512 Phil. 744

THIRD DIVISION

[G.R. No. 142729, November 29, 2005]

MAMSAR ENTERPRISES AGRO-INDUSTRIAL CORPORATION, PETITIONER, VS. VARLEY TRADING, INC., RESPONDENT.

D E C I S I O N

CORONA, J.:

The petition before us, one for review on certiorari under Rule 45 from a decision of the Court of Appeals,[1] hinges exclusively on questions of fact. Petitioner Mamsar Enterprises contends that the Court of Appeals, in affirming the trial court, failed to properly appreciate crucial evidence it presented.

In brief, the facts are as follows.[2]

In September 1988, the respondent's chief operating officer, Paul Nesbitt, purchased heavy equipment to be used for petitioner's logging operations in the Sta. Clara logging area located in the mountains of Buayan, Ginuman and Bayug in the general area of Zamboanga del Sur. Nesbitt sent a D6 direct drive bulldozer and a team headed by Francisco Falcasantos, his chief mechanic. Realizing that the job in Bayug could not be handled by one bulldozer, Falcasantos requested Nesbitt to send another one. In December 1988, Nesbitt shipped a DC6 Powershift bulldozer to Vicente Tadle in Sindangan where it was loaded onto a trailer and sent to Bayug.

In February 1989, Nesbitt died and was succeeded by Teotimo Santos. On February 19, 1990, Tadle, acting on orders of Santos, went to Alicia, Zamboanga del Sur to recover the second bulldozer from Falcasantos and Benjamin Perno. Tadle and company obtained what they believed was the second bulldozer from Falcasantos. They were in transit when intercepted at Imelda, Zamboanga del Sur by the Chief of Police, P/Lt. Catalino Milla who took custody of the bulldozer on representation of Perno.

On February 26, 1990, respondent filed a complaint for damages with prayer for a writ of replevin with the Regional Trial Court of Iligan City impleading petitioner, Falcasantos, Perno and Manuel Dasmariñas, all of whom were agents of petitioner. The case was raffled to Branch 6 and docketed as Civil Case No 1595.

Respondent claimed that while in possession of the DC6 Powershift bulldozer, Falcasantos, Perno and Dasmariñas, transferred it from respondent's Bayug site to their own project in Alicia, Zamboanga del Sur. The three of them then unlawfully used it for their own benefit. Respondent also alleged that it recovered the bulldozer from petitioner and its co-defendants, only to have it seized in Imelda by P/Lt. Milla without any court order, thereby depriving respondent of the use of its equipment. Finally, respondent alleged that on February 22, 1990, it sent its representative to Imelda to recover the bulldozer from the Station Commander but

Perno prevented him from doing so and insisted that it be returned instead to their project site in Alicia.

On February 27, 1990, the trial court issued the writ of replevin prayed for by respondent. Petitioner filed its answer on March 7, 1990 denying the allegations of the complaint and claiming that respondent did not have a cause of action because the bulldozer described in the complaint was different from that actually taken by virtue of replevin. According to petitioner and its agents/co-defendants, it owned the seized bulldozer, not the respondent. Petitioner presented a deed of absolute sale indicating respondent had sold it three units of heavy equipment, including the contested bulldozer.

The trial court ruled in respondent's favor although petitioner's co-defendants were absolved of liability, being mere agents of petitioner.[3] On appeal, the Court of Appeals affirmed.

There are two issues before us:

(1) The first is whether the trial court was correct in finding that the bulldozer in question belonged to respondent and not to petitioner. More specifically, petitioner assailed the trial court's finding that it had tampered with the serial number of the bulldozer to make it appear that this was one of the bulldozers petitioner had purchased from respondent.

(2) the second is whether, assuming the bulldozer belonged to the respondent, the trial court correctly computed the rental income due from its use.

On the first issue, petitioner contended that the trial court incorrectly appreciated the evidence presented in finding that the serial number on the bulldozer's chassis had been altered.[4] The evidence considered by the trial court included testimony from respondent's witness,[5] photographs taken by respondent's personnel,[6] and stencils[7] presented by both respondent and petitioner. Based upon this evidence, the trial court found that the so-called serial numbers on the chassis were "crude irregular, misshapen and misaligned" and bore clear signs of tampering.

On the second issue, petitioner contests the award of P72,000 a month, claiming that the bulldozer in question was in such poor condition it was practically unserviceable.[8] This computation however, was based on an hourly rate of P450/hour attested to not only by respondent's witness[9] but the petitioner's witness as well.[10]

Because both issues are clearly and purely factual, we may decide them jointly.

The Supreme Court is not a trier of facts.[11] While this is perhaps one of our more emphatic doctrines, it admits of certain exceptions:[12] (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjecture; (2) when the inference made is manifestly mistaken; (3) where there is a grave abuse of discretion; (4) when judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when the Court of Appeals, in making its