

THIRD DIVISION

[G.R. No. 168134, October 05, 2016]

FERRO CHEMICALS, INC., PETITIONER, VS. ANTONIO M. GARCIA, ROLANDO NAVARRO, JAIME Y. GONZALES AND CHEMICAL INDUSTRIES OF THE PHILIPPINES, INC., RESPONDENTS.

[G.R. NO. 168183]

JAIME Y. GONZALES, PETITIONER, VS. HON. COURT OF APPEALS AND FERRO CHEMICALS, INC., RESPONDENTS.

[G.R. NO. 168196]

ANTONIO M. GARCIA, PETITIONER, VS. FERRO CHEMICALS, INC., RESPONDENT.

D E C I S I O N

PEREZ, J.:

Before us are three consolidated Petitions for Review on Certiorari assailing the 3 March 2004 Decision^[1] and the 17 May 2005 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 69970, which affirmed with modification the 4 September 2000 Decision^[3] of the Regional Trial Court (RTC) of Makati City, Branch 61. The RTC found Antonio M. Garcia, Jaime Y. Gonzales, Rolando Navarro and Chemical Industries of the Philippines, Inc. solidarily liable for the amount of P256,255,537.41, representing the value of the shares of stocks here in question. In its assailed Decision and Resolution, the CA absolved Rolando Navarro and Chemical Industries of the Philippines, Inc. from liability, reduced the amount of attorney's fees from P1,000,000.00 to P500,000.00, and deleted the additional 10% of the value of the shares to the amount of attorney's fees that was awarded. The dispositive portion of the CA Decision reads:

"WHEREFORE, the appeal is hereby **PARTIALLY GRANTED**. The appealed Decision, dated 04 September 2000, rendered by Hon. Judge Fernando V. Gorospe, Jr., of the Regional Trial Court of Makati, Branch 61, is **MODIFIED**, in that:

1. **[CHEMICAL INDUSTRIES OF THE PHILIPPINES]** and **ROLANDO NAVARRO** are hereby **EXONERATED** from any liability in this case.
2. **ANTONIO M. GARCIA** and **JAIME GONZALES** are hereby **ORDERED**, jointly and severally, to pay **FERRO CHEMICALS, INC.**, the following:

- a.) P256,255,537.41, which is the value of the lost shares minus the balance of the purchase price;
- b.) P100,000.00, as exemplary damages.
- c.) P500,000.00 as attorney's fees; and
- d.) Costs of the suit.

3. The award of P12,000,000.00, which is the cost of suit and expenses of litigation in the case against the Consortium is hereby **DELETED** for lack of factual basis.

SO ORDERED."^[4]

The Facts

Ferro Chemicals Incorporated (Ferro Chemicals), is a domestic corporation duly authorized by existing law to engage in business in the Philippines. It is represented in this action by its President, Ramon M. Garcia.

Chemical Industries of the Philippines Inc. (Chemical Industries), on the other hand, is also a domestic corporation duly organized and existing by virtue of Philippine laws. Antonio Garcia, one of the parties in the instant case, is the Chairman of the Board of Directors (BOD) of Chemical Industries and a brother of Ferro Chemical's President, Ramon Garcia. Rolando Navarro is the Corporate Secretary of Chemical Industries while Jaime Gonzales is a close financial advisor of Antonio Garcia.

The Deed of Absolute Sale and Purchase of Shares of Stock

On 15 July 1988, Antonio Garcia and Ferro Chemicals entered into a Deed of *Absolute Sale and Purchase of Shares of Stock*^[5] over 1,717,678 shares of capital stock of Chemical Industries registered under the name of Antonio Garcia for a consideration of P-79,207,331.28 (subject shares). Included as subjects of the sale were Antonio Garcia's 371,697 shares of stocks in Vision Insurance Consultants, Inc., (VIC) and his proprietary membership in Alabang Country Club and Manila Polo Club. Under the sale agreement, Antonio Garcia warranted the following:

- (1) That the subject shares are free from the liens and encumbrances except the ones under the Security Bank and Trust Company (Security Bank) and the Insular Bank of Asia and America (Insular Bank);
- (2) That the seller undertakes to defend the sale contract and defray the litigation cost should its validity be assailed, and, to reimburse Ferro Chemicals the amount of the purchase price
- (3) That in the event that the sale is invalidated, the seller will reimburse the buyer the amount of the purchase price.

The parties also stipulated in the agreement that Ferro Chemicals will deliver a part of the purchase price to Security Bank in satisfaction of Antonio Garcia's obligation as judgment obligor with Security Bank.

Pursuant to the sale contract, Ferro Chemicals remitted the amount of P-35,462,869.92 to Security Bank and Trust Co. (SBTC) in the form of a check drawn against its account with Bank of America. On the ground that the amount tendered was insufficient to satisfy Antonio Garcia's obligation, the payment was not accepted by Security Bank, leaving the obligor with no recourse but to consign the check to the court which adjudicated his liability. (*Security Bank Case*) On 19 June 1990, the CA approved the consignment effected by Antonio Garcia and held that the amount tendered is sufficient to discharge his liability. In a Resolution dated 21 November 1990 the Court affirmed the final settlement of Antonio Garcia's liability with the bank. This settled the Security Bank Case with finality.

The Compromise Agreement

On 17 January 1989, Antonio Garcia entered into a *Compromise Agreement*^[6] with Philippine Investments System Organization (PISO), Bank of the Philippine Islands (BPI), Philippine Commercial International Bank (PCIB), Rizal Commercial Banking Corporation (RCBC) and Land Bank of the Philippines (LBP) (collectively known as Consortium Banks). The settlement was entered in connection with the Surety Agreements previously contracted by Antonio Garcia and Dynetics Corporation with the onsortium Banks.

The First Consortium Case

The 17 January 1989 *Compromise Agreement* sprang from Civil Case No. 8527, filed by Antonio Garcia and Dynetics, Inc. before the RTC of Makati City, seeking to enjoin the Consortium Banks from collecting the amount of P117,800,000.00, excluding interests, penalties and attorney's fees, purportedly representing their liability under surety contracts.

The RTC, upon application therefor by the Consortium Banks, issued a *Notice of Garnishment*^[7] dated 19 July 1985 over the 1,717,678 shares of stocks of Antonio Garcia in Chemical Industries to secure any contingent claims that may be awarded in favor of the banks. On the ground that only absolute transfers of shares are required to be on the corporation's stock and transfer books, the Corporate Secretary did not annotate the banks' claims on Chemical Industries' books.

Subsequently, the RTC issued Orders dated 25 March 1988 and 20 May 1988 dismissing *Civil Case No. 8527*. In effect, the causes of action of the plaintiffs and the counterclaims of the defendants were all denied. Insisting on their right to enforce the surety contracts, the Consortium Banks assailed the dismissal of *Civil Case No. 8527* before the appellate court. During the pendency of the appeal docketed as *CA-G.R. No. 20467*, the parties agreed to amicably settle the case, and thus, the creditors accepted the offer of the debtors to immediately pay the obligation in exchange for the waiver of interests, penalties and attorney's fees. The compromise agreement, which required Antonio Garcia and Dynetics to pay the Consortium Banks the amount of P145,000,000.00, was consequently approved by the CA in a Judgment dated 22 May 1989.

The Deed of Right to Repurchase

After the parties in the First Consortium Case forged a Compromise Agreement,

Antonio Garcia and Ferro Chemicals entered into a Deed of *Right to Repurchase*^[8] dated 3 March 1989. Under the repurchase contract, Ferro Chemicals stipulated to sell back the subject shares to Antonio Garcia within 180 days from its execution or until 30 August 1989 subject to the foregoing terms:

(1) That the consideration for the repurchase shall either be equivalent to the amount actually paid by the buyer for the sale or the sum of P79,207,331.28, whichever is lesser, plus interest charges, bank charges, broker's commission, transfer taxes and documentary stamp tax;

(2) Should the tender of the repurchase price be effected 90 days after 3 March 1989, the seller, shall, in addition to the payment of the above stated amount, shall pay a surcharge equivalent to 5% over and above the actual cost of the buyer in holding the shares.

Desirous to reacquire the ownership of the subject shares, Antonio Garcia, on 12 July 1989, notified Ferro Chemicals of his intention to exercise his right, under the repurchase deed. On 31 July 1989, Antonio Garcia reiterated his intent to reacquire the subject shares by sending another notice to Ferro Chemicals and tendering the amount of the agreed repurchase price. On the ground that the taxes and the interests due were not included in the consideration for repurchase price tendered by Antonio Garcia, Ferro Chemicals refused to sell back the shares to him. Instead, Ferro Chemicals opted to cede its rights over the subject shares to Chemphil Export and Import Corporation (*Chemphil Export*) by virtue of an *Agreement*^[9] dated 26 June 1989.

First and Second Repurchase Cases

The assignment, effected by Ferro Chemicals to a third party did not deter Antonio Garcia's efforts to recover the subject shares. On 21 August 1989, he initiated an action for Specific Performance before the RTC of Makati City. The case, which was raffled to Branch 145 and docketed as *Civil Case No. 89-4837*, sought for the enforcement of the seller's right under the repurchase agreement and prayed that the buyer be ordered to reconvey the subject shares to him. Finding that the issues raised involved an intra-corporate dispute cognizable by the Securities and Exchange Commission (SEC), the RTC dismissed *Civil Case No. 89-4837*.

Undeterred, Antonio Garcia filed a *Second Repurchase Case* before the SEC which was docketed as SEC Case No. 04303. In his Complaint, the seller cited the unjustified refusal of the buyer to comply with the terms of the agreement and reiterated his prayer in the *First Repurchase Case* that the buyer be enjoined to observe its obligation under the repurchase agreement.

Enforcement of the First Consortium Case

With Antonio Garcia and Dynetics' failure to comply with the compromise agreement, the Consortium Banks, on 18 July 1989, filed a Motion for Execution.^[10] Thus, the RTC, issued a Writ of Execution^[11] on 11 August 1989, to enforce the court-approved compromise against Antonio Garcia and Dynetics.

Pursuant to the writ of execution, the sheriff levied the 1,717,678 shares of capital stocks in Chemical Industries that were previously attached on the strength of the 19 July 1985 RTC Order^[12] in the *First Consortium Case*. After the notice and the publication requirements were complied with, a public auction was conducted whereby the Consortium Banks were declared as the highest bidders as shown in the Certificate of Sale.^[13]

The RTC, upon application of the Consortium Banks, issued an Order^[14] dated 4 September 1989, directing the Corporate Secretary of Chemical Industries to enter the sheriff's certificate of sale in the company's stock and transfer books. In effect, the corporate secretary was enjoined to cancel the certificates of shares of stocks under the name of Antonio Garcia and all those claiming rights under him and issue new ones in favor of the Consortium Banks.

The Second Consortium Case

Before the corporate secretary could carry out the foregoing directive, Chemphil Export filed an Urgent Motion^[15] opposing the 4 September 1989 RTC Order. Tracing back its ownership to Ferro Chemicals, which in turn, came into ownership of the disputed shares as early as 15 July 1988, the intervenor propounded that it has superior right as against the Consortium Banks.

On 27 September 1989, the RTC issued an Order,^[16] allowing the intervention. On the belief that there is a necessity of resolving first the question of which between Chemphil Export on the one hand, and the Consortium Banks on the other, is rightfully entitled to the ownership of the disputed shares, the RTC recalled its 4 September 1989 Order. For Chemphil Export, the garnishment effected by the Sheriff on 19 July 1985 is not binding on third persons because it was not recorded on the stock and transfer book of the corporation.

The *Second Consortium Case* was litigated all the way up to this Court in G.R. Nos. 112438-39 and 113394. In a Decision dated 12 December 1995, the Court ruled in favor of the Consortium Banks and declared that the attachment lien they previously acquired is valid and effective even though it was not annotated in the corporation's stock and transfer books. The chief purpose of the remedy of attachment is to secure a contingent lien on the defendant's property until plaintiff can, by appropriate proceedings, obtain a judgment and have such property applied to its satisfaction.^[17] For this reason, the Court adjudged the Consortium Banks as the rightful owners of the disputed shares. This decision settled with finality the Second Consortium Case.^[18]

The Ferro Chemicals Case

After losing the disputed shares to the Consortium Banks, Chemphil Export proceeded to demand from Ferro Chemicals the value of the lost shares in the amount of P100,000,000.00. In payment thereof, Ferro Chemicals ceded its rights over its chrome plant in Misamis Oriental in favor of the former.^[19]

In the interregnum, Consortium Banks also assigned their rights over the disputed shares to Jaime Gonzales by executing a *Deed of Assignment of Credit Without*