

## SECOND DIVISION

[ G.R. NO. 158585, December 13, 2005 ]

**AMON TRADING CORPORATION AND JULIANA MARKETING,  
PETITIONERS, VS. HON. COURT OF APPEALS AND TRI-REALTY  
DEVELOPMENT AND CONSTRUCTION CORPORATION,  
RESPONDENTS,**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

This is an appeal by *certiorari* from the Decision<sup>[1]</sup> dated 28 November 2002 of the Court of Appeals in CA-G.R. CV No. 60031, reversing the Decision of the Regional Trial Court of Quezon City, Branch 104, and holding petitioners Amon Trading Corporation and Juliana Marketing to be solidarily liable with Lines & Spaces Interiors Center (Lines & Spaces) in refunding private respondent Tri-Realty Development and Construction Corporation (Tri-Realty) the amount corresponding to the value of undelivered bags of cement.

The undisputed facts:

Private respondent Tri-Realty is a developer and contractor with projects in Bulacan and Quezon City. Sometime in February 1992, private respondent had difficulty in purchasing cement needed for its projects. Lines & Spaces, represented by Eleanor Bahia Sanchez, informed private respondent that it could obtain cement to its satisfaction from petitioners, Amon Trading Corporation and its sister company, Juliana Marketing. On the strength of such representation, private respondent proceeded to order from Sanchez Six Thousand Fifty (6,050) bags of cement from petitioner Amon Trading Corporation, and from Juliana Marketing, Six Thousand (6,000) bags at P98.00/bag.

Private respondent, through Mrs. Sanchez of Lines & Spaces, paid *in advance* the amount of P592,900.00 through Solidbank Manager's Check No. 0011565 payable to Amon Trading Corporation, and the amount of P588,000.00 payable to Juliana Marketing, through Solidbank Manager's Check No. 0011566. A certain "Weng Chua" signed the check vouchers for Lines & Spaces while Mrs. Sanchez issued receipts for the two manager's checks. Private respondent likewise paid to Lines & Spaces an advance fee for the 12,050 cement bags at the rate of P7.00/bag, or a total of P84,350.00, in consideration of the facilitation of the orders and certainty of delivery of the same to the private respondent. Solidbank Manager's Check Nos. 0011565 and 0011566 were paid by Sanchez to petitioners.

There were deliveries to private respondent from Amon Trading Corporation and Juliana Marketing of 3,850 bags and 3,000 bags, respectively, during the period from April to June 1992. However, the balance of 2,200 bags from Amon Trading Corporation and 3,000 bags from Juliana Marketing, or a total of 5,200 bags, was

not delivered. Private respondent, thus, sent petitioners written demands but in reply, petitioners stated that they have already refunded the amount of undelivered bags of cement to Lines and Spaces per written instructions of Eleanor Sanchez.

Left high and dry, with news reaching it that Eleanor Sanchez had already fled abroad, private respondent filed this case for sum of money against petitioners and Lines & Spaces.

Petitioners plead in defense lack of right or cause of action, alleging that private respondent had no privity of contract with them as it was Lines & Spaces/Tri-Realty, through Mrs. Sanchez, that ordered or purchased several bags of cement and paid the price thereof without informing them of any special arrangement nor disclosing to them that Lines & Spaces and respondent corporation are distinct and separate entities. They added that there were purchases or orders made by Lines & Spaces/Tri-Realty which they were about to deliver, but were cancelled by Mrs. Sanchez and the consideration of the cancelled purchases or orders was later reimbursed to Lines & Spaces. The refund was in the form of a check payable to Lines & Spaces.

Lines & Spaces denied in its Answer that it is represented by Eleanor B. Sanchez and pleads in defense lack of cause of action and in the alternative, it raised the defense that it was only an intermediary between the private respondent and petitioners.<sup>[2]</sup> Soon after, though, counsel for Lines & Spaces moved to withdraw from the case for the reason that its client was beyond contact.

On 29 January 1998, the Regional Trial Court of Quezon City, Branch 104, found Lines & Spaces solely liable to private respondent and absolved petitioners of any liability. The dispositive portion of the trial court's Decision reads:

Wherefore, judgment is hereby rendered ordering defendant Lines and Spaces Interiors Center as follows: to pay plaintiff on the complaint the amount of P47,950.00 as refund of the fee for the undelivered 5,200 bags of cement at the rate of P7.00 per bag; the amount of P509,600.00 for the refund of the price of the 5,200 undelivered bags of cement at P98.00 per bag; the amount of P2,000,000.00 for compensatory damages; as well as the amount of P639,387.50 as attorney's fees; and to pay Amon Trading and Juliana Marketing, Inc. on the crossclaim the sum of P200,000.00 as attorney's fees.<sup>[3]</sup>

Private Respondent Tri-Realty partially appealed from the trial court's decision absolving Amon Trading Corporation and Juliana Marketing of any liability to Tri-Realty. In the presently assailed Decision, the Court of Appeals reversed the decision of the trial court and held petitioners Amon Trading Corporation and Juliana Marketing to be jointly and severally liable with Lines & Spaces for the undelivered bags of cement. The Court of Appeals disposed-

WHEREFORE, premises considered, the decision of the court *a quo* is hereby REVERSED AND SET ASIDE, and another one is entered ordering the following:

Defendant-appellee Amon Trading Corporation is held liable jointly and severally with defendant-appellee Lines and Spaces Interiors Center in

the amount of P215,600.00 for the refund of the price of 2,200 undelivered bags of cement.

Defendant-appellee Juliana Marketing is held liable jointly and severally with defendant-appellee Lines and Spaces Interiors Center in the amount of P294,000.00 for the refund of the price of 3,000 undelivered bags of cement.

The defendant-appellee Lines and Spaces Interiors Center is held solely in the amount of P47,950.00 as refund of the fee for the 5,200 undelivered bags of cement to the plaintiff-appellant Tri-Realty Development and Construction Corporation.

The awards of compensatory damages and attorney's fees are DELETED.

The cross claim of defendants-appellees Amon Trading Corporation and Juliana Marketing is DISMISSED for lack of merit.

No pronouncement as to costs.<sup>[4]</sup>

Pained by the ruling, petitioners elevated the case to this Court *via* the present petition for review to challenge the Decision and Resolution of the Court of Appeals on the following issues:

I. WHETHER OR NOT THERE WAS A CONTRACT OF AGENCY BETWEEN LINES AND SPACES INTERIOR CENTER AND RESPONDENT;

II. WHETHER OR NOT PETITIONERS AND RESPONDENT HAS PRIVACY OF CONTRACT.<sup>[5]</sup>

At the focus of scrutiny is the issue of whether or not the Court of Appeals committed reversible error in ruling that petitioners are solidarily liable with Lines & Spaces. The key to unlocking this issue is to determine whether or not Lines & Spaces is the private respondent's agent and whether or not there is privity of contract between petitioners and private respondent.

We shall consider these issues concurrently as they are interrelated.

Petitioners, in their brief, zealously make a case that there was no contract of agency between Lines & Spaces and private respondent.<sup>[6]</sup> Petitioners strongly assert that they did not have a hint that Lines & Spaces and Tri-Realty are two different and distinct entities inasmuch as Eleanor Sanchez whom they have dealt with just represented herself to be from Lines & Spaces/Tri-Realty when she placed her order for the delivery of the bags of cement. Hence, no privity of contract can be said to exist between petitioners and private respondent.<sup>[7]</sup>

Private respondent, on the other hand, goes over the top in arguing that contrary to their claim of innocence, petitioners had knowledge that Lines & Spaces, as represented by Eleanor Sanchez, was a separate and distinct entity from tri-realty.<sup>[8]</sup> Then, too, private respondent stirs up support for its contention that contrary to petitioners' claim, there was privity of contract between private respondent and

petitioners.<sup>[9]</sup>

Primarily, there was no written contract entered into between petitioners and private respondent for the delivery of the bags of cement. As gleaned from the records, and as private respondent itself admitted in its Complaint, private respondent agreed with Eleanor Sanchez of Lines & Spaces for the latter to source the cement needs of the former in consideration of P7.00 per bag of cement. It is worthy to note that the payment in manager's checks was made to Eleanor Sanchez of Lines & Spaces and was not directly paid to petitioners. While the manager's check issued by respondent company was eventually paid to petitioners for the delivery of the bags of cement, there is obviously nothing from the face of said manager's check to hint that private respondent was the one making the payments. There was likewise no intimation from Sanchez that the purchase order placed by her was for private respondent's benefit. The meeting of minds, therefore, was between private respondent and Eleanor Sanchez of Lines & Spaces. This contract is distinct and separate from the contract of sale between petitioners and Eleanor Sanchez who represented herself to be from Lines & Spaces/Tri-Realty, which, per her representation, was a single account or entity.

The records bear out, too, Annex "A" showing a check voucher payable to Amon Trading Corporation for the 6,050 bags of cement *received by a certain "Weng Chua"* for Mrs. Eleanor Sanchez of Lines & Spaces, and Annex "B" which is a check voucher bearing the name of Juliana Marketing as payee, *but was received again by said "Weng Chua."* Nowhere from the face of the check vouchers is it shown that petitioners or any of their authorized representatives received the payments from respondent company.

Also on record are the receipts issued by Lines & Spaces, signed by Eleanor Bahia Sanchez, covering the said manager's checks. As Engr. Guido Ganhinhin of respondent Tri-Realty testified, it was Lines & Spaces, not petitioners, which issued to them a receipt for the two (2) manager's checks. Thus-

Q: And what is your proof that Amon and Juliana were paid of the purchases through manager's checks?

A: Lines & Spaces who represented Amon Trading and Juliana Marketing issued us receipts for the two (2) manager's checks we paid to Amon Trading and Juliana Marketing Corporation.

...

Q: I am showing to you check no. 074 issued by Lines & Spaces Interiors Center, what relation has this check to that check you mentioned earlier?

A: Official Receipt No. 074 issued by Lines & Spaces Interiors Center was for the P592,900.00 we paid to Amon Trading Corporation for 6,050 bags of cement.

Q: *Now there appears a signature in that receipt above the printed words authorized signature, whose signature is that?*

A: *The signature of Mrs. Eleanor Bahia Sanchez, the representative of*