

TWENTIETH DIVISION

[CA-G.R. SP NO. 07716, June 06, 2014]

**ALPHA TRUCKING AND GENERAL SERVICES REPRESENTED BY
JOHN CABIGON AND JOHN CABIGON IN HIS PERSONAL
CAPACITY, PETITIONERS, VS. HON. SYLVA PADERANGA, IN HER
OFFICIAL CAPACITY AS PRESIDING JUDGE OF BRANCH XVI, AND
FAST CARGO LOGISTICS CORPORATION, RESPONDENTS.**

D E C I S I O N

QUIJANO-PADILLA, J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing public respondent's issuances in Civil Case No. 32636, to wit: (1) Order dated March 29, 2011^[1] granting the application for the issuance of a writ of preliminary attachment of private respondent Fast Cargo Logistics Corp. (Fast Cargo) and directing the issuance of the writ conditioned upon the filing of a bond in the amount of P4,128,400.99; (2) Order dated May 7, 2013^[2] denying the motion for reconsideration of petitioners Alpha Trucking and General Services, Inc. (Alpha Trucking) and John Cabigon (Cabigon).

The Antecedents

Fast Cargo sued Alpha Trucking and Cabigon [together referred to as petitioners] for collection of sum of money with application for preliminary attachment. According to the complaint, Cabigon approached Fast Cargo sometime in 2005 and offered to engage the latter's services to handle the hauling and trucking needs of SMC-Shipping and Lighterage Corporation (SMC). Cabigon represented to Fast Cargo that his corporation, Alpha Trucking, was authorized by SMC to enter into subcontracting transactions for SMC's trucking requirements.

Subsequently, Fast Cargo handled the hauling and trucking requirements of SMC in behalf of petitioners, upon the assurances that it would be remunerated for the contracted services and that SMC authorized Alpha Trucking to enter into subcontracting arrangements. However, petitioners did not pay their obligations to Fast Cargo despite having been duly billed.

On June 3, 2005, Fast Cargo and petitioners formalized their arrangement by executing a Trucking Services Sub-contractor Agreement (trucking agreement). Subsequently, Fast Cargo demanded from petitioners a copy of the latter's contract with SMC containing SMC's authorization for Alpha Trucking to engage subcontractors. Petitioners, however, failed to show such contract to Fast Cargo.

Even after formalizing their subcontracting arrangement, petitioners were still late in paying their obligations to Fast Cargo and altogether stopped paying their outstanding obligations after December 2, 2005. On February 8, 2006 and on

several occasions thereafter, Fast Cargo made demands for payment on petitioners for the latter's obligation amounting to P4,128,400.00, excluding interests, but these went unheeded.

In its application for a writ of attachment, Fast Cargo averred that petitioners were guilty of fraud because their warranty that SMC authorized Alpha Trucking to engage subcontractors was false. Moreover, Alpha Trucking's General Information Sheet (GIS) filed with the Securities and Exchange Commission showed that its paid up capital was only P31,250.00, thus, it had no substantial asset for its operations. Meanwhile, the amount of Fast Cargo's services already amounted to P4,128,400.00. Fast Cargo averred that its claim fell under Section 1, paragraph d, Rule 57 of the Rules of Court which justified the issuance of a writ of preliminary attachment.

Petitioners filed their Answer^[3] claiming that Cabigon had an existing agreement with SMC to handle the latter's trucking requirements subject to subcontracting if Alpha Trucking could not meet SMC's trucking needs. It was actually Fast Cargo that approached Alpha Trucking and the latter subcontracted the former for SMC's trucking requirements. Petitioners had made payments to Fast Cargo aggregating to P2,333,286.00 per attached receipts and deposit slips. Fast Cargo exclusively prepared the trucking agreement and after its execution, Fast Cargo stopped rendering service. Petitioners later came to know that Fast Cargo tried to directly contract with SMC. Petitioners claimed that Fast Cargo's Statement of Account contained unsupported general charges and the amount it demanded were either double-billed or non-existent.

In opposing the application for a writ of preliminary attachment, petitioners averred that Fast Cargo's ground could not be considered as fraud on petitioners' part. Petitioners claimed that they had a contract with SMC, but it was of the in nominate kind. The amount of Alpha Trucking's paid-up capital could not constitute fraud and be a ground for the issuance of a writ of attachment since the documents containing the information was public record and accessible to Fast Cargo even before it entered into a contract with petitioners.

Public respondent conducted hearings on the application for preliminary attachment, during which the parties presented two witnesses for each side. Thereafter, public respondent issued the first questioned order granting Fast Cargo's application for issuance of preliminary attachment and directing the issuance of the writ conditioned upon the filing of a bond in the amount of P4,128,400.99. Petitioners moved for reconsideration but public respondent denied their motion. Aggrieved, petitioners brought this petition on a lone question, thus:

DID PUBLIC RESPONDENT JUDGE COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN SHE ISSUED HER TWO QUESTIONED ORDERS OF MARCH 29, 2011 AND THE SECOND ORDER DATED MAY 7, 2013 IN CIVIL CASE NO. 32636.

This Court's Ruling

The petition is unimpressed with merit.

Petitioners advanced the following contentions: *first*, that public respondent had no