

SECOND DIVISION

[G.R. No. 182148, June 08, 2011]

**SIME DARBY PILIPINAS, INC., PETITIONER, VS. GOODYEAR
PHILIPPINES, INC. AND MACGRAPHICS CARRANZ
INTERNATIONAL CORPORATION, RESPONDENTS.**

[G.R. NO. 183210]

**GOODYEAR PHILIPPINES, INC., PETITIONER, VS. SIME DARBY
PILIPINAS, INC. AND MACGRAPHICS CARRANZ INTERNATIONAL
CORPORATION, RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This disposition covers two petitions for review filed separately by Sime Darby Pilipinas, Inc. (*Sime Darby*) and Goodyear Philippines, Inc. (*Goodyear*) assailing the February 13, 2008 Decision ^[1] of the Court of Appeals (CA) and its March 13, 2008 ^[2] and May 28, 2008 ^[3] Resolutions in CA-G.R. CV No. 86032. The assailed issuances affirmed the November 8, 2004 Decision ^[4] and the July 20, 2005 Order ^[5] of the Regional Trial Court, Branch 61, Makati City (RTC), in Civil Case No. 97-561 entitled *Goodyear Philippines, Inc. v. Sime Darby Pilipinas, Inc., and/or Macgraphics Carranz International Corporation*, for Partial Rescission of a Deed of Assignment plus Damages and which essentially: ^[1] granted Goodyear's complaint for partial rescission against Sime Darby; and ^[2] ordered Goodyear to pay respondent Macgraphics Carranz International Corporation (*Macgraphics*) attorney's fees with legal interest thereon.

The Facts:

Macgraphics owned several billboards across Metro Manila and other surrounding municipalities, one of which was a 35' x 70' neon billboard located at the Magallanes Interchange in Makati City. The Magallanes billboard was leased by Macgraphics to Sime Darby in April 1994 at a monthly rental of P120,000.00. ^[6] The lease had a term of four years and was set to expire on March 30, 1998. Upon signing of the contract, Sime Darby paid Macgraphics a total of P1.2 million representing the ten-month deposit which the latter would apply to the last ten months of the lease. Thereafter, Macgraphics configured the Magallanes billboard to feature Sime Darby's name and logo.

On April 22, 1996, Sime Darby executed a Memorandum of Agreement ^[7] (MOA) with Goodyear, whereby it agreed to sell its tire manufacturing plants and other assets to the latter for a total of P1.5 billion.

Just a day after, on April 23, 1996, Goodyear improved its offer to buy the assets of Sime Darby from P1.5 billion to P1.65 billion. The increase of the purchase price was made in consideration, among others, of the assignment by Sime Darby of the receivables in connection with its billboard advertising in Makati City and Pulilan, Bulacan.

On May 9, 1996, Sime Darby and Goodyear executed a deed entitled "Deed of Assignment in connection with Microwave Communication Facility and in connection with Billboard Advertising in Makati City and Pulilan, Bulacan" (*Deed of Assignment*), [8] through which Sime Darby assigned, among others, its leasehold rights and deposits made to Macgraphics pursuant to its lease contract over the Magallanes billboard.

Sime Darby then notified Macgraphics of the assignment of the Magallanes billboard in favor of Goodyear through a letter-notice [9] dated May 3, 1996.

After submitting a new design for the Magallanes billboard to feature its name and logo, Goodyear requested that Macgraphics submit its proposed quotation for the production costs of the new design. In a letter [10] dated June 21, 1996 Macgraphics informed Goodyear that the monthly rental of the Magallanes billboard is P250,000.00 and explained that the increase in rental was in consideration of the provisions and technical aspects of the submitted design.

Goodyear replied on July 8, 1996 stating that due to budget constraints, it could not accept Macgraphics' offer to integrate the cost of changing the design to the monthly rental. Goodyear stated that it intended to honor the P120,000.00 monthly rental rate given by Macgraphics to Sime Darby. It then requested that Macgraphics send its quotation for the simple background repainting and re-lettering of the neon tubing for the Magallanes billboard. [11]

Macgraphics then sent a letter [12] to Sime Darby, dated July 11, 1996, informing the latter that it could not give its consent to the assignment of lease to Goodyear. Macgraphics explained that the transfer of Sime Darby's leasehold rights to Goodyear would necessitate drastic changes to the design and the structure of the neon display of the Magallanes billboard and would entail the commitment of manpower and resources that it did not foresee at the inception of the lease.

Attaching a copy of this letter to a correspondence [13] dated July 15, 1996, Macgraphics advised Goodyear that any advertising service it intended to get from them would have to wait until after the expiration or valid pre-termination of the lease then existing with Sime Darby.

On September 23, 1996, due to Macgraphics' refusal to honor the Deed of Assignment, Goodyear sent Sime Darby a letter, [14] via facsimile, demanding partial rescission of the Deed of Assignment and the refund of P1,239,000.00, the pro-rata value of Sime Darby's leasehold rights over the Magallanes billboard.

As Sime Darby refused to accede to Goodyear's demand for partial rescission, the latter commenced Civil Case No. 97-561 with the RTC. In its complaint, [15] Goodyear alleged that Sime Darby [1] was unable to deliver the object of the Deed

of Assignment and [2] was in breach of its warranty under Title VII, Section B, paragraph 2 of the MOA, stating that "no consent of any third party with whom Sime Darby has a contractual relationship is required in connection with the execution and delivery of the MOA, or the consummation of the transactions contemplated therein." [16]

Including Macgraphics as an alternative defendant, Goodyear argued that should the court find the partial rescission of the Deed of Assignment not proper, it must be declared to have succeeded in the rights and interest of Sime Darby in the contract of lease and Macgraphics be ordered to pay it the amount of P1,239,000.00.

After trial and the submission of the parties of their respective memoranda, the RTC rendered its decision and disposed the case in the following manner:

WHEREFORE, premises considered, the Deed of Assignment of Receivables (Exh. "C") is hereby partially rescinded and defendant Sime Darby Pilipinas, Inc. is directed to pay plaintiff Goodyear Philippines, Inc. the amount of P1,239,000.00 with legal interest thereon from June 1996 until fully paid. Plaintiff Goodyear Philippines, Inc. is directed to pay defendant Macgraphics the amount of P50,000.00 as attorney's fees with legal interest thereon from the filing of the complaint until fully paid.

SO ORDERED.

The trial court was of the considered view that Sime Darby should have secured the consent of Macgraphics to the assignment of the lease before it could be effective against the latter. The trial court noted that the contract of lease between Sime Darby and Macgraphics made no mention of any clause that would grant Sime Darby the right to unilaterally assign the lease. Thus, following Article 1649 of the New Civil Code, [17] the trial court ruled that absent any stipulation to the contrary, the assignment of the lease without the consent of Macgraphics was not valid. The RTC also stated that as far as Macgraphics was concerned, its relationship with Goodyear was that of a new client.

With Sime Darby's failure to secure the consent of Macgraphics, the trial court considered that it failed to deliver the object of the Deed of Assignment. The RTC, thus, ruled that following Article 1191 of the New Civil Code, [18] Goodyear was entitled to demand rescission of the assignment of the lease over the billboard.

Granting the counterclaim of Macgraphics, the trial court found that Goodyear had no legal basis to file the complaint against it. According to the trial court, the consent of Macgraphics was required before any assignment of the lease over the billboard could be effective against it, there being no stipulation allowing Sime Darby to do otherwise.

Not satisfied, both Goodyear and Sime Darby sought partial reconsideration of the decision. Their respective pleas, however, were denied by the RTC in its July 20, 2005 Order. [19]

Sime Darby and Goodyear thereafter sought relief from the CA. In its February 13, 2008 Decision, however, the CA echoed the findings and conclusions of the trial court and affirmed its decision *in toto*. The decretal portion of the decision reads:

WHEREFORE, premises considered, the reliefs prayed for in the instant appeal are hereby DENIED. Accordingly, the assailed Decision of the Court *a quo* dated 08 November 2004 and Order dated 20 July 2005, respectively, STAND.

SO ORDERED.

Both Sime Darby and Goodyear sought partial reconsideration of the CA decision, but their motions were denied.

Unable to seek relief from the CA, Sime Darby and Goodyear filed their respective petitions before the Court. Sime Darby's petition was docketed as G.R. No. 182148, while Goodyear's petition was docketed as G.R. No. 183210. On July 8, 2008, G.R. No. 182148 and G.R. No. 183210 were consolidated.

In its Memorandum, [20] Sime Darby insists that Goodyear has no right to rescind the Deed of Assignment as Macgraphics impliedly consented to the assignment of the lease. It argues that Macgraphics, after being notified of the assignment, entertained Goodyear's request for a quotation on the cost of a new design for the Magallanes billboard. The fact that there was a negotiation, Sime Darby posits, means that Macgraphics did not really care who the lessee was for as long as it got paid for the lease of the Magallanes billboard.

Sime Darby also asserts that Macgraphics, despite refusing to give its consent to the assignment, still entertained Goodyear's request to have its logo featured in the Magallanes billboard. In fact, on July 23, 1996, it sent Goodyear another quotation [21] of the cost to make changes on the billboard design.

Further, Sime Darby argues that Macgraphics' delay of 69 days before its July 11, 1996 letter declining to give its consent to the assignment is unreasonably long. Considering also the lack of explanation on the part of Macgraphics for the reason of the delay, Sime Darby claims that laches has set in.

On the other hand, both Goodyear and Macgraphics pray for the affirmance of the decisions of the courts below that rescission is proper. In addition, Goodyear assails the petition of Sime Darby claiming that it raises only questions of fact since the petition essentially revolves around the truth or falsity of the findings of the courts below that Macgraphics never consented to the assignment of Sime Darby's leasehold rights. Goodyear also insists that it is entitled to attorneys' fees due to the unjustified refusal of Sime Darby to rescind the Deed of Assignment.

Goodyear, however, asserts that it should not be held liable for the attorney's fees in favor of Macgraphics because it merely impleaded the latter when Sime Darby argued that fault and liability lie with it (Macgraphics).

Synthesized, the issues proffered by the two petitions are:

[1] Whether partial rescission of the Deed of Assignment is proper; and

[2] Whether Macgraphics is entitled to an award of attorney's fees.

The Court finds no merit in the petitions.

Well-settled is the rule that a petition for review on certiorari under Rule 45 of the Rules of Court should only include questions of law since questions of fact are not reviewable. A question of law arises when there is doubt as to what the law is on a certain state of facts, while a question of fact exists when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, it must not involve an examination of the probative value of the evidence presented by any of the litigants. The resolution of the issue must rest solely on what the law provides under a given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, then the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court resolve the question raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact. [22]

Likewise well-settled is the principle that absent grave abuse of discretion, the Court will not disturb the factual findings of the CA. The Court will only exercise its power of review in known exceptions such as gross misappreciation of evidence or a total void of evidence. [23]

Whether Macgraphics gave its consent to the assignment of leasehold rights of Sime Darby is a question of fact. It is not reviewable. On this score alone, the petition of Sime Darby fails.

Even if the Court should sidestep this otherwise fatal miscue, the petition of Sime Darby remains bereft of any merit. Article 1649 of the New Civil Code provides:

Art. 1649. The lessee cannot assign the lease without the consent of the lessor, unless there is a stipulation to the contrary. (n)

In an assignment of a lease, there is a novation by the substitution of the person of one of the parties - the lessee. [24] The personality of the lessee, who dissociates from the lease, disappears. Thereafter, a new juridical relation arises between the two persons who remain - the lessor and the assignee who is converted into the new lessee. The objective of the law in prohibiting the assignment of the lease without the lessor's consent is to protect the owner or lessor of the leased property. [25]

Broadly, a novation may either be extinctive or modificatory. It is extinctive when an old obligation is terminated by the creation of a new obligation that takes the place of the former; it is merely modificatory when the old obligation subsists to the extent it remains compatible with the amendatory agreement. An extinctive novation results either by changing the object or principal conditions (objective or real), or by substituting the person of the debtor or subrogating a third person in