notice of Partial Appeal, raising as an issue the Regional Trial Court's failure to order Kodak Philippines, Ltd. to pay: (1) P2,040,000 in actual damages; (2) P50,000,000 in moral damages; (3) P20,000,000 in exemplary damages; (4) P353,000 in attorney's fees; and (5) P300,000 as litigation expenses.^[40] The Lam Spouses did not appeal the Regional Trial Court's award for the generator set and the renovation expenses.^[41]

Kodak Philippines, Ltd. also filed an appeal. However, the Court of Appeals^[42] dismissed it on December 16, 2002 for Kodak Philippines, Ltd.'s failure to file its appellant's brief, without prejudice to the continuation of the Lam Spouses' appeal.^[43] The Court of Appeals' December 16, 2002 Resolution denying Kodak Philippines, Ltd.'s appeal became final and executory on January 4, 2003.^[44]

In the Decision^[45] dated March 30, 2005, the Court of Appeals Special Fourteenth Division modified the February 26, 1999 Decision of the Regional Trial Court:

WHEREFORE, PREMISES CONSIDERED, the Assailed Decision dated 26 February 1999 of the Regional Trial Court, Branch 65 in Civil Case No. 92-3442 is hereby **MODIFIED.** Plaintiff-appellant is ordered to pay the following:

1. P130,000.00 representing the amount of the generator set, plus legal interest at 12% per annum from December 1992 until fully paid; and
2. *P440,000.00 as actual damages;*
3. *P25,000.00 as moral damages; and*
4. *P50,000.00 as exemplary damages.*

SO ORDERED.^[46] (Emphasis supplied)

The Court of Appeals agreed with the trial court's Decision, but extensively discussed the basis for the modification of the dispositive portion.

The Court of Appeals ruled that the Letter Agreement executed by the parties