

FIRST DIVISION

[G.R. No. 161431, October 13, 2010]

CALIBRE TRADERS, INC., MARIO SISON SEBASTIAN, AND MINDA BLANCO SEBASTIAN, PETITIONERS, VS. BAYER PHILIPPINES, INC., RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

This petition for review on *certiorari*^[1] assails the July 31, 2002 Decision^[2] and the December 19, 2003 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 45546, that denied petitioners' action for damages against respondent Bayer Philippines Inc. (Bayerphil) and instead granted the latter's counterclaim for P1,272,103.07, representing unpaid purchases of Bayerphil's products.

Factual Antecedents

Calibre Traders, Inc. (Calibre) was one of Bayerphil's distributors/dealers of its agricultural chemicals within the provinces of Pangasinan and Tarlac.^[4] Their last distributorship agreement was effective from June 1989 to June 1991.^[5] However, Bayerphil stopped delivering stocks to Calibre on July 31, 1989 after the latter failed to settle its unpaid accounts in the total amount of P1,751,064.56.^[6]

As Bayerphil's authorized dealer, Calibre then enjoyed discounts and rebates. Subsequently, however, the parties had a disagreement as to the entitlement and computations of these discounts. Calibre, although aware of the deadline to pay its debts with Bayerphil, nevertheless withheld payment to compel Bayerphil to reconcile its accounts.^[7]

In a letter dated August 16, 1989, Calibre requested Bayerphil for a reconciliation of accounts. It enumerated the following claims that amounted to P968,265.82:

1. Interest charged to our 1984-1985 Volume Rebate. These were charged to us without our acknowledgment and was under protest since your people were not serving our account during that period. This amounts to P60,000.00 more or less.
2. Request for retroactive application of your special rebate as per our letter dated August 29, 1988 and your reply dated September 3, 1988. The reply is not acceptable to us. This amounts to P33,127.26.

3. Special rebates of Machete EC and EN for CY 1988 which [were] not granted to us, [but were] given to the other distributors after we have withdrawn a sizeable quantity. This amounts to P68,244.30.
4. The difference between our claim dated March 31, 1989 amounting to P47,746.30 against your Credit Memo 11868 dated April 28, 1989 amounting to P21,214.85. The amount of difference is P26,531.47.
5. The difference between our claim dated October 31, 1988 amounting to P23,342.09 against your Credit Memo 11693 dated January 31, 1989 amounting to P21,222.48. The amount of difference is P2,119.61.
6. Sales Returns as per your CRR 2159 dated December 19, 1988 amounting to P8,047.71.
7. Special rebates of 8% for Machete 5G as per Invoice No. 834159 dated February 14, 1989. This amounts to [P1,376.80].
8. Request for Sales returns due to overdelivery as per our letter dated April 3, 1989 amounting to P147,108.86.
9. Request for Sales returns due to leakage as per our letter dated April 3, 1989 amounting to P8,681.24.
10. 1988-1989 Volume Rebate amounting to P520,548.41.
11. 5% Prompt Payment on P1,839,603.15 amounting to P92,480.16 since your Sales Representative was not servicing our account due to his [forth]coming resignation.^[8]

Calibre sent follow-up letters dated September 17, October 13, and November 16, 1989.^[9]

On September 29, 1989, Bayerphil's credit and collection officer, Leon Abesamis, conferred with Calibre's General Manager Mario Sebastian (Sebastian). The attempt to settle failed. Again, on October 27, 1989, Bayerphils' Sales Manager of the Agro Division, Vidal Lingan, met with Sebastian. The results of their discussion were put in writing in Bayerphil's letter dated November 10, 1989, to wit:

x x x x

Gentlemen:

Following our October 27, 1989 discussions with yourself for the final resolution of your overdue accounts with our company in the amount of exactly P1,718,822.57, we have arrived at a final arrangement which will no doubt be more than fair specially for your firm.

We will now go by your claims per your letter of August 16, 1989[. We] now confirm the following:

1. The alleged interest charges of P60,000.00 x x x for unpaid invoices against your volume rebate for the year 1984-1985 was not charged at all. Our records show that we granted your year-end rebate per our

Credit Note #9089 of July 1985	- P 973,511.56
and	
Credit Note #9149 of September 1985	<u>- 181,441.15</u>
Total rebate from retention scheme	
1984-1985	P1,154,952.71

These credit notes do not bear any interest charges as you claimed during that discussion. It means you were not charged any penalty on delayed payments of subject invoices.

2. Retroactive application against inventory of special deal rebates have never been paid to any of our distributors nationwide since we began business operations in this country. As a matter of policy, we regret that we cannot grant this request.
3. Special rebates on Machete EN and Machete EC on the basis of 30-day COD arrangement were granted during the last quarter of 1988. This agreement did not apply to your purchases on the same products from January 1, 1988 to September 30, 1988. We found your claim difficult to accept.
4. Your claim for P26,531.47 from our 30-day COD terms with 5% rebate on selected products only, i.e., Gusathion, Folidol, Machete EC & EN. You have, in your claim included other products than those listed. Inasmuch as our former Sales Representative agreed to the inclusion of the other [products], we will grant that claim for P26,531.47 net of our earlier issued CM #11868, as an honorable business organization is expected to act.
5. Your claim on the difference of P2,119.61 [as stated in] your letter of October 31, 1988 in the amount of P23,342.09 and our Credit Note #11693 dated January 31, 1989, is granted. Our computations are absolutely correct but we shall not argue over a trivial figure.
6. Your claims on returned stocks on December 19, 1988 per CRR No. 2159 for P8,047.71. We issued the corresponding credit note dated July 25, 1989 in the amount of P7,242.26, which is based on the prices of the returned goods at the time you acquired them, not at the time when you returned them when there was a corresponding increase in prices. The difference is P805.45. Any business house will reluctantly consider this claim but we thought we should gallantly grant you that oversight. We are sure you did not intend

to do that.

7. Special 8% rebates on Machete 5G in the amount of P1,376.80. We have given you a Credit Note #12160 to offset that claim.
8. Your volume rebate claim for the year 1988-1989 is in the sum of P520,548.41, however, our computation stands at P479,326.49. Enclosed herewith please find our CM#12250 in the amount of P320,849.42 representing your volume rebate for 1988-1989 on the paid portion of your volume rebate year purchases. As soon as payment is received on your balance of P1,042,248.16 (net of additional volume rebate of P158,477.07 on the unpaid portion and prompt payment rebate of P63,196.06), we shall issue you the aforementioned additional volume rebate and prompt payment rebate CMs.
9. Your claim of 5% prompt payment rebate per your note dated June 30, 1989 has been computed to amount to P63,196.06 in view of the returns and application of your volume rebate against the total outstanding unpaid balances.
10. Your intention to return stocks per your letter of April 3, 1989. We have withdrawn the following products on October 28, 1989, as follows:

Basagran	250 ml.	-	230 bottles
	500 ml.	-	102 bottles
Baycarb	1000 ml.	-	64 x '
Baythroid	100 ml.	-	373 x '
	250 ml.	-	336 x '
Gusacarb	500 ml.	-	20 x '
Roundup	250 ml.	-	30 x '
Machete EC	500 ml.	-	12 x '
	1000 ml.	-	12 x '

The net value of the above materials has been computed at P124,493.28, [for which] a credit note will be issued shortly.

We believe that we have been more than fair in meeting your claims. We granted your requests as a gesture of benevolence in assisting your firm in softening the burdens as inevitable consequences of business difficulties.

And as the time tested physical law rightly states - for every action, there must be an equal positive reaction. We feel that you now react favorably in the final and complete resolution of your main problem.

Yours faithfully,

Bayerphil's Assistant Sales Manager Rene Garcia (Garcia) gave this letter to Sebastian^[11] on November 17, and offered to grant Calibre's claims just so that it may finally settle all its unpaid accounts with Bayerphil. Sebastian wrote Bayerphil to confirm Garcia's offer.^[12] In reply, Bayerphil specified in its November 24, 1989 letter the additional claims it granted and clarified the other claims:

x x x x

[Gentlemen]:

We have your letter of November 22, 1989 with your request that we confirm or deny the verbal offer of our Mr. Renato G. Garcia granting all your claims with us per your letter of August 16, 1989.

Please be informed that we confirm that offer subject to the conditions hereunder made explicit, to wit:

1. We will grant you a credit note for P33,127.26 referring to your Item #2 in your letter dated August 16, 1989.
2. We will also grant you a credit note for P68,244.30 referring to your Item #3 in your above-named letter.
3. We will likewise grant the amount of P6,572.29 by CM to cover your Item #4 in your above-named letter. We have excluded the free goods portion in your claim.
4. We will further grant the sum of P2,119.61 by CM as claimed in Item #5 of your above-named letter.
5. We will also grant P805.45 through a CM to complete our CM #4975 as per your Item #6 in your said letter.
6. Items 7, 8 & 9 in your letter has [sic] been earlier granted by our CM Nos. 12160 and 5263.
7. We will also grant your additional volume rebate amounting to P147,590.03 (see also CM#12250 - P320,849.42 VR earlier granted upon full payment of the hereunder mentioned net payable to us).
8. Lastly, we will grant you under Item #11 of your August 16 letter, the sum of P79,557.21 (credited free goods and volume rebate which shall be applied against outstanding account are excluded).

All the foregoing are premised on our receipt of your full payment of the sum of P934,086.92, in full and total settlement of your outstanding account after the crediting of the eight (8) above-named concessions totaling to P338,016.15.

We strongly urge you to accept and adhere to the foregoing offer by remitting to us the said sum of P934,086.92 through a bank demand draft on or before close of business hours of December 8, 1989. Your failure to remit the said demand draft within the allotted time shall effectively cancel our herein offer, and much to our regret we shall be left with no other recourse but to protect our interests by and through an