

FIRST DIVISION

[G.R. NO. 167131, September 12, 2006]

**SPOUSES NAPOLEON FLORES, SR. AND VERONIDIA FLORES,
DOING BUSINESS UNDER THE NAME FLORES GARMENTS MFG.,
AND ALEXANDER J. FLORES, IN HIS CAPACITY AS ATTORNEY-IN-
FACT OF NAPOLEON M. FLORES, PETITIONERS, VS.
STRONGHOLD INSURANCE COMPANY, INC., RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on *certiorari* of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 77593 and its Resolution denying the motion for reconsideration thereof. The assailed decision nullified the Order^[2] of the Regional Trial Court (RTC) of Makati City, Branch 63, directing respondent Stronghold Insurance Corporation (SICI) to pay petitioner- spouses Napoleon and Veronidia Flores actual and moral damages, attorney's fees and costs of suit.

Spouses Napoleon M. Flores, Sr. and Veronidia J. Flores were engaged in business under the business name Flojos Garments Manufacturing (FGM). On April 28, 1995, Stephen Liu and the spouses Flores executed a Memorandum of Agreement (MOA),^[3] whereby the latter sold for P8,500,000.00 all their rights and interests over their garments manufacturing business, including all its existing licenses and government permits, machinery, supplies and spare parts, and its real property located at No. 17, Jacamar St., Marikina Subdivision, Marikina City; and all other accessories, raw materials, and other related items. For his part, Liu obliged himself to assume the payment of the spouses' obligations with Metropolitan Bank and Trust Company as part of the purchase price, the balance of the purchase price to be paid within 120 days from the date of the signing of the MOA.

On September 7, 1995, Liu filed a complaint^[4] against the spouses Flores and Alexander J. Flores (in his capacity as attorney-in-fact of Napoleon Flores, Sr.) for specific performance and damages with a prayer for issuance of temporary restraining order and/or writ of preliminary injunction and a writ of preliminary attachment. He alleged that the spouses Flores failed and refused to execute the necessary deeds of conveyance, transfer or assignment of all the items included in the MOA, causing damages to him; as a consequence of their acts of harassment and obstruction, he was entitled to the issuance of a temporary restraining order or writ of preliminary injunction. He averred that, unless a writ of preliminary attachment was issued, there might not be sufficient security for the satisfaction of any judgment which the court might render against them.

On October 3, 1995, the RTC issued an Order^[5] granting Liu's prayer for writ of preliminary injunction and attachment upon the filing and approval of an injunction

bond in the amount of P2,000,000.00 and attachment bond in the amount of P3,000,000.00. The plaintiff thus posted Attachment Bond No. 00565 and Injunction Bond No. 00566 issued by Stronghold Insurance Corporation, Inc. for P3,000,000.00 and P2,000,000.00, respectively.

In their Answer to the complaint,^[6] the spouses Flores alleged that the complaint failed to state a cause of action as there was no allegation that he complied with his obligations under the MOA; it was Liu who failed to pay the balance of the purchase price of the property, less the amounts due to their creditors; such failure caused them (spouses Flores) actual damages in the form of accumulated interests and penalties on their outstanding loans, loss of expected profits on prospective and realizable business ventures and opportunities. They prayed that they likewise be awarded moral damages for the mental anguish; besmirched reputation, moral shock, sleepless nights and other similar injuries, exemplary damages in order to serve as an example for the plaintiff and other persons in maliciously and capriciously filing baseless and unjust suit; and attorney's fees as they were constrained to hire the services of counsel.^[7] They interposed counterclaims and averred that the ground relied upon for the issuance of preliminary attachment did not exist at the time of the filing of the present suit.^[8]

On October 13, 1995, the spouses Flores filed a Motion to Lift Preliminary Injunction and Attachment.^[9] They manifested their willingness to post a bond to lift the preliminary injunction and a counterbond to lift the preliminary attachment.

On May 22, 1996, the RTC issued an Order^[10] granting the motion of the spouses Flores to lift the writ of attachment upon the filing and approval of a counterbond in the amount of P6,000,000.00; however, the RTC denied the prayer to lift the writ of preliminary injunction. Upon motion of the spouses Flores, the RTC reconsidered its order and reduced the amount of the counterbond to P3,000,000.00. It rendered judgment on June 25, 1999^[11] in favor of the spouses Flores, declaring the MOA rescinded and ordering Liu to pay actual damages and attorney's fees. The *fallo* of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of defendants, declaring the Memorandum of Agreement rescinded, ordering both plaintiff and defendants to surrender that which they have respectively received and to place each other as far as practicable in his original situation, and ordering plaintiff to pay the following:

1. The amount of P6,582,133.08 as payment to all of defendants' creditors;
2. The amount of P2,500,000.00 as compensation for the materials and machines lost; [and]
3. The amount of [P225,150.00] as attorney's fees and expenses.

SO ORDERED.^[12]

The trial court upheld the spouses Flores' claim that it was Liu who committed a breach of the MOA on the following ratiocinations:

Unrebutted testimony for the defendants belied the allegation of plaintiff. It was stated that all records of the business including the licenses were turned over to plaintiff, together with the factory premises; the same being kept therein. It was, likewise, stated that the licenses, as of the date of the turnover, had all been effective and valid. A certification was obtained from the Bureau of Customs that no order of revocation was ever issued against defendants' business, to corroborate the testimony. The accreditation from the Garments and Textile Export Board was still valid at the time of the agreement's execution and was even used to export a load of garments.

On the other hand, it appears that it was plaintiff who failed to perform his obligations. Despite full compliance on the part of defendants, plaintiff failed to pay the P8,000,000.00 balance of the purchase price less any deductions from payments to defendants' creditors. Indeed, plaintiff contends that no balance remains to be paid defendants their debts to creditors having been found by him to actually be in the amount of P14,631,082.00; P6,631,082.00 more than the purchase price. In other words, plaintiff wants the court to believe that as there is more than P8,000,000.00 in debts to pay, no further amount is due defendants outside of the downpayment. However, the court observes that none of the debts had been paid; not even any such which may be covered by the P8,000,000.00. Plaintiff has not alleged payment of any creditors; neither those covered by paragraph 5 of the agreement and Annex B thereof, nor those included in plaintiff's own inventory of accounts payable.

And although plaintiff alleged failure of payment due to the unsatisfied requirement of special power of attorney, no proof of such requirement was presented.

The foregoing considered, it is clear that plaintiff and not defendants breached the Memorandum of Agreement. Ergo, defendants and not plaintiff are entitled to rescission. For the same reasons and more, no amount for damages nor attorney's fees are due plaintiff. Defendants have faithfully performed their obligations and in good faith. Any unrealized income or damage to reputation asserted by plaintiff remain mere allegations and was caused by no act of defendants but his own.

It is defendants who are entitled to damages and attorney's fees. Materials and machinery of the business have been found missing and unaccounted for since turnover of possession and custody to plaintiff. The redemption period for the property and improvements mortgaged, an essential and intrinsic component of said business, lapsed and were consequently foreclosed upon. Debts which should have been paid in accordance with paragraph 5 of the agreement remain outstanding. Defendants were constrained to engage the services of an attorney in order to protect their rights and interest, and to pay the same P225,150.00. (Exhs. 1, 2, and 9 to 12).^[13]

On July 1, 1999, the spouses Flores received a copy of the June 25, 1999 decision. The parties did not appeal the decision.

On July 16, 1999, the spouses Flores filed their application for damages against the bonds posted by the SICI, captioned "A Motion to Set Hearing on the Damages Caused by the Injunction and Attachment."^[14] They alleged that, by posting the injunction/attachment bonds, Liu and SICI bound themselves to be jointly and severally liable for such damages sustained by them by reason of the injunction/attachment if the RTC should finally decide that it was not entitled to such remedy.^[15] The spouses Flores served a copy of their pleading on Liu and SICI by registered mail on July 16, 1999.

In its Comment and/or Opposition^[16] to the said motion, SICI averred that the motion was premature, and that the alleged damages suffered by the spouses Flores were not caused by the injunction or attachment for which the bonds posted by it could be proceeded against, thus:

a) With all due respect, said motion has no factual and legal basis as all allegations therein contained did not set forth the facts showing their right to damages, the nature of damages and the amount, if any, corresponding to such damages directly or indirectly caused by either injunction or the attachment;

b) The motion is prematurely filed as there is no showing that either the injunction or the attachment was illegally and improperly issued;

c) There is no evidence whatsoever on record to show that either the injunction or the attachment was illegal or improper;

d) The damages, if any, incurred by defendants are not by reason of either the injunction or the attachment for which the bonds put up by Stronghold can be held liable;

e) In fact, the issue of the injunction or the attachment was not even touched in the Decision rendered by this Honorable Court dated June 25, 1999. There was not even any inference to either injunction or the attachment. That is because defendants never challenged the injunction or the attachment for having been issued illegally or improperly. It is only now that it is raised, for the first time, when it is already too late-in-a-day after the decision was rendered;

f) What is significant to note is the finding of the Honorable Court that because of the "**breach of the Memorandum of Agreement**" by plaintiff "**no amount of damages nor attorney's fees are due plaintiff.**" The decision did not say that because of the bonds, the defendants are entitled to damages;

g) The motion did not comply with Section 20, Rule 57 of the Rules of Court because it did not specify the amount for each item of damages. More importantly, defendants have not shown in the motion the facts showing their rights to damages;

h) Both injunction and attachment bonds were issued by Stronghold upon