502 Phil. 128

SECOND DIVISION

[G.R. No. 151438, July 15, 2005]

JARDINE DAVIES, INC., PETITIONER, VS. JRB REALTY, INC., RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

Before us is a petition for review of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 54201 affirming *in toto* that of the Regional Trial Court (RTC) in Civil Case No. 90-237 for specific performance; and the Resolution dated January 11, 2002 denying the motion for reconsideration thereof.

The facts are as follows:

In 1979-1980, respondent JRB Realty, Inc. built a nine-storey building, named Blanco Center, on its parcel of land located at 119 Alfaro St., Salcedo Village, Makati City. An air conditioning system was needed for the Blanco Law Firm housed at the second floor of the building. On March 13, 1980, the respondent's Executive Vice-President, Jose R. Blanco, accepted the contract quotation of Mr. A.G. Morrison, President of Aircon and Refrigeration Industries, Inc. (Aircon), for two (2) sets of Fedders Adaptomatic 30,000 kcal (Code: 10-TR) air conditioning equipment with a net total selling price of P99,586.00.[2] Thereafter, two (2) brand new packaged air conditioners of 10 tons capacity each to deliver 30,000 kcal or 120,000 BTUH[3] were installed by Aircon. When the units with rotary compressors were installed, they could not deliver the desired cooling temperature. Despite several adjustments and corrective measures, the respondent conceded that Fedders Air Conditioning USA's technology for rotary compressors for big capacity conditioners like those installed at the Blanco Center had not yet been perfected. The parties thereby agreed to replace the units with reciprocating/semi-hermetic compressors instead. In a Letter dated March 26, 1981,[4] Aircon stated that it would be replacing the units currently installed with new ones using rotary compressors, at the earliest possible time. Regrettably, however, it could not specify a date when delivery could be effected.

TempControl Systems, Inc. (a subsidiary of Aircon until 1987) undertook the maintenance of the units, inclusive of parts and services. In October 1987, the respondent learned, through newspaper ads,[5] that Maxim Industrial and Merchandising Corporation (Maxim, for short) was the new and exclusive licensee of Fedders Air Conditioning USA in the Philippines for the manufacture, distribution, sale, installation and maintenance of Fedders air conditioners. The respondent requested that Maxim honor the obligation of Aircon, but the latter refused. Considering that the ten-year period of prescription was fast approaching, to expire on March 13, 1990, the respondent then instituted, on January 29, 1990, an action

for specific performance with damages against Aircon & Refrigeration Industries, Inc., Fedders Air Conditioning USA, Inc., Maxim Industrial & Merchandising Corporation and petitioner Jardine Davies, Inc.[6] The latter was impleaded as defendant, considering that Aircon was a subsidiary of the petitioner. The respondent prayed that judgment be rendered, as follows:

1. Ordering the defendants to jointly and severally at their account and expense deliver, install and place in operation two brand new units of each 10-tons capacity Fedders unitary packaged air conditioners with Fedders USA's technology perfected rotary compressors to always deliver 30,000 kcal or 120,000 BTUH to the second floor of the Blanco Center building at 119 Alfaro St., Salcedo Village, Makati, Metro Manila;

2. Ordering defendants to jointly and severally reimburse plaintiff not only the sums of P415,118.95 for unsaved electricity from 21st October 1981 to 7th January 1990 and P99,287.77 for repair costs of the two service units from 7th March 1987 to 11th January 1990, with legal interest thereon from the filing of this Complaint until fully reimbursed, but also like unsaved electricity costs and like repair costs therefrom until Prayer No. 1 above shall have been complied with;

3. Ordering defendants to jointly and severally pay plaintiff's P150,000.00 attorney's fees and other costs of litigation, as well as exemplary damages in an amount not less than or equal to Prayer 2 above; and

4. Granting plaintiff such other and further relief as shall be just and equitable in the premises.[7]

Of the four defendants, only the petitioner filed its Answer. The court did not acquire jurisdiction over Aircon because the latter ceased operations, as its corporate life ended on December 31, 1986.[8] Upon motion, defendants Fedders Air Conditioning USA and Maxim were declared in default.[9]

On May 17, 1996, the RTC rendered its Decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered ordering defendants Jardine Davies, Inc., Fedders Air Conditioning USA, Inc. and Maxim Industrial and Merchandising Corporation, jointly and severally:
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> 1. To deliver, install and place into operation the two (2) brand new units of Fedders unitary packaged airconditioning units each of 10 tons capacity with rotary compressors to deliver 30,000 kcal or 120,000 BTUH to the second floor of the Blanco Center building, or to pay plaintiff the current price for two such units;
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> 2. To reimburse plaintiff the amount of P556,551.55 as and for the unsaved electricity bills from October 21, 1981 up to April 30,

1995; and another amount of P185,951.67 as and for repair costs;

3. To pay plaintiff P50,000.00 as and for attorney's fees; and

4. Cost of suit.[10]

The petitioner filed its notice of appeal with the CA, alleging that the trial court erred in holding it liable because it was not a party to the contract between JRB Realty, Inc. and Aircon, and that it had a personality separate and distinct from that of Aircon.

On March 23, 2000, the CA affirmed the trial court's ruling *in toto*; hence, this petition.

The petitioner raises the following assignment of errors:

I.

THE COURT OF APPEALS ERRED IN HOLDING JARDINE LIABLE FOR THE ALLEGED CONTRACTUAL BREACH OF AIRCON SOLELY BECAUSE THE LATTER WAS FORMERLY JARDINE'S SUBSIDIARY.

II.

ASSUMING *ARGUENDO* THAT AIRCON MAY BE CONSIDERED AS JARDINE'S MERE ALTER EGO, THE COURT OF APPEALS ERRED IN NOT DECLARING AIRCON'S OBLIGATION TO DELIVER THE TWO (2) AIRCONDITIONING UNITS TO JRB AS HAVING BEEN SUBSTANTIALLY COMPLIED WITH IN GOOD FAITH.

III.

ASSUMING *ARGUENDO* THAT AIRCON MAY BE CONSIDERED AS JARDINE'S MERE ALTER EGO, THE COURT OF APPEALS ERRED IN NOT DECLARING JRB'S CAUSES OF ACTION AS HAVING BEEN BARRED BY LACHES.

IV.

ASSUMING *ARGUENDO* THAT AIRCON MAY BE CONSIDERED AS JARDINE'S MERE ALTER EGO, THE COURT OF APPEALS ERRED IN FINDING JRB ENTITLED TO RECOVER ALLEGED UNSAVED ELECTRICITY EXPENSES.

V.

THE COURT OF APPEALS ERRED IN HOLDING JARDINE LIABLE TO PAY ATTORNEY'S FEES.

VI.

THE COURT OF APPEALS ERRED IN NOT HOLDING JRB LIABLE TO

JARDINE FOR DAMAGES.[11]

It is the well-settled rule that factual findings of the trial court, as affirmed by the CA, are accorded high respect, even finality at times. However, considering that the factual findings of the CA and the RTC were based on speculation and conjectures, unsupported by substantial evidence, the Court finds that the instant case falls under one of the excepted instances. There is, thus, a need to correct the error.

The trial court ruled that Aircon was a subsidiary of the petitioner, and concluded, thus:

> Plaintiff's documentary evidence shows that at the time it contracted with Aircon on March 13, 1980 (Exhibit "D") and on the date the revised agreement was reached on March 26, 1981, Aircon was a subsidiary of Jardine. The phrase "A subsidiary of Jardine Davies, Inc." was printed on Aircon's letterhead of its March 13, 1980 contract with plaintiff (Exhibit "D-1"), as well as the Aircon's letterhead of Jardine's Director and Senior Vice-President A.G. Morrison and Aircon's President in his March 26, 1981 letter to plaintiff (Exhibit "J-2") confirming the revised agreement. Aircon's newspaper ads of April 12 and 26, 1981 and a press release on August 30, 1982 (Exhibits "E," "F" and "L") also show that defendant Jardine publicly represented Aircon to be its subsidiary.
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> Records from the Securities and Exchange Commission (SEC) also reveal that as per Jardine's December 31, 1986 and 1985 Financial Statements that "The company acts as general manager of its subsidiaries" (Exhibit "P"). Jardine's Consolidated Balance Sheet as of December 31, 1979 filed with the SEC listed Aircon as its subsidiary by owning 94.35% of Aircon (Exhibit "P-1"). Also, Aircon's reportorial General Information Sheet as of April 1980 and April 1981 filed with the SEC show that Jardine was 94.34% owner of Aircon (Exhibits "Q" and "R") and that out of seven members of the Board of Directors of Aircon, four (4) are also of Jardine.
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> Defendant Jardine's witness, Atty. Fe delos Santos-Quiaoit admitted that defendant Aircon, renamed Aircon & Refrigeration Industries, Inc. "is one of the subsidiaries of Jardine Davies" (TSN, September 22, 1995, p. 12). She also testified that Jardine nominated, elected, and appointed the controlling majority of the Board of Directors and the highest officers of Aircon (Ibid, pp. 10,13-14).
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> The foregoing circumstances provide justifiable basis for this Court to disregard the fiction of corporate entity and treat defendant Aircon as part of the instrumentality of co-defendant Jardine.[12]

The respondent court arrived at the same conclusion basing its ruling on the following documents, to wit:

> (a) Contract/Quotation #78-No. 80-1639 dated March 03, 1980 (Exh. D-1);
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> (b) Newspaper Advertisements (Exhs. E-1 and F-1);
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> (c) Letter dated March 26, 1981 of A.G. Morrison, President of Aircon, to