

SECOND DIVISION

[G.R. No. 129189, December 05, 2000]

**DONATO C. CRUZ TRADING CORPORATION, PETITIONER, VS.
COURT OF APPEALS AND TERESA R. JALANDONI, RESPONDENT.**

D E C I S I O N

BELLOSILLO, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to set aside the Decision of the Court of Appeals which affirmed the decision of the trial court dismissing the complaint of petitioner Donato C. Cruz Trading Corp. for lack of sufficient evidence.

On 1 June 1989 private respondent Teresa R. Jalandoni purchased from petitioner Donato C. Cruz Trading Corporation one hundred (100) bags of Urea Viking Ship fertilizer valued at P20,800.00. However, despite repeated demands, private respondent failed and refused to pay her obligation. Consequently, on 8 August 1990 petitioner was constrained to file a complaint before the Regional Trial Court of Bacolod City to collect from private respondent the amount of her obligation including interests thereon at 14% from June 1, 1989 until fully paid, plus 25% of the total amount due as and for attorney's fees and liquidated damages.^[1]

On 7 November 1990, for failure to file her answer, the trial court declared private respondent in default. Pursuant thereto, petitioner was allowed to present its evidence *ex parte* consisting of, among others, the following items: (a) Order Slip dated 31 May 1989, marked as Exh. "A;" (b) Charge Invoice No. 0453 dated 1 June 1989, marked as Exh. "B;" (c) Demand Letter dated 5 March 1990, marked as Exh. "C;" and, (d) Demand Letter dated 20 July 1990, marked as Exh. "D."^[2]

On 14 May 1991, the trial court rendered its decision dismissing petitioner's complaint for lack of sufficient evidence.^[3] The trial court noted what it perceived to be defects in certain vital documentary evidence presented by petitioner which justified the dismissal of its complaint. Pertinent portions of said decision are quoted hereunder:

x x x x although there are blank spaces to indicate who approved and purchased the described articles in this Order Slip, no names are filled or signed on these spaces except that immediately below the words, "five (5) tons of Urea, the handwritten name of Ma. Teresa R. Jalandoni has been written which was marked as Exh. "A-1" by plaintiff. Added to that, another handwritten words, "Payable on June 9th/89" with a purported signature of Manuel Rodriguez and marked Exh. "A-2" was appearing on said space. The Order Slip which had been marked Exh. "A" did not indicate as to whose form it belongs except that printed space "Charge

To," the name of the herein defendant appears on the Charge Invoice (Exh. "B") issued by the plaintiff-corporation. The name of the defendant as the buyer on credit was handwritten. The blank spaces for the articles had likewise been handwritten as well as the amount. At the foot thereof, and on the dotted line under which the word, "Authorized Signature" is printed, a purported signature of a certain M. Clavez appears. Furthermore, at the upper immediate right side of the bottom portion and on top of the printed words, "Signature of Customer or representative", an initial of N.S. and an illegible signature appears. This, the witness for the plaintiff alleged to be a signature of Manuel Rodriguez. Going further to examine the Registry Return Card for the demand-letter (Exh. "C-2") addressed to the herein defendant, an illegible signature of the recipient is shown but which was not identified to be that of the defendant.

Correlating this examination to the testimony of Mr. Cruz in behalf of the plaintiff, there has been no convincing evidence shown that Manuel Rodriguez was authorized by herein defendant to receive this purchase in her name x x x x While there may exist a valid unpaid credit account as contended, to impute the indebtedness to the defendant as testified in this ex-parte presentation of evidence, unfortunately, did not satisfy the court even to the extent that the herein defendant did not present any evidence to controvert the same."^[4]

The Court of Appeals affirmed the decision of the lower court. It reiterated the observation of the lower court that petitioner failed to overcome the burden of proof incumbent upon it in civil cases and to present enough evidence necessary to establish its claim and prove the obligation of private respondent.^[5]

Petitioner comes now before us insisting that, contrary to the finding of respondent court, it has adequately established by a preponderance of evidence the liability of private respondent. To buttress its stance, petitioner makes a recital in its petition of the testimonial and documentary evidence which are enumerated hereunder:

1) On May 31, 1989, the respondent placed an order with petitioner for five (5) tons of Urea fertilizer, as shown in the Order Slip made out in her name marked as Exhibit A, bearing her signature marked as Exhibit A-1, and that of her brother, Manuel Rodriguez, marked as Exhibit A-2. (Pp. 7-11, t.s.n., April 25, 1991).

2) The Order Slip is in the respondent's form. (p. 8, id., id.).

3) The signature of the respondent is familiar to, while the signature of Manuel Rodriguez was made in the presence of, the witness. (p. 11, id., id).

4) On June 1, 1989, the bags of Urea fertilizer valued at P20,000.00^[6] were delivered by the petitioner to the respondent through her said brother, Manuel Rodriguez, as shown in Charge Invoice No. 0453 made in her name and marked as Exhibit B and bearing the signature of Manuel

Rodriguez marked as Exhibit B-1. (Pp. 11-14, id., id.).

5) Manuel Rodriguez is the brother of the respondent (pp. 9-10, id., id.), and he was the one requested by the said respondent to withdraw (p. 10, id., id.) and was the one who withdrew the 100 bags of Urea fertilizer (pp. 11 and 16, id., id.).

6) The witness made Manuel Rodriguez sign the Charge Invoice when he withdrew the 100 bags of fertilizer. (p. 15, id., id.).

7) The respondent failed to pay the value of the respondent. (P. 16, id., id.).

8) The petitioner made telephone calls to the respondent for payment of several occasions and she always promised to pay but failed to pay. (Id., id., id.).

9) On March 5, 1990 and July 20, 1990 demands were made by the petitioner to the respondent for the payment of the value of the fertilizer purchased by the respondent as shown in the demand letters sent by the petitioner's counsel to her marked as Exhibits C and D by registered mail as shown by registry receipts marked as Exhibits C-1 and D-1. (Pp. 16-23, id., id.).

10) The respondent received the demand letter dated March 5, 1990 (Exhibit C) as shown by registry receipt marked and presented as Exhibit C-2. (Pp. 19-20, id., id.).

11) Despite the letters of demand, the respondent failed to pay for the 100 bags of Urea fertilizer she purchased from the petitioner (p. 23, id., id.).^[7]

The sole issue is whether petitioner by the weight of its evidence has sufficiently established the liability of private respondent to convince this Court to grant the relief it seeks.

As a general rule the findings of fact of the Court of Appeals are final and conclusive and cannot be reviewed on appeal to the Supreme Court provided they are amply supported by substantial evidence. Such rule however is not absolute but is subject to well-established exceptions such as when the Court of Appeals manifestly overlooked relevant evidence which if considered would probably change the outcome of the case. We hold that this case falls under such exception.

The decision of the trial court as subsequently affirmed by the Court of Appeals was premised on the supposed failure of the documentary evidence, particularly the order slip, charge invoice and registry return card for the demand letter, to either supply material particulars which could establish the identity of the purchaser of the one hundred (100) bags of fertilizer, or the signatures affixed therein were unintelligible which cast cloud on the identity of the signatory. For the trial court, this constituted insufficiency of evidence.