

SECOND DIVISION

[G.R. No. 165608, December 13, 2007]

**PHILIPPINE PHOSPHATE FERTILIZER CORPORATION,
PETITIONER, VS. KAMALIG RESOURCES, INC., RESPONDENT.**

DECISION

TINGA, J.:

This is an appeal by certiorari under Rule 45 of the Revised Rules of Court from the Decision^[1] dated 26 May 2004 promulgated by the Court of Appeals in CA G.R. No. 52553 which reversed the Decision^[2] dated 25 September 1995 of the Regional Trial Court (RTC) of Makati City, Branch 63, in Civil Case No. 17641, a case for collection of a sum of money representing overwithdrawals by respondent Kamalig Resources, Inc. (Kamalig) of fertilizer stocks of various grades from the Iloilo and Manila warehouses of petitioner Philippine Phosphate Fertilizer Corporation (Philphos).

The factual and legal antecedents follow.

Kamalig purchased fertilizer products from Philphos for eventual sale to its customers. The agreement governing the business transaction consisted of advance payment to Philphos for Kamalig's purchases of fertilizer products, followed by Philphos's issuance of a Sales Official Receipt and an Authority to Withdraw, indicating the kind of fertilizer product purchased and the location of the warehouse where the merchandise would be picked up. Kamalig would subsequently resell the fertilizer products and issue to its customers the corresponding Delivery Orders signed only by its authorized officers. The customers would then present the Delivery Orders to the proper Philphos warehouse for the release of the fertilizer products.

On 30 September 1985, Kamalig purchased from and made advance payments for fertilizer products of various grades to Philphos in the total sum of P4,548,152.53, embodied in Sales Official Receipt No. 03539,^[3] covering the following commercial invoices: (a) Commercial Invoice (CI) No. 04891 for fertilizer products to be withdrawn from the warehouse in Poro Point; (b) CI No. 04892 for fertilizer products to be withdrawn from the Manila supply point; (c) CI No. 04893 for such products to be withdrawn from the Iloilo warehouse; and (d) CI No. 04894 for the products to be withdrawn from the Davao supply point.^[4]

Prior to the release of fertilizer products at the said supply points, however, Kamalig requested for a readjustment of the various fertilizer grades and a modification of the locations from which the fertilizer stocks would be picked up. The request was contained in a letter dated 11 October 1985.^[5]

In a subsequent letter dated 14 October 1985,^[6] Kamalig requested another adjustment, this time a conversion of its stocks in Davao to be delivered and picked up in Manila.

All these requests were approved by Philphos.

In the letter dated 21 July 1986,^[7] Philphos informed Kamalig of its overwithdrawal of various fertilizer stocks in the supply depots in Manila and Iloilo. This consisted of 291.45 metric tons (MT) of fertilizer grade 21-0-0 from the Manila supply point and 50 MT each of fertilizer grades 14-14-14, 16-20-0, and 21-0-0 from the Iloilo supply station. According to Philphos, the cost of these overwithdrawals by Kamalig amounted to P1,016,994.21. But since Philphos also had an obligation to Kamalig in the amount of P470,348.91 representing the Capital Recovery Component, partial compensation took place by operation of law thereby reducing Kamalig's obligation to P546,645.30. Thus, Philphos demanded that this sum be settled on or before 31 July 1986, otherwise Kamalig would be charged 34% interest per annum. Kamalig, however, denied that it had exceeded its withdrawals of fertilizer and thus contended that it should not be made liable for any amount.

On 20 August 1987, Philphos filed the case for collection of a sum of money against Kamalig before the RTC of Makati City. During pre-trial, the parties agreed to confine the issue to whether or not Kamalig overwithdrew 150 MT or 3,000 bags of various grades of fertilizer products amounting to P441,738.50 from Philphos's warehouse in Iloilo and 291.45 MT or 5,829 bags of fertilizer grade 21-0-0 amounting to P575,255.71 from Philphos's warehouse in Manila.^[8]

After trial, giving more credence to the evidence presented by Philphos, the RTC disposed of the case in its Decision^[9] dated 25 September 1995, thus:

In the light of the foregoing, judgment is hereby rendered as follows:

- 1) Ordering defendant to pay plaintiff the amount of P546,645.30 representing the overwithdrawn stocks made by defendant to plaintiff plus 34% interest per annum from 20 August 1987 until fully paid;
- 2) Ordering defendant to pay plaintiff an amount equivalent to 25% of the total claim as and for attorney's fees; and
- 3) Ordering defendant to pay the costs of suit.

SO ORDERED.^[10]

The RTC noted that Kamalig did not categorically deny that there were overwithdrawals of fertilizer products in its stock, and that if there were overwithdrawals, Kamalig merely claimed that it should not be at fault because some of the delivery receipts were signed by Kamalig officers who were not authorized to make such withdrawals. However, the RTC held that the alleged unauthorized withdrawals did not relieve Kamalig from liability for the following reasons: first, Kamalig's policy of not allowing withdrawals via handwritten forms or forms that are not pre-printed or pre-numbered was not communicated to Philphos but was only an internal company policy; second, if it is Kamalig's internal policy not

to allow withdrawals by unauthorized officers, then it should have been followed by all of its employees, and the withdrawals by such unauthorized officers only goes to show that said procedure is actually not an internal policy of Kamalig. Therefore, such withdrawals should be for the account of Kamalig.^[11]

Kamalig appealed the decision to the Court of Appeals, which found merit in the appeal. The dispositive portion of the Decision dated 26 May 2004 reads:

WHEREFORE, the assailed Decision is **REVERSED** and **SET ASIDE**. The complaint is **DISMISSED** and judgment is rendered ordering Philippine Phosphate Fertilizer Corporation to pay Kamalig Resources, Inc., the following:

1. Actual damages in the sum of P470,348.91, representing the value of the Capital Recovery Component, plus legal interest from the date of the filing of the Complaint;
2. Actual damages in the sum of P174,841.34, representing the value of unauthorized withdrawals erroneously charged to Kamalig Resources, Inc.;
3. Attorney's fees in the amount of P30,000.00; and
4. The costs of suit.

SO ORDERED.^[12]

The Court of Appeals disagreed with the RTC's finding that Kamalig failed to categorically deny Philphos's claim of overwithdrawal of fertilizer stocks. The appellate court pointed out that there were specific denials in Kamalig's Answer that it had not overwithdrawn its stocks, and in its Pre-Trial Brief that it had withdrawn fertilizer stocks only in such grade and quantity equivalent to the payment it had previously made. A categorical denial having been made by Kamalig, the Court of Appeals declared that the burden of proof had shifted to Philphos to prove such overwithdrawals.^[13] The Court of Appeals found, however, that Philphos did not overcome the burden of proof as it failed to prove the alleged overwithdrawal of fertilizer products by Kamalig which is the core of its cause of action. The Court of Appeals also found that Philphos's computations not only included improperly documented withdrawals but also violated Kamalig's policy of authorizing withdrawals based only on pre-printed and numbered forms duly issued to its customers, which policy according to the Court of Appeals, was communicated by Kamalig to Philphos. The Court of Appeals likewise found that it was also Philphos's company policy to disallow withdrawals not using the pre-numbered and pre-printed delivery receipts. By adopting the same policy, the appellate court declared, Philphos should have been forewarned that allowing withdrawals without the proper documentation would be abetting unauthorized withdrawals to its prejudice. Thus, such unauthorized withdrawals should also be deducted from the value of the fertilizer products withdrawn by Kamalig.^[14]

Consequently, the unauthorized withdrawals, in the total amount of P378,891.45,^[15] should be deducted from the total withdrawals made by Kamalig as stated in the delivery receipts, placed at P4,752,202.62, thereby leaving a difference of

P4,373,311.21. Said difference should then be deducted from the purchase price of P4,548,152.55 previously paid by Kamalig, leaving an overpayment of P174,841.34 by Kamalig. Add to this the amount of P470,348.91 representing the Capital Recovery Component which Philphos admitted it owed Kamalig, resulting in the total amount of P645,190.25 owed by Philphos to Kamalig, said the Court of Appeals.

Total value of withdrawals made by Kamalig	P4,752,202.62
Less: Value of unauthorized withdrawals	<u>- 378,891.41</u>
Actual value of withdrawals made by Kamalig	P4,373,311.41
Amount previously paid by Kamalig	P4,548,152.55
Less: Actual value of withdrawals made by Kamalig	<u>- 4,373,311.41</u>
	174,841.34
Add: Capital Recovery Component	<u>+ 470,348.91</u>
TOTAL AMOUNT owed by Philphos to Kamalig	P645,190.25 ^[16]

The Court of Appeals likewise held that there was no basis for the imposition of the 34% interest per annum on the principal claim of Philphos, the same being merely a unilateral act on the part of Philphos and no evidence was presented to show that the parties stipulated on the payment of interest. Besides, such interest cannot be awarded since there were no overwithdrawals in the first place. The Court of Appeals also deleted the award of attorney's fees to Philphos, finding that the factual and legal bases of the RTC were erroneous and that Philphos had not met any of the justifications under Article 2208 of the Civil Code to merit the award of attorney's fees. Instead, it awarded attorney's fees to Kamalig which was forced to hire the services of a lawyer to defend itself against an unfounded civil action filed by Philphos that could have been avoided had Philphos been more diligent.^[17]

Philphos filed a motion for reconsideration of the Decision but this was denied in the Resolution^[18] of 7 October 2004.

In the present appeal by certiorari, Philphos alleges that the Court of Appeals erred in holding that: (a) Philphos is liable to Kamalig for the sum of P645,190.29, considering that based on Philphos's evidence, it is Kamalig who is indebted to Philphos for the sum of P538,486.74; (b) Philphos's evidence is not sufficient to prove the existence of an outstanding obligation; (c) there can be no basis for the imposition of a 34% interest per annum on the outstanding obligation of Kamalig to Philphos; and (d) there is no basis for awarding attorney's fees to Philphos.

Philphos alleges that in issuing the questioned decision, the Court of Appeals omitted some figures and disregarded some material facts which, when taken into account, would have established Kamalig's liability by as much as P538,486.73. First, in coming up with the value of P645,190.25 supposedly owed by Philphos to Kamalig, the Court of Appeals erroneously indicated that Kamalig had withdrawn

1,908.85 MT of fertilizer grade 21-0-0, 150 MT of fertilizer grade 16-20-0 and 150 MT of fertilizer grade 14-14-14, or a total of 2,208.85 MT. In doing so, the Court of Appeals did not consider Kamalig's withdrawals in the other warehouses of Philphos, such as 37.15 MT of 16-20-0 fertilizer grade in Poro Point and 100 MT each of fertilizer grades 14-14-14 and 16-20-0 in Manila per Kamalig's letter dated 11 October 1985. Thus, the appellate court's computation was short by 237.15 MT worth P803,710.55:[19]

FERTILIZER GRADE	QUANTITY IN METRIC TONS	PRICE/MT	AMOUNT
14-14-14	100	3,499.10	P 349,910.00
16-20-0	137.15	3,308.79	453,800.55
TOTAL	237.15		P 803,710.55

Second, the Court of Appeals supposedly should not have readily believed Kamalig's claim that the withdrawals based on handwritten delivery orders or those that were not pre-printed and pre-numbered were unauthorized. The evidence presented by Philphos clearly showed that said alleged unauthorized withdrawals amounting to P378,891.41 were sufficiently evidenced by delivery orders signed by Kamalig's authorized signatories and were received by Kamalig's customers. Philphos asseverates that it should not be faulted for honoring the delivery orders that were not written on the standard pre-printed forms. While Kamalig asserts that it communicated its policy of disallowing withdrawals in non-standard forms, Kamalig's own witness and former company president, Ma. Lourdes Nicandro, testified that the policy was not communicated officially through a formal written memorandum or letter. Moreover, the handwritten delivery orders signed by Kamalig's authorized officers would negate the existence of such a policy since said officers are presumed to be knowledgeable about Kamalig's policies and accordingly comply with the same. [20]

Third, the Court of Appeals should have included in its computation the additional deliveries to Kamalig of 292 MT of fertilizer grade 21-0-0 in Manila per the letter dated 14 October 1985. In said letter, Kamalig misrepresented to Philphos that it still had an undelivered balance of 200 MT of various fertilizer grades in Davao when in fact it had none, thus Philphos, in good faith, authorized the delivery of the 292 MT of grade 21-0-0 from the Manila warehouse as requested. The additional withdrawal of 292 MT of grade 21-0-0 was evidenced by delivery orders and delivery receipts and should have been included in the computation of Kamalig's obligation.

Thus, according to Philphos's computations, the fertilizer products withdrawn by Kamalig totals 2,446.55 MT equivalent to P5,556,988.20. Deducting Kamalig's deposit of P4,548,152.55 and capital recovery component of P470,348.91, Kamalig owes Philphos the amount of P538,486.74:

FERTILIZER GRADE	PORO POINT	MANILA	ILOILO	TOTAL MT	COST/MT	TOTAL
14-14-14	-	100	100	250	3,499.10	P874,775.00
16-20-0	37.15	100	150	287.15	3,308.79	950,119.05