

THIRD DIVISION

[G.R. No. 198174, September 02, 2013]

ALPHA INSURANCE AND SURETY CO., PETITIONER, VS. ARSENIA SONIA CASTOR, RESPONDENT.

DECISION

PERALTA, J.:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated May 31, 2011 and Resolution^[2] dated August 10, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 93027.

The facts follow.

On February 21, 2007, respondent entered into a contract of insurance, Motor Car Policy No. MAND/CV-00186, with petitioner, involving her motor vehicle, a Toyota Revo DLX DSL. The contract of insurance obligates the petitioner to pay the respondent the amount of Six Hundred Thirty Thousand Pesos (P630,000.00) in case of loss or damage to said vehicle during the period covered, which is from February 26, 2007 to February 26, 2008.

On April 16, 2007, at about 9:00 a.m., respondent instructed her driver, Jose Joel Salazar Lanuza (*Lanuza*), to bring the above-described vehicle to a nearby auto-shop for a tune-up. However, Lanuza no longer returned the motor vehicle to respondent and despite diligent efforts to locate the same, said efforts proved futile. Resultantly, respondent promptly reported the incident to the police and concomitantly notified petitioner of the said loss and demanded payment of the insurance proceeds in the total sum of P630,000.00.

In a letter dated July 5, 2007, petitioner denied the insurance claim of respondent, stating among others, thus:

Upon verification of the documents submitted, particularly the Police Report and your Affidavit, which states that the culprit, who stole the Insure[d] unit, is employed with you. We would like to invite you on the provision of the Policy under Exceptions to Section-III, which we quote:

1.) The Company shall not be liable for:

x x x x

(4) Any malicious damage caused by the Insured, any member of his family or by "A PERSON IN THE INSURED'S SERVICE."

In view [of] the foregoing, we regret that we cannot act favorably on your claim.

In letters dated July 12, 2007 and August 3, 2007, respondent reiterated her claim and argued that the exception refers to damage of the motor vehicle and not to its loss. However, petitioner's denial of respondent's insured claim remains firm.

Accordingly, respondent filed a Complaint for Sum of Money with Damages against petitioner before the Regional Trial Court (RTC) of Quezon City on September 10, 2007.

In a Decision dated December 19, 2008, the RTC of Quezon City ruled in favor of respondent in this wise:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant ordering the latter as follows:

1. To pay plaintiff the amount of P466,000.00 plus legal interest of 6% per annum from the time of demand up to the time the amount is fully settled;
2. To pay attorney's fees in the sum of P65,000.00; and
3. To pay the costs of suit.

All other claims not granted are hereby denied for lack of legal and factual basis.^[3]

Aggrieved, petitioner filed an appeal with the CA.

On May 31, 2011, the CA rendered a Decision affirming *in toto* the RTC of Quezon City's decision. The *fallo* reads:

WHEREFORE, in view of all the foregoing, the appeal is **DENIED**. Accordingly, the Decision, dated December 19, 2008, of Branch 215 of the Regional Trial Court of Quezon City, in Civil Case No. Q-07-61099, is hereby **AFFIRMED** *in toto*.

SO ORDERED.^[4]

Petitioner filed a Motion for Reconsideration against said decision, but the same was denied in a Resolution dated August 10, 2011.

Hence, the present petition wherein petitioner raises the following grounds for the allowance of its petition:

1. WITH DUE RESPECT TO THE HONORABLE COURT OF APPEALS, IT ERRED AND GROSSLY OR GRAVELY ABUSED ITS DISCRETION WHEN IT ADJUDGED IN FAVOR OF THE PRIVATE RESPONDENT AND AGAINST THE PETITIONER AND RULED THAT EXCEPTION DOES NOT COVER LOSS BUT ONLY DAMAGE BECAUSE THE TERMS OF THE INSURANCE POLICY ARE [AMBIGUOUS] EQUIVOCAL OR UNCERTAIN, SUCH THAT THE PARTIES THEMSELVES DISAGREE ABOUT THE MEANING OF PARTICULAR PROVISIONS, THE POLICY

WILL BE CONSTRUED BY THE COURTS LIBERALLY IN FAVOR OF THE ASSURED AND STRICTLY AGAINST THE INSURER.

2. WITH DUE RESPECT TO THE HONORABLE COURT OF APPEALS, IT ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT [AFFIRMED] IN TOTO THE JUDGMENT OF THE TRIAL COURT.^[5]

Simply, the core issue boils down to whether or not the loss of respondent's vehicle is excluded under the insurance policy.

We rule in the negative.

Significant portions of Section III of the Insurance Policy states:

SECTION III – LOSS OR DAMAGE

The Company will, subject to the Limits of Liability, indemnify the Insured against loss of or damage to the Schedule Vehicle and its accessories and spare parts whilst thereon:

- (a) by accidental collision or overturning, or collision or overturning consequent upon mechanical breakdown or consequent upon wear and tear;
- (b) by fire, external explosion, self-ignition or lightning or burglary, housebreaking or **theft**;
- (c) by malicious act;
- (d) whilst in transit (including the processes of loading and unloading) incidental to such transit by road, rail, inland waterway, lift or elevator.

x x x x

EXCEPTIONS TO SECTION III

The Company shall not be liable to pay for:

- 1. Loss or Damage in respect of any claim or series of claims arising out of one event, the first amount of each and every loss for each and every vehicle insured by this Policy, such amount being equal to one percent (1.00%) of the Insured's estimate of Fair Market Value as shown in the Policy Schedule with a minimum deductible amount of Php3,000.00;
- 2. Consequential loss, depreciation, wear and tear, mechanical or electrical breakdowns, failures or breakages;
- 3. Damage to tires, unless the Schedule Vehicle is damaged at the same time;
- 4. **Any malicious damage** caused by the Insured, any member of his family or **by a person in the Insured's service.**^[6]

In denying respondent's claim, petitioner takes exception by arguing that the word "damage," under paragraph 4 of "Exceptions to Section III," means loss due to