

SECOND DIVISION

[G.R. No. 171379, January 10, 2011]

**JOSE MARQUES AND MAXILITE TECHNOLOGIES, INC.,
PETITIONERS, VS. FAR EAST BANK AND TRUST COMPANY, FAR
EAST BANK INSURANCE BROKERS, INC., AND MAKATI
INSURANCE COMPANY, RESPONDENTS.**

[G.R. NO. 171419]

**FAR EAST BANK AND TRUST COMPANY AND MAKATI INSURANCE
COMPANY, PETITIONERS, VS. JOSE MARQUES AND MAXILITE
PROMULGATED: TECHNOLOGIES, INC., RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

These consolidated petitions for review^[1] assail the 31 May 2005 Decision^[2] and the 26 January 2006 Resolution^[3] of the Court of Appeals-Cebu City in CA-G.R. CV No. 62105. The Court of Appeals affirmed with modifications the 4 September 1998 Decision^[4] of the Regional Trial Court of Cebu City, Branch 58, in Civil Case No. CEB-18979.

The Facts

Maxilite Technologies, Inc. (Maxilite) is a domestic corporation engaged in the importation and trading of equipment for energy-efficiency systems. Jose N. Marques (Marques) is the President and controlling stockholder of Maxilite.

Far East Bank and Trust Co. (FEBTC)^[5] is a local bank which handled the financing and related requirements of Marques and Maxilite. Marques and Maxilite maintained accounts with FEBTC. Accordingly, FEBTC financed Maxilite's capital and operational requirements through loans secured with properties of Marques under the latter's name. Among Maxilite's and Marques' transactions with FEBTC were:

- a. A straight loan in the name of Jose N. Marques for Maxilite at the original principal amount of P1 million. This is secured by real estate mortgage. From said original principal amount, the bank increased it by P300,000.00 about 26 October 1994 to enable the wiping out of Maxilite's Trust Receipts Account and simplify the remaining accounts into straight loan accounts.
- b. A straight loan in the name of Maxilite Technologies, Inc. for a principal

amount of P2 million. This is secured with a Real Estate Mortgage of Marques' residential property.

c. Master Card transactions covering two (2) Master Card Accounts of Marques, and

d. Local credit card transactions covering one credit card account of Marques.^[6]

Far East Bank Insurance Brokers, Inc. (FEBIBI) is a local insurance brokerage corporation while Makati Insurance Company^[7] is a local insurance company. Both companies are subsidiaries of FEBTC.^[8]

On 17 June 1993, Maxilite and Marques entered into a trust receipt transaction with FEBTC, in the sum of US\$80,765.00, for the shipment of various high-technology equipment from the United States,^[9] with the merchandise serving as collateral. The foregoing importation was covered by a trust receipt document signed by Marques on behalf of Maxilite, which pertinently reads:

The undersigned (Marques) further agree(s) to keep said merchandise insured against fire to its full value, payable to the said bank, at the cost and expense of the undersigned, who hereby further agree(s) to pay all charges for storage on said merchandise or any or other expenses incurred thereon.

x x x x^[10]

Sometime in August 1993, FEBIBI, upon the advice of FEBTC, facilitated the procurement and processing from Makati Insurance Company of four separate and independent fire insurance policies over the trust receipted merchandise: (1) Policy No. BR-F-1016333, issued on 15 September 1993, covering the period 12 August 1993 to 12 November 1993 in the amount of P1,000,000.00;^[11] (2) Policy No. BR-F-1016888, issued on 15 September 1993 covering the period 8 September 1993 to 8 December 1993 in the amount of P605,494.28;^[12] (3) Policy No. BR-F-1016930, issued on 18 October 1993, covering the period 14 October 1993 to 12 January 1994 in the amount of P527,723.66;^[13] and (4) Policy No. BR-F-1018392, issued on 14 December 1993, covering the period 1 December 1993 to 1 March 1994 in the amount of P725,000.00.^[14] Maxilite paid the premiums for these policies through debit arrangement. FEBTC would debit Maxilite's account for the premium payments, as reflected in statements of accounts sent by FEBTC to Maxilite.

On 19 August 1994, Insurance Policy No. 1024439, covering the period 24 June 1994 to 24 June 1995, was released to cover the trust receipted merchandise. The policy relevantly provides:

2. This policy including any renewal thereof and/or any endorsement thereon is not in force until the premium has been fully paid to and duly

received by the Company in the manner provided herein.

Any supplementary agreement seeking to amend this condition prepared by agent, broker or Company official, shall be deemed invalid and of no effect.^[15]

Finding that Maxilite failed to pay the insurance premium in the sum of P8,265.60 for Insurance Policy No. 1024439 covering the period 24 June 1994 to 24 June 1995, FEBIBI sent written reminders to FEBTC, dated 19 October 1994,^[16] 24 January 1995,^[17] and 6 March 1995, to debit Maxilite's account.^[18]

On 24 and 26 October 1994, Maxilite fully settled its trust receipt account.

On 9 March 1995, a fire gutted the Aboitiz Sea Transport Building along M.J. Cuenco Avenue, Cebu City, where Maxilite's office and warehouse were located. As a result, Maxilite suffered losses amounting to at least P2.1 million, which Maxilite claimed against the fire insurance policy with Makati Insurance Company. Makati Insurance Company denied the fire loss claim on the ground of non-payment of premium. FEBTC and FEBIBI disclaimed any responsibility for the denial of the claim.

Maxilite and Marques sued FEBTC, FEBIBI, and Makati Insurance Company. Maxilite prayed for (1) actual damages totaling P2.3 million representing full insurance coverage and "business opportunity losses," (2) moral damages, and (3) exemplary damages.^[19] On the other hand, Marques sought payment of actual, moral and exemplary damages, attorney's fees, and litigation expenses. Maxilite and Marques also sought the issuance of a preliminary injunction or a temporary restraining to enjoin FEBTC from (1) imposing penalties on their obligations; (2) foreclosing the real estate mortgage securing their straight loan accounts; and (3) initiating actions to collect their obligations.

FEBTC, FEBIBI, and Makati Insurance Company countered that Maxilite and Marques have no cause of action against them and essentially denied the allegations in the complaint.

The Ruling of the Trial Court

In ruling in favor of Maxilite and Marques, the Regional Trial Court of Cebu City, Branch 58, explained:

Considering the interest of the defendant FEBTC in the property insured, hence, its concern that the insurance policy therefor has to be effected and enforceable, and considering that the payment of the premium thereof was the procedure adopted by debiting the plaintiffs' account, the Court is of the view that the non-payment of the premium of the insurance policy in question was due to the fault or negligence of the defendant FEBTC. What could have happened to the interest of the defendant FEBTC in the insurance policy in question had the fire occurred prior to the full settlement and payment of plaintiff's Maxilite trust receipt account? Would defendant FEBTC have tossed the blame on the non-payment of premium to the plaintiffs?

Although there were reminders by defendant FEBIBI of the non-payment of the premium, the same were made by said defendant through the defendant FEBTC and not to the plaintiffs directly. Despite said reminders, the first of which was made on October 19, 1994 when plaintiff Maxilite has sufficient fund in its trust receipt account, defendant FEBTC did not heed the same and more so did it not care to pay the premium after the plaintiff Maxilite fully and finally settled its trust receipt account with defendant FEBTC as the latter has already lost its interest in the insurance policy in question by virtue of said full payment. But despite the non-payment of the insurance premium, the defendant Makati Insurance did not cancel the policy in question nor informed plaintiffs of its cancellation if the insurance premium should not be paid. Just as defendant FEBIBI failed to notify directly the plaintiffs of the said non-payment. Considering the relationship of the three (3) defendants herein, as undeniably sister companies, the non-payment of the premium of the insurance policy in question should be imputable to their fault or negligence. Under the factual milieu in the case at bar, the Court finds it just and equitable to hold said defendants liable to pay all the consequent damages suffered by the plaintiffs and their liability is solidary (Art. 2194, Civil Code).^[20]

The trial court disposed of the case as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering the defendants to pay jointly and severally to the plaintiff Maxilite the sum of Two Million One Hundred Thousand Pesos (P2,100,000.00), Philippine Currency, representing the full coverage of Insurance Policy No. 1024439 (Exh. `A'), as actual damages, plus interest of 12% per annum from filing of Complaint on July 11, 1996 until fully paid, to the plaintiff Marque[s] the sum of P400,000.00 as moral damages, to both plaintiffs the sum of P500,000.00 as exemplary damages, the sum of P50,000.00 as attorney's fees, the sum of P23,082.50, representing the filing fees, as litigation expenses, and to pay the costs.

The counter-claims are hereby dismissed.

The writ of preliminary injunction is hereby made permanent.

SO ORDERED.^[21]

The Ruling of the Court of Appeals

The Court of Appeals affirmed the trial court's decision, with modifications, on the following grounds:

First, the relations among defendants with each other are closely related and so intertwined. The said three defendants, FEBTC, FEBIBI and MICI, are sister companies. This was never denied by the defendants themselves.

Second, the insurance coverage was the business of sister companies FEBIBI and Makati Insurance, not with FEBTC, which has been the bank of plaintiffs which handled the latter's financing and related transactions. Stated a bit differently, defendant FEBTC handled the financing and related requirements of plaintiffs; defendant FEBIBI on the other hand is an insurance brokerage company of defendant FEBTC, while Makati Insurance is the insurance (arm) company of both defendants FEBIBI and FEBTC.

Third, defendant FEBTC caused FEBIBI to facilitate the insurance coverage of plaintiffs. FEBIBI then asked Makati Insurance to issue the subject policy. Makati Insurance delivered the policy to FEBIBI which it tasked with the collection of premium. FEBIBI in turn delivered the policy to FEBTC from where it sought the payment of the premiums.

Fourth, it must be noted that the cover note and policy was supposedly issued and made effective on June 24, 1994, when the trust receipt account was still outstanding and the insured merchandise was still theoretically owned by the bank. Thus, for all intents and purposes, it was to the best interest and protection of the bank to see to it that the goods were properly covered by insurance.

Fifth, the payment of premium has never been made an issue when the subject policy was still separated into three. Or even after the said consolidation into one policy (No. 1024439), still, payment of the premium has never become an issue.

x x x x

For another, if We were to believe defendants' claim that the premium for the subject policy was not paid, then defendants should have cancelled the policy long before. But even up to the time the fire gutted plaintiffs' warehouse in March 1995, defendants acknowledged that the subject policy remained effective. x x x

Furthermore, there was no notice of cancellation or any communication from defendants sent to plaintiffs that the policy shall be cancelled because of non-payment of premiums. Thus, the more reasonable and logical conclusion is that the subject policy was still fully in force because plaintiffs are still paying its premiums and defendants are collecting the same through debit account.^[22]

The Court of Appeals disposed of the case as follows: