

SECOND DIVISION

[G.R. No. 145469, May 28, 2004]

**COTABATO TIMBERLAND CO., INC., PETITIONER, VS. C.
ALCANTARA AND SONS, INC. AND SEVEN BROTHERS SHIPPING
CORPORATION, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

In this petition for review, petitioner Cotabato Timberland Co., Inc. assails the decision^[1] dated August 3, 2000 in CA-G.R. SP No. 57208 of the Court of Appeals, affirming the order^[2] dated October 29, 1999 of the Regional Trial Court of Makati City, Branch 146, in Civil Case No. 97-2908 which denied petitioner's motion for summary judgment.

On June 15, 1994, petitioner Cotabato Timberland Co., Inc., and respondent C. Alcantara and Sons, Inc. (CASI) entered into a contract of sale for the delivery of 5,500 metric tons of Lauan round logs. Of the said amount, CASI has paid twenty-one million pesos (P21,000,000) with the balance payable upon completion of loading.^[3]

Petitioner made log shipments to CASI in two lots. The first was on October 12, 1994. The second shipment was on December 11, 1994, consisting of 643 pieces of logs covering 2,717.79 cubic meters loaded on M/V Seven Logmaster that was owned and operated by respondent Seven Brothers Shipping, Corp. (SBSC).^[4]

In the second shipment, 273 pieces of logs were loaded at Polloc, Maguindanao and the other 370 logs were loaded at Sta. Maria, Zamboanga del Norte. The 273 logs shipped at Polloc, Maguindanao were covered by a Log Sale/Purchase Agreement between petitioner and CASI dated December 9, 1994, while shipment of 370 logs at Sta. Maria, Zamboanga del Norte, was covered by Log Sale/Purchase Agreement dated November 10, 1994.^[5]

Of the total logs shipped on *M/V Seven Logmaster*, 156 logs fell overboard on its way to Davao City. SBSC wrote CASI to withhold payment of 110 logs out of the total 156 logs washed overboard upon its claim that it was due to petitioner's insistence to load 2 additional round logs after the vessel had been lashed and trimmed that caused the vessel to list and the logs to fall to the sea.^[6]

On March 3, 1995, CASI offered to pay the petitioner the sum of P1,309,300.49. Petitioner accepted the offer and received said amount from CASI.^[7]

On December 11, 1997, petitioner filed a complaint^[8] for collection of sum of money and damages against CASI and SBSC with the Regional Trial Court of Makati

City. On the basis of the stipulation of facts entered into by the parties and the documents they submitted, the RTC issued a Pre-Trial Order^[9] dated August 6, 1999.

On September 22, 1999, petitioner filed a Motion for Summary Judgment with the trial court, which was opposed by CASI and SBSC. On October 29, 1999, the RTC denied petitioner's motion for summary judgment, in this wise:

Records show that extended efforts were exerted to formulate stipulations in aid of abbreviating proceedings, hence the August 6, 1999 formal Pre-Trial Order (a) setting forth stipulations and (b) an agreement to identify residual issues relative to i sufficiency of documentation of logs, ii responsibility for the loading and stowing of the logs on MV Logmaster, iii liability for the value of 156 logs, iv the breach of contract of sale, if any, v the extent of plaintiff's claim, vi liability of defendants, if any, vii plaintiff's liability on [A]lcantara's counterclaim, and viii liability of Seven Brothers vis-à-vis Alcantara's cross-claim.

Parties and counsel are bound by the clear recitals of the August 6, 1999 Pre-Trial Order, and in that context the subject motion for summary judgment may not be acted upon, on a perception that identified residual issues must be addressed.

WHEREFORE, plaintiff's motion for summary judgment is accordingly denied. The November 10, and 24, 1999, and January 5 and 6, 2000 hearing dates are maintained.

SO ORDERED.^[10]

Forthwith, petitioner filed a petition for certiorari with the Court of Appeals to annul and set aside the RTC order. On August 3, 2000, the Court of Appeals sustained the RTC orders denying the motion for summary judgment. The Court of Appeals opined that there exists a genuine issue which must be tried, *viz:*

Considering therefore that genuine and triable issue exists in the instant case, this Court finds no grave abuse of discretion on the part of public respondent judge when it held in its assailed Order that the "parties and counsel are bound by the clear recitals of the August 6, 1999 Pre-Trial Order, and in that context the subject motion for summary judgment may not be acted upon, *on a perception that identified residual issues must be addressed.*"

WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.^[11]

Petitioner filed a motion for reconsideration of the above CA decision but the same was denied in a resolution dated October 12, 2000.^[12] Before us, petitioner now impugns the decision of the Court of Appeals on three grounds, among them:

THE FACTUAL ISSUE POINTED OUT BY THE COURT OF APPEALS WAS NOT AN ISSUE STIPULATED UPON BY THE PARTIES

(A)

THE ISSUE OF THE ALLEGED FAULT OR NEGLIGENCE OF THE PETITIONER IN ALLEGEDLY LOADING TWO (2) ADDITIONAL LOGS WAS NOT AN ISSUE THAT WAS PENDING IN THE COURT BELOW

(B)

ASSUMING THE LOADING OF THE TWO (2) ADDITIONAL LOGS IS A RESIDUAL ISSUE, THE PRESENTATION OF EVIDENCE ON THIS POINT CANNOT BE ALLOWED UNDER THE RULES OF EVIDENCE

II

PETITIONER IS ENTITLED TO A SUMMARY JUDGMENT AS A MATTER OF LAW DUE TO THE ABSENCE OF ANY FACTUAL ISSUES

III

THE FACTUAL AND LEGAL BASES FOR THE PETITIONER'S MOTION FOR SUMMARY JUDGMENT WERE NOT CONTRADICTED OR OTHERWISE OPPOSED BY AFFIDAVITS^[13]

Is petitioner entitled by law to a summary judgment by the RTC? To resolve this issue we must inquire now whether the CA erred in holding that no grave abuse of discretion was committed when the RTC denied petitioner's motion for summary judgment.

Petitioner contends that under prevailing jurisprudence, summary judgment by the trial court is authorized if the pleadings, depositions and admissions on file together with the affidavits, show that, except as to the amount of damages, there is no issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.^[14] According to petitioner, on the basis of the stipulation of facts of the parties and on the exhibits submitted, it is entitled to a summary judgment inasmuch as there are no genuine issues raised in the case below that requires trial.

After a careful consideration of the submissions of the parties, we hold that this contention lacks merit.

Petitioner filed its motion for summary judgment pursuant to Section 1, Rule 35 of the 1997 Rules of Court, which states that:

SECTION 1. *Summary judgment for claimant.*— A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof.

A court may grant a summary judgment to settle expeditiously a case if, on motion of either party, there appears from the pleadings, depositions, admissions, and affidavits that no important issues of fact are involved, except the amount of damages. In such event, the moving party is entitled to a judgment as a matter of law. Trial courts have limited authority to render summary judgments and may do so only when there is clearly ***no genuine issue as to any material fact.***^[15] In other words, in a motion for summary judgment, the crucial question is: are the issues raised in the ***pleadings genuine, sham or fictitious,*** as shown by affidavits, depositions or admissions accompanying the motion? ^[16]

In *Evadel Realty and Development Corporation v. Soriano*,^[17] this Court defined what a “genuine issue” is, in this wise:

A “*genuine issue*” is an issue of fact which requires the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim. **When the facts as pleaded appear uncontested or undisputed, then there is no real or genuine issue or question as to the facts, and summary judgment is called for.** The party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is patently unsubstantial so as not to constitute a genuine issue for trial. **Trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact. When the facts as pleaded by the parties are disputed or contested, proceedings for summary judgment cannot take the place of trial.** (Emphasis supplied)

The parties’ respective pleadings show that there are genuine issues of fact that necessitate formal trial. Petitioner’s complaint before the RTC avers facts on which it relies to support its claim for damages. Specifically, petitioner sought to recover the value of the logs that were lost and washed overboard *M/V Seven Logmaster* chartered by CASI. Petitioner claims that at the time of the loss, ownership over said logs was already transferred from petitioner as seller, to CASI as buyer. As owner, CASI must bear the loss, according to petitioner. But CASI, in its answer,^[18] maintains that it should not be held liable for the purchase price or value of said logs considering that the logs were washed away and lost due to the fault and negligence of petitioner and SBSC or their agents. SBSC, in its answer,^[19] disowns liability for the loss of said logs and imputes fault and negligence committed by petitioner and CASI. In our view, it is beyond cavil that basic factual issues of when, how, and who caused the damage to the cargo must be established to determine if petitioner is, in fact and in law, entitled to recover damages. Put simply, since petitioner’s allegations appear contested by the other parties, it is erroneous to conclude prematurely that there are no ***real or genuine issues or questions of facts*** in this case. That being so, a full-blown trial on the merits and presentation of additional evidence is called for.

As aptly explained by the appellate court:

The special and affirmative defenses raised by private respondents CASI and SBSC invoking, *inter alia*, **the alleged fault and negligence of petitioner as the proximate cause of the loss of the subject logs**