

FIFTH DIVISION

[CA-G.R. CV NO. 85617, July 12, 2006]

**PI LEASING CORPORATION, PLAINTIFF-APPELLEE, VS.
DOMINION INSURANCE CORP. S, CHAIRMAN (NOW KNOWN AS
STERLING INSURANCE AND COMPANY INC.), DEFENDANT-
APPELLANT, JUAN DOMINO AND JOHN DOE, DEFENDANTS.**

DECISION

BARRIOS, J.:

On appeal is the Decision dated February 28, 2005 of the Regional Trial Court of Pasay City (or RTC) in a suit for *Sum of Money with Replevin* filed by BPI Leasing Corporation (or BPI Leasing) against Dominion Insurance Corp. (or Dominion Insurance) now known as Sterling Insurance Co., Inc., Juan Domino (or Domino) and John Doe.

In its complaint it alleged that Dominion Insurance through its president Juan Domino leased a Mercedes Benz 100 (D) from BPI Leasing the terms of which were set down in their True Lease Agreement dated June 3, 1997 and Lease Schedule dated June 6, 1997. The lease period was five (5) years from June 6, 1997 until June 14, 2002, for a monthly rental of P17,396.00 for the first year after which the rental factor shall be reviewed and adjusted annually based on the prevailing BPI bank base rate plus 7% or 364 day T-Bill rate plus 9%, whichever is lower, or a total payment of P1,043,760.00. Dominion Insurance used the Mercedes Benz but failed to pay the rentals which as of September 15, 1998 amounted to P80,165.49. BPI Leasing demanded that it pay the arrears but Dominion Insurance failed and refused to do so prompting BPI Leasing to cancel or revoke the lease contract. Demand to return the vehicle was thereafter made but again Dominion Insurance failed and refused, and so BPI Leasing filed this suit.

Initially Dominion Insurance moved to dismiss the complaint on grounds of lack of jurisdiction, improper venue and forum shopping, but this was denied on October 15, 1999. Domino on the other hand did not file an Answer and so he was declared in default.

Dominion Insurance filed its Answer denying all the material allegations in the complaint and reiterating the grounds in its motion to dismiss. Also it averred that the contract of lease was in fact a sale of personal property on installments covered by the Recto Law and since BPI Leasing already opted to cancel the contract and demanded for the surrender of the vehicle, it cannot now sue to claim the balance or the stipulated loss value. Finally, BPI Leasing did not issue a disclosure statement in violation of RA No. 3765 and CB Circular No. 484 rendering illegal the contract of lease.

Dominion Insurance also moved to file a third-party complaint against City Concrete

Corporation, but the trial court denied this.

On February 28, 2005 the trial court rendered its Decision decreeing that:

WHEREFORE, all the foregoing considered, judgment is hereby rendered in favor of the plaintiff and against the defendant Dominion Insurance Corp. ordering the latter to pay the plaintiff:

- 1) Eight Hundred Thousand Pesos (P800,000.00) with interest of 3% per month from October 1998 until fully paid; and
- 2) Twenty Thousand Pesos (P20,000.00) as attorney's fees.

Cost against defendant Dominion Insurance Corporation

SO ORDERED. (pp. 369-370, record)

Hence this appeal with Dominion Insurance assigning as the reversible errors committed that:

- I. THE LOWER COURT PALPABLY COMMITTED GRAVE ERROR IN NOT FINDING THAT DEFENDANT JUAN DOMINO HAD NO AUTHORITY TO ACT FOR AND IN BEHALF OF APPELLANT TO ENTER INTO A LEASE AGREEMENT, LEASE SCHEDULE AND CONTINUING SURETYSHIP AGREEMENT WITH APPELLEE RELATIVE TO THE MERCEDES BENZ 100 (D).
- II. THE LOWER COURT GRAVELY ERRED IN NOT HOLDING THAT THE AFOREMENTIONED CONTRACTS ARE NOT BINDING AND ENFORCEABLE ON APPELLANT AS IT IS NOT A PARTY THERETO AND IT HAD NOT AUTHORIZED DEFENDANT DOMINO TO ENTER INTO THE SAME IN ITS BEHALF.
- III. THE LOWER COURT GRAVELY ERRED IN FINDING THAT THE DEFENSE OF LACK OF AUTHORITY OF DEFENDANT DOMINO TO ENTER INTO THE CONTRACTS WAS BELATEDLY RAISED BY THE APPELLANT.
- IV. THE LOWER COURT GRAVELY ERRED IN FINDING APPELLANT LIABLE ON THE LEASE AGREEMENT ENTERED INTO BY DEFENDANT DOMINO AND APPELLEE, AND ORDERING APPELLANT TO PAY PHP800,000.00 WITH 3% INTEREST PER MONTH FROM OCTOBER 1998 UNTIL PAID.
- V. ASSUMING APPELLANT IS LIABLE UNDER THE CONTRACTS, THE LOWER COURT GRAVELY ERRED IN IMPOSING EXCESSIVE AND INIQUITOUS INTEREST OF THREE PERCENT (3%) PER MONTH ON THE PHP800,000.00 IT IS ORDERED TO PAY TO THE APPELLEE.
(pp. 39-41, rollo)

Dominion Insurance posits that Domino is not authorized by its Board of Directors to enter into the lease agreement with BPI Leasing. It claims that the contract is personal to Domino, hence not valid and binding as to Dominion Insurance.