

THIRD DIVISION

[G. R. No. 126486, February 09, 1998]

BARONS MARKETING CORP., PETITIONER, VS. COURT OF APPEALS AND PHELPS DODGE PHILS., INC. RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

The instant petition raises two issues: (1) whether or not private respondent is guilty of abuse of right; and (2) whether or not private respondent is entitled to interest and attorney's fees.

The facts are undisputed:

On August 31, 1973, plaintiff [Phelps Dodge, Philippines, Inc. private respondent herein] appointed defendant [petitioner Barons Marketing, Corporation] as one of its dealers of electrical wires and cables effective September 1, 1973 (Exh. A). As such dealer, defendant was given by plaintiff 60 days credit for its purchases of plaintiff's electrical products. This credit term was to be reckoned from the date of delivery by plaintiff of its products to defendant (Exh. 1).

During the period covering December 1986 to August 17, 1987, defendant purchased, on credit, from plaintiff various electrical wires and cables in the total amount of ₱4,102,438.30 (Exh. B to K). These wires and cables were in turn sold, pursuant to previous arrangements, by defendant to MERALCO, the former being the accredited supplier of the electrical requirements of the latter. Under the sales invoices issued by plaintiff to defendant for the subject purchases, it is stipulated that interest at 12% on the amount due for attorney's fees and collection (Exh. BB).

[1] On September 7, 1987, defendant paid plaintiff the amount of ₱300,000.00 out of its total purchases as above-stated (Exh. S), thereby leaving an unpaid account on the aforesaid deliveries of ₱3,802,478.20. On several occasions, plaintiff wrote defendant demanding payment of its outstanding obligations due plaintiff (Exhs. L, M, N, and P). In response, defendant wrote plaintiff on October 5, 1987 requesting the latter if it could pay its outstanding account in monthly installments of ₱500,000.00 plus 1% interest per month commencing on October 15, 1987 until full payment (Exh. O and O-4). Plaintiff, however, rejected defendant's offer and accordingly reiterated its demand for the full payment of defendant's account (Exh. P). [2]

On 29 October 1987, private respondent Phelps Dodge Phils., Inc. filed a complaint before the Pasig Regional Trial Court against petitioner Barons Marketing Corporation for the recovery of ₱3,802,478.20 representing the value of the wires and cables the former had delivered to the latter, including interest. Phelps Dodge likewise prayed that it be awarded attorney's fees at the rate of 25% of the amount demanded, exemplary damages amounting to at least ₱100,000.00, the expenses of litigation and the costs of suit.

Petitioner, in its answer, admitted purchasing the wires and cables from private respondent but disputed the amount claimed by the latter. Petitioner likewise interposed a counterclaim against private respondent, alleging that it suffered injury to its reputation due to Phelps Dodge's acts. Such acts were purportedly calculated to humiliate petitioner and constituted an abuse of rights.

After hearing, the trial court on 17 June 1991 rendered its decision, the dispositive portion of which reads:

WHEREFORE, from all the foregoing considerations, the Court finds Phelps Dodge Phils., Inc. to have preponderantly proven its case and hereby orders Barons Marketing, Inc. to pay Phelps Dodge the following:

1. ₱3,108,000.00 constituting the unpaid balance of defendant's purchases from plaintiff and interest thereon at 12% per annum computed from the respective expiration of the 60 day credit term, vis-à-vis the various sales invoices and/or delivery receipts;
2. 25% of the preceding obligation for and as attorney's fees;
3. ₱10,000.00 as exemplary damages;
4. Costs of suit.^[3]

Both parties appealed to respondent court. Private respondent claimed that the trial court should have awarded it the sum of ₱3,802,478.20, the amount which appeared in the body of the complaint and proven during the trial rather than ₱3,108,000.00. The latter amount appears in petitioner's prayer supposedly as a result of a typographical error.

On the other hand, petitioner reiterated its claims for damages as a result of "creditor's abuse." It also alleged that private respondent failed to prove its cause of action against it.

On 25 June 1996, the Court of Appeals rendered a decision modifying the decision of the trial court, thus:

WHEREFORE, from all the foregoing considerations, the Court finds Phelps Dodge Phils., Inc. to have preponderantly proven its case and hereby orders Barons Marketing, Inc. to pay Phelps Dodge the following:

1. ₱3,802,478.20 constituting the unpaid balance of defendant's purchases from plaintiff and interest thereon at 12% per annum computed from the respective expiration of the 60 day credit term, vis-à-vis the various sales invoices and/or delivery receipts; and
2. 5% of the preceding obligation for and as attorney's fees.

No costs.^[4]

Petitioner Barons Marketing is now before this Court alleging that respondent court erred when it held (1) private respondent Phelps Dodge not guilty of "creditor's abuse," and (2) petitioner liable to private respondent for interest and attorney's fees.

Petitioner does not deny private respondent's rights to institute an action for collection and to claim full payment. Indeed, petitioner's right to file an action for collection is beyond cavil.^[5] Likewise, private respondent's right to reject petitioner's offer to pay in installments is guaranteed by Article 1248 of the Civil Code which states:

ART. 1248. Unless there is an express stipulation to that effect, the creditor cannot be compelled partially to receive the prestations in which the obligation consists. Neither may the debtor be required to make partial payments.

However, when the debt is in part liquidated and in part unliquidated, the creditor may demand and the debtor may effect the payment of the former without waiting for the liquidation of the latter.

Under this provision, the prestation , i.e., the object of the obligation, must be performed in one act, not in parts.

Tolentino concedes that the right has its limitations:

Partial Prestations. — Since the creditor cannot be compelled to accept partial performance, unless otherwise stipulated, the creditor who refuses to accept partial prestations does not incur in delay or *mora accipiendi*, except when there is abuse of right or if good faith requires acceptance.^[6]

Indeed, the law, as set forth in Article 19 of the Civil Code, prescribes a “primordial limitation on all rights” by setting certain standards that must be observed in the exercise thereof.^[7] Thus:

ART. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

Petitioner now invokes Article 19 and Article 21^[8] of the Civil Code, claiming that private respondent abused its rights when it rejected petitioner's offer of settlement and subsequently filed the action for collection considering:

xxx that the relationship between the parties started in 1973 spanning more than 13 years before the complaint was filed, that the petitioner had been a good and reliable dealer enjoying a good credit standing during the period before it became delinquent in 1987, that the relationship between the parties had been a fruitful one especially for the private respondent, that the petitioner exerted its outmost efforts to settle its obligations and avoid a suit, that the petitioner did not evade in the payment of its obligation to the private respondent, and that the petitioner was just asking a small concession that it be allowed to liquidate its obligation to eight (8) monthly installments of P500,000.00 plus 1% interest per month on the balance which proposal was supported by post-dated checks.^[9]

Expounding on its theory, petitioner states:

In the ordinary course of events, a suit for collection of a sum of money filed in court is done for the primary purpose of collecting a debt or obligation. If there is an offer by the debtor to pay its debt or obligation supported by post-dated checks and with provision for interests, the normal response of a creditor would be to accept the offer of compromise and not file the suit for collection. It is of common knowledge that proceedings in our courts would normally take years before an action is finally

settled. It is always wiser and more prudent to accept an offer of payment in installment rather than file an action in court to compel the debtor to settle his obligation in full in a single payment.

xxx.

xxx. Why then did private respondent elect to file a suit for collection rather than accept petitioner's offer of settlement, supported by post-dated checks, by paying monthly installments of P500,000.00 plus 1% per month commencing on October 15, 1987 until full payment? The answer is obvious. The action of private respondent in filing a suit for collection was an abuse of right and exercised for the sole purpose of prejudicing and injuring the petitioner.^[10]

Petitioner prays that the Court order private respondent to pay petitioner moral and exemplary damages, attorney's fees, as well as the costs of suit. It likewise asks that it be allowed to liquidate its obligation to private respondent, without interests, in eight equal monthly installments.

Petitioner's theory is untenable.

Both parties agree that to constitute an abuse of rights under Article 19 the defendant must act with bad faith or intent to prejudice the plaintiff. They cite the following comments of Tolentino as their authority:

Test of Abuse of Right. – Modern jurisprudence does not permit acts which, although not unlawful, are anti-social. There is undoubtedly an abuse of right when it is exercised for the only purpose of prejudicing or injuring another. When the objective of the actor is illegitimate, the illicit act cannot be concealed under the guise of exercising a right. The principle does not permit acts which, without utility or legitimate purpose cause damage to another, because they violate the concept of social solidarity which considers law as rational and just. Hence, every abnormal exercise of a right, contrary to its socio-economic purpose, is an abuse that will give rise to liability. The exercise of a right must be in accordance with the purpose for which it was established, and must not be excessive or unduly harsh; there must be no intention to injure another. Ultimately, however, and in practice, courts, in the sound exercise of their discretion, will have to determine all the facts and circumstances when the exercise of a right is unjust, or when there has been an abuse of right.^[11]

The question, therefore, is whether private respondent intended to prejudice or injure petitioner when it rejected petitioner's offer and filed the action for collection.

We hold in the negative. It is an elementary rule in this jurisdiction that good faith is presumed and that the burden of proving bad faith rests upon the party alleging the same.^[12] In the case at bar, petitioner has failed to prove bad faith on the part of private respondent. Petitioner's allegation that private respondent was motivated by a desire to terminate its agency relationship with petitioner so that private respondent itself may deal directly with Meralco is simply not supported by the evidence. At most, such supposition is merely speculative.

Moreover, we find that private respondent was driven by very legitimate reasons for rejecting petitioner's offer and instituting the action for collection before the trial court. As pointed out by private respondent, the corporation had its own "cash position to protect in order for it to pay its own obligations." This is not such "a lame and poor