

SECOND DIVISION

[G.R. No. 150673, February 28, 2003]

**SUPERLINES TRANSPORTATION COMPANY, INC., AND MANOLET
LAVIDES, PETITIONERS, VS. ICC LEASING & FINANCING
CORPORATION, RESPONDENT.**

DECISION

CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, of the Decision^[1] of the Court of Appeals in CA-G.R. No. 65126 reversing on appeal the Decision^[2] of Branch 142 of the Regional Trial Court of Makati City in Civil Case No. 97-816.

The Antecedents

In 1995, Superlines Transportation Co., Inc. (Superlines, for brevity) decided to acquire five new buses from the Diamond Motors Corporation for the price of P10,873,582.00. However, Superlines lacked financial resources for the purpose. By virtue of a board resolution, Superlines authorized its President and General Manager, Manolet Lavides, a graduate of the Ateneo de Manila School of Law and a businessman for twenty years, to look for and negotiate with a financing corporation for a loan for the purchase of said buses.

Lavides negotiated with ICC Leasing & Financing Corporation (ICC, for brevity) through the latter's Assistant Vice-President for Operations Aida F. Albano, for a financial scheme for the planned purchase. ICC agreed to finance the purchase of the new buses via a loan and proposed a three-year term for the payment thereof at a fixed interest rate of 22% per annum. The new buses to be purchased were to be used by Superlines as security for the loan. ICC required Superlines to submit certificates of registration of the said buses under the name of Superlines before the appropriate document was executed by the parties and their transactions consummated. On October 19, 1995, Diamond Motors Corporation sold to Superlines five new buses under Vehicle Invoice Nos. 9225 to 9229.^[3] Superlines, through Lavides, acknowledged receipt of the buses.

On November 22, 1995, the vehicle invoices were filed with the Land Transportation Office which then issued certificates of registration covering the five buses under the name of Superlines.^[4] With the buses now registered under its name, Superlines, through Lavides, executed two documents, namely: a deed of chattel mortgage over the said buses as security for the purchase price of the buses in the amount of P13,114,287.00^[5] loaned by ICC to Superlines, which deed was annotated on the face of said certificates of registration, and a promissory note in favor of ICC binding and obliging itself to pay to the latter the amount of P10,873,582.00 in monthly

installments of P415,290.00, the first installment to start on December 23, 1995, with interest thereon at the rate of 22% per annum until full payment of said amount^[6] in favor of Superlines and ICC covenanted in said deed that:

Effective upon the breach of any condition of this mortgage, and in case of loss or damage of the mortgaged property/ies and in addition to the remedies herein stipulated, the MORTGAGEE is hereby appointed attorney-in-fact of the MORTGAGOR with full power and authority, by the use of force if necessary, to take actual possession of the mortgaged property/ies without the necessity of any judicial order or any other permission or power, to remove, sell or dispose of the mortgaged property/ies, and collect rents therefor, to execute bill of sale, lease or agreements that may be deemed convenient; to make repairs or improvements in the mortgaged property/ies and pay the same and perform any other act which the MORTGAGEE may deem convenient for the proper administration of the mortgaged property/ies; and to file, prove, justify, prosecute, compromise or settle insurance claims with the insurance company, without the participation of the MORTGAGOR, under such terms and conditions as the Mortgagee as attorney-in-fact may consider fair and reasonable. The payment of any expenses advanced by the MORTGAGEE or its assigns in connection with the purpose indicated herein is also guaranteed by this mortgage. Any amount received from the sale, disposal or administration abovementioned may be executed by the MORTGAGEE by virtue of this power and applied to the satisfaction of the obligations hereby secured, which act is hereby ratified.

The MORTGAGEE shall have the option of selling the property/ies either at public or private sale at the municipality or at the capital of the province where it may be situated at the time; or at any municipality where the MORTGAGEE may have a branch, office, or at Metro Manila, the MORTGAGOR hereby waiving all rights to any notice of such sale.

The MORTGAGOR hereby expressly waives the term of thirty (30) days or any other term granted or which may hereafter be granted him/it by law as the period which must elapse before the MORTGAGEE or its assigns shall be entitled to foreclose this mortgage, it being expressly understood and agreed that the MORTGAGEE may foreclose this mortgage at any time after the breach of any condition hereof.

It is further agreed that in case of the sale at public auction under foreclosure proceedings of the property/ies herein mortgaged, or of any part thereof, the MORTGAGEE shall be entitled to bid for the properties so sold, or for any part thereof, to buy the same, or any part thereof, and to have the amount of his/its bid applied to the payment of the obligations secured by this mortgage without requiring payment in cash of the amount of such bid.

The remedies of the MORTGAGEE under the powers hereby conferred upon him/it shall be and are in addition to and cumulative with such right of action as the said MORTGAGEE or the assigns may have in accordance with the present or any future laws of the Philippines.^[7]

Superlines and Lavides executed a Continuing Guaranty to pay jointly and severally in favor of ICC the amount of P13,114,285.00.^[8] ICC drew and delivered to Superlines Metrobank Check No. 0661909113, dated November 23, 1995, payable to the account of Superlines in the amount of P10,873,582.00,^[9] representing the net proceeds of the loan. The latter acknowledged receipt of the check in Cash Voucher No. 0.0769.^[10] Superlines remitted the said check to Diamond Motors Corporation in full payment of the purchase price of the new buses.

After paying only seven monthly amortizations for the period of December 1995 to June 1996, Superlines defaulted in the payment of its obligation to ICC.^[11] On April 2, 1997, ICC wrote Superlines demanding full payment of its outstanding obligation, which as of March 31, 1997 amounted to P12,606,020.55.^[12] However, Superlines failed to heed said demand.

ICC filed a complaint^[13] for collection of sum of money with prayer for a writ of replevin on April 21, 1997 with Branch 142 of the Regional Trial Court of Makati City against Superlines and Lavides. The case was entitled "*ICC Leasing & Finance Corporation vs. Superlines Transportation Co., Inc., et al.*" and docketed as Civil Case No. 97-816. ICC alleged, by way of alternative cause of action, that:

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13. In the event that the Plaintiff fails to locate and/or seize the above-described mortgaged vehicles from Defendant, its agents and/or assigns, or any such person other than said Defendant or its representatives, Defendant is obligated to pay Plaintiff the sum of P12,072,895.59, and an amount equivalent to 5% of the total amount due from Defendant as and for attorney's fees, plus expenses of collection, the costs of suit and cost of Replevin Bond.

ICC prayed that after due proceedings, judgment be rendered in its favor, thus:

WHEREFORE, it is respectfully prayed that:

1. A Writ of Replevin be issued, ordering the Court Sheriff and/or any of his deputies, to seize from Defendant, its agents and/or assigns, or any such person other than said Defendant or its representatives in possession thereof at present, the above-described vehicles wherever they may be found, to take and keep the same in custody and, to dispose of them in accordance with Section 6, Rule 60 of the Revised Rules of Court.
2. Judgment be rendered in favor of the Plaintiff and against the Defendant, as follows:
 - a) Declaring that Plaintiff is entitled to the possession of the subject properties *in accordance with the terms and conditions of the Chattel Mortgage*;
 - b) Ordering Defendant, *in case the amount realized from the sale of the mortgaged properties shall be*

insufficient to cover its total indebtedness, to pay the Plaintiff the deficiency;

- c) Ordering Defendant to pay Plaintiff the expenses of litigation and costs of suit, including the costs of the Replevin Bond, plus the stipulated attorney's fees.

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ALTERNATIVE CAUSE OF ACTION

Ordering Defendants to pay the outstanding principal balance of P12,072,895.59, to pay the costs of suit, expenses of litigation and the costs of the Replevin Bond, plus an amount equivalent to 5% of the total amount due as and for attorney's fees.

In the meantime, the trial court issued a writ of seizure for the five mortgaged buses.^[14] On May 29, 1997, the sheriff took possession of the five buses in compliance with the writ of seizure issued by the trial court.^[15] Thereafter, ICC instituted extra-judicial foreclosure proceedings over the subject buses. An auction sale was held on July 2, 1997. ICC offered a bid of P7,200,000.00 for the motor vehicles and was declared the winning bidder, resulting in a deficiency of P5,406,029.55. In addition, ICC incurred necessary expenses in the amount of P920,524.62. Superlines thus still owed ICC the amount of P6,326,556.17.

In their Answer with Counterclaim, Superlines and Lavides asserted that the real agreement of the parties was one of financing a sale of personal property, the prices for which shall be payable on installments. Relying on Article 1484(3) of the Civil Code, Superlines and Lavides claimed that since the chattel mortgage on subject buses was already foreclosed by ICC, the latter had no further action against Superlines and Lavides for the unpaid balance of the price. They interposed compulsory damages in the total amount of P750,000.00 excluding costs of suit.

Leonardo Serrano, Jr., the Executive Vice-President and Chief Operations Officer of ICC, testified that the transaction forged by ICC and Superlines was an amortized commercial loan and not a consumer loan, because under the latter transaction, ICC should have paid the price of the purchase of its customers (Superlines) directly to the suppliers. However, ICC did not do business directly with Diamond Motors Corporation; it transacted directly with Superlines. ICC remitted the purchase price of the buses directly to Superlines and not to Diamond Motors Corporation. ICC had no contract with Diamond Motors Corporation.

On the other hand, Lavides testified that he and ICC's Assistant Vice-President for Operations Aida Albano agreed on a consumer loan for the financing of the purchase of the buses, with ICC as the vendor, and Superlines as the vendee, of said buses; and that ICC had a special arrangement with Diamond Motors Corporation on the purchase by Superlines of the buses.

On June 1, 1999, the trial court rendered a decision ordering the dismissal of the case and for ICC to pay damages and litigation expenses to Superlines and Lavides, the decretal portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered DISMISSING the instant complaint and ORDERING plaintiff to pay defendants the following:

1. The sum of P150,000.00 as and for attorney's fees;
2. The sum of P300,000.00 as moderate damages;
3. The sum of P50,000.00 as litigation expenses and
4. The costs of suit.

SO ORDERED.^[16]

The trial court found that, as testified to by Lavides, ICC and Superlines forged a consumer loan agreement and not an amortized commercial loan. It further declared that, as testified to by Lavides, there was a special arrangement for the purchase by ICC of said buses. The trial court finally stated that Superlines purchased the buses from ICC, the purchase price therefor payable in monthly installments. ICC appealed the trial court's decision to the Court of Appeals. On July 30, 2001, the appellate court rendered a decision reversing the decision of the RTC and ordering Superlines and Lavides to pay the deficiency claim of ICC. The decretal portion thereof reads:

In view of the foregoing, it is Our conclusion that plaintiff-appellant is entitled to the deficiency claim of P5,376,543.96 (Exh. "F-1", p. 155 Record), plus costs of P71,807.22 for the Replevin Bond (Exh. "H", p. 156, Record) and attorney's fees of P508,000.00 (Exh. "G", p. 156, Record).

WHEREFORE, the appealed Decision is **REVERSED and SET ASIDE** and a new one is rendered ordering defendants to pay jointly and severally the sum of P5,956,351.18 to the plaintiff.

SO ORDERED.^[17]

The Court of Appeals stated that ICC and Superlines entered into an amortized commercial loan agreement with ICC as creditor-mortgagee and Superlines as debtor-mortgagor, and ordered Superlines and Lavides to pay to ICC jointly and severally the sum of P5,956,351.18 as deficiency.^[18]

It further declared that it was Diamond Motors Corporation and not ICC which sold the subject buses to Superlines. It held that no evidence had been presented by Superlines to show that ICC bought the said buses from Diamond Motors Corporation under a special arrangement and that ICC sold the buses to Superlines. The appellate court also ruled that Article 1484(3) is applicable only where there is vendor-vendee relationship between the parties and since ICC did not sell the buses to Superlines, the latter cannot invoke said law.

Hence, this petition.

Petitioners contend that the appellate court committed serious errors of law and/or grave abuse of discretion amounting to excess or lack of jurisdiction:

1. In concluding that Article 1484 (3) of the Civil Code is inapplicable to the instant transaction between the parties, and in holding that said transaction was an "amortized commercial loan", the same