SECOND DIVISION

[G.R. No. 201116, March 04, 2019]

PHILAM INSURANCE CO., INC., NOW CHARTIS PHILIPPINES INSURANCE, INC., PETITIONER, VS. PARC CHATEAU CONDOMINIUM UNIT OWNERS ASSOCIATION, INC., AND/OR EDUARDO B. COLET, RESPONDENTS.

DECISION

REYES, J. JR., J.:

The Facts

On October 7, 2003, petitioner Philam Insurance Co., Inc. (Philam) [now Chartis Philippines Insurance, Inc.] submitted a proposal to respondent Parc Chateau Condominium Unit Owners Association, Inc. (Parc Association) to cover fire and comprehensive general liability insurance of its condominium building, Parc Chateau Condominium.[1]

Respondent Eduardo B. Colet (Colet), as Parc Association's president, informed Philam, through a letter dated November 24, 2003, that Parc Association's board of directors selected it, among various insurance companies, to provide the insurance requirements of the condominium.[2]

After Philam appraised the condominium, it issued Fire and Lightning Insurance Policy No. 0601502995 for P900 million and Comprehensive General Liability Insurance Policy No. 0301003155 for P1 Million, both covering the period from November 30, 2003 to November 30, 2004. The parties negotiated for a 90-day payment term of the insurance premium, worth P791,427.50 including taxes. This payment term was embodied in a Jumbo Risk Provision, which further provided that the premium installment payments were due on November 30, 2003, December 30, 2003, and January 30, 2004. The Jumbo Risk Provision also stated that if any of the scheduled payments are not received in full on or before said dates, the insurance shall be deemed to have ceased at 4 p.m. of such date, and the policy shall automatically become void and ineffective.[3]

Parc Association's board of directors found the terms unacceptable and did not pursue the transaction. Parc Association verbally informed Philam, through its insurance agent, of the board's decision. Since no premiums were paid, Philam made oral and written demands upon Parc Association, who refused to do so alleging that the insurance agent had been informed of its decision not to take up the insurance coverage. Philam sent demand letters with statement of account claiming P363,215.21 unpaid premium based on Short Scale Rate Period. Philam also cancelled the policies.[4]

On June 3, 2005, Philam filed a complaint against Parc Association and Colet for

recovery of P363,215.21 unpaid premium, plus attorney's fees and costs of suit in the Metropolitan Trial Court (MeTC) of Makati, Branch 65.[5]

The Metropolitan Trial Court's Decision

On October 30, 2007, the MeTC dismissed the case. The MeTC determined that since Philam admitted that Parc Association did not pay its premium, one of the elements of an insurance contract was lacking, that is, the insured must pay a premium. The MeTC explained that payment of premium is a condition precedent for the effectivity of an insurance contract. Non-payment of premium prevents an insurance contract from becoming binding even if there was an acceptance of the application or issuance of a policy, unless payment of premium was waived. With one of the elements missing, there is no insurance contract to speak of and Philam has no right to recover from defendant Parc Association.[6]

The Regional Trial Court's Decision

Philam appealed to the Regional Trial Court (RTC) of Makati, Branch 137, which partly affirmed the MeTC decision, except as to attorney's fees, in its June 3, 2008 Decision. The RTC pronounced that there was no valid insurance contract between the parties because of non-payment of premium, and there was no express waiver of full payment of premiums.[7]

The RTC did not accept Philam's argument that the Jumbo Risk Provision is an implied waiver of premium payment. The RTC elucidated that the Jumbo Risk Provision specifically requires full payment of premium within the given period, and in case of default, the policy automatically becomes void and ineffective.[8]

Philam averred that Parc Association's newsletter and treasurer's report confirmed that there was a perfected insurance contract. The RTC held that Parc Association's newsletter and treasurer's report, informing the condominium unit owners that the building was insured, is not proof of a perfected insurance contract. The newsletter stated that negotiations were ongoing to try to lower the insurance premium per square meter, while the treasurer's report did not categorically mention that there was a perfected and effective insurance contract. Hence, the RTC affirmed in part the MeTC decision.[9]

Philam moved for reconsideration, which the RTC denied in a Resolution dated September 17, 2009.[10]

The Court of Appeals' Decision

Unconvinced, Philam elevated the case before the Court of Appeals (CA) through a petition for review under Rule 42 of the Rules of Court, as amended.[11]

On July 29, 2011, the CA rendered a Decision[12] denying Philam's petition and affirming the June 3, 2008 RTC Decision and September 17, 2009 Resolution. The CA discussed that based on Section 77 of Presidential Decree 612 or the Insurance Code of the Philippines, the general rule is that no insurance contract issued by an insurance company is valid and binding unless and until the premium has been paid.

Although there are exceptions laid down in *UCPB General Insurance Co., Inc. v. Masagana Telamart, Inc.*,[13] the CA determined that none of these exceptions were applicable to the case at hand.[14]

The first exception is in Section 77 of the Insurance Code, that is, "in the case of a life or an industrial life policy whenever the grace period provision applies." This exception does not apply to this case because the policies involved here are fire and comprehensive general liability insurance.[15]

The second exception is in Section 78 of the Insurance Code, which states that "an acknowledgment in a policy or contract of insurance or the receipt of premium is conclusive evidence of its payment, so far as to make the policy binding, notwithstanding any stipulation therein that it shall not be binding until the premium is actually paid."[16]

The exception in Section 78 is inapplicable in this case, because there was no acknowledgment of receipt of premium in the policy or insurance contract, and in fact, no premium was ever paid.[17]

The third exception is taken from the case of *Makati Tuscany Condominium Corporation v. Court of Appeals*,[18] wherein the Court ruled that the general rule in Section 77 may not apply if the parties agreed to the payment of premium in installment and partial payment has been made at the time of loss. Here, the parties agreed to a payment by installment, but no actual payment was made. Thus, the third exception has no application in this case.[19]

The Makati Tuscany case also provided the fourth exception, that is, if the insurer has granted the insured a credit term for the payment of the premium, then the general rule may not apply.[20] Philam argues that the 90-day payment term is a credit extension. However, the CA emphasized that the Jumbo Risk Provision is clear that failure to pay each installment on the due date automatically voids the insurance policy. Here, Parc Association did not pay any premium, which resulted in a void insurance policy. Hence, the fourth exception finds no application.[21]

The fifth and last exception, taken from the UCPB case, is estoppel in instances when the insurer had consistently granted a credit term for the payment of premium despite full awareness of Section 77. The insurer cannot deny recovery by the insured by citing the general rule in Section 77, because the insured had relied in good faith on the credit term granted.[22]

The CA held that the factual circumstances of the UCPB case differ from this case. In the UCPB case, the insurer granted a credit extension for several years and the insured relied in good faith on such practice. Here, the fire and lightning insurance policy and comprehensive general insurance policy were the only policies issued by Philam, and there were no other policy/ies issued to Parc Association in the past granting credit extension. Thus, the last exception is inapplicable.[23]

After establishing that none of the exceptions are applicable, the CA concluded that the general rule applies, that is, no insurance contract or policy is valid and binding unless and until the premium has been paid. Since Parc Association did not pay any

premium, then there was no insurance contract to speak of.[24]

Moreover, the CA pointed out that the Jumbo Risk Provision clearly stated that failure to pay in full any of the scheduled installments on or before the due date, shall render the insurance policy void and ineffective as of 4 p.m. of such date. Parc Association's failure to pay on the first due date, November 30, 2003, resulted in a void and ineffective policy as of 4 p.m. of November 30, 2003. As a consequence, Philam cannot collect P3 63,215.21 unpaid premiums of void insurance policies.[25]

Philam moved for reconsideration, which the CA denied in its March 14, 2012 Resolution.[26] Undeterred, Philam filed a Petition for Review on *Certiorari*[27] under Rule 45 of the Rules of Court, as amended, before the Court.

The Issues Presented

In its petition, Philam assigned the following errors:

I

> THE COURT OF APPEALS GROSSLY ERRED IN NOT FINDING THAT RESPONDENTS' REQUEST FOR TERMS OF PAYMENT OF PREMIUM AFTER THE POLICIES WERE ISSUED AND PETITIONER'S GRANT OF SAID REQUEST CONSTITUTE THE INTENTION OF THE PARTIES TO BE BOUND BY THE INSURANCE CONTRACT.

II.

> THE APPELLATE COURT GROSSLY ERRED IN RULING THAT THE FOURTH EXCEPTION PROVIDED FOR UNDER SECTION 77 OF THE INSURANCE CODE OF THE PHILIPPINES DOES NOT APPLY IN THE INSTANT CASE.

III.

> THE COURT OF APPEALS GRIEVOUSLY ERRED IN NOT FINDING THAT THE NEGOTIATIONS WHICH THE PARTIES HAD WERE WITH RESPECT TO THE TERMS OF PAYMENT OF PREMIUM ALREADY AGREED UPON AND NOT ON THE REDUCTION OF THE AMOUNT THEREOF AS TO NEGATE THE EXISTENCE OF A PERFECTED CONTRACT OF INSURANCE BETWEEN THEM.[28]

In its Comment,[29] Parc Association alleged that Philam did not raise new issues before the Court, and the issues presented had been resolved by the MeTC and RTC. [30] Parc Association averred that Philam's proposal was accepted for consideration of the board of directors, who later disapproved the terms and conditions. As such, there was no meeting of the minds of the parties, and there was no insurance contract initiated.[31]

Parc Association further argued that non-payment of premium means no juridical tie was created between the insured and the insurer, and the insured was not exposed to the insurable risk for lack of consideration. Parc Association asserted that it would be unjust to allow Philam to recover premiums on an insurance contract that was