

THIRD DIVISION

[G.R. No. 157353, December 09, 2004]

FOOD TERMINAL, INC., PETITIONER, VS. HON. REYNALDO B. DAWAY, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 90, QUEZON CITY AND TAO DEVELOPMENT, INC., RESPONDENTS.

D E C I S I O N

GARCIA, J.:

Assailed and sought to be set aside in this petition for review on certiorari under Rule 45 of the Rules of Court are the following issuances of the Court of Appeals in its **CA-G.R. SP No. 45589**, to wit:

1. **Decision dated 28 June 2002^[1]**, affirming an earlier Order of the Regional Trial Court at Quezon City which granted the motion for execution thereat filed by herein private respondent against the petitioner; and
2. **Resolution dated 13 February 2003**, denying petitioner's motion for reconsideration of the first.

The factual milieu:

Sometime in early 1984, petitioner **Food Terminal Inc. (FTI)**, a government-owned corporation engaged in the business of providing warehousing and storage services to the public for a fee, and private respondent **Tao Development, Inc. (TAO)**, entered into a contract of storage whereunder TAO deposited at FTI's cold storage export quality onions consisting of 22,716 bags (approximately 567,900 kilos) of yellow *granex* onions and 2,853 bags (approximately 71,300 kilos) of red *creole* onions. Unfortunately, an ammonia leak penetrated through FTI's storage facilities and caused damage to TAO's goods, rendering the deposited onions unfit for export.

On November 3, 1998, in the Regional Trial Court of Quezon City, TAO instituted a complaint for damages against FTI.

In a decision dated 16 December 1991, the trial court, finding FTI negligent in the performance of its duties, rendered judgment in favor of TAO. Therefrom, FTI went on appeal to the Court of Appeals. In a decision dated 28 April 1995, the appellate court affirmed with modifications the appealed decision of the trial court, thus:

"WHEREFORE, in view of the foregoing, the decision appealed from is hereby **AFFIRMED** with **MODIFICATIONS**. Accordingly, judgment is hereby rendered as follows:

- a) Ordering the defendant Food Terminal, Inc. to pay appellee TAO Development, Inc. the amount of P2,400,168.00 as actual damages

representing the loss sustained by the appellee;

b) Ordering said appellant to pay said appellee the amount of P1,534,005.00 as unearned profits; and

c) Ordering said appellant to pay said appellee the amount of P100,000.00 as attorney's fees.

The above amounts shall earn interest at the rate of 12% per annum from May 15, 1984 until fully satisfied.

No costs.

SO ORDERED".^[2]

Undaunted, FTI sought further appellate recourse to this Court in **G.R. No. 120097**, entitled "*Food Terminal, Inc. vs. Court of Appeals and Tao Development, Inc.*"^[3] In a **Resolution dated 23 September 1996**, this Court affirmed with modification the challenged decision of the Court of Appeals:

"ACCORDINGLY, the appealed decision is hereby AFFIRMED with the following modification:

a) Ordering petitioner Food Terminal, Inc. to pay private respondent TAO Development, Inc. the amount of P2,400,168.00 as actual damages representing the loss sustained by the private respondent;

b) Ordering petitioner to pay private respondent the amount of P1,534,005.00 as unearned profits; and

c) Ordering petitioner to pay private respondent the amount of P100,000.00 as attorney's fees.

These amounts shall earn interest at the rate of SIX PER CENT (6%) per annum from May 15, 1984 until fully satisfied, but before judgment becomes final. From the date of finality of the judgment until the obligation is totally paid, A TWELVE PER CENT (12%) interest, in lieu of the SIX PER CENT (6%) interest, shall be imposed.

SO ORDERED".^[4]

It is not disputed that the aforementioned Resolution of this Court in **G.R. No. 120097** became final and executory on January 6, 1997 and a corresponding Entry of Judgment made thereon.^[5]

In a letter of February 12, 1997, TAO demanded from FTI payment in satisfaction of the judgment in **G.R. No. 120097** in the amount of **P7,194,453.60**, broken down, as follows:

"P2,400,168.00	- actual damages
1,534,005.00	- unearned profits
<u>100,000.00</u>	- attorney's fees

P4,034,173.00

3,063,282.03 - 6% interest from May 15, 1984 to
Jan. 6, 1997

96,998.55 - 12% interest from Jan. 6, to Feb. 15,
1997

P7,194,453.60 ."[6]

In a reply letter of March 7, 1997,^[7] FTI disagreed with TAO's foregoing computation and informed the latter that per its (FTI's) own computation, its obligation is less by P46,019.86 than that claimed by TAO. In effect, it is FTI's posture that its liability is only for **P7,148,433.72**. Percentage wise, the variance is less than one percent or .64 percent.

A new phase of legal battle between the herein parties began when, on May 5, 1997, TAO filed with the trial court a motion for execution, praying for the issuance of a writ of execution against FTI for the total amount of P7,440,729.48.^[8]

In an Order dated 27 May 1997,^[9] the trial court, noting the absence of any opposition from FTI, granted TAO's motion and accordingly ordered the issuance of the desired writ. FTI filed a motion for reconsideration, contending that it was denied due process because it allegedly did not receive any notice of hearing.^[10] In its subsequent Order of 12 August 1997, the trial court denied the motion.^[11]

Meanwhile, on August 22, 1997, FTI delivered to TAO a check for P7,148,433.72, which check was admittedly encashed by TAO.

Thereafter, FTI filed with the Court of Appeals a petition for certiorari to nullify the trial court's aforesaid orders. In its petition, docketed in said court as **CA-G.R. SP NO. 45589**, FTI maintained that TAO had acceded to its computation, and presented, in support thereof, an alleged letter dated March 13, 1997 of Alberto Malvar, president of TAO, demanding payment for only P7,148,433.72.^[12] On the basis of said letter and the fact that TAO had encashed the FTI check for the same amount, FTI argued that it has satisfied the judgment in **G.R. No. 120097**. *Ergo*, so it concludes, the writ of execution issued against it by the trial court should be annulled and set aside.^[13]

In the herein assailed **Decision dated 28 June 2002 and Resolution dated 13 February 2003**, the Court of Appeals respectively dismissed FTI's petition and denied its motion for reconsideration, ruling, *inter alia*, that petitioner FTI failed to establish the supposed accession of TAO to its computation, and holding that the letter dated March 13, 1997 of Alberto Malvar is a forgery.

Hence, FTI's present recourse on the following assigned errors:

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THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT SUSTAINED PUBLIC RESPONDENT'S HOLDING THAT THE TOTAL OBLIGATION OF PETITIONER TO PRIVATE RESPONDENT AS PER DECISION OF THE HONORABLE SUPREME COURT DATED SEPTEMBER 23, 1996 EXCEEDS P7,148,433.72