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FIRST DIVISION

[G.R. NO. 147839, June 08, 2006]

GAISANO CAGAYAN, INC. PETITIONER, VS. INSURANCE COMPANY OF NORTH AMERICA, RESPONDENT.

DECISION

AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on *certiorari* of the Decision[1] dated October 11, 2000 of the Court of Appeals (CA) in CA-G.R. CV No. 61848 which set aside the Decision dated August 31, 1998 of the Regional Trial Court, Branch 138, Makati (RTC) in Civil Case No. 92-322 and upheld the causes of action for damages of Insurance Company of North America (respondent) against Gaisano Cagayan, Inc. (petitioner); and the CA Resolution dated April 11, 2001 which denied petitioner's motion for reconsideration.

The factual background of the case is as follows:

Intercapitol Marketing Corporation (IMC) is the maker of Wrangler Blue Jeans. Levi Strauss (Phils.) Inc. (LSPI) is the local distributor of products bearing trademarks owned by Levi Strauss & Co.. IMC and LSPI separately obtained from respondent fire insurance policies with book debt endorsements. The insurance policies provide for coverage on "book debts in connection with ready-made clothing materials which have been sold or delivered to various customers and dealers of the Insured anywhere in the Philippines."[2] The policies defined book debts as the "unpaid account still appearing in the Book of Account of the Insured 45 days after the time of the loss covered under this Policy."[3] The policies also provide for the following conditions:

> 1. Warranted that the Company shall not be liable for any unpaid account in respect of the merchandise sold and delivered by the Insured which are outstanding at the date of loss for a period in excess of six (6) months from the date of the covering invoice or actual delivery of the merchandise whichever shall first occur.
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> 2. Warranted that the Insured shall submit to the Company within twelve (12) days after the close of every calendar month all amount shown in their books of accounts as unpaid and thus become receivable item from their customers and dealers. x x x[4]
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> x x x x

Petitioner is a customer and dealer of the products of IMC and LSPI. On February 25, 1991, the Gaisano Superstore Complex in Cagayan de Oro City, owned by petitioner, was consumed by fire. Included in the items lost or destroyed in the fire

were stocks of ready-made clothing materials sold and delivered by IMC and LSPI.

On February 4, 1992, respondent filed a complaint for damages against petitioner. It alleges that IMC and LSPI filed with respondent their claims under their respective fire insurance policies with book debt endorsements; that as of February 25, 1991, the unpaid accounts of petitioner on the sale and delivery of ready-made clothing materials with IMC was P2,119,205.00 while with LSPI it was P535,613.00; that respondent paid the claims of IMC and LSPI and, by virtue thereof, respondent was subrogated to their rights against petitioner; that respondent made several demands for payment upon petitioner but these went unheeded.[5]

In its Answer with Counter Claim dated July 4, 1995, petitioner contends that it could not be held liable because the property covered by the insurance policies were destroyed due to fortuities event or *force majeure*; that respondent's right of subrogation has no basis inasmuch as there was no breach of contract committed by it since the loss was due to fire which it could not prevent or foresee; that IMC and LSPI never communicated to it that they insured their properties; that it never consented to paying the claim of the insured.[6]

At the pre-trial conference the parties failed to arrive at an amicable settlement.[7] Thus, trial on the merits ensued.

On August 31, 1998, the RTC rendered its decision dismissing respondent's complaint.[8] It held that the fire was purely accidental; that the cause of the fire was not attributable to the negligence of the petitioner; that it has not been established that petitioner is the debtor of IMC and LSPI; that since the sales invoices state that "it is further agreed that merely for purpose of securing the payment of purchase price, the above-described merchandise remains the property of the vendor until the purchase price is fully paid", IMC and LSPI retained ownership of the delivered goods and must bear the loss.

Dissatisfied, petitioner appealed to the CA.[9] On October 11, 2000, the CA rendered its decision setting aside the decision of the RTC. The dispositive portion of the decision reads:

> WHEREFORE, in view of the foregoing, the appealed decision is REVERSED and SET ASIDE and a new one is entered ordering defendant-appellee Gaisano Cagayan, Inc. to pay:
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> 1. the amount of P2,119,205.60 representing the amount paid by the plaintiff-appellant to the insured Inter Capitol Marketing Corporation, plus legal interest from the time of demand until fully paid;
>
> 2. the amount of P535,613.00 representing the amount paid by the plaintiff-appellant to the insured Levi Strauss Phil., Inc., plus legal interest from the time of demand until fully paid.
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> With costs against the defendant-appellee.
>
> SO ORDERED.[10]

The CA held that the sales invoices are proofs of sale, being detailed statements of the nature, quantity and cost of the thing sold; that loss of the goods in the fire must be borne by petitioner since the *proviso* contained in the sales invoices is an exception under Article 1504 (1) of the Civil Code, to the general rule that if the thing is lost by a fortuitous event, the risk is borne by the owner of the thing at the time the loss under the principle of *res perit domino*; that petitioner's obligation to IMC and LSPI is not the delivery of the lost goods but the payment of its unpaid account and as such the obligation to pay is not extinguished, even if the fire is considered a fortuitous event; that by subrogation, the insurer has the right to go against petitioner; that, being a fire insurance with book debt endorsements, what was insured was the vendor's interest as a creditor.[11]

Petitioner filed a motion for reconsideration[12] but it was denied by the CA in its Resolution dated April 11, 2001.[13]

Hence, the present petition for review on *certiorari* anchored on the following Assignment of Errors:

> THE COURT OF APPEALS ERRED IN HOLDING THAT THE INSURANCE IN THE INSTANT CASE WAS ONE OVER CREDIT.
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> THE COURT OF APPEALS ERRED IN HOLDING THAT ALL RISK OVER THE SUBJECT GOODS IN THE INSTANT CASE HAD TRANSFERRED TO PETITIONER UPON DELIVERY THEREOF.
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> THE COURT OF APPEALS ERRED IN HOLDING THAT THERE WAS AUTOMATIC SUBROGATION UNDER ART. 2207 OF THE CIVIL CODE IN FAVOR OF RESPONDENT.[14]

Anent the first error, petitioner contends that the insurance in the present case cannot be deemed to be over credit since an insurance "on credit" belies not only the nature of fire insurance but the express terms of the policies; that it was not credit that was insured since respondent paid on the occasion of the loss of the insured goods to fire and not because of the non-payment by petitioner of any obligation; that, even if the insurance is deemed as one over credit, there was no loss as the accounts were not yet due since no prior demands were made by IMC and LSPI against petitioner for payment of the debt and such demands came from respondent only after it had already paid IMC and LSPI under the fire insurance policies.[15]

As to the second error, petitioner avers that despite delivery of the goods, petitioner-buyer IMC and LSPI assumed the risk of loss when they secured fire insurance policies over the goods.

Concerning the third ground, petitioner submits that there is no subrogation in favor of respondent as no valid insurance could be maintained thereon by IMC and LSPI since all risk had transferred to petitioner upon delivery of the goods; that petitioner was not privy to the insurance contract or the payment between respondent and its insured nor was its consent or approval ever secured; that this lack of privity forecloses any real interest on the part of respondent in the obligation to pay, limiting its interest to keeping the insured goods safe from fire.

For its part, respondent counters that while ownership over the ready- made clothing materials was transferred upon delivery to petitioner, IMC and LSPI have insurable interest over said goods as creditors who stand to suffer direct pecuniary loss from its destruction by fire; that petitioner is liable for loss of the ready-made clothing materials since it failed to overcome the presumption of liability under Article 1265[16] of the Civil Code; that the fire was caused through petitioner's negligence in failing to provide stringent measures of caution, care and maintenance on its property because electric wires do not usually short circuit unless there are defects in their installation or when there is lack of proper maintenance and supervision of the property; that petitioner is guilty of gross and evident bad faith in refusing to pay respondent's valid claim and should be liable to respondent for contracted lawyer's fees, litigation expenses and cost of suit.[17]

As a general rule, in petitions for review, the jurisdiction of this Court in cases brought before it from the CA is limited to reviewing questions of law which involves no examination of the probative value of the evidence presented by the litigants or any of them.[18] The Supreme Court is not a trier of facts; it is not its function to analyze or weigh evidence all over again.[19] Accordingly, findings of fact of the appellate court are generally conclusive on the Supreme Court.[20]

Nevertheless, jurisprudence has recognized several exceptions in which factual issues may be resolved by this Court, such as: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; **(4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting;** (6) when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; **(7) when the findings are contrary to the trial court;** (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and **(11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.**[21] Exceptions (4), (5), (7), and (11) apply to the present petition.

At issue is the proper interpretation of the questioned insurance policy. Petitioner claims that the CA erred in construing a fire insurance policy on book debts as one covering the unpaid accounts of IMC and LSPI since such insurance applies to loss of the ready-made clothing materials sold and delivered to petitioner.

The Court disagrees with petitioner's stand.

It is well-settled that when the words of a contract are plain and readily understood, there is no room for construction.[22] In this case, the questioned insurance policies provide coverage for "book debts in connection with ready-made clothing materials which have been sold or delivered to various customers and dealers of the Insured anywhere in the Philippines."[23]; and defined book debts as the "unpaid account

still appearing in the Book of Account of the Insured 45 days after the time of the loss covered under this Policy."[24] Nowhere is it provided in the questioned insurance policies that the subject of the insurance is the goods sold and delivered to the customers and dealers of the insured.

Indeed, when the terms of the agreement are clear and explicit that they do not justify an attempt to read into it any alleged intention of the parties, the terms are to be understood literally just as they appear on the face of the contract.[25] Thus, what were insured against were the accounts of IMC and LSPI with petitioner which remained unpaid 45 days after the loss through fire, and not the loss or destruction of the goods delivered.

Petitioner argues that IMC bears the risk of loss because it expressly reserved ownership of the goods by stipulating in the sales invoices that "[i]t is further agreed that merely for purpose of securing the payment of the purchase price the above described merchandise remains the property of the vendor until the purchase price thereof is fully paid."[26]

The Court is not persuaded.

The present case clearly falls under paragraph (1), Article 1504 of the Civil Code:

> ART. 1504. Unless otherwise agreed, the goods remain at the seller's risk until the ownership therein is transferred to the buyer, but when the ownership therein is transferred to the buyer the goods are at the buyer's risk whether actual delivery has been made or not, except that:
>
> (1) Where delivery of the goods has been made to the buyer or to a bailee for the buyer, in pursuance of the contract and the **ownership in the goods has been retained by the seller merely to secure performance by the buyer of his obligations under the contract, the goods are at the buyer's risk from the time of such delivery;** (Emphasis supplied)
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> x x x x

Thus, when the seller retains ownership only to insure that the buyer will pay its debt, the risk of loss is borne by the buyer.[27] Accordingly, petitioner bears the risk of loss of the goods delivered.

IMC and LSPI did not lose complete interest over the goods. They have an insurable interest until full payment of the value of the delivered goods. Unlike the civil law concept of *res perit domino*, where ownership is the basis for consideration of who bears the risk of loss, in property insurance, one's interest is not determined by concept of title, but whether insured has substantial economic interest in the property.[28]

Section 13 of our Insurance Code defines insurable interest as "every interest in property, whether real or personal, or any relation thereto, or liability in respect thereof, of such nature that a contemplated peril might directly damnify the insured." Parenthetically, under Section 14 of the same Code, an insurable interest