

# FIRST DIVISION

[ G.R. No. 234299, March 03, 2021 ]

## CHARTIS PHILIPPINES INSURANCE, INC. (NOW AIG PHILIPPINES INSURANCE, INC.), PETITIONER, VS. CYBER CITY TELESERVICES, LTD., RESPONDENT.

### D E C I S I O N

#### CARANDANG, J.:

In this Petition for *Certiorari*<sup>[1]</sup> under Rule 45, Chartis Philippines Insurance Inc. (Chartis) assails the Decision<sup>[2]</sup> dated February 20, 2017 and Resolution<sup>[3]</sup> dated September 26, 2017 of the Court of Appeals (CA) in CAG.R. CV No. 101737. The CA reversed the Order<sup>[4]</sup> dated September 30, 2011 of the Regional Trial Court (RTC) of Makati City, Branch 139 in Civil Case No. 06-080, rendering summary judgment in favor of Chartis; ordering respondent Cyber City Teleservices, Ltd. (CCTL) to pay the premium for two insurance policies, attorney's fees, and costs of suit; and dismissing CCTL's counterclaim.

#### Facts of the Case

Petitioner Chartis, previously called Philam Insurance Co., Inc., is a domestic corporation engaged in the business of insurance. Sometime before the filing of this petition, petitioner again changed its name to AIG Philippines Insurance Inc.<sup>[5]</sup> Among the insurance products Chartis offers is *professional indemnity insurance*, where, on behalf of the insured, the insurer pays any claim for breach of duty cause by any wrongful professional act committed or allegedly committed by the insured in the course of providing professional services;<sup>[6]</sup> and *fidelity insurance*, which insures against loss of money, securities, and other property which the insured shall sustain through any fraudulent or dishonest acts committed by any of the insured's employees, whether acting alone or in collusion with others.<sup>[7]</sup>

Respondent CCTL is a call center agency specializing in customer relationship management (CRM) services. On June 21, 2004, Jardine Lloyd Thompson Insurance Brokers (JLT), acting as broker and agent for CCTL, applied with Chartis for quotations for *professional indemnity insurance* and *fidelity insurance*.<sup>[8]</sup> Sometime in September 2004, Chartis sent JLT the quotations which were valid until October 6, 2004 for *professional indemnity insurance* and until September 7, 2004, for the *fidelity insurance*.

On January 20, 2005, JLT transmitted "Placing Instructions"<sup>[9]</sup> to Chartis informing the latter that CCTL had accepted the terms and that Chartis was "on risk with effect from 20 January 2005/12:01 Philippine Time and await your Policy documents." The Placing Instructions provide that the annual premium was agreed to be US\$45,060 and US\$56,325.00, inclusive of taxes, for fidelity insurance and professional

indemnity insurance, respectively. The indemnity limits for both policies were up to an aggregate of US\$2,000,000.00. The insurance coverage period for both was from January 20, 2005 to January 20, 2006 and that the premium payment terms is 90 days from the inception of the policies. The Placing Instructions both provide that in accordance with Bureau of Internal Revenue (BIR) M.O. No. 15-2001 and Revenue Regulation No. 9-2000, JTL agreed that no payment of the documentary stamp tax (DST) will be refunded as a result of the cancellation of the policies; and that it guarantees the payment of DST.<sup>[10]</sup>

On the same day, Chartis issued Policy No. 130100284<sup>[11]</sup> for *fidelity insurance* and Policy No. 130100285<sup>[12]</sup> for *professional indemnity insurance*. Chartis paid the DST due for the said policies.<sup>[13]</sup>

As the 90-day period was nearing its end, JLT, in behalf of CCTL, requested extensions of the credit term. In a series of email exchanges with JTL, Chartis agreed to give CCTL more time to pay the premiums and the DST. At first up to April 20, 2005,<sup>[14]</sup> then to April 30, 2005,<sup>[15]</sup> then June 3, 2005,<sup>[16]</sup> and then finally on June 15, 2005.<sup>[17]</sup> No payment having been made by then, Chartis issued notices of cancellation<sup>[18]</sup> dated June 15, 2005 which also declared that it was crediting refund premiums in the amounts of US\$24,036.00 and US\$30,045.00 for the two policies, inclusive of tax. Said amounts are equivalent to the "time-on risk" premiums which reflect the period that Chartis was liable from January 5, 2005 up to the policy cancellations on June 15, 2005. Chartis demanded payment of the premiums in letters dated August 8, 2005, September 14, 2005, and then finally November 8, 2005, all to no avail.<sup>[19]</sup> As such, it sued CCTL for payment of sum of money with damages.<sup>[20]</sup>

In its Answer with Compulsory Counterclaim, CCTL claimed that it did not authorize any person or entity to accept Chartis' offer or to bind it to any insurance contract. Moreover, CCTL invoked Section 77 of the Insurance Code and argued that since no payment of premiums had been made, the policies took no effect at all. In its counter-claim, CCTL argued that complaint was baseless and as such, it is entitled to damages and costs of suit.<sup>[21]</sup>

Trial ensued. After Chartis had formally offered its evidence, CCTL filed a Motion for Summary Judgment, arguing that there was no longer any genuine question of fact. CCTL submitted that the only issue to be resolved is whether there was a binding policy of insurance on which Chartis may base its claim for premiums.<sup>[22]</sup> CCTL argued that based on Chartis' own evidence and admissions that the premiums were not paid, then under Section 77 of the Insurance Code, the policies were neither valid nor binding.<sup>[23]</sup> Chartis agreed that the case was ripe for adjudication, but maintained that the policies were valid and binding, citing *UCPB General Ins. Co., Inc. Masagana Telamart, Inc.*,<sup>[24]</sup> where We held that as an exception to Section 77, the insurer may grant credit extension for the payment of the premium.<sup>[25]</sup> Thus, Chartis argued that it may recover the premiums under the policies, because it gave CCTL a 90-day period and then until June 15, 2005 to pay the premiums. For that period, it was already exposed to the risk insured against. Chartis also argued that it would not have paid the DST, knowing that the same is non-refundable, if it was not clue on validly issued policies.<sup>[26]</sup> Furthermore, Chartis pointed out that under

Section 78 of the Insurance Code, if the policies contain an acknowledgment of the receipt of the premiums, then the policies are binding. The *professional indemnity* policy states: "In consideration of the payment of the Premium specified in the schedule x x x."<sup>[27]</sup> Thus, Chartis argues that it has acknowledged receipt of the premium and the policy should be considered binding.<sup>[28]</sup>

### **Ruling of the Regional Trial Court**

The RTC granted CCTL's Motion for Summary Judgment and based on the above facts, held that Chartis is entitled to the relief prayed for.<sup>[29]</sup> While under Section 77 of the Insurance Code, no policy or contract of insurance is valid and binding unless the premium has been paid, the RTC found that Chartis had granted CCTL an extension of credit for the payment of premium. This is one of the exceptions to the above rule as held in the case of *UCPB General Ins. Co., Inc. v. Masagana Telamart, Inc.*<sup>[30]</sup> Therefore, the RTC ruled that there was a valid and binding insurance contract between the parties on the basis of which Chartis is entitled to payment of premium with interest.<sup>[31]</sup> The RTC also held that CCTL is liable to reimburse Chartis for the taxes it had paid for the policies and also for attorney's fees in accordance with Article 2208 of the Civil Code, because Chartis was compelled to litigate or incurred expenses to protect its interest by reason of CCTL's unjustified failure to pay.<sup>[32]</sup> Thus, in its Order<sup>[33]</sup> dated September 30, 2011, the RTC rendered summary judgment as follows:

**WHEREFORE**, premises considered, the instant motion is hereby **GRANTED**. Judgment is hereby rendered in favor of the plaintiff Chartis Philippines, Inc. (Philam Insurance Co., Inc.) and against defendant Cyber City Teleservices, Ltd. Ordering the latter to pay the former the following:

- (a) The amount of Forty Seven Thousand Three Hundred Four Dollars (US\$ 47,304.00) or its peso equivalent representing the earned premium, as well as the taxes paid, for the two (2) policies plus twelve percent (12%) legal interest commencing from the date of filing of the complaint until fully paid;
- (b) The amount of P100,000.00 as attorney's fees; and
- (c) The amount of P60,713.32 representing the costs of suit.

Defendant's compulsory counterclaim are hereby DISMISSED for lack of merit.

Furnish copies of this Order to the parties and their respective counsels.

**SO ORDERED.**<sup>[34]</sup> (Emphasis in the original)

CCTL filed a motion for reconsideration.<sup>[35]</sup> Chartis opposed and moved for execution pending execution.<sup>[36]</sup> The RTC denied both motions.<sup>[37]</sup>

### **Ruling of the Court of Appeals**

CCTL appealed, asking the CA to reverse the RTC and to grant its counterclaim.<sup>[38]</sup>

In its assignment of errors, CCTL argued that the RTC's summary judgment was based on disputed facts. CCTL maintained that it never requested for credit terms on its own or through JTL. Neither did it clothe JTL with authority nor held out JTL as its agent. In sum, CCTL argued that the RTC had treated its Motion for Summary Judgment as an implied admission of Chartis' material allegations. CCTL clarified that it only moved for summary judgment because the parties were agreed on the fact that no premium was paid, on the basis of which the RTC should have ruled that there was no binding policy to support Chartis' claim. On such disputed matters as the granting of a credit extension through JTL, CCTL argued that it should have been given the chance to present evidence to contradict Chartis' allegation.<sup>[39]</sup> Nevertheless, CCTL maintained that under Section 77 of the Insurance Code, there is no valid and binding insurance contract that would make it liable to pay the premiums.<sup>[40]</sup>

In its Appellee's Brief,<sup>[41]</sup> Chartis pointed out that CCTL had moved for summary judgment after the trial court had admitted Chartis' documentary evidence and after it had given CCTL several opportunities to adduce evidence. By filing said motion, CCTL should be deemed to have waived its right to adduce evidence.<sup>[42]</sup> Chartis agreed that the case was ripe for judgment because the only issue left to be determined was purely legal: the proper application of Section 77 of the Insurance Code. CCTL should not be permitted to change its stance just because the RTC did not render summary judgment in its favor.<sup>[43]</sup> Chartis argued that the RTC was correct in all aspects and so, asked the CA to affirm it *in toto*.<sup>[44]</sup>

The CA partly granted CCTL's appeal. The dispositive portion of the assailed Decision<sup>[45]</sup> states:

**WHEREFORE**, the appeal is **PARTLY GRANTED**. The Order dated September 30, 2011 of Branch 139, Regional Trial Court of Makati City is **VACATED** and **SET ASIDE**.

The Complaint dated January 20, 2006 is hereby **DISMISSED**.

**SO ORDERED**.<sup>[46]</sup> (Emphasis in the original)

The CA ruled that it was proper for the RTC render summary judgment. The CA emphasized that it was CCTL who moved for summary judgment, yet it made no reservation that it was or will be contesting the authority of JTL its purported agent. Upon reviewing the motion, the CA observed that CCTL explicitly argued that "summary judgment is proper in the instant case as there is no genuine issue of fact."<sup>[47]</sup> As such, the CA ruled that "CCTL had in effect submitted the whole case ripe for summary judgment because the only issue left for the trial court to settle was whether or not the insurance policies were without any legal effect, pursuant to Section 77."<sup>[48]</sup>

The CA held that none of the exceptions to Section 77 applies in this case. The CA's understood Our holding in *Makati Tuscan Condominium v. Court of Appeals*<sup>[49]</sup> to mean that a policy is valid and binding if the insured had paid initial installments on the premium. Because there was no payment at all in this case, the exception enunciated in *Makati Tuscan* does not apply.<sup>[50]</sup> The CA also did not find *UCPB*<sup>[51]</sup>

binding. We held in that case that the insured may recover on the policy if the premium is paid after the loss but within the credit term. In this case, the credit term and extensions lapsed without the premiums being paid.<sup>[52]</sup> The CA held that Chartis' remedy is not to demand the payment of premiums, but to put an end to and render the insurance policies are not binding.<sup>[53]</sup>

The CA also held that the provisions in the policies which allow Charits to demand for the payment of the insurance premiums on a prorated basis are void as contrary to law, morals, good customs, public order, and policy. Because the Insurance Code requires payment of premiums for the validity of the policies, such provisions cannot be considered effective.<sup>[54]</sup>

Furthermore, the CA ruled that Section 78 does not apply because "in consideration of" is not synonymous with an acknowledgment of receipt of premiums. Thus, the policies are not binding on such ground.<sup>[55]</sup>

However, the CA found no evidence of bad faith in Chartis' institution of an action against CCTL. Thus, for lack of evidence, the CA did not grant CCTL's claim for actual damages, exemplary damages, and attorney's fees.<sup>[56]</sup>

Chartis moved for reconsideration,<sup>[57]</sup> but the same was denied.<sup>[58]</sup> Hence, this petition.

### **Petitioner's Arguments**

Chartis maintains that the policies are valid and binding because it had extended a credit to CCTL. Because it was on risk, Chartis argues that it would not have reneged on its obligation to indemnify CCTL had loss occurred during the credit term. As such, it may recover premiums based on the period that it was on risk as provided for in a short-rate cancellation table in the policies, which must be presumed to be valid as they same had been approved by the Insurance Commission in accordance with Section 226 of the Insurance Code.<sup>[59]</sup> Consequently, the time-on risk provisions are not only valid but reinforces the understanding between the parties that if Chartis was on risk for a given period, then CCTL is obligated to pay the corresponding premiums.<sup>[60]</sup> Chartis also maintains that it should be repaid the DST remitted, as per agreed under the policies.<sup>[61]</sup>

### **Respondent's Arguments**

In its Comment,<sup>[62]</sup> CCTL makes no mention of the CA's ruling about summary judgment. However, as to whether the policies are valid and binding, CCTL maintains that the CA appreciated the case correctly and reiterates that Chartis has misunderstood Our rulings in *Makati Tuscanry* and *UCPB*.<sup>[63]</sup> As regards the DST, CCTL cites *Phil. Home Assurance Corp. v. Court of Appeals*<sup>[64]</sup> and argues that said tax is due upon the mere issuance of the policies without regard as to whether premiums have been paid.<sup>[65]</sup> The payment of DST, therefore, is not relevant as to whether the policies are valid and binding. CCTL maintains that the payment of the