

THIRD DIVISION

[G.R. No. 122823, November 25, 1999]

**SEA COMMERCIAL COMPANY, INC., PETITIONER, VS. THE
HONORABLE COURT OF APPEALS, JAMANDRE INDUSTRIES, INC.
AND TIRSO JAMANDRE, RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

In this petition for review by *certiorari*, SEA Commercial Company, Inc. (SEACOM) assails the decision of the Court of Appeals in CA-G.R. CV NO. 31263 affirming *in toto* the decision of the Regional Trial Court of Manila, Branch 5, in Civil Case No. 122391, in favor of Jamandre Industries, Inc. (JII) et al., the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of the defendant and against the plaintiff, ordering the plaintiff:

- 1) To pay defendant the sum of P66,156.15 (minus 18,843.85) with legal interest thereon, from the date of the filing of the counterclaim until fully paid;
- 2) To pay defendant P2,000.00 as moral and exemplary damages;
- 3) To pay attorney's fees in the sum of P10,000.00; and
- 4) To pay the costs of this suit.

SO ORDERED."

SEACOM is a corporation engaged in the business of selling and distributing agricultural machinery, products and equipment. On September 20, 1966, SEACOM and JII entered into a dealership agreement whereby SEACOM appointed JII as its exclusive dealer in the City and Province of Iloilo^[1] Tirso Jamandre executed a suretyship agreement binding himself jointly and severally with JII to pay for all obligations of JII to SEACOM^[2]. The agreement was subsequently amended to include Capiz in the territorial coverage and to make the dealership agreement on a non-exclusive basis^[3]. In the course of the business relationship arising from the dealership agreement, JII allegedly incurred a balance of P18,843.85 for unpaid deliveries, and SEACOM brought action to recover said amount plus interest and attorney's fees.

JII filed an Answer denying the obligation and interposing a counterclaim for

damages representing unrealized profits when JII sold to the Farm System Development Corporation (FSDC) twenty one (21) units of Mitsubishi power tillers. In the counterclaim, JII alleged that as a dealer in Capiz, JII contracted to sell in 1977 twenty-four (24) units of Mitsubishi power tillers to a group of farmers to be financed by said corporation, which fact JII allegedly made known to petitioner, but the latter taking advantage of said information and in bad faith, went directly to FSDC and dealt with it and sold twenty one (21) units of said tractors, thereby depriving JII of unrealized profit of eighty-five thousand four hundred fifteen and 61/100 pesos (P85,415.61).

The trial court rendered its decision on January 24, 1990 ordering JII to pay SEACOM the amount of Eighteen Thousand Eight Hundred Forty Three and 85/100 (P18,843.85) representing its outstanding obligation. The trial court likewise granted JII's counterclaim for unrealized profits, and for moral and exemplary damages and attorney' fees as above quoted.

SEACOM appealed the decision on the counterclaim.

The Court of Appeals held that while there exists no agency relationship between SEACOM and JII, SEACOM is liable for damages and unrealized profits to JII.

"This Court, however, is convinced that with or without the existence of an agency relationship between appellant SEACOM and appellee JII and notwithstanding the error committed by the lower court in finding that an agency relationship existed between appellant and defendant corporation the former is liable for the unrealized profits which the latter could have gained had not appellant unjustly stepped in and in bad faith unethically intervened.

It should be emphasized that the very purpose of the dealership agreement is for SEACOM to have JII as its dealer to sell its products in the provinces of Capiz and Iloilo. In view of this agreement, the second assigned error that the lower court erred in holding that appellant learned of the FSDC transaction from defendant JII is clearly immaterial and devoid of merit. The fact that the dealership is on a non-exclusive basis does not entitle appellant SEACOM to join the fray as against its dealer. To do so, is to violate the norms of conduct enjoined by Art. 19 of the Civil Code. By virtue of such agreement, the competition in the market as regards the sale of farm equipment shall be between JII, as the dealer of SEACOM and other companies, not as against SEACOM itself. However, SEACOM, not satisfied with the presence of its dealer JII in the market, joined the competition even as the against the latter and, therefore, changed the scenario of the competition thereby rendering inutile the dealership agreement which they entered into the manifest prejudice of JII. Hence, the trial court was correct when it applied Art. 19 of the Civil Code in the case at bar in that appellant SEACOM acted in bad faith when it competed with its own dealer as regards the sale of farm machineries, thereby depriving appellee JII of the opportunity to gain a clear profit of P85,000.00."

and affirmed the judgment appealed from *in toto*.

Hence this petition for review on *certiorari*, which submits the following reasons for the allowance thereof:

THE RESPONDENT COURT OF APPEALS DECIDED QUESTIONS OF SUBSTANCE IN A WAY NOT IN ACCORDANCE WITH LAW AND JURISPRUDENCE, CONSIDERING THAT:

A

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT PETITIONER IS LIABLE TO PAY DAMAGES AND UNREALIZED PROFITS TO THE PRIVATE RESPONDENTS DESPITE THE FACT THAT NO AGENCY RELATIONSHIP EXISTS BETWEEN THEM.

B

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT PETITIONER ACTED IN BAD FAITH AGAINST THE PRIVATE RESPONDENT CORPORATION DESPITE THE FACT THAT SAID RULING IS CONTRARY TO THE EVIDENCE ON RECORD.

C

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE NON-EXCLUSIVITY CLAUSE IN THE DEALERSHIP AGREEMENT EXECUTED BETWEEN THE PETITIONER AND PRIVATE RESPONDENT CORPORATION PRECLUDES THE PETITIONER FROM COMPETING WITH THE PRIVATE RESPONDENT CORPORATION.

D

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT PRIVATE RESPONDENT IS ENTITLED TO UNREALIZED PROFITS, MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.^[4]

Petitioner SEACOM disputes the conclusion of the Court of Appeals that despite the fact that no agency relationship existed between the parties, the SEACOM is still liable in damages and unrealized profits for the reason that it acted in bad faith. Petitioner SEACOM invokes the non-exclusivity clause in the dealership agreement and claims that the transaction with FSDC was concluded pursuant to a public bidding and not on the basis of alleged information it received from private respondent Tirso Jamandre. Moreover, petitioner SEACOM claims that it did not underprice its products during the public bidding wherein both SEACOM and JII participated. Petitioner also disputes the award of moral damages to JII which is a corporation, in the absence of any evidence that the said corporation had a good reputation which was debased.

Private respondents in their comment, contends that the four assigned errors raise mixed questions of fact and law and are therefore beyond the jurisdiction of the Supreme Court which may take cognizance of only questions of law. The assigned

errors were also refuted to secure affirmance of the appealed decision. JII maintains that the bidding set by FSDC on March 24, 1997 was scheduled after the demonstration conducted by JII, and after JII informed SEACOM about the preference of the farmers to buy Mitsubishi tillers. JII further rebuts the SEACOM's contention that the transaction with FSDC was pursuant to a public bidding with full disclosure to the public and private respondent JII considering that JII had nothing to do with the list of 37 bidders and cannot be bound by the listing made by SEACOM's employee; moreover, JII did not participate in the bidding not having been informed about it. Furthermore, the price at which SEACOM sold to FSDC was lower than the price it gave to JII. Also, even if the dealership agreement was not exclusive, it was breached when petitioner in bad faith sold directly to FSDC with whom JII had previously offered the subject farm equipment. With respect to the awards of moral and exemplary damages, JII seeks an affirmation of the ruling of the Court of Appeals justifying the awards.

SEACOM filed Reply defending the jurisdiction of this Court over the instant petition since the decision of the Court of Appeals was "based on a misapprehension of facts". SEACOM insists that FSDC's purchase was made pursuant to a public bidding, and even if SEACOM did not participate thereon, JII would not necessarily have closed the deal since thirty seven (37) bidders participated. SEACOM contends that no evidence was presented to prove that the bidding was a fraudulent scheme of SEACOM and FSDC. SEACOM further controverts JII's contention that JII did not take part in the bidding as Tirso Jamandre was one of the bidders and that SEACOM underpriced its products to entice FSDC to buy directly from it. In fine, JII is not entitled to the award of unrealized profits and damages.

In its Rejoinder, private respondents insist that there is an agency relationship, citing the evidence showing that credit memos and not cash vouchers were issued to JII by SEACOM for every delivery from November 26, 1976 to December 24, 1978. Private respondents maintain that SEACOM "torpedoed the emerging deal between JII and FSDC after being informed about it by JII by dealing directly with FSDC at a lower price" and after betraying JII, SEACOM would cover up the deceit by conniving with FSDC to post up a "sham public bidding."

SEACOM's sur-rejoinder contains basically a reiteration of its contention in previous pleadings. Additionally, it is contended that private respondents are barred from questioning in their Rejoinder, the finding of the Court of Appeals that there is no agency relationship between the parties since this matter was not raised as error in their comment.

The core issue is whether SEACOM acted in bad faith when it competed with its own dealer as regards the sale of farm machineries to FSDC.

Both the trial court and the Court of Appeals held affirmatively; the trial court found that JII was an agent of SEACOM and the act of SEACOM in dealing directly with FSDC was unfair and unjust to its agent, and that there was fraud in the transaction between FSDC and SEACOM to the prejudice of JII. On the other hand, the Court of Appeals ruled that there was no agency relationship between the parties but SEACOM is nevertheless liable in damages for having acted in bad faith when it competed with its own dealer in the sale of the farm machineries to FSDC. Both courts invoke as basis for the award Article 19 of the Civil Code which reads as