

SECOND DIVISION

[G. R. NO. 151953, June 29, 2007]

**SALVADOR P. ESCAÑO AND MARIO M. SILOS, PETITIONERS, VS.
RAFAEL ORTIGAS, JR., RESPONDENT.**

DECISION

TINGA, J.:

The main contention raised in this petition is that petitioners are not under obligation to reimburse respondent, a claim that can be easily debunked. The more perplexing question is whether this obligation to repay is solidary, as contended by respondent and the lower courts, or merely joint as argued by petitioners.

On 28 April 1980, Private Development Corporation of the Philippines (PDCP)^[1] entered into a loan agreement with Falcon Minerals, Inc. (Falcon) whereby PDCP agreed to make available and lend to Falcon the amount of US\$320,000.00, for specific purposes and subject to certain terms and conditions.^[2] On the same day, three stockholders-officers of Falcon, namely: respondent Rafael Ortigas, Jr. (Ortigas), George A. Scholey and George T. Scholey executed an Assumption of Solidary Liability whereby they agreed "to assume in [their] individual capacity, solidary liability with [Falcon] for the due and punctual payment" of the loan contracted by Falcon with PDCP.^[3] In the meantime, two separate guaranties were executed to guarantee the payment of the same loan by other stockholders and officers of Falcon, acting in their personal and individual capacities. One Guaranty^[4] was executed by petitioner Salvador Escaño (Escaño), while the other^[5] by petitioner Mario M. Silos (Silos), Ricardo C. Silverio (Silverio), Carlos L. Inductivo (Inductivo) and Joaquin J. Rodriguez (Rodriguez).

Two years later, an agreement developed to cede control of Falcon to Escaño, Silos and Joseph M. Matti (Matti). Thus, contracts were executed whereby Ortigas, George A. Scholey, Inductivo and the heirs of then already deceased George T. Scholey assigned their shares of stock in Falcon to Escaño, Silos and Matti.^[6] Part of the consideration that induced the sale of stock was a desire by Ortigas, et al., to relieve themselves of all liability arising from their previous joint and several undertakings with Falcon, including those related to the loan with PDCP. Thus, an Undertaking dated 11 June 1982 was executed by the concerned parties,^[7] namely: with Escaño, Silos and Matti identified in the document as "SURETIES," on one hand, and Ortigas, Inductivo and the Scholeys as "OBLIGORS," on the other. The Undertaking reads in part:

3. That whether or not SURETIES are able to immediately cause PDCP and PAIC to release OBLIGORS from their said guarantees [sic],
SURETIES hereby irrevocably agree and undertake to

assume all of OBLIGORS' said guarantees [sic] to PDCP and PAIC under the following terms and conditions:

- a. Upon receipt by any of [the] OBLIGORS of any demand from PDCP and/or PAIC for the payment of FALCON's obligations with it, any of [the] OBLIGORS shall immediately inform SURETIES thereof so that the latter can timely take appropriate measures;
 - b. Should suit be impleaded by PDCP and/or PAIC against any and/or all of OBLIGORS for collection of said loans and/or credit facilities, SURETIES agree to defend OBLIGORS at their own expense, without prejudice to any and/or all of OBLIGORS impleading SURETIES therein for contribution, indemnity, subrogation or other relief in respect to any of the claims of PDCP and/or PAIC; and
 - c. In the event that any of [the] OBLIGORS is for any reason made to pay any amount to PDCP and/or PAIC, SURETIES shall reimburse OBLIGORS for said amount/s within seven (7) calendar days from such payment;
4. OBLIGORS hereby waive in favor of SURETIES any and all fees which may be due from FALCON arising out of, or in connection with, their said guarantees[sic].^[8]

Falcon eventually availed of the sum of US\$178,655.59 from the credit line extended by PDCP. It would also execute a Deed of Chattel Mortgage over its personal properties to further secure the loan. However, Falcon subsequently defaulted in its payments. After PDCP foreclosed on the chattel mortgage, there remained a subsisting deficiency of P5,031,004.07, which Falcon did not satisfy despite demand.^[9]

On 28 April 1989, in order to recover the indebtedness, PDCP filed a complaint for sum of money with the Regional Trial Court of Makati (RTC) against Falcon, Ortigas, Escaño, Silos, Silverio and Inductivo. The case was docketed as Civil Case No. 89-5128. For his part, Ortigas filed together with his answer a cross-claim against his co-defendants Falcon, Escaño and Silos, and also manifested his intent to file a third-party complaint against the Scholeys and Matti.^[10] The cross-claim lodged against Escaño and Silos was predicated on the 1982 Undertaking, wherein they agreed to assume the liabilities of Ortigas with respect to the PDCP loan.

Escaño, Ortigas and Silos each sought to seek a settlement with PDCP. The first to come to terms with PDCP was Escaño, who in December of 1993, entered into a compromise agreement whereby he agreed to pay the bank P1,000,000.00. In exchange, PDCP waived or assigned in favor of Escaño one-third (1/3) of its entire claim in the complaint against all of the other defendants in the case.^[11] The compromise agreement was approved by the RTC in a Judgment^[12] dated 6 January 1994.

Then on 24 February 1994, Ortigas entered into his own compromise agreement^[13] with PDCP, allegedly without the knowledge of Escaño, Matti and Silos. Thereby, Ortigas agreed to pay PDCP P1,300,000.00 as "full satisfaction of the PDCP's claim against Ortigas,"^[14] in exchange for PDCP's release of Ortigas from any liability or claim arising from the Falcon loan agreement, and a renunciation of its claims against Ortigas.

In 1995, Silos and PDCP entered into a Partial Compromise Agreement whereby he agreed to pay P500,000.00 in exchange for PDCP's waiver of its claims against him.^[15]

In the meantime, after having settled with PDCP, Ortigas pursued his claims against Escaño, Silos and Matti, on the basis of the 1982 Undertaking. He initiated a third-party complaint against Matti and Silos,^[16] while he maintained his cross-claim against Escaño. In 1995, Ortigas filed a motion for Summary Judgment in his favor against Escaño, Silos and Matti. On 5 October 1995, the RTC issued the Summary Judgment, ordering Escaño, Silos and Matti to pay Ortigas, **jointly and severally**, the amount of P1,300,000.00, as well as P20,000.00 in attorney's fees.^[17] The trial court ratiocinated that none of the third-party defendants disputed the 1982 Undertaking, and that "the mere denials of defendants with respect to non-compliance of Ortigas of the terms and conditions of the Undertaking, unaccompanied by any substantial fact which would be admissible in evidence at a hearing, are not sufficient to raise genuine issues of fact necessary to defeat a motion for summary judgment, even if such facts were raised in the pleadings."^[18] In an Order dated 7 March 1996, the trial court denied the motion for reconsideration of the Summary Judgment and awarded Ortigas legal interest of 12% per annum to be computed from 28 February 1994.^[19]

From the Summary Judgment, recourse was had by way of appeal to the Court of Appeals. Escaño and Silos appealed jointly while Matti appealed by his lonesome. In a Decision^[20] dated 23 January 2002, the Court of Appeals dismissed the appeals and affirmed the Summary Judgment. The appellate court found that the RTC did not err in rendering the summary judgment since the three appellants did not effectively deny their execution of the 1982 Undertaking. The special defenses that were raised, "payment and excussion," were characterized by the Court of Appeals as "appear[ing] to be merely sham in the light of the pleadings and supporting documents and affidavits."^[21] Thus, it was concluded that there was no genuine issue that would still require the rigors of trial, and that the appealed judgment was decided on the bases of the undisputed and established facts of the case.

Hence, the present petition for review filed by Escaño and Silos.^[22] Two main issues are raised. First, petitioners dispute that they are liable to Ortigas on the basis of the 1982 Undertaking, a document which they do not disavow and have in fact annexed to their petition. Second, on the assumption that they are liable to Ortigas under the 1982 Undertaking, petitioners argue that they are jointly liable only, and not solidarily. Further assuming that they are liable, petitioners also submit that they are not liable for interest and if at all, the proper interest rate is 6% and not 12%.

Interestingly, petitioners do not challenge, whether in their petition or their

memorandum before the Court, the appropriateness of the summary judgment as a relief favorable to Ortigas. Under Section 3, Rule 35 of the 1997 Rules of Civil Procedure, summary judgment may avail if the pleadings, supporting affidavits, depositions and admissions on file show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Petitioner have not attempted to demonstrate before us that there existed a genuine issue as to any material fact that would preclude summary judgment. Thus, we affirm with ease the common rulings of the lower courts that summary judgment is an appropriate recourse in this case.

The vital issue actually raised before us is whether petitioners were correctly held liable to Ortigas on the basis of the 1982 Undertaking in this Summary Judgment. An examination of the document reveals several clauses that make it clear that the agreement was brought forth by the desire of Ortigas, Inductivo and the Scholeys to be released from their liability under the loan agreement which release was, in turn, part of the consideration for the assignment of their shares in Falcon to petitioners and Matti. The whereas clauses manifest that Ortigas had bound himself with Falcon for the payment of the loan with PDCP, and that "amongst the consideration for OBLIGORS and/or their principals aforesaid selling is SURETIES" relieving OBLIGORS of any and all liability arising from their said joint and several undertakings with FALCON."^[23] Most crucial is the clause in Paragraph 3 of the Undertaking wherein petitioners "irrevocably agree and undertake to assume all of OBLIGORS' said guarantees [sic] to PDCP x x x under the following terms and conditions."^[24]

At the same time, it is clear that the assumption by petitioners of Ortigas's "guarantees" [sic] to PDCP is governed by stipulated terms and conditions as set forth in sub-paragraphs (a) to (c) of Paragraph 3. First, upon receipt by "any of OBLIGORS" of any demand from PDCP for the payment of Falcon's obligations with it, "any of OBLIGORS" was to immediately inform "SURETIES" thereof so that the latter can timely take appropriate measures. Second, should "any and/or all of OBLIGORS" be impleaded by PDCP in a suit for collection of its loan, "SURETIES agree[d] to defend OBLIGORS at their own expense, without prejudice to any and/or all of OBLIGORS impleading SURETIES therein for contribution, indemnity, subrogation or other relief"^[25] in respect to any of the claims of PDCP. Third, if any of the "OBLIGORS is for any reason made to pay any amount to [PDCP], SURETIES [were to] reimburse OBLIGORS for said amount/s within seven (7) calendar days from such payment."^[26]

Petitioners claim that, contrary to paragraph 3(c) of the Undertaking, Ortigas was not "made to pay" PDCP the amount now sought to be reimbursed, as Ortigas voluntarily paid PDCP the amount of P1.3 Million as an amicable settlement of the claims posed by the bank against him. However, the subject clause in paragraph 3(c) actually reads "[i]n the event that any of OBLIGORS is **for any reason made to pay any amount to PDCP x x x**"^[27] As pointed out by Ortigas, the phrase "for any reason" reasonably includes any extra-judicial settlement of obligation such as what Ortigas had undertaken to pay to PDCP, as it is indeed obvious that the phrase was incorporated in the clause to render the eventual payment adverted to therein unlimited and unqualified.

The interpretation posed by petitioners would have held water had the Undertaking

made clear that the right of Ortigas to seek reimbursement accrued only after he had delivered payment to PDCP as a consequence of a final and executory judgment. On the contrary, the clear intent of the Undertaking was for petitioners and Matti to relieve the burden on Ortigas and his fellow "OBLIGORS" as soon as possible, and not only after Ortigas had been subjected to a final and executory adverse judgment.

Paragraph 1 of the Undertaking enjoins petitioners to "exert all efforts to cause PDCP x x x to within a reasonable time release all the OBLIGORS x x x from their guarantees [sic] to PDCP x x x"[28] In the event that Ortigas and his fellow "OBLIGORS" could not be released from their guaranties, paragraph 2 commits petitioners and Matti to cause the Board of Directors of Falcon to make a call on its stockholders for the payment of their unpaid subscriptions and to pledge or assign such payments to Ortigas, et al., as security for whatever amounts the latter may be held liable under their guaranties. In addition, paragraph 1 also makes clear that nothing in the Undertaking "shall prevent OBLIGORS, or any one of them, from themselves negotiating with PDCP x x x for the release of their said guarantees [sic]."[29]

There is no argument to support petitioners' position on the import of the phrase "made to pay" in the Undertaking, other than an unduly literalist reading that is clearly inconsistent with the thrust of the document. Under the Civil Code, the various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.[30] Likewise applicable is the provision that if some stipulation of any contract should admit of several meanings, it shall be understood as bearing

that import which is most adequate to render it effectual.[31] As a means to effect the general intent of the document to relieve Ortigas from liability to PDCP, it is his interpretation, not that of petitioners, that holds sway with this Court.

Neither do petitioners impress us of the non-fulfillment of any of the other conditions set in paragraph 3, as they claim. Following the general assertion in the petition that Ortigas violated the terms of the Undertaking, petitioners add that Ortigas "paid PDCP BANK the amount of P1.3 million without petitioners ESCANO and SILOS's knowledge and consent." [32] Paragraph 3(a) of the Undertaking does impose a requirement that any of the "OBLIGORS" shall immediately inform "SURETIES" if they received any demand for payment of FALCON's obligations to PDCP, but that requirement is reasoned "so that the [SURETIES] can timely take appropriate measures" [33] presumably to settle the obligation without having to burden the "OBLIGORS." This notice requirement in paragraph 3(a) is markedly way off from the suggestion of petitioners that Ortigas, after already having been impleaded as a defendant in the collection suit, was obliged under the 1982 Undertaking to notify them before settling with PDCP.

The other arguments petitioners have offered to escape liability to Ortigas are similarly weak.

Petitioners impugn Ortigas for having settled with PDCP in the first place. They note that Ortigas had, in his answer, denied any liability to PDCP and had alleged that he signed the Assumption of Solidary Liability not in his personal capacity, but as an