

## THIRD DIVISION

**[ G.R. No. 109269, September 15, 2000 ]**

**BAYER PHILIPPINES, INC., PETITIONER, VS. THE HON. COURT OF APPEALS, FORMER THIRTEENTH DIVISION AND CASIMIRO BOMPAT, RESPONDENTS.**

### DECISION

#### **GONZAGA-REYES, J.:**

Petitioner seeks the review and reversal of the decision of respondent Court of Appeals dated August 21, 1992 in CA G.R. CV No. 21671<sup>[1]</sup> which affirmed with modification the decision of the Regional Trial Court, Branch 163, Pasig, dated January 25, 1989 in Civil Case No. 50746, entitled Bayer Philippines, Inc., plaintiff vs. Casimiro D. Bompat, defendant<sup>[2]</sup> for collection of sum of money and the resolution dated March 3, 1993, denying petitioner's motion for reconsideration.<sup>[3]</sup>

The facts as found by the respondent Court of Appeals are as follows:<sup>[4]</sup>

Plaintiff-appellant, Bayer Philippines, Inc., appointed defendant-appellant, Casimiro D. Bompat (doing business as Kaiser Enterprises), as its exclusive distributor of Bayluscide 70% W.P. sometime in December, 1977, for a period of one year and automatically renewed every year thereafter unless earlier terminated or revoked by either party (Exh. "1").

Pursuant to said distributorship agreement, defendant-appellant obtained, on credit, from plaintiff-appellant Bayluscide 70% W.P. valued at P741,250.00. Defendant-appellant was unable to pay P117,500.00 so that on January 22, 1982, he executed a promissory note promising to pay said P117,500.00 in 12 monthly installments (Exh. "A"). He promised therein that in case he defaults in the payment of any of the installments, he would pay 14% interest thereon per annum, and compounded monthly until fully paid; that in the event of default of any three (3) monthly installments, the whole obligation is accelerated and he is to pay the accelerated principal balance plus accrued interest in the amount of P43,310.82 together with the monthly compounded interest. Defendant-appellant was able to pay, though belatedly, four (4) installments in the total sum of P40,000.00 plus the sum of P25,000.00 after plaintiff-appellant's lawyer's demand.

As of January 31, 1984, defendant-appellant's outstanding balance stood at P112,482.13, including interest. Because defendant-appellant failed to pay the same despite demand, plaintiff-appellant, on March 7, 1984, filed this collection suit praying that the former be ordered to pay aforesaid outstanding balance plus 14% interest thereon until fully paid, and 25% of the total amount due as attorney's fees.

On May 4, 1984, defendant-appellant filed his answer admitting the liability sued upon, but put up the special and affirmative defenses that by reason of the distributorship agreement, plaintiff-appellant, on January 29, 1979 delivered 4,000 kilos of Bayluscide 70% W.P. to defendant-appellant who received them preparatory for distribution to the end-users whom he had already canvassed; that when defendant-appellant was already in a position to sell the chemicals to the end-users, more particularly to some government entities, plaintiff-appellant, without any cause whatsoever, withdrew the said chemicals on May 16, 1980 thereby leaving defendant-appellant with nothing to deliver to his customers; that without revoking the distributorship agreement, plaintiff-appellant withdrew the said chemicals and directly dealt with the end-users; that the appointment of defendant-appellant by the plaintiff-appellant as the latter's exclusive distributor was merely a ploy just to get free storage fee from defendant-appellant's bodega; and that defendant-appellant has paid to plaintiff-appellant P40,000.00, thus leaving an unpaid balance of P77,000.00, which is offset by the storage fee.

As his counterclaim, defendant-appellant claims that plaintiff-appellant, in dealing directly with the end-users despite the former's appointment as exclusive distributor of Bayluscide 70% W.P., is guilty of breach of contract entitling defendant-appellant to damages in the amount of P100,000.00; that the delivery to defendant-appellant of some 4,000 kilos of Bayluscide 70% W.P., which was later withdrawn without any reason whatsoever after the lapse of 472 days, was a ploy just to get a free storage fee, for which defendant-appellant is entitled to collect from plaintiff-appellant storage fee in the amount of P1,888,000.00 computed at P1.00 per kilo per day; that to promote plaintiff-appellant's product, he spent some P100,000.00 to which he is entitled to reimbursement when plaintiff-appellant violated said distributorship agreement; and, that for said violation, he is entitled to P100,000.00 as nominal damages, P20,000.00 as attorney's fees, and P10,000.00 as litigation expenses.

In answer to counterclaim, plaintiff-appellant merely stated that it "denies the allegations contained in defendant's counterclaim the truth being those stated in the complaint."

At the pre-trial conference no amicable settlement was reached, hence trial on the merits ensued."

On January 25, 1989, the trial court rendered its decision finding that inasmuch as plaintiff Bayer's claim against defendant Bompat was admitted, the only issue to be resolved was whether or not defendant Bompat can collect on his counterclaims against Bayer. The trial court stated that Bompat has shown that he spent more than P100,000.00 of his own money in promoting plaintiff's products; that plaintiff's answer to the counterclaim merely made a general denial of the allegations contained in Bompat's counterclaim and just averred therein that the truth thereof are those stated in the complaint; however, the complaint itself did not contain allegations denying specifically Bompat's counterclaim for breach of their exclusive distributorship agreement nor was there any allegation that could be pointed to as a

defense to Bompat's counterclaims; since allegations not specifically denied are deemed admitted, the counterclaims of defendant are deemed submitted without need of proof. Furthermore, the trial court also found that Plaintiff Bayer's complaint did not contain allegations denying Bompat's counterclaim for actual and moral damages, attorney's fees and storage charges in the amount of P1,883,000.00 nor any statement on the unreasonableness of such claim for storage fees; that when plaintiff Bayer delivered the 4,000 kilos in 80 drums of 50 kilos to Bompat's house, the latter had to construct a bodega to store the products and protect the same from the elements, hence, Bompat is entitled to the payment of storage fees. It, however, found that Bompat's claim for storage fees of P1.00 per kilo per day or P50.00 per drum per day was exorbitant and concluded that a more reasonable figure would be P10 per day for 80 drums. The dispositive portion of the decision reads as follows:

"WHEREFORE, in the light of the foregoing, judgment is hereby rendered as follows:

I. On the complaint, sentencing defendant to pay plaintiff the sum of P52,500.00 compounded monthly as of March 7, 1984, which amount may be set off from the award in favor of the defendant.

II. On the counterclaims, sentencing plaintiff to pay defendant the following sums:

- a. P377,600.00 for rental of the drums of bayluscide, with legal interest of 12% per annum from May 4, 1984, until fully paid;
- b. P100,000.00 for actual damages, with similar interest;
- c. P30,000.00 for moral damages;
- d. P10,000.00 for attorney's fees and litigation expenses."

Both parties appealed to the respondent Court of Appeals. The respondent Court rendered its decision, the dispositive portion of which reads as follows:

"WHEREFORE, with the modification that: 1) defendant-appellant is ordered to pay plaintiff-appellant the sum of P112,482.13 plus interest thereon at 14% compounded per annum from default (March 7, 1984), until fully paid; and 2) plaintiff-appellant is ordered to pay defendant-appellant the sum of P50,000.00 as and for actual damages, the Decision appealed from is hereby AFFIRMED in all other respects."

Motions for reconsideration filed respectively by both parties were denied by the respondent court in a resolution dated March 3, 1993. Dissatisfied, petitioner Bayer Philippines, Inc. filed this present petition submitting seven assignment of errors which may be simplified into whether or not the respondent court erred: (1) in awarding 14% compounded interest to petitioner only from March 7, 1984, the date of the filing of the complaint; (2) in not awarding attorney's fees which was stipulated upon by the parties in their promissory note; (3) in treating respondent's counterclaim as compulsory in nature which would not require payment of docket fees; and (4) in granting private respondent's counterclaims.

Petitioner first contends that since the respondent Court found that private respondent's indebtedness stood at P112,482.13 as of January 31, 1984, the computation of interest at 14% compounded per annum should start from January 31, 1984 and not from March 7, 1984 (the date of filing of the complaint).

We do not agree. Private respondent's total outstanding obligation in the amount of P112,482.13 based on the statement of account dated January 31, 1984 prepared by petitioner, took into account among others, the stipulated 14% compounded interest; thus, the interest that accrued prior to the date of the filing of the complaint had been consolidated as of that date with the capital, after which the whole bears interest at the contract rate until the amount is paid. Thus, the respondent court did not err in computing the 14% compounded interest from judicial demand, i.e., the date when the complaint was filed, which was on March 7, 1984.

We also do not find merit in petitioner's claim that it is entitled to the award of attorney's fees. We uphold private respondent's contention that petitioner did not raise this as an error on appeal before the respondent Court despite the fact that there was no award made by the trial court. The purpose of an assignment of errors is to point out to the appellate court the specific portions of the decision appealed from which the appellant seeks to controvert,<sup>[5]</sup> which petitioner failed to do.

Petitioner further alleges that private respondent's counterclaims are permissive in nature and not compulsory, and thus payment of docket fees is required. We are not persuaded. We hold that private respondent's counterclaims are compulsory. A counterclaim is compulsory if: (a) it arises out of or is necessarily connected with, the transaction or occurrence which is the subject matter of opposing party's claim; (b) it does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction; and (c) subject to the qualification on the jurisdictional amount with regard to counterclaims raised in the Regional Trial Courts, the court has jurisdiction to entertain the claim.<sup>[6]</sup> of the Rules of Civil Procedure; Regalado, Remedial Law Compendium, Volume I, pp. 129-130.6 As explained in a case:<sup>[7]</sup>

"It has been postulated that while a number of criteria have been advanced for the determination of whether the counterclaim is compulsory or permissive, the "one compelling test of compulsoriness" is the logical relationship between the claim alleged in the complaint and that in the counterclaim, that is, where conducting separate trials of the respective claims of the parties would entail a substantial duplication of effort and time, as where they involve many of the same factual and/or legal issues.

The phrase "logical relationship" is given meaning by the purpose of the rule which it was disputed to implement. Thus, a counterclaim is logically related to the opposing party's claim where, as already stated, separate trials of each of their respective claims would involve a substantial duplication of effort and time by the parties and the courts. Where multiple claims involve many of the same factual issues, or where they are offshoots of the same basic controversy between the parties, fairness