

FIRST DIVISION

[G.R. No. 177729, September 28, 2011]

PHILIPPINE EXPORT AND FOREIGN LOAN GUARANTEE CORPORATION (NOW TRADE AND INVESTMENT DEVELOPMENT CORPORATION OF THE PHILIPPINES), PETITIONER, VS. AMALGAMATED MANAGEMENT AND DEVELOPMENT CORPORATION, FELIMON R. CUEVAS, AND JOSE A. SADDUL, JR., RESPONDENTS.

DECISION

BERSAMIN, J.:

The matter for resolution refers to the liability of persons who agree to be jointly and solidarily liable with the main obligor.

In its decision rendered on April 30, 2007 in C.A.-G.R. CV No. 78427,^[1] the Court of Appeals (CA) affirmed the decision dated December 27, 2002 of the Regional Trial Court (RTC), Branch 148, in Makati City in Civil Case No. 94-638,^[2] absolving the co-obligors. Not satisfied with the result, the petitioner is now before us to assail the CA's decision.

Antecedents

The petitioner, formerly the Philippine Export and Foreign Loan Guarantee Corporation but now known as the Trade and Investment Development Corporation of the Philippines, is a government-owned and controlled-corporation created by virtue of Presidential Decree No. 1080, as amended by Republic Act No. 8497. Its primary purpose is to guarantee the foreign loans, in whole or in part, granted to any domestic entity, enterprise, or corporation, majority of the capital of which is owned by Filipino citizens.

Respondent Amalgamated Management and Development Corporation (AMDC), a domestic corporation, had as its main business the hauling of different commodities within the Middle East countries. Its co-respondents Felimon R. Cuevas (Cuevas) and Jose A. Saddul, Jr. (Saddul) were, respectively, its President and Vice-President.^[3]

In early 1982, AMDC obtained from the National Commercial Bank of Saudi Arabia (NCBSA) a loan amounting to SR3.3 million (equivalent to P9,000,000.00) to finance the working capital requirements and the down payment for the trucks to be used in AMDC's hauling project in the Middle East. On April 23, 1982, the petitioner issued a letter of guaranty in favor of NCBSA as the lending bank upon the request of AMDC.

^[4] As the security for the guaranty, Amalgamated Motors Philippines Incorporated (AMPI), a sister company of AMDC, acted as an accommodation mortgagor, and executed in favor of the petitioner a real estate mortgage over two parcels of land

located in Dasmariñas, Cavite and covered by Transfer Certificate of Title (TCT) No. 119031 and TCT No.119032 of the Registry of Deeds of Cavite.^[5] AMDC also executed in favor of the petitioner a deed of undertaking dated April 21, 1982,^[6] with Cuevas and Saddul as its co-obligors. In the deed of undertaking, AMDC, Cuevas, and Saddul jointly and severally bound themselves to pay to the petitioner, as obligee, whatever damages or liabilities that the petitioner would incur by reason of the guaranty.

AMDC defaulted on the obligation. Upon demand, the petitioner paid the obligation to NCBSA. By subrogation and pursuant to the Deed of Undertaking, the petitioner then demanded that AMDC, Cuevas and Saddul should pay the obligation, but its demand was not complied with. Hence, it extra-judicially foreclosed the real estate mortgage.^[7] The Provincial Sheriff of Cavite conducted a public auction, in which the petitioner acquired the mortgaged properties as the highest bidder for P4,688,482.00 (TCT No. 119031) and P69,518.00 (TCT No. 119032).^[8]

On the premise that the proceeds of the foreclosure sale were not sufficient to cover the guaranty because a balance of P45,839,219.95 plus interest and other charges remained unpaid, the petitioner sued AMDC, Cuevas and Saddul in the RTC to collect the deficiency.^[9]

In a consolidated answer,^[10] AMDC and Cuevas admitted the existence of the real estate mortgage and deed of undertaking, but raised defenses, as follows: (a) that they did not receive from the petitioner any demand for the payment of the loan; (b) that the interests, penalties, fees, charges, and attorney's fees were usurious, exorbitant, unconscionable, and in violation of law; (c) that the value of the foreclosed properties was more than sufficient to pay the loan; (d) that the deficiency claim was unconscionable and unilaterally computed by the petitioner; and (e) that they made several payments to the petitioner in the form of rental or otherwise.

For his part, Saddul submitted a separate answer,^[11] averring that he was not liable to the petitioner for any amount because he did not benefit from the guaranty; that the deed of undertaking was unenforceable for being executed without any consideration; and that the petitioner did not notify him that AMDC had incurred in delay in the payment of the obligation.

Saddul averred a cross-claim against AMDC.

AMDC, Cuevas, and Saddul all sought the dismissal of the complaint.

Ruling of the RTC

After trial, the RTC rendered its decision on December 27, 2002,^[12] decreeing thusly:

WHEREFORE, premises considered judgment is hereby rendered in favor of the plaintiff and against defendant AMDC. Defendants Cuevas and Saddul are hereby rendered absolved from the obligation as well as from

the deficiency claim as a consequence, the case against them is hereby dismissed. The cross-claim of defendant/cross-claimant defendant Saddul against defendant AMDC is hereby dismissed for lack of sufficient basis to grant the same.

Defendant AMDC is hereby ordered to pay the plaintiff the following:

- (1) The amount P45,839,219.25 as of March 31, 1993, representing deficiency claim;
- (2) The accruing interest of 6% *per annum* from April 1, 1993 until deficiency claim is fully paid.
- (3) The accruing penalty charge of 6% *per annum* from April 1, 1993 until deficiency claim is fully paid.
- (4) P4,583,921.92 represents attorney's fees equivalent to 10% of the deficiency claim.
- (5) Costs of suit.

SO ORDERED.

Ruling of the CA

The petitioner appealed to the CA, asserting that Cuevas and Saddul should be held jointly and severally liable with AMDC on its deficiency claim; and that the rates of interest and penalty charges on the deficiency claim should each be at 16% *per annum* instead of only 6% *per annum*.

On April 30, 2007, the CA promulgated its assailed decision,^[13] viz:

Time and again, We stress the well-settled rule that findings of fact of the trial court as well as its calibration of the evidence of parties, its assessment of the credibility and probative weight of the witnesses, and its conclusion based on its findings are accorded by the appellate court with high respect, if not conclusive effect. In fine, findings of the trial court should not be disturbed on appeal, unless some facts or circumstances of substance and value have been overlooked which, if considered, might well affect the result of the case.

In the extant case, We do not find any fact or circumstance which if considered, might affect the result of the case.

WHEREFORE, premises considered, the judgment of the Regional Trial Court dated December 27, 2002 is hereby AFFIRMED in toto.

SO ORDERED.

Issues

Hence, the petitioner appeals, raising the following issues, to wit:

- (1) Whether the CA erred in affirming the RTC's ruling that Cuevas and Saddul were absolved of personal liability on the petitioner's deficiency claim;
- (2) Whether the CA erred in ruling that Cuevas and Saddul had not been notified of the guaranty period extension, and had been thereby exonerated from liability on the deficiency claim;
- (3) Whether the CA erred in holding that Cuevas and Saddul did not receive any demand letter from the petitioner;
- (4) Whether the CA erred in finding that the petitioner's claim against Cuevas and Saddul, Jr. had already prescribed; and
- (5) Whether the CA erred in declaring that AMDC was liable to pay interest and penalty charge at the rate of only 6% *per annum* instead of 16% *per annum*.^[14]

Ruling

The appeal is partly meritorious.

I

Pre-trial order is not exclusive about the issues to be resolved by the trial court

The petitioner posits that based on the RTC's pre-trial order,^[15] the only issue to be resolved was whether there was a deficiency claim after the foreclosure of the real estate mortgage; that the liability of Cuevas and Saddul on the deficiency claim was already an admitted fact under the pre-trial order; and that the RTC improperly considered and determined their liability.^[16]

The Court cannot sustain the petitioner's position.

The pre-trial order nowhere stated that Cuevas and Saddul already admitted their liability on the petitioner's deficiency claim. Their admission appearing in the pre-trial order referred only to the fact that they and AMDC had received advances in large amounts from the petitioner, and that the real estate mortgage securing the loan had already been foreclosed.

Whether Cuevas and Saddul were liable on the deficiency claim was proper for the ascertainment and determination by the RTC as the trial court and the CA as the appellate tribunal, notwithstanding the silence of the pre-trial order on it, because such issue was deemed necessarily included in or inferred from the stated issue of whether there was a deficiency still to be paid by AMDC, Cuevas and Saddul.

It is true that the issues to be tried between the parties in a case shall be limited to

those defined in the pre-trial order, as Section 7, Rule 18 of the *Rules of Court* explicitly provides:

Section 7. *Record of pre-trial.* -- The proceedings in the pre-trial shall be recorded. Upon the termination thereof, the court shall issue an order which shall recite in detail the matters taken up in the conference, the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. **Should the action proceed to trial, the order shall explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent manifest injustice.** (5a, R20)

However, a pre-trial order is not intended to be a detailed catalogue of each and every issue that is to be taken during the trial, for it is unavoidable that there are issues that are *impliedly included* among those listed or that may be *inferable from those listed by necessary implication* which are as much integral parts of the pre-trial order as those expressly listed.^[17]

At any rate, it remains that the petitioner impleaded Cuevas and Saddul as defendants, and adduced against them evidence to prove their liabilities. With Cuevas and Saddul being parties to be affected by the judgment, it was only appropriate for the RTC to inquire into and determine their liability for the purpose of arriving at a complete determination of the suit. Thereby, the RTC acted in conformity with the avowed reason for which the courts are organized, which was to put an end to controversies, to decide the questions submitted by the litigants, and to settle the rights and obligations of the parties.^[18]

II

Notice on the guaranty period extension

The petitioner insists that Cuevas and Saddul were liable on the deficiency claim despite the lack of notice to them about the extension of the guaranty.

The insistence of the petitioner has merit.

To start with, the records indicate that on several occasions, Cuevas and Saddul, as President and Vice-President, respectively, of AMDC, separately wrote to the petitioner to request the extension of the guaranty period because AMDC could not pay the obligation on its due date;^[19] and that the petitioner granted each request and correspondingly sent letters to NCBSA informing it of the extensions of the guaranty period.^[20] The letters granting the requests for extension of the guaranty period bore the approval and signatures of Cuevas and Saddul as President and Vice-President, respectively, of AMDC.^[21] Having thus admitted their letters on the extension of the guaranty period, Cuevas and Saddul could not anymore feign ignorance of the guaranty extension.

Moreover, the deed of undertaking specifically stated that the grant of the extension