

SECOND DIVISION

[G.R. NO. 149429, October 09, 2006]

**HADJI MAHMUD L. JAMMANG AND ALMA SHIPPING LINES, INC.,
PETITIONERS, VS. TAKAHASHI TRADING CO., LTD., AND
SINOTRANS SHANDONG COMPANY, RESPONDENTS.**

DECISION

AZCUNA, J.:

This is a petition for review on certiorari^[1] which seeks to set aside the decision and resolution of the Court of Appeals (CA) promulgated on May 16, 2001 and August 9, 2001, respectively, in CA-G.R. CV No. 64197 entitled "Takahashi Trading Co., Ltd. and Sinotrans Shandong Company v. Hadji Mahmud I. Jammang and Alma Shipping Lines, Inc."

The CA affirmed *in toto* the entire decision of the Regional Trial Court (RTC) of Pasig City, Branch 167, in Civil Case No. 65340, which ruled in favor of herein respondent Sinotrans Shandong Company which filed an action for the collection of a sum of money against petitioner Jammang pursuant to the provisions of their supplemental agreement.

Petitioner Hadji Mahmud I. Jammang is a trader and the owner of the MV Queen Alma, a vessel engaged in the shipment of barter goods from Singapore to Jolo, Philippines. He is also the general manager of co-petitioner Alma Shipping Lines, Inc. (Alma), a duly-organized and existing domestic corporation.

Respondent Takahashi Trading Co., Ltd. (Takahashi) is a foreign corporation duly licensed to transact business in the Philippines, while co-respondent Sinotrans Shandong Company (Sinotrans) is a foreign corporation organized and existing under the laws of the People's Republic of China.

The facts of the case are as follows:^[2]

Petitioner Jammang has been engaged in the trading business for over fifteen years, and is a pioneer in the establishment of trade relations between Zamboanga City and nearby Asian countries such as Taiwan, Malaysia and Indonesia. As stated earlier, Jammang is also the general manager of Alma Shipping Lines, being the owner and operator of the MV Queen Alma.

Sometime in October of 1993, Hiroaki Takahashi, the president of respondent Takahashi, introduced Jammang to Sinotrans because the latter was scouting for a supplier of Chinese goods for his buyers in Labuan, Malaysia. Sinotrans agreed to supply said respondent with Chinese goods on the condition that the latter will act as a sales agent of petitioner Sinotrans. It was agreed that Jammang shall turn over the proceeds of the sale, less mark-up, and return unsold goods, if any, to

Sinotrans. On the other hand, Jammang and Takahashi agreed to split equally whatever profit may be derived from the sale of Sinotrans' goods.

Upon Jammang's assurances that he had ready buyers in the area, two shipments of goods consisting of bleached or printed cotton, garlic and *lungkow* vermicelli (*sotanghon*) were made by Sinotrans from Qingdao, China to Labuan, Malaysia. The goods, valued at US\$696,337, were consigned to Takahashi. Contrary to the representation and assurances of Jammang, however, there were no ready buyers in Labuan, Malaysia. For two months, Takahashi was forced to store the goods in a warehouse for a fee.

Nevertheless, Jammang was able to convince Sinotrans and Takahashi to allow him to bring the goods to Zamboanga City, Philippines, where he again claimed to have ready buyers. He promised to turn over the proceeds of the sale, as well as the unsold items, to Sinotrans. Likewise, he reassured Takahashi of their equal sharing of the profits earned from the sale.

The goods were subsequently transshipped to Zamboanga City with Jammang as consignee. Initially, he made a partial turnover of the proceeds of the sale in the amount of US\$230,000. After that, however, no further remittance was made.

To address the situation, the parties executed a Supplemental Agreement (Exhibit "G") on July 27, 1994, stipulating the following:

This Agreement is entered into between ALMA SHIPPING LINES, INC. and SHANDONG CO., CHINA, on July 27, 1994 at Alba Mall, Tetuan, Zamboanga City.

Whereas, the amount of goods received by Alma Shipping Lines, Inc. from SINOTRANS SHANDONG CO. CHINA is 696,337 USD.

Whereas, Alma Shipping Lines, Inc. has remitted already the amount of 230,000 USD as partial payment to the Sinotrans Shandong, Co.

Whereas, Alma Shipping Lines, Inc. will remit by July 29, 1994 to SINOTRANS SHANDONG CO. through T/T in the amount of 15,000 USD.

Whereas, 266,000 USD is still collectible and the due date for collection will be on September 15, 1994, and the moment the Alma Shipping Lines, Inc. will receive the payments from the buyers, immediately the same amount must be remitted to Sinotrans Shandong, Co.

Whereas, the remaining stocks in the amount of 185,000 USD [will] be sold continuously and if possible, [Alma Shipping Lines, Inc. will] try to dispose them up to October 31, 1994....

Notwithstanding the agreement, Jammang was able to remit only the amount of US\$15,000.

It was discovered later, upon Sinotrans' investigation, that Jammang had already sold all the goods subject of the agreement. Despite repeated oral and written demands, Jammang failed to account for and turn over the remaining balance of

US\$451,337 to Sinotrans. He likewise declined to talk to respondents. Moreover, he refused to give to Takahashi its share in the perceived profits.

Consequently, respondents filed with the RTC of Pasig City a complaint for a sum of money and damages with an application for a writ of preliminary attachment against Jammang.

Finding merit in the application for a writ of preliminary attachment, the RTC granted the same in an order dated January 26, 1996.

Respondents offered in evidence several documents to support the testimony of their lone witness, Lui Xiao Bo, a resident of China and the Import Export Manager of Sinotrans.

He declared that since only the amount of US\$230,000 was remitted by Jammang as partial payment, he inspected the remaining inventory which the former showed to him. To his estimate, the value of the same was only US\$180,000. Petitioner Jammang insisted, however, that he had collectibles amounting to US\$246,000, and a US\$100,000 worth of stocks left at BCC Warehouse.

Despite the supplemental agreement that was subsequently executed by the parties, petitioner Jammang was able to remit only US\$15,000, leaving an unliquidated balance of US\$451,337. A demand in writing made by respondents to said petitioner in April 1995 proved futile.

On his part, petitioner Jammang insisted that as a barter trader, he neither bought nor sold the goods but merely facilitated the sale. Neither was he an agent of respondents. His signing of the supplemental agreement was only for record purposes, and the business development report was likewise signed by him in order to convince Sinotrans that it is profitable to send goods to the Philippines.^[3]

As to the claim of Takahashi about his purported share in the profits, petitioner Jammang stated that no such profit was realized on account of the poor quality of the goods which cannot be sold at higher prices.

On the other hand, petitioner Alma Shipping Lines, Inc. denied liability arising out of the transaction because it enjoys a separate and distinct personality from its general manager. Petitioner Jammang acted on his own capacity and the former was never a party or privy to any document signed by the latter.^[4]

On April 22, 1999, declaring that petitioner Jammang is bound by the provisions of the supplemental agreement, the RTC rendered its decision in favor of respondents, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff Sinotrans Shandong Company and against the defendant Hadji Mahmud I. Jammang, ordering the latter to pay the former, as follows:

a) The amount of US\$266,000.00, as the principal obligation, plus legal interest thereon per annum until full payment, to be paid in Philippine Currency at the exchange rate fixed by the Bangko Sentral at the time of payment (Pan American World Airways v.

Intermediate Appellate Court, G.R. No. 44445, 31 August 1987);

b) To pay 10% of the principal obligation, as and for reasonable attorney's fees;

c) To account for the remaining stocks valued at US\$185,000.00 and, if sold, to remit the proceeds of the sale; and,

d) To pay the costs.

For lack of sufficient factual and legal basis, the counterclaim interposed by the defendants is DISMISSED.

SO ORDERED.^[5]

Petitioners appealed the RTC decision to the CA. On May 16, 2001, the CA affirmed the assailed decision, thus:

WHEREFORE, premises considered, the present appeal is hereby DISMISSED and the appealed Decision in Civil Case No. 65340 is hereby AFFIRMED in its entirety.

Double costs against the defendants-appellants.

SO ORDERED.^[6]

Petitioners moved for a reconsideration of the CA decision but the same was denied in a resolution dated August 9, 2001.

Petitioners contend that:

I.

THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH THE CORPORATION CODE AND SETTLED JURISPRUDENCE WHEN IT AFFIRMED THE RTC DECISION THAT JAMMANG WAS SOLIDARILY LIABLE WITH ALMA, CONSIDERING THAT:

A. A CORPORATION HAS A PERSONALITY SEPARATE AND DISTINCT FROM ITS STOCKHOLDERS;

B. THE DOCTRINE OF SEPARATE CORPORATE IDENTITY APPLIES TO OFFICERS OF CORPORATIONS; AND,

C. JAMMANG, WHO IS NOT A STOCKHOLDER OR EVEN AN OFFICER BUT A MERE GENERAL MANAGER, CANNOT BE HELD LIABLE FOR ANY OBLIGATION CONTRACTED BY ALMA AS A CORPORATE ENTITY.

II

THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH THE LAW ON AGENCY AND SETTLED JURISPRUDENCE CONSIDERING THAT: