

SECOND DIVISION

[G.R. No. 152569, May 31, 2004]

**MILWAUKEE INDUSTRIES CORPORATION, PETITIONER, VS.
PAMPANGA III ELECTRIC COOPERATIVE, INC., RESPONDENT.**

D E C I S I O N

TINGA, J,:

The case at bar is simple in the sense that its adjudication calls for nothing but the enforcement of the plain terms of the contract involved. The simplicity of the decisive issue notwithstanding, the case pays off a dividend. It puts in focus the structure of the electric power industry which underlies the prestation established in the contract.

Before the Court is a *Petition for Review on Certiorari* assailing the *Decision*^[1] of the Court of Appeals dated September 7, 2001 in CA-G.R. No. 62131^[2] and its Resolution dated March 6, 2002, denying the *Motion for Reconsideration* filed by petitioner Milwaukee Industries Corporation.

Respondent Pampanga III Electric Cooperative, Inc. is the grantee of a franchise to provide electric light and power supply in the municipalities of Apalit, Macabebe, Masantol, Minalin, San Simon and Sto. Tomas, Pampanga.

Petitioner, a private corporation operating a steel plant in Apalit, Pampanga, wanted to purchase electricity for its operations directly from the National Power Corporation (NAPOCOR). To be able to purchase directly from NAPOCOR, petitioner needed to secure a waiver from respondent, as the municipality of Apalit was within its franchise area.

On February 17, 1995, petitioner and respondent executed a Waiver Agreement for Sale of Electricity (Waiver Agreement). Under the contract, petitioner promised to pay respondent a waiver or royalty fee equivalent to two and a half percent (2.5%) of its monthly power bill from NAPOCOR not later than the 15th day of each month, plus a surcharge of 2% per month in case of delay.^[3]

On March 24, 1998, respondent filed a *Complaint* for collection of sum of money in the Regional Trial Court of Macabebe, Pampanga. Respondent alleged that pursuant to the Waiver Agreement, it billed petitioner for unpaid royalties and surcharges in the amount of P3,145,291.10 and P263,042.59, respectively, for the period April 1997 to January 1998. Despite repeated demands for payment, petitioner refused to pay respondent.

In its Answer, petitioner denied that it was liable to pay respondent royalty fees and surcharges. Petitioner claimed that respondent induced it to execute the Waiver Agreement through fraud and misrepresentation. Respondent allegedly

misrepresented that it had an existing agreement with another corporation, and its agreement therewith contained the same terms and conditions as the Waiver Agreement between petitioner and respondent. However, petitioner discovered that the other corporation only paid a one-time fee for a similar waiver/royalty, while petitioner was required to pay royalties every month.^[4]

At the pre-trial of the case, both parties agreed to limit the issue to the validity of the Waiver Agreement. Corollary thereto, the parties prayed that the trial court determine whether under the terms of the Waiver Agreement, petitioner's obligation to pay 2.5% of its monthly bill from NAPOCOR arises only when its monthly consumption exceeds 32 megawatts.^[5]

The parties agreed that the bone of contention was the interpretation of Item 1 of the Waiver Agreement, which states that petitioner shall pay respondent a waiver/royalty fee of 2.5% of its monthly power bill not later than the 15th day of the month, and that any delay in the payment shall be levied a surcharge 2% per month, computed from the date when payment is due.^[6]

At the trial, respondent's Board President, Cesar Sigua (Sigua), testified that petitioner failed to pay respondent royalties, in violation of the Waiver Agreement. In support of his testimony, respondent offered the following documentary evidence:

(1) Demand letter dated March 15, 1997, from respondent to petitioner, requesting that the latter comply with Item 1 of the Waiver Agreement;^[7]

(2) Letter dated September 11, 1997, from petitioner's Plant Manager, Philip Go, to respondent, requesting that petitioner be allowed to make payments pursuant to Item 1 of the Waiver Agreement beginning April 1997 and appealing that it be allowed to pay its arrears in installments;^[8]

(3) Resolution of respondent's Board of Directors approving petitioner's request that their royalty payments be computed beginning April 1997;^[9] and

(4) Statement of account as of July 31, 1998, indicating that from April 1997 to July 1998 petitioner's obligation already amounted to Five Million Nine Hundred Fifty Three Thousand Three Hundred Five Pesos and 67/100 (P5,953,305.67).^[10]

For its part, petitioner presented as witness Edwin Dizon (Dizon), the Industrial Relations Manager of SKK Steel Corporation (SKK), a company operating within respondent's franchise area. SKK also purchased electricity directly from NAPOCOR. Dizon averred that unlike petitioner, SKK does not pay royalties to respondent.^[11]

Philip Go, petitioner's Plant manager, testified that what petitioner and respondent actually agreed upon was that petitioner would be liable to pay royalty fees only if its monthly electric power consumption exceeds 32 megawatts.^[12]

In support of its contention that it is only liable to pay royalties if it consumes more than 32 megawatts of electricity in a month, petitioner offered in evidence a Letter dated November 28, 1995,^[13] sent by respondent to the Director of the EIAB of the Department of Energy, stating that respondent was no longer objecting to the

renewal of the contract between SKK and NAPOCOR, provided that if SKK's monthly electric power consumption exceeds 30 megawatts, it shall enter into a waiver agreement with respondent, which agreement would have the same terms and conditions as the Waiver Agreement between petitioner and respondent.

On November 24, 1998, the RTC rendered its Decision in favor of petitioner. The trial court ruled that petitioner was not liable to pay royalty fees to respondent. It held that although the wording of the contract makes it appear that petitioner is obligated to pay royalty fees to respondent every month, there is proof that such was not the real intention of the parties. According to the RTC, the November 28, 1995 letter sent by respondent to the EIAB, Department of Energy, shows that petitioner had to pay royalties only when its electric power consumption in a month exceeds 32 megawatts. The trial court also cited Sigua's testimony that like SKK, petitioner would only be obligated to pay royalties when its electric power consumption in a month exceeds 32 megawatts.^[14]

Respondent appealed the *Decision* of the RTC to the Court of Appeals.

In its *Decision* dated September 7, 2001, the Court of Appeals reversed the trial court and held that petitioner is liable for payment of royalty fees to respondent under the terms of the Waiver Agreement. The appellate court characterized as unnecessary the trial court's resort to extrinsic aids to ascertain the intention of the parties because the terms of the Waiver Agreement are clear and leave no room for interpretation.^[15]

Petitioner filed a *Motion for Reconsideration* of the appellate court's *Decision*, but the *Motion* was denied by the Court of Appeals in a *Resolution* dated March 6, 2002.

On May 20, 2002, petitioner filed the present Petition, assailing the ruling of the Court of Appeals.

After respondent filed its *Comment*^[16] on October 2, 2002, and petitioner filed its *Reply*^[17] thereto on March 14, 2003, the Court, in a *Resolution* dated July 28, 2003 gave due course to the petition and required the parties to submit their respective memoranda.^[18]

Petitioner claims that the Court of Appeals erred in holding that it is liable to pay royalty fees to the respondent under the terms of the Waiver Agreement. It argues that the appellate court should not have disregarded the admission by Sigua in his testimony that respondent would only be entitled to royalty fees if petitioner consumes more than 32 megawatts of electric power in a month. Petitioner contends that Sigua's admission is relevant for the purpose of determining the real intent of the parties because it was he who signed the Waiver Agreement for and in behalf of the respondent.^[19]

Petitioner further claims that the appellate court's pronouncement that petitioner cannot invoke the terms of the contract between respondent and SKK in its favor because Article 1311 of the Civil Code provides that contracts take effect only between the parties thereto and their assigns and heirs, is misplaced. It avers that contrary to the findings of the Court of Appeals, no contract exists between respondent and SKK. In fact, SKK does not pay royalties to respondent even though

like petitioner, SKK purchases electricity directly from NAPOCOR.^[20]

Respondent, on the other hand, insists that the Court of Appeals was correct in relying only upon the terms of the Waiver Agreement in determining whether petitioner is liable to pay royalty fees. It asseverates that Sigua's statement in open court—that royalty fees would only be due to respondent if petitioner consumes more than 32 megawatts per month—cannot change the terms of the Waiver Agreement, especially considering that Sigua's statement was a mere supposition, having been preceded by the words, "I think...".^[21]

The Court is now tasked to resolve the issue of whether petitioner is liable to pay royalty fees to respondent.

There is no merit in the *Petition*.

Item 1 of the Waiver expressly provides:

1. A waiver/royalty fee of two and a half percent (2.5%) based on the monthly power bill of the CONSUMER [petitioner] shall be paid to the cooperative [respondent] not later than the 15th day of every month. Any delay in the payment shall be levied a surcharge of two percent (2%) per month computed from the date the payment is due.^[22]

In resolving an issue based upon contract, the Court must first examine the contract itself, especially the provisions thereof which are relevant to the controversy. The general rule is that when the terms of an agreement are clear and leave no doubt as to the intention of the contracting parties, the literal meaning of its stipulations shall prevail.^[23] It is further required that the stipulations of a contract be interpreted as a whole, attributing to the questionable stipulations the sense which may result from all of them taken jointly.^[24]

Bearing in mind the aforementioned guidelines, and after a thorough study of the contract in question, the Court finds that the Court of Appeals committed no reversible error in ruling that petitioner is indeed liable to pay respondent royalty fees and surcharges pursuant to Item 1 of the Waiver Agreement.

Petitioner's obligation under Item 1 and the extent of such obligation are not difficult to divine. The said provision in no uncertain terms obligates petitioner to pay royalty fees in the amount of 2.5% of its electric power consumption appearing in its bill from NAPOCOR not later than the 15th of every month. Its failure to pay the royalty fee on the 15th shall result in its payment of a 2% surcharge.

Item 1, as worded, provides no qualification to petitioner's obligation. However, petitioner claims that royalty fees would only be due to respondent if petitioner's electric power consumption for the month exceeds 32 megawatts. Petitioner anchors its claim on the second Whereas clause of the Waiver Agreement which states:

WHEREAS, the CONSUMER has a steel plant located along McArthur Highway, Paligui, Apalit, Pampanga with a projected load of Thirty-Two (32) megawatts;^[25]

According to petitioner, this clause qualifies its obligation under Item 1. Thus, its obligation to pay royalty fees is not absolute, but arises only when it consumes more than 32 megawatts of electricity in a month.

The Court is not persuaded. There is nothing in aforementioned clause which supports petitioner's claim that the clause limits its obligation under Item 1. Evidently, the clause is merely descriptive of petitioner's electric power supply requirements. This interpretation is also supported by a reading of the contract in its entirety.^[26]

There being no ambiguity in the wording of Item 1 of the Waiver Agreement, its literal meaning is controlling. To give effect to Item 1 as worded is likewise consistent with the rule that when the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon by the parties and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.^[27]

Even assuming *arguendo* that the Waiver Agreement failed to express the real intent of the parties, and renders necessary a resort to evidence other than the Waiver Agreement, an examination of the parties' contemporaneous acts fails to support petitioner's contention that it is liable to pay royalty fees only when its electric power consumption in a month exceeds 32 megawatts.

The testimony of Mr. Sigua, respondent's President, does not confirm petitioner's claim that its obligation to pay royalties arises only when its monthly consumption exceeds 32 megawatts. It bears noting that when he testified before the trial court on September 2, 1998, he could not vividly remember the terms of respondent's agreement with SKK:

ATTY. SOTTO
Questioning

Mr. Witness, upon perusal of the letter, under this letter, which reads among others: "However, conformably with the offer of SKK Steel Corporation that in the event its electrical power demand contract with the National Power Corporation exceeds Thirty Megawatts (30), SKK Steel Corporation shall enter into a new agreement similar to that of Milwaukee Industrial Corporation and Pampanga Electric Corporation III. What do you mean by that similar agreement as that of Milwaukee and Pelco?

WITNESS (Mr. Sigua)

. . . .

ATTY. DAVID

We will object, Your Honor, the similarity does not bind the plaintiff....

ATTY. SOTTO

I am just asking what he meant by that....?