

## FIRST DIVISION

[ G.R. No. 176949, June 27, 2012 ]

**ASIAN CONSTRUCTION AND DEVELOPMENT CORPORATION,  
PETITIONER, VS. LOURDES K. MENDOZA, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

In civil cases, the party with the most convincing evidence prevails.

This Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court assails the Decision<sup>[2]</sup> dated April 28, 2006 and the Resolution<sup>[3]</sup> dated March 9, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 69180.

#### ***Factual Antecedents***

On January 6, 2000, respondent Lourdes K. Mendoza, sole proprietor of Highett Steel Fabricators (Highett), filed before the Regional Trial Court (RTC) of Caloocan City, Branch 126, a Complaint<sup>[4]</sup> for a sum of money, docketed as Civil Case No. C-19100, against petitioner Asian Construction and Development Corporation, a duly registered domestic corporation.

In the complaint, respondent alleged that from the period August 7, 1997 to March 4, 1998, petitioner purchased from Highett various fabricated steel materials and supplies amounting to P1,206,177.00, exclusive of interests;<sup>[5]</sup> that despite demand, petitioner failed and/or refused to pay;<sup>[6]</sup> and that due to the failure and/or refusal of petitioner to pay the said amount, respondent was compelled to engage the services of counsel.<sup>[7]</sup>

Petitioner moved for a bill of particulars on the ground that no copies of the purchase orders and invoices were attached to the complaint to enable petitioner to prepare a responsive pleading to the complaint.<sup>[8]</sup> The RTC, however, in an Order dated March 1, 2000, denied the motion.<sup>[9]</sup> Accordingly, petitioner filed its Answer with Counterclaim<sup>[10]</sup> denying liability for the claims and interposing the defense of lack of cause of action.<sup>[11]</sup>

To prove her case, respondent presented the testimonies of (1) Artemio Tejero (Tejero), the salesman of Highett who confirmed the delivery of the supplies and materials to petitioner, and (2) Arvin Cheng, the General Manager of Highett.<sup>[12]</sup>

The presentation of evidence for petitioner, however, was deemed waived and terminated due to the repeated non-appearance of petitioner and its counsel.<sup>[13]</sup>

## ***Ruling of the Regional Trial Court***

On December 1, 2000, the RTC rendered a Decision<sup>[14]</sup> in favor of respondent, to wit:

WHEREFORE, in view of the foregoing, judgment is hereby rendered ordering the [petitioner] corporation to pay the [respondent] the following:

- a. P1,206,177.00, representing the principal amount, which is the purchase price of the materials and other supplies ordered by and delivered to [petitioner];
- b. P244,288.59, representing the accrued interest as of August 31, 1999 plus xxx additional interest to be computed at the rate of 12% per annum until the total indebtedness is paid in full;
- c. P150,000.00 for and as Attorney's fees; and
- d. Cost of suit.

SO ORDERED.<sup>[15]</sup>

## **Ruling of the Court of Appeals**

On appeal, the CA affirmed with modification the Decision of the RTC. The decretal portion of the CA Decision<sup>[16]</sup> reads:

**WHEREFORE**, the assailed Decision of the RTC [Br. 126, Caloocan City] dated December 1, 2000 is hereby **AFFIRMED** with the **MODIFICATION**, in that the reckoning point for the computation of the 1% monthly interest shall be 30 days from date of each delivery.

**SO ORDERED.**<sup>[17]</sup>

Petitioner sought reconsideration but the same was unavailing.<sup>[18]</sup>

## **Issues**

Hence, this petition raising the following issues:

- I. WHETHER X X X THE CHARGE INVOICES ARE ACTIONABLE DOCUMENTS.
- II. WHETHER X X X THE DELIVERY OF THE ALLEGED MATERIALS [WAS] DULY PROVEN.
- III. WHETHER X X X RESPONDENT IS ENTITLED TO ATTORNEY'S FEES.  
<sup>[19]</sup>

### ***Petitioner's Arguments***

Petitioner argues that a charge or sales invoice is not an actionable document; thus, petitioner's failure to deny under oath its genuineness and due execution does not constitute an admission thereof.<sup>[20]</sup> Petitioner likewise insists that respondent was not able to prove her claim as the invoices offered as evidence were not properly authenticated by her witnesses.<sup>[21]</sup> Lastly, petitioner claims that the CA erred in affirming the award of attorney's fees as the RTC Decision failed to expressly state the basis for the award thereof.<sup>[22]</sup>

### ***Respondent's Arguments***

Respondent, in her Comment,<sup>[23]</sup> prays for the dismissal of the petition contending that the arguments raised by petitioner are a mere rehash of those presented and already passed upon by the CA.<sup>[24]</sup> She maintains that charge invoices are actionable documents,<sup>[25]</sup> and that these were properly identified and authenticated by witness Tejero, who testified that upon delivery of the supplies and materials, the invoices were stamped received by petitioner's employee.<sup>[26]</sup> Respondent contends that the award of attorney's fees was justified as the basis for the award was clearly established during the trial.<sup>[27]</sup>

### **Our Ruling**

The petition is partly meritorious.

#### ***The charge invoices are not actionable documents***

Section 7 of Rule 8 of the Rules of Court states:

SEC. 7. Action or defense based on document. – Whenever an action or defense is based upon a written instrument or document, **the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit**, which shall be deemed to be a part of the pleading, or said copy may with like effect be set forth in the pleading. (Emphasis supplied.)

Based on the foregoing provision, a document is actionable when an action or defense is grounded upon such written instrument or document. In the instant case, the Charge Invoices<sup>[28]</sup> are not actionable documents per se as these "only provide details on the alleged transactions."<sup>[29]</sup> These documents need not be attached to or stated in the complaint as these are evidentiary in nature.<sup>[30]</sup> In fact, respondent's cause of action is not based on these documents but on the contract of sale between the parties.

#### ***Delivery of the supplies and materials was duly proved***