

## SECOND DIVISION

[ G.R. No. 117356, June 19, 2000 ]

**VICTORIAS MILLING CO., INC., PETITIONER, VS. COURT OF APPEALS AND CONSOLIDATED SUGAR CORPORATION, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the decision of the Court of Appeals dated February 24, 1994, in CA-G.R. CV No. 31717, as well as the respondent court's resolution of September 30, 1994 modifying said decision. Both decision and resolution amended the judgment dated February 13, 1991, of the Regional Trial Court of Makati City, Branch 147, in Civil Case No. 90-118.

The facts of this case as found by both the trial and appellate courts are as follows:

St. Therese Merchandising (hereafter STM) regularly bought sugar from petitioner Victorias Milling Co., Inc., (VMC). In the course of their dealings, petitioner issued several Shipping List/Delivery Receipts (SLDRs) to STM as proof of purchases. Among these was SLDR No. 1214M, which gave rise to the instant case. Dated October 16, 1989, SLDR No. 1214M covers 25,000 bags of sugar. Each bag contained 50 kilograms and priced at P638.00 per bag as "per sales order VMC Marketing No. 042 dated October 16, 1989."<sup>[1]</sup> The transaction it covered was a "direct sale."<sup>[2]</sup> The SLDR also contains an additional note which reads: "subject for (sic) availability of a (sic) stock at NAWACO (warehouse)."<sup>[3]</sup>

On October 25, 1989, STM sold to private respondent Consolidated Sugar Corporation (CSC) its rights in SLDR No. 1214M for P 14,750,000.00. CSC issued one check dated October 25, 1989 and three checks postdated November 13, 1989 in payment. That same day, CSC wrote petitioner that it had been authorized by STM to withdraw the sugar covered by SLDR No. 1214M. Enclosed in the letter were a copy of SLDR No. 1214M and a letter of authority from STM authorizing CSC "to withdraw for and in our behalf the refined sugar covered by Shipping List/Delivery Receipt-Refined Sugar (SDR) No. 1214 dated October 16, 1989 in the total quantity of 25,000 bags."<sup>[4]</sup>

On October 27, 1989, STM issued 16 checks in the total amount of P31,900,000.00 with petitioner as payee. The latter, in turn, issued Official Receipt No. 33743 dated October 27, 1989 acknowledging receipt of the said checks in payment of 50,000 bags. Aside from SLDR No. 1214M, said checks also covered SLDR No. 1213.

Private respondent CSC surrendered SLDR No. 1214M to the petitioner's NAWACO warehouse and was allowed to withdraw sugar. However, after 2,000 bags had been

released, petitioner refused to allow further withdrawals of sugar against SLDR No. 1214M. CSC then sent petitioner a letter dated January 23, 1990 informing it that SLDR No. 1214M had been "sold and endorsed" to it but that it had been refused further withdrawals of sugar from petitioner's warehouse despite the fact that only 2,000 bags had been withdrawn.<sup>[5]</sup> CSC thus inquired when it would be allowed to withdraw the remaining 23,000 bags.

On January 31, 1990, petitioner replied that it could not allow any further withdrawals of sugar against SLDR No. 1214M because STM had already withdrawn all the sugar covered by the cleared checks.<sup>[6]</sup>

On March 2, 1990, CSC sent petitioner a letter demanding the release of the balance of 23,000 bags.

Seven days later, petitioner reiterated that all the sugar corresponding to the amount of STM's cleared checks had been fully withdrawn and hence, there would be no more deliveries of the commodity to STM's account. Petitioner also noted that CSC had represented itself to be STM's agent as it had withdrawn the 2,000 bags against SLDR No. 1214M "for and in behalf" of STM.

On April 27, 1990, CSC filed a complaint for specific performance, docketed as Civil Case No. 90-1118. Defendants were Teresita Ng Sy (doing business under the name of St. Therese Merchandising) and herein petitioner. Since the former could not be served with summons, the case proceeded only against the latter. During the trial, it was discovered that Teresita Ng Go who testified for CSC was the same Teresita Ng Sy who could not be reached through summons.<sup>[7]</sup> CSC, however, did not bother to pursue its case against her, but instead used her as its witness.

CSC's complaint alleged that STM had fully paid petitioner for the sugar covered by SLDR No. 1214M. Therefore, the latter had no justification for refusing delivery of the sugar. CSC prayed that petitioner be ordered to deliver the 23,000 bags covered by SLDR No. 1214M and sought the award of P1,104,000.00 in unrealized profits, P3,000,000.00 as exemplary damages, P2,200,000.00 as attorney's fees and litigation expenses.

Petitioner's primary defense *a quo* was that it was an unpaid seller for the 23,000 bags.<sup>[8]</sup> Since STM had already drawn in full all the sugar corresponding to the amount of its cleared checks, it could no longer authorize further delivery of sugar to CSC. Petitioner also contended that it had no privity of contract with CSC.

Petitioner explained that the SLDRs, which it had issued, were not documents of title, but mere delivery receipts issued pursuant to a series of transactions entered into between it and STM. The SLDRs prescribed delivery of the sugar to the party specified therein and did not authorize the transfer of said party's rights and interests.

Petitioner also alleged that CSC did not pay for the SLDR and was actually STM's co-conspirator to defraud it through a misrepresentation that CSC was an innocent purchaser for value and in good faith. Petitioner then prayed that CSC be ordered to pay it the following sums: P10,000,000.00 as moral damages; P10,000,000.00 as exemplary damages; and P1,500,000.00 as attorney's fees. Petitioner also prayed

that cross-defendant STM be ordered to pay it P10,000,000.00 in exemplary damages, and P1,500,000.00 as attorney's fees.

Since no settlement was reached at pre-trial, the trial court heard the case on the merits.

As earlier stated, the trial court rendered its judgment favoring private respondent CSC, as follows:

"WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of the plaintiff and against defendant Victorias Milling Company:

"1) Ordering defendant Victorias Milling Company to deliver to the plaintiff 23,000 bags of refined sugar due under SLDR No. 1214;

"2) Ordering defendant Victorias Milling Company to pay the amount of P920,000.00 as unrealized profits, the amount of P800,000.00 as exemplary damages and the amount of P1,357,000.00, which is 10% of the acquisition value of the undelivered bags of refined sugar in the amount of P13,570,000.00, as attorney's fees, plus the costs.

"SO ORDERED."<sup>[9]</sup>

It made the following observations:

"[T]he testimony of plaintiff's witness Teresita Ng Go, that she had fully paid the purchase price of P15,950,000.00 of the 25,000 bags of sugar bought by her covered by SLDR No. 1214 as well as the purchase price of P15,950,000.00 for the 25,000 bags of sugar bought by her covered by SLDR No. 1213 on the same date, October 16, 1989 (date of the two SLDRs) is duly supported by Exhibits C to C-15 inclusive which are post-dated checks dated October 27, 1989 issued by St. Therese Merchandising in favor of Victorias Milling Company at the time it purchased the 50,000 bags of sugar covered by SLDR No. 1213 and 1214. Said checks appear to have been honored and duly credited to the account of Victorias Milling Company because on October 27, 1989 Victorias Milling Company issued official receipt no. 34734 in favor of St. Therese Merchandising for the amount of P31,900,000.00 (Exhibits B and B-1). The testimony of Teresita Ng Go is further supported by Exhibit F, which is a computer printout of defendant Victorias Milling Company showing the quantity and value of the purchases made by St. Therese Merchandising, the SLDR no. issued to cover the purchase, the official receipt no. and the status of payment. It is clear in Exhibit 'F' that with respect to the sugar covered by SLDR No. 1214 the same has been fully paid as indicated by the word 'cleared' appearing under the column of 'status of payment.'

"On the other hand, the claim of defendant Victorias Milling Company that the purchase price of the 25,000 bags of sugar purchased by St. Therese Merchandising covered by SLDR No. 1214 has not been fully paid is supported only by the testimony of Arnulfo Caintic, witness for

defendant Victorias Milling Company. The Court notes that the testimony of Arnulfo Caintic is merely a sweeping barren assertion that the purchase price has not been fully paid and is not corroborated by any positive evidence. There is an insinuation by Arnulfo Caintic in his testimony that the postdated checks issued by the buyer in payment of the purchased price were dishonored. However, said witness failed to present in Court any dishonored check or any replacement check. Said witness likewise failed to present any bank record showing that the checks issued by the buyer, Teresita Ng Go, in payment of the purchase price of the sugar covered by SLDR No. 1214 were dishonored."<sup>[10]</sup>

Petitioner appealed the trial court's decision to the Court of Appeals.

On appeal, petitioner averred that the dealings between it and STM were part of a series of transactions involving only one account or one general contract of sale. Pursuant to this contract, STM or any of its authorized agents could withdraw bags of sugar only against cleared checks of STM. SLDR No. 21214M was only one of 22 SLDRs issued to STM and since the latter had already withdrawn its full quota of sugar under the said SLDR, CSC was already precluded from seeking delivery of the 23,000 bags of sugar.

Private respondent CSC countered that the sugar purchases involving SLDR No. 1214M were separate and independent transactions and that the details of the series of purchases were contained in a single statement with a consolidated summary of cleared check payments and sugar stock withdrawals because this a more convenient system than issuing separate statements for each purchase.

The appellate court considered the following issues: (a) Whether or not the transaction between petitioner and STM involving SLDR No. 1214M was a separate, independent, and single transaction; (b) Whether or not CSC had the capacity to sue on its own on SLDR No. 1214M; and (c) Whether or not CSC as buyer from STM of the rights to 25,000 bags of sugar covered by SLDR No. 1214M could compel petitioner to deliver 23,000 bags allegedly unwithdrawn.

On February 24, 1994, the Court of Appeals rendered its decision modifying the trial court's judgment, to wit:

"WHEREFORE, the Court hereby *MODIFIES* the assailed judgment and orders defendant-appellant to:

"1) Deliver to plaintiff-appellee 12,586 bags of sugar covered by SLDR No. 1214M;

" 2) Pay to plaintiff-appellee P792,918.00 which is 10% of the value of the undelivered bags of refined sugar, as attorneys fees;

"3) Pay the costs of suit.

"SO ORDERED."<sup>[11]</sup>

Both parties then seasonably filed separate motions for reconsideration.

In its resolution dated September 30, 1994, the appellate court modified its decision to read:

"WHEREFORE, the Court hereby modifies the assailed judgment and orders defendant-appellant to:

"(1) Deliver to plaintiff-appellee 23,000 bags of refined sugar under SLDR No. 1214M;

"(2) Pay costs of suit.

"SO ORDERED."<sup>[12]</sup>

The appellate court explained the rationale for the modification as follows:

"There is merit in plaintiff-appellee's position.

"Exhibit `F' We relied upon in fixing the number of bags of sugar which remained undelivered as 12,586 cannot be made the basis for such a finding. The rule is explicit that courts should consider the evidence only for the purpose for which it was offered. (*People v. Abalos, et al, 1 CA Rep 783*). The rationale for this is to afford the party against whom the evidence is presented to object thereto if he deems it necessary. Plaintiff-appellee is, therefore, correct in its argument that Exhibit `F' which was offered to prove that checks in the total amount of P15,950,000.00 had been cleared. (*Formal Offer of Evidence for Plaintiff, Records p. 58*) cannot be used to prove the proposition that 12,586 bags of sugar remained undelivered.

"Testimonial evidence (*Testimonies of Teresita Ng [TSN, 10 October 1990, p. 33]* and *Marianito L. Santos [TSN, 17 October 1990, pp. 16, 18, and 36]*) presented by plaintiff-appellee was to the effect that it had withdrawn only 2,000 bags of sugar from SLDR after which it was not allowed to withdraw anymore. Documentary evidence (*Exhibit I, Id., p. 78, Exhibit K, Id., p. 80*) show that plaintiff-appellee had sent demand letters to defendant-appellant asking the latter to allow it to withdraw the remaining 23,000 bags of sugar from SLDR 1214M. Defendant-appellant, on the other hand, alleged that sugar delivery to the STM corresponded only to the value of cleared checks; and that all sugar corresponded to cleared checks had been withdrawn. Defendant-appellant did not rebut plaintiff-appellee's assertions. It did not present evidence to show how many bags of sugar had been withdrawn against SLDR No. 1214M, precisely because of its theory that all sales in question were a series of one single transaction and withdrawal of sugar depended on the clearing of checks paid therefor.

"After a second look at the evidence, We see no reason to overturn the findings of the trial court on this point."<sup>[13]</sup>

Hence, the instant petition, positing the following errors as grounds for review:

"1. The Court of Appeals erred in not holding that STM's and private respondent's specially informing petitioner that respondent was