

THIRD DIVISION

[G.R. NO. 150711, August 10, 2006]

CALTEX (PHILIPPINES), INC., PETITIONER, VS. PNOC SHIPPING AND TRANSPORT CORPORATION, RESPONDENT.

DECISION

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the 31 May 2001 Decision^[2] and 9 November 2001 Resolution^[3] of the Court of Appeals in CA-G.R. CV No. 46097. The Court of Appeals reversed the 1 June 1994 Decision^[4] of the Regional Trial Court of Manila, Branch 51 ("trial court"), and dismissed the complaint filed by Caltex (Philippines), Inc. ("Caltex") against PNOC Shipping and Transport Corporation (PSTC).

The Antecedent Facts

On 6 July 1979, PSTC and Luzon Stevedoring Corporation ("LUSTEVECO") entered into an Agreement of Assumption of Obligations ("Agreement"). The Agreement provides that PSTC shall assume all the obligations of LUSTEVECO with respect to the claims enumerated in Annexes "A" and "B" ("Annexes") of the Agreement. The Agreement also provides that PSTC shall control the conduct of any litigation pending or which may be filed with respect to the claims in the Annexes. The Agreement further provides that LUSTEVECO shall deliver to PSTC all papers and records of the claims in the Annexes. Finally, the Agreement provides that LUSTEVECO appoints and constitutes PSTC as its attorney-in-fact to demand and receive any claim out of the countersuits and counterclaims arising from the claims in the Annexes.

Among the actions enumerated in the Annexes is *Caltex (Phils.), Inc. v. Luzon Stevedoring Corporation* docketed as AC-G.R. CV No. 62613 which at that time was pending before the then Intermediate Appellate Court (IAC). The case was an appeal from the Decision by the then Court of First Instance of Manila (CFI) directing LUSTEVECO to pay Caltex P103,659.44 with legal interest from the filing of the action until full payment. In its 12 November 1985 Decision,^[5] the IAC affirmed with modification the Decision of the CFI. The dispositive portion of the Decision reads:

WHEREFORE, the decision appealed from is hereby MODIFIED and judgment is rendered ordering the defendant [LUSTEVECO] to pay plaintiff [Caltex]:

(a) P126,771.22 under the first cause of action, with legal interest until

fully paid;

(b) P103,659.44 under the second cause of action with legal interest until fully paid;

(c) 10% of the sums due as and for attorney's fees;

(d) costs of the suit.

SO ORDERED.^[6]

The Decision of the IAC became final and executory.

The Regional Trial Court of Manila, Branch 12, issued a writ of execution in favor of Caltex. However, the judgment was not satisfied because of the prior foreclosure of LUSTEVECO's properties. The Manila Bank Intramuros Branch and the Traders Royal Bank Aduana Branch did not respond to the notices of garnishment.

Caltex subsequently learned of the Agreement between PSTC and LUSTEVECO. Caltex sent successive demands to PSTC asking for the satisfaction of the judgment rendered by the CFI. PSTC requested for the copy of the records of AC-G.R. CV No. 62613. Later, PSTC informed Caltex that it was not a party to AC-G.R. CV No. 62613 and thus, PSTC would not pay LUSTEVECO's judgment debt. PSTC advised Caltex to demand satisfaction of the judgment directly from LUSTEVECO.

Caltex continued to send several demand letters to PSTC. On 5 February 1992, Caltex filed a complaint for sum of money against PSTC. The case was docketed as Civil Case No. 91-59512.

On 1 June 1994, the trial court rendered its Decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiff, ordering defendant to pay plaintiff the sums due the latter in the decision rendered by the Court of Appeals in CA-G.R. No. 62613, CALTEX vs. LUSTEVECO, or to pay plaintiff (Exhibit "C"):

(a) P126,771.22 under the first cause of action, with legal interest from the date of the promulgation of the decision on November 12, 1985 until fully paid;

(b) P103,659.44 under the second cause of action with legal interest from the date of the promulgation of the decision on November 12, 1985 until fully paid;

(c) 10% of the sums due as and for attorney's fees; and

(d) Costs of suit.

SO ORDERED.^[7]

PSTC appealed the trial court's Decision.

The Ruling of the Court of Appeals

In its 31 May 2001 Decision, the Court of Appeals found the appeal meritorious. The Court of Appeals ruled that Caltex has no personality to sue PSTC. The Court of Appeals held that non-compliance with the Agreement could only be questioned by the signatories to the contract, namely, LUSTEVECO and PSTC. The Court of Appeals stated that LUSTEVECO and PSTC are the only parties who can file an action to enforce the Agreement. The Court of Appeals considered fatal the omission of LUSTEVECO, the real party in interest, as a party defendant in the case. The Court of Appeals further ruled that Caltex is not a beneficiary of a stipulation *pour autrui* because there is no stipulation in the Agreement which clearly and deliberately favors Caltex.

The dispositive portion of the Decision of the Court of Appeals reads:

WHEREFORE, premises considered, the appealed Decision dated June 1, 1994, rendered by the Regional Trial Court of Manila, Branch 51, is hereby REVERSED and SET ASIDE and a new one entered DISMISSING the complaint filed by appellee [Caltex], against appellant [PSTC], for want of cause of action.

SO ORDERED.^[8]

Caltex filed a motion for reconsideration of the 31 May 2001 Decision. In a Resolution promulgated on 9 November 2001, the Court of Appeals denied the motion for lack of merit.

Hence, this petition before this Court.

The Issues

The issues in this case are:

1. Whether PSTC is bound by the Agreement when it assumed all the obligations of LUSTEVECO; and
2. Whether Caltex is a real party in interest to file an action to recover from PSTC the judgment debt against LUSTEVECO.

The Ruling of this Court

The petition is meritorious.

Caltex May Recover from PSTC Under the Terms of the Agreement

Caltex may recover the judgment debt from PSTC not because of a stipulation in Caltex's favor but because the Agreement provides that PSTC shall assume all the obligations of LUSTEVECO.

In this case, LUSTEVECO transferred, conveyed and assigned to PSTC all of LUSTEVECO's business, properties and assets pertaining to its tanker and bulk

business "together with all the obligations relating to the said business, properties and assets." The Agreement, reproduced here in full, provides:

AGREEMENT OF ASSUMPTION
OF OBLIGATIONS

KNOW ALL MEN BY THESE PRESENTS:

This Agreement of Assumption of Obligations made and executed this 6th day of July 1979, in the City of Manila, by and between:

LUZON STEVEDORING CORPORATION, a corporation duly organized and existing under and by virtue of Philippine Laws, with offices at Tacoma and Second Streets, Port Area, Manila, represented by GERONIMO Z. VELASCO, in his capacity as Chairman of the Board, hereinafter referred to as ASSIGNOR,

- and -

PNOC SHIPPING AND TRANSPORT CORPORATION, a corporation duly organized and existing under and by virtue of Philippine Laws, with offices at Makati Avenue, Makati, Metro Manila, represented by MARIO V. TIAOQUI, in his capacity as Vice-President, hereinafter referred to as ASSIGNEE,

WITNESSETH : T h a t -

WHEREAS, on April 1, 1979, ASSIGNOR, for valuable consideration, executed an Agreement of Transfer with ASSIGNEE whereby **ASSIGNOR transferred, conveyed and assigned unto ASSIGNEE all of ASSIGNOR's business, properties and assets appertaining to its tanker and bulk all (sic) departments, together with all the obligations relating to said business, properties and assets;**

WHEREAS, relative to the conduct, operation and management of the business, properties and assets transferred, conveyed and assigned by ASSIGNOR to ASSIGNEE certain actions and claims particularly described in Annex "A" consisting of four (4) pages and Annex "B", consisting of one (1) page, attached hereto and made integral parts hereof, have been filed, either with ASSIGNOR or with appropriate courts and administrative tribunals.

WHEREAS, under the terms and conditions hereinafter mentioned, ASSIGNEE agree[s] to assume the obligations incident and relative to the actions and claims enumerated and described in Annexes "A" and "B" hereof.

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereto have agreed as follows:

- 1. ASSIGNEE shall assume, as it hereby assumes all the obligations of ASSIGNOR in respect to the actions and claims and described in Annexes "A" and "B";**

2. ASSIGNEE shall have complete control in the conduct of any and all litigations now pending or may be filed with respect to the actions and claims enumerated and described in Annexes "A" and "B";
3. ASSIGNOR shall deliver and convey unto ASSIGNEE all papers, documents, files and any other records appertaining to the actions and claims enumerated and described in Annexes "A" and "B";
4. SSIGNOR hereby constitutes and appoints ASSIGNEE, its successors and assigns, the true and lawful attorney of ASSIGNOR, with full power of substitution, for it and in its name, place and stead or otherwise, but on behalf and for the benefit of ASSIGNEE, its successors and assigns, to demand and receive any and all claim[s] out of countersuits or counterclaims arising from the actions and claims enumerated and described in Annexes "A" and "B".^[9]
(Emphasis supplied)

When PSTC assumed all the properties, business and assets of LUSTEVECO pertaining to LUSTEVECO's tanker and bulk business, PSTC also assumed all of LUSTEVECO's obligations pertaining to such business. The assumption of obligations was stipulated not only in the Agreement of Assumption of Obligations but also in the Agreement of Transfer. **The Agreement specifically mentions the case between LUSTEVECO and Caltex, docketed as AC-G.R. CV No. 62613, then pending before the IAC.** The Agreement provides that PSTC may demand and receive any claim out of counter-suits or counterclaims arising from the actions enumerated in the Annexes.

PSTC is bound by the Agreement. PSTC cannot accept the benefits without assuming the obligations under the same Agreement. PSTC cannot repudiate its commitment to assume the obligations after taking over the assets for that will amount to defrauding the creditors of LUSTEVECO. It will also result in failure of consideration since the assumption of obligations is part of the consideration for the transfer of the assets from LUSTEVECO to PSTC. Failure of consideration will revert the assets to LUSTEVECO for the benefit of the creditors of LUSTEVECO. Thus, PSTC cannot escape from its undertaking to assume the obligations of LUSTEVECO as stated in the Agreement.

Disposition of Assets should not Prejudice Creditors

Even without the Agreement, PSTC is still liable to Caltex.

The disposition of all or substantially all of the assets of a corporation is allowed under Section 40 of *Batas Pambansa Blg. 68*, otherwise known as The Corporation Code of the Philippines ("Corporation Code"). Section 40 provides:

SEC. 40. *Sale or other disposition of assets.* "€ Subject to the provisions of existing laws on illegal combinations and monopolies, a corporation may, by a majority vote of its board of directors, or trustees, sell, lease, exchange, mortgage, pledge or otherwise dispose of all or substantially all of its property and assets, including its goodwill, upon such terms and conditions and for such consideration, which may be money, stocks,