

THIRD DIVISION

[G.R. NO. 157480, May 06, 2005]

PRYCE CORPORATION (FORMERLY PRYCE PROPERTIES CORPORATION), PETITIONER, VS. PHILIPPINE AMUSEMENT AND GAMING CORPORATION, RESPONDENT.

DECISION

PANGANIBAN, J.:

In legal contemplation, the *termination* of a contract is not equivalent to its *rescission*. When an agreement is terminated, it is deemed valid at inception. Prior to termination, the contract binds the parties, who are thus obliged to observe its provisions. However, when it is rescinded, it is deemed inexistent, and the parties are returned to their *status quo ante*. Hence, there is mutual restitution of benefits received. The consequences of termination may be anticipated and provided for by the contract. As long as the terms of the contract are not contrary to law, morals, good customs, public order or public policy, they shall be respected by courts. The judiciary is not authorized to make or modify contracts; neither may it rescue parties from disadvantageous stipulations. Courts, however, are empowered to reduce iniquitous or unconscionable liquidated damages, indemnities and penalties agreed upon by the parties.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, assailing the May 22, 2002 Decision^[2] of the Court of Appeals (CA) in CA-GR CV No. 51629 and its March 4, 2003 Resolution^[3] denying petitioner's Motion for Reconsideration. The assailed Decision disposed thus:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows: (1) In Civil Case No. 93-68266, the appealed decision[,] is AFFIRMED with MODIFICATION[,] ordering [Respondent] Philippine Amusement and Gaming Corporation to pay [Petitioner] Pryce Properties Corporation the total amount of P687,289.50 as actual damages representing the accrued rentals for the quarter September to November 1993 with interest and penalty at the rate of two percent (2%) per month from date of filing of the complaint until the amount shall have been fully paid, and the sum of P50,000.00 as attorney's fees; (2) In Civil Case No. 93-68337, the appealed decision is REVERSED and SET ASIDE and a new judgment is rendered ordering [Petitioner] Pryce Properties Corporation to reimburse [Respondent] Philippine Amusement and Gaming Corporation the amount of P687,289.50 representing the advanced rental deposits, which amount may be compensated by [Petitioner] Pryce Properties Corporation with its award in Civil Case No. 93-68266 in the equal amount of P687,289.50."^[4]

The Facts

According to the CA, the facts are as follows:

"Sometime in the first half of 1992, representatives from Pryce Properties Corporation (PPC for brevity) made representations with the Philippine Amusement and Gaming Corporation (PAGCOR) on the possibility of setting up a casino in Pryce Plaza Hotel in Cagayan de Oro City. [A] series of negotiations followed. PAGCOR representatives went to Cagayan de Oro City to determine the pulse of the people whether the presence of a casino would be welcomed by the residents. Some local government officials showed keen interest in the casino operation and expressed the view that possible problems were surmountable. Their negotiations culminated with PPC's counter-letter proposal dated October 14, 1992.

"On November 11, 1992, the parties executed a Contract of Lease x x x involving the ballroom of the Hotel for a period of three (3) years starting December 1, 1992 and until November 30, 1995. On November 13, 1992, they executed an addendum to the contract x x x which included a lease of an additional 1000 square meters of the hotel grounds as living quarters and playground of the casino personnel. PAGCOR advertised the start of their casino operations on December 18, 1992.

"Way back in 1990, the Sangguniang Panlungsod of Cagayan de Oro City passed Resolution No. 2295 x x x dated November 19, 1990 declaring as a matter of policy to prohibit and/or not to allow the establishment of a gambling casino in Cagayan de Oro City. Resolution No. 2673 x x x dated October 19, 1992 (or a month before the contract of lease was executed) was subsequently passed reiterating with vigor and vehemence the policy of the City under Resolution No. 2295, series of 1990, banning casinos in Cagayan de Oro City. On December 7, 1992, the Sangguniang Panlungsod of Cagayan de Oro City enacted Ordinance No. 3353 x x x prohibiting the issuance of business permits and canceling existing business permits to any establishment for using, or allowing to be used, its premises or any portion thereof for the operation of a casino.

"In the afternoon of December 18, 1992 and just hours before the actual formal opening of casino operations, a public rally in front of the hotel was staged by some local officials, residents and religious leaders. Barricades were placed [which] prevented some casino personnel and hotel guests from entering and exiting from the Hotel. PAGCOR was constrained to suspend casino operations because of the rally. An agreement between PPC and PAGCOR, on one hand, and representatives of the rallyists, on the other, eventually ended the rally on the 20th of December, 1992.

"On January 4, 1993, Ordinance No. 3375-93 x x x was passed by the Sangguniang Panlungsod of Cagayan de Oro City, prohibiting the operation of casinos and providing for penalty for violation thereof. On January 7, 1993, PPC filed a Petition for Prohibition with Preliminary Injunction x x x against then public respondent Cagayan de Oro City and/or Mayor Pablo P. Magtajas x x x before the Court of Appeals,

docketed as CA G.R. SP No. 29851 praying *inter alia*, for the declaration of unconstitutionality of Ordinance No. 3353. PAGCOR intervened in said petition and further assailed Ordinance No. 4475-93 as being violative of the non-impairment of contracts and equal protection clauses. On March 31, 1993, the Court of Appeals promulgated its decision x x x, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING, Ordinance No. 3353 and Ordinance No. 3375-93 are hereby DECLARED UNCONSTITUTIONAL and VOID and the respondents and all other persons acting under their authority and in their behalf are PERMANENTLY ENJOINED from enforcing those ordinances.

"SO ORDERED."

"Aggrieved by the decision, then public respondents Cagayan de Oro City, et al. elevated the case to the Supreme Court in G.R. No. 111097, where, in an En Banc Decision dated July 20, 1994 x x x, the Supreme Court denied the petition and affirmed the decision of the Court of Appeals.

"In the meantime, PAGCOR resumed casino operations on July 15, 1993, against which, however, another public rally was held. Casino operations continued for some time, but were later on indefinitely suspended due to the incessant demonstrations. Per verbal advice x x x from the Office of the President of the Philippines, PAGCOR decided to stop its casino operations in Cagayan de Oro City. PAGCOR stopped its casino operations in the hotel prior to September, 1993. In two Statements of Account dated September 1, 1993 x x x, PPC apprised PAGCOR of its outstanding account for the quarter September 1 to November 30, 1993. PPC sent PAGCOR another Letter dated September 3, 1993 x x x as a follow-up to the parties' earlier conference. PPC sent PAGCOR another Letter dated September 15, 1993 x x x stating its Board of Directors' decision to collect the full rentals in case of pre-termination of the lease.

"PAGCOR sent PPC a letter dated September 20, 1993 x x x [stating] that it was not amenable to the payment of the full rentals citing as reasons unforeseen legal and other circumstances which prevented it from complying with its obligations. PAGCOR further stated that it had no other alternative but to pre-terminate the lease agreement due to the relentless and vehement opposition to their casino operations. In a letter dated October 12, 1993 x x x, PAGCOR asked PPC to refund the total of P1,437,582.25 representing the reimbursable rental deposits and expenses for the permanent improvement of the Hotel's parking lot. In a letter dated November 5, 1993 x x x, PAGCOR formally demanded from PPC the payment of its claim for reimbursement.

"On November 15, 1993 x x x, PPC filed a case for sum of money in the Regional Trial Court of Manila docketed as Civil Case No. 93-68266. On November 19, 1993, PAGCOR also filed a case for sum of money in the Regional Trial Court of Manila docketed as Civil Case No. 93-68337.

"In a letter dated November 25, 1993, PPC informed PAGCOR that it was terminating the contract of lease due to PAGCOR's continuing breach of the contract and further stated that it was exercising its rights under the contract of lease pursuant to Article 20 (a) and (c) thereof.

"On February 2, 1994, PPC filed a supplemental complaint x x x in Civil Case No. 93-68266, which the trial court admitted in an Order dated February 11, 1994. In an Order dated April 27, 1994, Civil Case No. 93-68377 was ordered consolidated with Civil Case No. 93-68266. These cases were jointly tried by the court a quo. On August 17, 1995, the court a quo promulgated its decision. Both parties appealed."^[5]

In its appeal, PPC faulted the trial court for the following reasons: 1) failure of the court to award actual and moral damages; 2) the 50 percent reduction of the amount PPC was claiming; and 3) the court's ruling that the 2 percent penalty was to be imposed from the date of the promulgation of the Decision, not from the date stipulated in the Contract.

On the other hand, PAGCOR criticized the trial court for the latter's failure to rule that the Contract of Lease had already been terminated as early as September 21, 1993, or at the latest, on October 14, 1993, when PPC received PAGCOR's letter dated October 12, 1993. The gaming corporation added that the trial court erred in 1) failing to consider that PPC was entitled to avail itself of the provisions of Article XX only when PPC was the party terminating the Contract; 2) not finding that there were valid, justifiable and good reasons for terminating the Contract; and 3) dismissing the Complaint of PAGCOR in Civil Case No. 93-68337 for lack of merit, and not finding PPC liable for the reimbursement of PAGCOR'S cash deposits and of the value of improvements.

Ruling of the Court of Appeals

First, on the appeal of PAGCOR, the CA ruled that the PAGCOR'S pretermination of the Contract of Lease was unjustified. The appellate court explained that public demonstrations and rallies could not be considered as fortuitous events that would exempt the gaming corporation from complying with the latter's contractual obligations. Therefore, the Contract continued to be effective until PPC elected to terminate it on November 25, 1993.

Regarding the contentions of PPC, the CA held that under Article 1659 of the Civil Code, PPC had the right to ask for (1) rescission of the Contract and indemnification for damages; *or* (2) only indemnification plus the continuation of the Contract. These two remedies were alternative, not cumulative, ruled the CA.

As PAGCOR had admitted its failure to pay the rentals for September to November 1993, PPC correctly exercised the option to terminate the lease agreement. Previously, the Contract remained effective, and PPC could collect the accrued rentals. However, from the time it terminated the Contract on November 25, 1993, PPC could no longer demand payment of the remaining rentals as part of actual damages, the CA added.

Denying the claim for moral damages, the CA pointed out the failure of PPC to show that PAGCOR had acted in gross or evident bad faith in failing to pay the rentals

from September to November 1993. Such failure was shown especially by the fact that PPC still had in hand three (3) months advance rental deposits of PAGCOR. The former could have simply applied this deposit to the unpaid rentals, as provided in the Contract. Neither did PPC adequately show that its reputation had been besmirched or the hotel's goodwill eroded by the establishment of the casino and the public protests.

Finally, as to the claimed reimbursement for parking lot improvement, the CA held that PAGCOR had not presented official receipts to prove the latter's alleged expenses. The appellate court, however, upheld the trial court's award to PPC of P50,000 attorney's fees.

Hence this Petition.^[6]

Issues

In their Memorandum, petitioner raised the following issues:

"MAIN ISSUE:

"Did the Honorable Court of Appeals commit x x x grave and reversible error by holding that Pryce was not entitled to future rentals or lease payments for the unexpired period of the Contract of Lease between Pryce and PAGCOR?

"Sub-Issues:

"1. Were the provisions of Sections 20(a) and 20(c) of the Contract of Lease relative to the right of PRYCE to terminate the Contract for cause and to moreover collect rentals from PAGCOR corresponding to the remaining term of the lease valid and binding?

"2. Did not Article 1659 of the Civil Code supersede Sections 20(a) and 20(c) of the Contract, PRYCE having "rescinded" the Contract of Lease?

"3. Do the case of *Rios, et al. vs. Jacinto Palma Enterprises, et al.* and the other cases cited by PAGCOR support its position that PRYCE was not entitled to future rentals?

"4. Would the collection by PRYCE of future rentals not give rise to unjust enrichment?

"5. Could we not have "harmonized" Article 1659 of the Civil Code and Article 20 of the Contract of Lease?

"6. Is it not a basic rule that the law, i.e. Article 1659, is deemed written in contracts, particularly in the PRYCE-PAGCOR Contract of Lease?"^[7]

The Court's Ruling

The Petition is partly meritorious.