518 Phil. 478

FIRST DIVISION

[G.R. NO. 160016, February 27, 2006]

ABACUS SECURITIES CORPORATION, PETITIONER, VS. RUBEN U. AMPIL, RESPONDENT.

DECISION

PANGANIBAN, CJ:

Stock market transactions affect the general public and the national economy. The rise and fall of stock market indices reflect to a considerable degree the state of the economy. Trends in stock prices tend to herald changes in business conditions. Consequently, securities transactions are impressed with public interest, and are thus subject to public regulation. In particular, the laws and regulations requiring payment of traded shares within specified periods are meant to protect the economy from excessive stock market speculations, and are thus mandatory.

In the present case, respondent cannot escape payment of stocks validly traded by petitioner on his behalf. These transactions took place before both parties violated the trading law and rules. Hence, they fall outside the purview of the *pari delicto* rule.

The Case

Before the Court is a Petition for Review[1] under Rule 45 of the Rules of Court, challenging the March 21, 2003 Decision[2] and the September 19, 2003 Resolution[3] of the Court of Appeals (CA) in CA-GR CV No. 68273. The assailed Decision disposed as follows:

> "**UPON THE VIEW WE TAKE OF THIS CASE THUS**, this appeal is hereby **DISMISSED**. With costs."[4]

The CA denied reconsideration in its September 19, 2003 Resolution.

The Facts

The factual antecedents were summarized by the trial court (and reproduced by the CA in its assailed Decision) in this wise:

> "Evidence adduced by the [petitioner] has established the fact that [petitioner] is engaged in business as a broker and dealer of securities of listed companies at the Philippine Stock Exchange Center.
>
> "Sometime in April 1997, [respondent] opened a cash or regular account with [petitioner] for the purpose of buying and selling securities as evidenced by the Account Application Form. The parties" business

relationship was governed by the terms and conditions [stated therein] x x x.

"Since April 10, 1997, [respondent] actively traded his account, and as a result of such trading activities, he accumulated an outstanding obligation in favor of [petitioner] in the principal sum of P6,617,036.22 as of April 30, 1997.

"Despite the lapse of the period within which to pay his account as well as sufficient time given by [petitioner] for [respondent] to comply with his proposal to settle his account, the latter failed to do so. Such that [petitioner] thereafter sold [respondent's] securities to set off against his unsettled obligations.

"After the sale of [respondent's] securities and application of the proceeds thereof against his account, [respondent's] remaining unsettled obligation to [petitioner] was P3,364,313.56. [Petitioner] then referred the matter to its legal counsel for collection purposes.

"In a letter dated August 15, 1997, [petitioner] through counsel demanded that [respondent] settle his obligation plus the agreed penalty charges accruing thereon equivalent to the average 90-day Treasury Bill rate plus 2% per annum (200 basis points).

"In a letter dated August [26], 1997, [respondent] acknowledged receipt of [petitioner's] demand [letter] and admitted his unpaid obligation and at the same time request[ed] for 60 days to raise funds to pay the same, which was granted by [petitioner].

"Despite said demand and the lapse of said requested extension, [respondent] failed and/or refused to pay his accountabilities to [petitioner].

"For his defense, [respondent] claims that he was induced to trade in a stock security with [petitioner] because the latter allowed offset settlements wherein he is not obliged to pay the purchase price. Rather, it waits for the customer to sell. And if there is a loss, [petitioner] only requires the payment of the deficiency (i.e., the difference between the higher buying price and the lower selling price). In addition, it charges a commission for brokering the sale.

"However, if the customer sells and there is a profit, [petitioner] deducts the purchase price and delivers only the surplus – after charging its commission.

"[Respondent] further claims that all his trades with [petitioner] were not paid in full in cash at anytime after purchase or within the T+4 [4 days subsequent to trading] and none of these trades was cancelled by [petitioner] as required in Exhibit "A-1". Neither did [petitioner] apply with either the Philippine Stock Exchange or the SEC for an extension of time for the payment or settlement of his cash purchases. This was not brought to his attention by his broker and so with the requirement of

> collaterals in margin account. Thus, his trade under an offset transaction with [petitioner] is unlimited subject only to the discretion of the broker. x x x [Had petitioner] followed the provision under par. 8 of Exh. "A-1" which stipulated the liquidation within the T+3 [3 days subsequent to trading], his net deficit would only be P1,601,369.59. [Respondent] however affirmed that this is not in accordance with RSA [Rule 25-1 par. C, which mandates that if you do not pay for the first] order, you cannot subsequently make any further order without depositing the cash price in full. So, if RSA Rule 25-1, par. C, was applied, he was limited only to the first transaction. That [petitioner] did not comply with the T+4 mandated in cash transaction. When [respondent] failed to comply with the T+3, [petitioner] did not require him to put up a deposit before it executed its subsequent orders. [Petitioner] did not likewise apply for extension of the T+4 rule. Because of the offset transaction, [respondent] was induced to [take a] risk which resulted [in] the filing of the instant suit against him [because of which] he suffered sleepless nights, lost appetite which if quantified in money, would amount to P500,000.00 moral damages and P100,000.00 exemplary damages."[5]

In its Decision[6] dated June 26, 2000, the Regional Trial Court (RTC) of Makati City (Branch 57) held that petitioner violated Sections 23 and 25 of the Revised Securities Act (RSA) and Rule 25-1 of the Rules Implementing the Act (RSA Rules) when it failed to: 1) require the respondent to pay for his stock purchases within three (T+3) or four days (T+4) from trading; and 2) request from the appropriate authority an extension of time for the payment of respondent's cash purchases. The trial court noted that despite respondent's non-payment within the required period, petitioner did not cancel the purchases of respondent. Neither did it require him to deposit cash payments before it executed the buy and/or sell orders subsequent to the first unsettled transaction. According to the RTC, by allowing respondent to trade his account actively without cash, petitioner effectively induced him to purchase securities thereby incurring excessive credits.

The trial court also found respondent to be equally at fault, by incurring excessive credits and waiting to see how his investments turned out before deciding to invoke the RSA. Thus, the RTC concluded that petitioner and respondent were in *pari delicto* and therefore without recourse against each other.

Ruling of the Court of Appeals

The CA upheld the lower court's finding that the parties were in *pari delicto*. It castigated petitioner for allowing respondent to keep on trading despite the latter's failure to pay his outstanding obligations. It explained that "the reason [behind petitioner's act] is elemental in its simplicity. And it is not exactly altruistic. Because whether [respondent's] trading transaction would result in a surplus or deficit, he would still be liable to pay [petitioner] its commission. [Petitioner's] cash register will keep on ringing to the sound of incoming money, no matter what happened to [respondent]."[7]

The CA debunked petitioner's contention that the trial court lacked jurisdiction to determine violations of the RSA. The court *a quo* held that petitioner was estopped from raising the question, because it had actively and voluntarily participated in the assailed proceedings.

Hence, this Petition.[8]

Issues

Petitioner submits the following issues for our consideration:

"I.

> Whether or not the Court of Appeal's ruling that petitioner and respondent are in *pari delicto* which allegedly bars any recovery, is in accord with law and applicable jurisprudence considering that respondent was the first one who violated the terms of the Account Opening Form, [which was the] agreement between the parties.

"II.

> Whether or not the Court of Appeal's ruling that the petitioner and respondent are in *pari delicto* is in accord with law and applicable jurisprudence considering the Account Opening Form is a valid agreement.

"III.

> Whether or not the Court of Appeal's ruling that petitioner cannot recover from respondent is in accord with law and applicable jurisprudence since the evidence and admission of respondent proves that he is liable to petitioner for his outstanding obligations arising from the stock trading through petitioner.

"IV.

> Whether or not the Court of Appeal's ruling on petitioner's alleged violation of the Revised Securities Act [is] in accord with law and jurisprudence since the lower court has no jurisdiction over violations of the Revised Securities Act."[9]

Briefly, the issues are (1) whether the *pari delicto* rule is applicable in the present case, and (2) whether the trial court had jurisdiction over the case.

The Court's Ruling

The Petition is partly meritorious.

Main Issue:
Applicability of the Pari Delicto Principle

In the present controversy, the following pertinent facts are undisputed: (1) on April 8, 1997, respondent opened a *cash* account with petitioner for his transactions in securities;[10] (2) respondent's purchases were consistently unpaid from April 10 to

30, 1997;[11] (3) respondent failed to pay in full, or even just his deficiency,[12] for the transactions on April 10 and 11, 1997;[13] (4) despite respondent's failure to cover his initial deficiency, petitioner subsequently purchased and sold securities for respondent's account on April 25 and 29;[14] (5) petitioner did not cancel or liquidate a substantial amount of respondent's stock transactions until May 6, 1997.[15]

The provisions governing the above transactions are Sections 23 and 25 of the RSA[16] and Rule 25-1 of the RSA Rules, which state as follows:

> "SEC. 23. *Margin Requirements*. –
> x x x   x x x   x x x
>
> (b) It shall be unlawful for any member of an exchange or any broker or dealer, directly or indirectly, to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer –
>
> (1) On any security other than an exempted security, in contravention of the rules and regulations which the Commission shall prescribe under subsection (a) of this Section;
>
> (2) Without collateral or on any collateral other than securities, except (i) to maintain a credit initially extended in conformity with the rules and regulations of the Commission and (ii) in cases where the extension or maintenance of credit is not for the purpose of purchasing or carrying securities or of evading or circumventing the provisions of subparagraph (1) of this subsection.
>
> x x x   x x x   x x x"
>
> "SEC. 25. *Enforcement of margin requirements and restrictions on borrowings.* – To prevent indirect violations of the margin requirements under Section 23 hereof, the broker or dealer shall require the customer in nonmargin transactions to pay the price of the security purchased for his account within such period as the Commission may prescribe, which shall in no case exceed three trading days; otherwise, the broker shall sell the security purchased starting on the next trading day but not beyond ten trading days following the last day for the customer to pay such purchase price, unless such sale cannot be effected within said period for justifiable reasons. The sale shall be without prejudice to the right of the broker or dealer to recover any deficiency from the customer. x x x."
>
> "RSA RULE 25-1
>
> "Purchases and Sales in Cash Account
>
> "(a) Purchases by a customer in a cash account shall be paid in full within three (3) business days after the trade date.
>
> "(b) If full payment is not received within the required time period, the