

SECOND DIVISION

[G.R. NO. 148596, January 22, 2007]

**JL INVESTMENT AND DEVELOPMENT, INC., PETITIONER, VS.
TENDON PHILIPPINES, INC., J. STA. MARIA CONSTRUCTION
CORPORATION, AND JAIME T. STA. MARIA, JR., RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review^[1] of the Decision^[2] dated 3 May 2001 and the Resolution dated 19 June 2001 of the Court of Appeals holding petitioner JL Investment and Development, Inc. (petitioner) jointly and severally liable with respondents J. Sta. Maria Construction Corporation (SMCC) and Jaime T. Sta. Maria, Jr. (Sta. Maria) in a collection suit filed by respondent Tendon Philippines, Inc. (TPI).

The Facts

Petitioner hired respondent SMCC to undertake the structural and architectural work for the first 12 floors of a 16-floor building (JLID Building) in Kalaw corner Cortada Streets, Ermita, Manila. Under the Construction Agreement (Agreement) between petitioner and SMCC, petitioner agreed to pay SMCC P63,333,085.84 for the project. The Agreement also required SMCC to submit monthly progress billings to petitioner.^[3]

To supply the concrete piles needed for the structural work, SMCC subcontracted respondent TPI, a local manufacturer of pre-cast concrete products. Accordingly, TPI delivered 142 pieces of concrete piles to SMCC worth P4,118,000 payable on installment basis.

By early August 1996, SMCC, using the concrete piles that TPI supplied, finished the pile driving work for the first 12 floors of the JLID Building.

On 13 September 1996, petitioner paid SMCC for the pile driving work as indicated in SMCC's seventh progress billing dated 30 August 1996.

Claiming that SMCC did not fully pay for the concrete piles, TPI sought payment of the balance from petitioner. Petitioner ignored TPI's demand. Thus, TPI sued SMCC, SMCC's President, respondent Sta. Maria, and petitioner (respondents) in the Regional Trial Court of Pasig City, Branch 167 (trial court), to collect the unpaid balance of P1,389,330. TPI prayed that the trial court hold respondents solidarily liable for the balance with interest, attorney's fees, and the costs of suit.

In its Answer, petitioner denied any liability, alleging that under the Agreement,

SMCC is solely liable for any obligation due to its suppliers. Nevertheless, petitioner filed a cross-claim against SMCC, praying reimbursement for any amount it may be held liable to TPI. Petitioner also prayed for the payment of attorney's fees and litigation expenses.

In their Answer, SMCC and Sta. Maria also raised the defense of full payment. Alternatively, SMCC and Sta. Maria contended that the pile drives TPI delivered did not conform to the agreed specifications. SMCC and Sta. Maria counterclaimed for damages.

Before trial commenced, TPI submitted interrogatories to petitioner. In its response, petitioner claimed, for the first time, that it had made advance payments to SMCC, resulting in an alleged overpayment.

During the pre-trial, SMCC and Sta. Maria failed to appear, thus the trial court declared them in default.

The Ruling of the Trial Court

In its Decision dated 17 May 1999, the trial court held SMCC and Sta. Maria solidarily liable to TPI for P1,389,330 with 12% interest per annum,

computed from the filing of the complaint, and attorney's fees equivalent to 10% of the principal obligation.^[4] The trial court dismissed both TPI's complaint against petitioner and petitioner's cross-claim against SMCC for lack of basis.

In absolving petitioner from any liability, the trial court held that TPI's cause of action against petitioner under Article 1729 of the Civil Code applies only to the amount petitioner owed SMCC for the pile driving work. Since at the time TPI demanded payment from petitioner on 3 December 1996, petitioner had already fully paid SMCC for the pile driving work, the trial court concluded that TPI ceased to have any cause of action against petitioner. The trial court held:

The liability of the defendant contractor J. Sta. Maria Construction, as well as Jaime T. Sta. Maria Jr., is settled. By preponderance of evidence, plaintiff demonstrates [sic] ineluctably that all the concrete piles ordered by the defendant J. Sta. Maria Construction were delivered and used in the building under construction. The defendant J. Sta. Maria benefited from the materials, as accordingly, it was paid by the defendant-owner of the building.

The claim of plaintiff Tendon [Philippines, Inc.] against the defendant [JL] Investment is anchored on the provision of Art. 1729 of the Civil Code of the Philippines, which is quoted as follows:

Those who put their labor upon or furnish materials for a piece of work undertaken by the contractor have an action against the owner up to the amount owing from the latter to the contractor at the time the claim is made. However, the following shall not prejudice the laborers, employees and furnishers of materials:

1. Payments made by the owner to the contractor before they are due;
2. Renunciation by the contractor of any amount due from the owner.

This article is subject to the provision[s] of special laws. x x x

It is readily apparent from the provision invoked that the owner of the materials has a cause of action against the owner of the building for materials furnished to the contractor only up to the amount owing from the owner to the contractor at the time the claim is made.

Equating the provision of law to the evidence of the plaintiff, to prove the liability of the defendant-owner of the building, it is undisputedly clear that at the time the claim or demand was presented by plaintiff to the defendant JL Investment in December 1996, all the materials supplied by it and used in the building by the defendant-contractor had all been paid by the owner of the building JL Investment to the contractor, J. Sta. Maria Construction. In fact, it does not appear that the owner of the building is indebted at all to the defendant-contractor. It is qui[te] unfair, if not altogether in[i]quitous, for the defendant-owner of the building to pay twice for the materials used in the building. In the absence of a clear showing that there is still an amount due from the owner, JL Investment, to the defendant-contractors representing the value of the materials used, the plaintiff, as owner of the materials[] used in the building has no cause of action against the owner of the building JL Investment. The logical recourse of the owner of the material x x x would be against the contractor, who in the first place ordered and purchase [sic] the materials. Put otherwise, the privity or tie is between the owner of the materials and the contractor. But, considering that plaintiff was compelled to litigate and incurred expenses to protect its interest, an entitlement to a reasonable attorney's fees is warranted.^[5] (Emphasis in the original)

TPI appealed to the Court of Appeals, contending that the trial court erred in not holding petitioner solidarily liable with SMCC and Sta. Maria.

SMCC and Sta. Maria also appealed. However, for SMCC and Sta. Maria's failure to file their appellants' brief, the Court of Appeals considered their appeal abandoned and dismissed it in the Resolution of 31 July 2000.

The Ruling of the Court of Appeals

In its Decision of 3 May 2001, the Court of Appeals granted TPI's appeal and modified the trial court's ruling by holding petitioner solidarily liable with SMCC and Sta. Maria. The Court of Appeals ruled that (1) Article 1729 does not limit the supplier's cause of action against the owner to the value of the materials the supplier furnished, and (2) petitioner failed to prove its claim that it had fully paid, if not overpaid, SMCC for the project. The Court of Appeals held:

Art. 1729 of the Civil Code indeed does not make any distinction whether such amount owing from the owner to the contractor pertains to a

specific item of payment or account, particularly whether such amount owing to the contractor was intended for payment of the x x x materials supplied. The clear intendment of the law is to provide protection to the x x x furnisher of materials so that a restrictive interpretation of said provision as what the trial court had done, would undermine such legislative policy and objective.

x x x x

Of course, where the owner of the building has fully paid the contractor, the former's liability ceases. In this regard, defendant-appellee's [JL Investment] evidence showed that although the pile driving works was [sic] 100% accomplished or completed, the overall Project accomplishment is [sic] not yet fully executed as of August 30, 1996, indicating 29.5% accomplishment for the 7th Progress Billing. Defendant-appellee JL Investment & Development Corporation also claims to have "overpaid" the contractor, defendant J. Sta. Maria Construction Corporation when it extended financial assistance to it on the supply of cement, deformed bars and formworks system and tower crane, "for the period of two (2) months – November to December 1996 – at the estimated total amount of P11,539,954.00" and by reason of which, completion date of the Project was extended to January 6, 1997 as evidenced by the "Addendum to Construction Agreement." Such "financial assistance", according to appellant [TPI], constitutes advance payment to the contractor which under Art. 1729 shall not prejudice the claim of furnisher of materials such as herein appellant [TPI]. Defendant-appellee JL Investment & Development Corporation, on the other hand, contends that in view of the "overpayment" to the defendant contractor, J. Sta. Maria Construction Corporation, there is no longer any such amount owing and due to said contractor, and hence, appellant no longer has any cause of action against the defendant-appellee [JL Investment], the owner of the building. And yet, no evidence was presented by defendant-appellee [JL Investment] showing that such advances or "financial assistance" in the amount stated in the "Addendum to Construction Agreement" was actually paid by it. Exhibits "5", "5-A" and "5-B" reflected only the payment for the 7th Progress Billing on September 13, 1996 in which the cost of pile driving works was fully paid. No evidence of payment for the alleged "financial assistance" on which the claim of overpayment by defendant-appellee [JL Investment] rests, was submitted by the defendant-appellee [JL Investment]. Therefore, its defense that there is no longer any such amount owing to the defendant contractor at the time the claim is made upon it by plaintiff-appellant [TPI], must fail. The trial court thus erred in holding that only defendants-contractors [SMCC and Sta. Maria] may be held liable in this action by plaintiff-appellant [TPI], thereby absolving the owner of the building, defendant-appellee JL Investment & Development Corporation from any liability for the unpaid materials furnished by the plaintiff-appellant.^[6]

Petitioner sought reconsideration but the Court of Appeals denied its motion in the Resolution of 19 June 2001.