

SECOND DIVISION

[G.R. No. 152219, October 25, 2004]

**NUTRIMIX FEEDS CORPORATION, PETITIONER, VS. COURT OF
APPEALS AND SPOUSES EFREN AND MAURA EVANGELISTA,
RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

For review on certiorari is the Decision^[1] of the Court of Appeals in CA-G.R. CV No. 59615 modifying, on appeal, the Joint Decision^[2] of the Regional Trial Court of Malolos, Bulacan, Branch 9, in Civil Case No. 1026-M-93^[3] for sum of money and damages with prayer for issuance of writ of preliminary attachment, and Civil Case No. 49-M-94^[4] for damages. The trial court dismissed the complaint of the respondents, ordering them to pay the petitioner the unpaid value of the assorted animal feeds delivered to the former by the latter, with legal interest thereon from the filing of the complaint, including attorney's fees.

The Factual Antecedents

On April 5, 1993, the Spouses Efren and Maura Evangelista, the respondents herein, started to directly procure various kinds of animal feeds from petitioner Nutrimix Feeds Corporation. The petitioner gave the respondents a credit period of thirty to forty-five days to postdate checks to be issued in payment for the delivery of the feeds. The accommodation was made apparently because of the company president's close friendship with Eugenio Evangelista, the brother of respondent Efren Evangelista. The various animal feeds were paid and covered by checks with due dates from July 1993 to September 1993. Initially, the respondents were good paying customers. In some instances, however, they failed to issue checks despite the deliveries of animal feeds which were appropriately covered by sales invoices. Consequently, the respondents incurred an aggregate unsettled account with the petitioner in the amount of P766,151.00. The breakdown of the unpaid obligation is as follows:

<u>Sales Invoice</u> <u>Number</u>	<u>Date</u>	<u>Amount</u>
21334	June 23, 1993	P 7,260.00
21420	June 26, 1993	6,990.00
21437	June 28, 1993	41,510.00
21722	July 12, 1993	45,185.00
22048	July 26, 1993	44,540.00
22054	July 27, 1993	45,246.00
22186	August 2, 1993	<u>84,900.00</u>
	Total:	P275,631.00
		=====

<u>Bank</u>	<u>Check Number</u>	<u>Due Date</u>	<u>Amount</u>
United Coconut Planters Bank	BTS052084	July 30, 1993	P 47,760.00
-do-	BTS052087	July 30, 1993	131,340.00
-do-	BTS052091	July 30, 1993	59,700.00
-do-	BTS062721	August 4, 1993	47,860.00
-do-	BTS062720	August 5, 1993	43,780.00
-do-	BTS062774	August 6, 1993	15,000.00
-do-	BTS062748	September 11, 1993	47,180.00
-do-	BTS062763	September 11, 1993	48,440.00
-do-	BTS062766	September 18, 1993	<u>49,460.00</u>
		Total:	P490,520.00
			=====

When the above-mentioned checks were deposited at the petitioner's depository bank, the same were, consequently, dishonored because respondent Maura Evangelista had already closed her account. The petitioner made several demands for the respondents to settle their unpaid obligation, but the latter failed and refused to pay their remaining balance with the petitioner.

On December 15, 1993, the petitioner filed with the Regional Trial Court of Malolos, Bulacan, a complaint, docketed as Civil Case No. 1026-M-93, against the respondents for sum of money and damages with a prayer for issuance of writ of preliminary attachment. In their answer with counterclaim, the respondents admitted their unpaid obligation but impugned their liability to the petitioner. They asserted that the nine checks issued by respondent Maura Evangelista were made to guarantee the payment of the purchases, which was previously determined to be procured from the expected proceeds in the sale of their broilers and hogs. They contended that inasmuch as the sudden and massive death of their animals was caused by the contaminated products of the petitioner, the nonpayment of their obligation was based on a just and legal ground.

On January 19, 1994, the respondents also lodged a complaint for damages against the petitioner, docketed as Civil Case No. 49-M-94, for the untimely and unforeseen death of their animals supposedly effected by the adulterated animal feeds the petitioner sold to them. Within the period to file an answer, the petitioner moved to dismiss the respondents' complaint on the ground of *litis pendentia*. The trial court denied the same in a Resolution^[5] dated April 26, 1994, and ordered the consolidation of the case with Civil Case No. 1026-M-93. On May 13, 1994, the petitioner filed its Answer with Counterclaim, alleging that the death of the respondents' animals was due to the widespread pestilence in their farm. The petitioner, likewise, maintained that it received information that the respondents were in an unstable financial condition and even sold their animals to settle their

obligations from other enraged and insistent creditors. It, moreover, theorized that it was the respondents who mixed poison to its feeds to make it appear that the feeds were contaminated.

A joint trial thereafter ensued.

During the hearing, the petitioner presented Rufino Arenas, Nutrimix Assistant Manager, as its lone witness. He testified that on the first week of August 1993, Nutrimix President Efren Bartolome met the respondents to discuss the possible settlement of their unpaid account. The said respondents still pleaded to the petitioner to continue to supply them with animal feeds because their livestock were supposedly suffering from a disease.^[6]

For her part, respondent Maura Evangelista testified that as direct buyers of animal feeds from the petitioner, Mr. Bartolome, the company president, gave them a discount of P12.00 per bag and a credit term of forty-five to seventy-five days.^[7] For the operation of the respondents' poultry and piggery farm, the assorted animal feeds sold by the petitioner were delivered in their residence and stored in an adjacent *bodega* made of concrete wall and galvanized iron sheet roofing with monolithic flooring.^[8]

It appears that in the morning of July 26, 1993, three various kinds of animal feeds, numbering 130 bags, were delivered to the residence of the respondents in Sta. Rosa, Marilao, Bulacan. The deliveries came at about 10:00 a.m. and were fed to the animals at approximately 1:30 p.m. at the respondents' farm in Balasing, Sta. Maria, Bulacan. At about 8:30 p.m., respondent Maura Evangelista received a radio message from a worker in her farm, warning her that the chickens were dying at rapid intervals. When the respondents arrived at their farm, they witnessed the death of 18,000 broilers, averaging 1.7 kilos in weight, approximately forty-one to forty-five days old. The broilers then had a prevailing market price of P46.00 per kilo.^[9]

On July 27, 1993, the respondents received another delivery of 160 bags of animal feeds from the petitioner, some of which were distributed to the contract growers of the respondents. At that time, respondent Maura Evangelista requested the representative of the petitioner to notify Mr. Bartolome of the fact that their broilers died after having been fed with the animal feeds delivered by the petitioner the previous day. She, likewise, asked that a technician or veterinarian be sent to oversee the untoward occurrence. Nevertheless, the various feeds delivered on that day were still fed to the animals. On July 27, 1993, the witness recounted that all of the chickens and hogs died.^[10] Efren Evangelista suffered from a heart attack and was hospitalized as a consequence of the massive death of their animals in the farm. On August 2, 1993, another set of animal feeds were delivered to the respondents, but the same were not returned as the latter were not yet cognizant of the fact that the cause of the death of their animals was the polluted feeds of the petitioner.^[11]

When respondent Maura Evangelista eventually met with Mr. Bartolome on an undisclosed date, she attributed the improbable incident to the animal feeds supplied by the petitioner, and asked Mr. Bartolome for indemnity for the massive death of her livestock. Mr. Bartolome disavowed liability thereon and, thereafter,

filed a case against the respondents.^[12]

After the meeting with Mr. Bartolome, respondent Maura Evangelista requested Dr. Rolando Sanchez, a veterinarian, to conduct an inspection in the respondents' poultry. On October 20, 1993, the respondents took ample amounts remaining from the feeds sold by the petitioner and furnished the same to various government agencies for laboratory examination.

Dr. Juliana G. Garcia, a doctor of veterinary medicine and the Supervising Agriculturist of the Bureau of Animal Industry, testified that on October 20, 1993, sample feeds for chickens contained in a pail were presented to her for examination by respondent Efren Evangelista and a certain veterinarian.^[13] The Clinical Laboratory Report revealed that the feeds were negative of salmonella^[14] and that the very high aflatoxin level^[15] found therein would not cause instantaneous death if taken orally by birds.

Dr. Rodrigo Diaz, the veterinarian who accompanied Efren at the Bureau of Animal Industry, testified that sometime in October 1993, Efren sought for his advice regarding the death of the respondents' chickens. He suggested that the remaining feeds from their warehouse be brought to a laboratory for examination. The witness claimed that the feeds brought to the laboratory came from one bag of sealed Nutrimix feeds which was covered with a sack.

Dr. Florencio Isagani S. Medina III, Chief Scientist Research Specialist of the Philippine Nuclear Research Institute, informed the trial court that respondent Maura Evangelista and Dr. Garcia brought sample feeds and four live and healthy chickens to him for laboratory examination. In his Cytogenetic Analysis,^[16] Dr. Medina reported that he divided the chickens into two categories, which he separately fed at 6:00 a.m. with the animal feeds of a different commercial brand and with the sample feeds supposedly supplied by the petitioner. At noon of the same day, one of the chickens which had been fed with the Nutrimix feeds died, and a second chicken died at 5:45 p.m. of the same day. Samples of blood and bone marrow were taken for chromosome analysis, which showed pulverized chromosomes both from bone marrow and blood chromosomes. On cross-examination, the witness admitted that the feeds brought to him were merely placed in a small unmarked plastic bag and that he had no way of ascertaining whether the feeds were indeed manufactured by the petitioner.

Another witness for the respondents, Aida Viloria Magsipoc, Forensic Chemist III of the Forensic Chemist Division of the National Bureau of Investigation, affirmed that she performed a chemical analysis^[17] of the animal feeds, submitted to her by respondent Maura Evangelista and Dr. Garcia in a sealed plastic bag, to determine the presence of poison in the said specimen. The witness verified that the sample feeds yielded positive results to the tests for COUMATETRALYL Compound,^[18] the active component of RACUMIN, a brand name for a commercially known rat poison.^[19] According to the witness, the presence of the compound in the chicken feeds would be fatal to internal organs of the chickens, as it would give a delayed blood clotting effect and eventually lead to internal hemorrhage, culminating in their inevitable death.

Paz Austria, the Chief of the Pesticide Analytical Section of the Bureau of Plants Industry, conducted a laboratory examination to determine the presence of pesticide residue in the animal feeds submitted by respondent Maura Evangelista and Dr. Garcia. The tests disclosed that no pesticide residue was detected in the samples received^[20] but it was discovered that the animal feeds were positive for Warfarin, a rodenticide (anticoagulant), which is the chemical family of Coumarin.^[21]

After due consideration of the evidence presented, the trial court ruled in favor of the petitioner. The dispositive portion of the decision reads:

WHEREFORE, in light of the evidence on record and the laws/jurisprudence applicable thereon, judgment is hereby rendered:

1) in Civil Case No. 1026-M-93, ordering defendant spouses Efren and Maura Evangelista to pay unto plaintiff Nutrimix Feeds Corporation the amount of P766,151.00 representing the unpaid value of assorted animal feeds delivered by the latter to and received by the former, with legal interest thereon from the filing of the complaint on December 15, 1993 until the same shall have been paid in full, and the amount of P50,000.00 as attorney's fees. Costs against the aforementioned defendants; and

2) dismissing the complaint as well as counterclaims in Civil Case No. 49-M-94 for inadequacy of evidence to sustain the same. No pronouncement as to costs.

SO ORDERED.^[22]

In finding for the petitioner, the trial court ratiocinated as follows:

On the strength of the foregoing disquisition, the Court cannot sustain the Evangelistas' contention that Nutrimix is liable under Articles 1561 and 1566 of the Civil Code governing "hidden defects" of commodities sold. As already explained, the Court is predisposed to believe that the subject feeds were contaminated sometime between their storage at the bodega of the Evangelistas and their consumption by the poultry and hogs fed therewith, and that the contamination was perpetrated by unidentified or unidentifiable ill-meaning mischief-maker(s) over whom Nutrimix had no control in whichever way.

All told, the Court finds and so holds that for inadequacy of proof to the contrary, Nutrimix was not responsible at all for the contamination or poisoning of the feeds supplied by it to the Evangelistas which precipitated the mass death of the latter's chickens and hogs. By no means and under no circumstance, therefore, may Nutrimix be held liable for the sundry damages prayed for by the Evangelistas in their complaint in Civil Case No. 49-M-94 and answer in Civil Case No. 1026-M-93. In fine, Civil Case No. 49-M-94 deserves dismissal.

Parenthetically, vis-à-vis the fulminations of the Evangelistas in this specific regard, the Court does not perceive any act or omission on the part of Nutrimix constitutive of "abuse of rights" as would render said corporation liable for damages under Arts. 19 and 21 of the Civil Code.