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SECOND DIVISION

[G. R. No. 171601, April 08, 2015]

SPOUSES BONIFACIO AND LUCIA PARAS, PETITIONERS, VS. KIMWA CONSTRUCTION AND DEVELOPMENT CORPORATION, RESPONDENT.

DECISION

LEONEN, J.:

This resolves the Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed Decision[2] dated July 4, 2005 and Resolution[3] dated February 9, 2006 of the Court of Appeals Special 20th Division in CA-G.R. CV No. 74682 be reversed and set aside, and that the Decision[4] of Branch 55 of the Regional Trial Court, Mandaue City dated May 16, 2001 in Civil Case No. MAN-2412 be reinstated.[5]

The trial court's May 16, 2001 Decision ruled in favor of petitioners Spouses Bonifacio and Lucia Paras (plaintiffs before the Regional Trial Court) in their action for breach of contract with damages against respondent Kimwa Construction and Development Corporation (Kimwa).[6]

The assailed Decision of the Court of Appeals reversed and set aside the trial court's May 16, 2001 Decision and dismissed Spouses Paras' Complaint.[7] The Court of Appeals' assailed Resolution denied Spouses Paras' Motion for Reconsideration.[8]

Lucia Paras (Lucia) was a "concessionaire of a sand and gravel permit at Kabulihan, Toledo City[.]"[9] Kimwa is a "construction firm that sells concrete aggregates to contractors and haulers in Cebu."[10]

On December 6, 1994, Lucia and Kimwa entered into a contract denominated "Agreement for Supply of Aggregates" (Agreement) where 40,000 cubic meters of aggregates were "allotted"[11] by Lucia as supplier to Kimwa.[12] Kimwa was to pick up the allotted aggregates at Lucia's permitted area in Toledo City[13] at P240.00 per truckload.[14]

The entirety of this Agreement reads:

AGREEMENT FOR SUPPLY OF AGGREGATES

KNOW ALL MEN BY THESE PRESENTS:

This Agreement made and entered into by and between:

LUCIA PARAS, of legal age, Filipino, married and resident of Poblacion, Toledo City, Province of Cebu, hereinafter referred to as the SUPPLIER:

-and-

KIMWA CONSTRUCTION AND DEVELOPMENT CORP., a corporation duly organized and existing under the laws of the Philippines with office address at Subangdaku, Mandaue City, hereinafter represented by its President MRS. CORAZON Y. LUA, of legal age, Filipino and a resident of Subangdaku, Mandaue City[,] hereinafter referred to as the CONTRACTOR;

WITNESSETH:

That the SUPPLIER is [sic] Special Permittee of (Rechanelling Block # VI of Sapang Daco River along Barangay Ilihan) located at Toledo City under the terms and conditions:

1. That the aggregates is [sic] to be picked-up by the CONTRACTOR at the SUPPLIER [sic] permitted area at the rate of TWO HUNDRED FORTY (P240.00) PESOS per truck load;

2. *That the volume allotted by the SUPPLIER to the CONTRACTOR is limited to 40,000 cu.m.*;

3. *That the said Aggregates is* [sic] *for the exclusive use of the Contractor*;

4. That the terms of payment is Fifteen (15) days after the receipt of billing;

5. That there is [sic] no modification, amendment, assignment or transfer of this Agreement after acceptance shall be binding upon the SUPPLIER unless agreed to in writing by and between the CONTRACTOR and SUPPLIER.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this 6th day of December, 1994 at Mandaue City, Cebu, Philippines.

LUCIA PARAS (sgd.) **CORAZON Y. LUA** (sgd.)
Supplier Contractor[15]
(Emphasis supplied)

Pursuant to the Agreement, Kimwa hauled 10,000 cubic meters of aggregates. Sometime after this, however, Kimwa stopped hauling aggregates.[16]

Claiming that in so doing, Kimwa violated the Agreement, Lucia, oined by her husband, Bonifacio, filed the Complaint[17] for breach of contract with damages that is now subject of this Petition.

In their Complaint, Spouses Paras alleged that sometime in December 1994, Lucia was approached by Kimwa expressing its interest to purchase gravel and sand from her.[18] Kimwa allegedly asked that it be "assured"[19] of 40,000 cubic meters worth of aggregates.[20] Lucia countered that her concession area was due to be rechanneled on May 15, 1995, when her Special Permit expires.[21] Thus, she emphasized that she would be willing to enter into a contract with Kimwa "provided the forty thousand cubic meter[s] w[ould] be withdrawn or completely extracted and hauled before 15 May 1995[.]"[22] Kimwa then assured Lucia that it would take only two to three months for it to completely haul the 40,000 cubic meters of aggregates.[23] Convinced of Kimwa's assurances, Lucia and Kimwa entered into the Agreement.[24]

Spouses Paras added that within a few days, Kimwa was able to extract and haul 10,000 cubic meters of aggregates. However, after extracting and hauling this quantity, Kimwa allegedly transferred to the concession area of a certain Mrs. Remedios dela Torre in violation of their Agreement. They then addressed demand letters to Kimwa. As these went unheeded, Spouses Paras filed their Complaint.[25]

In its Answer,[26] Kimwa alleged that it never committed to obtain 40,000 cubic meters of aggregates from Lucia. It argued that the controversial quantity of 40,000 cubic meters represented only an upper limit or the maximum quantity that it could haul.[27] It likewise claimed that it neither made any commitment to haul 40,000 cubic meters of aggregates before May 15, 1995 nor represented that the hauling of this quantity could be completed in two to three months.[28] It denied that the hauling of 10,000 cubic meters of aggregates was completed in a matter of days and countered that it took weeks to do so. It also denied transferring to the concession area of a certain Mrs. Remedios dela Torre.[29]

Kimwa asserted that the Agreement articulated the parties' true intent that 40,000 cubic meters was a maximum limit and that May 15, 1995 was never set as a deadline. Invoking the Parol Evidence Rule, it insisted that Spouses Paras were barred from introducing evidence which would show that the parties had agreed differently.[30]

On May 16, 2001, the Regional Trial Court rendered the Decision in favor of Spouses Paras. The trial court noted that the Agreement stipulated that the allotted aggregates were set aside exclusively for Kimwa. It reasoned that it was contrary to human experience for Kimwa to have entered into an Agreement with Lucia without verifying the latter's authority as a concessionaire.[31] Considering that the Special Permit[32] granted to Lucia (petitioners' Exhibit "A" before the trial court) clearly indicated that her authority was good for only six (6) months from November 14, 1994, the trial court noted that Kimwa must have been aware that the 40,000 cubic meters of aggregates allotted to it must necessarily be hauled by May 15, 1995. As it failed to do so, it was liable to Spouses Paras for the total sum of P720,000.00, the value of the 30,000 cubic-meters of aggregates that Kimwa did not haul, in addition to attorney's fees and costs of suit.[33]

On appeal, the Court of Appeals reversed the Regional Trial Court's Decision. It faulted the trial court for basing its findings on evidence presented which were

supposedly in violation of the Parol Evidence Rule. It noted that the Agreement was clear that Kimwa was under no obligation to haul 40,000 cubic meters of aggregates by May 15, 1995.[34]

In a subsequent Resolution, the Court of Appeals denied reconsideration to Spouses Paras.[35]

Hence, this Petition was filed.

The issue for resolution is whether respondent Kimwa Construction and Development Corporation is liable to petitioners Spouses Paras for (admittedly) failing to haul 30,000 cubic meters of aggregates from petitioner Lucia Paras' permitted area by May 15, 1995.

To resolve this, it is necessary to determine whether petitioners Spouses Paras were able to establish that respondent Kimwa was obliged to haul a total of 40,000 cubic meters of aggregates on or before May 15, 1995.

We reverse the Decision of the Court of Appeals and reinstate that of the Regional Trial Court. Respondent Kimwa is liable for failing to haul the remainder of the quantity which it was obliged to acquire from petitioner Lucia Paras.

Rule 130, Section 9 of the Revised Rules on Evidence provides for the Parol Evidence Rule, the rule on admissibility of documentary evidence when the terms of an agreement have been reduced into writing:

> Section 9. *Evidence of written agreements*. — When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.
>
> However, a party may present evidence to modify, explain or add to the terms of written agreement if he puts in issue in his pleading:
>
> (a) An intrinsic ambiguity, mistake or imperfection in the written agreement;
> (b) The failure of the written agreement to express the true intent and agreement of the parties thereto;
> (c) The validity of the written agreement; or
> (d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.
>
> The term "agreement" includes wills.

Per this rule, reduction to written form, regardless of the formalities observed,[36] "forbids any addition to, or contradiction of, the terms of a written agreement by testimony or other evidence purporting to show that different terms were agreed upon by the parties, varying the purport of the written contract."[37]

This rule is animated by a perceived wisdom in deferring to the contracting parties' articulated intent. In choosing to reduce their agreement into writing, they are

deemed to have done so meticulously and carefully, employing specific — frequently, even technical — language as are appropriate to their context. From an evidentiary standpoint, this is also because "oral testimony . . . coming' from a party who has an interest in the outcome of the case, depending exclusively on human memory, is not as reliable as written or documentary evidence. Spoken words could be notoriously unreliable unlike a written contract which speaks of a uniform language."[38] As illustrated in *Abella v. Court of Appeals*:[39]

> Without any doubt, oral testimony as to a certain fact, depending as it does exclusively on human memory, is not as reliable as written or documentary evidence. "I would sooner trust the smallest slip of paper for truth," said Judge Limpkin of Georgia, "than the strongest and most retentive memory ever bestowed on mortal man." This is especially true in this case where such oral testimony is given by a party to the case who has an interest in its outcome, and by a witness who claimed to have received a commission from the petitioner.[40]

This, however, is merely a general rule. Provided that a party puts in issue in its pleading any of the four (4) items enumerated in the second paragraph of Rule 130, Section 9, "a party may present evidence to modify, explain or add to the terms of the agreement[.]"[41] Raising any of these items as an issue in a pleading such that it falls under the exception is not limited to the party initiating an action. In *Philippine National Railways v. Court of First Instance of Albay*,[42] this court noted that "if the defendant set up the affirmative defense that the contract mentioned in the complaint does not express the true agreement of the parties, then parol evidence is admissible to prove the true agreement of the parties[.]"[43] Moreover, as with all possible objections to the admission of evidence, a party's failure to timely object is deemed a waiver, and parol evidence may then be entertained.

Apart from pleading these exceptions, it is equally imperative that the parol evidence sought to be introduced points to the conclusion proposed by the party presenting it. That is, it must be relevant, tending to "induce belief in [the] existence"[44] of the flaw, true intent, or subsequent extraneous terms averred by the party seeking to introduce parol evidence.

In sum, two (2) things must be established for parol evidence to be admitted: first, that the existence of any of the four (4) exceptions has been put in issue in a party's pleading or has not been objected to by the adverse party; and second, that the parol evidence sought to be presented serves to form the basis of the conclusion proposed by the presenting party.

II

Here, the Court of Appeals found fault in the Regional Trial Court for basing its findings "on the basis of *evidence presented* in violation of the parol evidence rule."[45] It proceeded to fault petitioners Spouses Paras for showing "no proof of [respondent Kimwa's] obligation."[46] Then, it stated that "[t]he stipulations in the agreement between the parties leave no room for interpretation."[47]

The Court of Appeals is in serious error.