

SECOND DIVISION

[G.R. No. 136031, January 04, 2002]

JEFFERSON LIM, PETITIONER, VS. QUEENSLAND TOKYO COMMODITIES, INC., RESPONDENT.

DECISION

QUISUMBING, J.:

Before us is a petition for review assailing the June 25, 1998, decision^[1] of the Court of Appeals in CA-G.R. CV No. 46495 which reversed and set aside the decision of the Regional Trial Court of Cebu, Branch 24, dismissing the complaint by respondent for a sum of money as well as petitioner's counterclaim.

Private respondent Queensland Tokyo Commodities, Incorporated (Queensland, for brevity) is a duly licensed broker engaged in the trading of commodities futures with full membership and with a floor trading right at the Manila Futures Exchange, Inc..^[2]

Sometime in 1992, Benjamin Shia, a market analyst and trader of Queensland, was introduced to petitioner Jefferson Lim by Marissa Bontia,^[3] one of his employees. Marissa's father was a former employee of Lim's father.^[4]

Shia suggested that Lim invest in the Foreign Exchange Market, trading U.S. dollar against the Japanese yen, British pound, Deutsche Mark and Swiss Franc.

Before investing, Lim requested Shia for proof that the foreign exchange was really lucrative. They conducted mock tradings without money involved. As the mock trading showed profitability, Lim decided to invest with a marginal deposit of US\$5,000 in manager's check. The marginal deposit represented the advance capital for his future tradings. It was made to apply to any authorized future transactions, and answered for any trading account against which the deposit was made, for any loss of whatever nature, and for all obligations, which the investor would incur with the broker.^[5]

Because respondent Queensland dealt in pesos only, it had to convert US\$5,000 in manager's check to pesos, amounting to P125,000 since the exchange rate at that time was P25 to US\$1.00. To accommodate petitioner's request to trade right away, it advanced the P125,000 from its own funds while waiting for the manager's check to clear. Thereafter, a deposit notice in the amount of P125,000 was issued to Queensland, marked as Exhibit "E". This was sent to Lim who received it as indicated by his signature marked as Exhibit "E-1". Then, Lim signed the Customer's Agreement, marked as Exhibit "F," which provides as follows:

25. Upon signing of this Agreement, I shall deposit an initial margin either by personal check, manager's check or cash. *In the case of*

the first, I shall not be permitted to trade until the check has been cleared by my bank and credited to your account. In respect of margin calls or additional deposits required, I shall likewise pay them either by personal check, manager's check or cash. In the event my personal check is dishonored, the company has the right without call or notice to settle/close my trading account against which the deposit was made. In such event, any loss of whatever nature shall be borne by me and I shall settle such loss upon demand together with interest and reasonable cost of collection. However, in the event such liquidation gives rise to a profit then such amount shall be credited to the Company. The above notwithstanding, I am not relieved of any legal responsibility as a result of my check being dishonored by my bank.

Petitioner Lim was then allowed to trade with respondent company which was coursed through Shia by virtue of the blank order forms, marked as Exhibits "G", "G-1" to "G-13", all signed by Lim. Respondent furnished Lim with the daily market report and statements of transactions as evidenced by the receiving forms, marked as Exhibits "J", "J-1" to "J-4",^[8] some of which were received by Lim.

During the first day of trading or on October 22, 1992, Lim made a net profit of P6,845.57.^[9] Shia went to the office of Lim and informed him about it. He was elated. He agreed to continue trading. During the second day of trading or on October 23, 1992, they lost P44,465.^[10]

Meanwhile, on October 22, 1992, respondent learned that it would take seventeen (17) days to clear the manager's check given by petitioner. Hence, on October 23, 1992, at about 11:00 A.M., upon management's request, Shia returned the check to petitioner who informed Shia that petitioner would rather replace the manager's check with a traveler's check.^[11] Considering that it was 12:00 noon already, petitioner requested Shia to come back at 2:00 P.M.. Shia went with petitioner to the bank to purchase a traveler's check at the PCI Bank, Juan Luna Branch at 2:00 P.M.. Shia noticed that the traveler's check was not indorsed but Lim told Shia that Queensland could sign the indorsee portion.^[12] Because Shia trusted the latter's good credit rating, and out of ignorance, he brought the check back to the office unsigned.^[13] Inasmuch as that was a busy Friday, the check was kept in the drawer of respondent's consultant. Later, the traveler's check was deposited with Citibank.^[14]

On October 26, 1992, Shia informed petitioner that they incurred a floating loss of P44,695^[15] on October 23, 1992. He told petitioner that they could still recover their losses. He could unlock the floating loss on Friday. By unlocking the floating loss, the loss on a particular day is minimized.

On October 27, 1992, Citibank informed respondent that the traveler's check could not be cleared unless it was duly signed by Lim, the original purchaser of the traveler's check. A Miss Arajo, from the accounting staff of Queensland, returned the check to Lim for his signature, but the latter, aware of his P44,465 loss, demanded for a liquidation of his account and said he would get back what was left of his investment.^[16] Meanwhile, Lim signed only one portion of the traveler's

check, leaving the other half blank. He then kept it.^[17] Arajo went back to the office without it.

Respondent asked Shia to talk to petitioner for a settlement of his account but petitioner refused to talk with Shia. Shia made follow-ups for more than a week beginning October 27, 1992. Because petitioner disregarded this request, respondent was compelled to engage the services of a lawyer, who sent a demand letter^[18] to petitioner. This letter went unheeded. Thus, respondent filed a complaint^[19] against petitioner, docketed as Civil Case No. CEB-13737, for collection of a sum of money.

On April 22, 1994, the trial court rendered its decision, thus:

WHEREFORE, in view of all the foregoing, the complaint is dismissed without pronouncement as to costs. The defendant's counterclaim is likewise dismissed.

SO ORDERED.^[20]

On appeal by Queensland, the Court of Appeals reversed and set aside the trial court's decision, with the following *fallo*:

WHEREFORE, the decision appealed from is hereby REVERSED AND SET ASIDE, and another one is entered ordering appellee [Jefferson Lim] to pay appellant the sum of P125,000.00, with interest at the legal rate until the whole amount is fully paid, P10,000.00 as attorney's fees, and costs.
^[21]

Petitioner herein filed a motion for reconsideration before the Court of Appeals, which was denied in a resolution dated October 6, 1998. ^[22]

Dissatisfied, petitioner filed the instant recourse alleging that the appellate court committed errors:

- I - ... IN REVERSING THE DECISION OF THE RTC WHICH DISMISSED RESPONDENT'S COMPLAINT;
- II - ... IN HOLDING THAT THE PETITIONER IS ESTOPPED IN QUESTIONING THE VALIDITY OF THE CUSTOMER'S AGREEMENT AND FROM DENYING THE EFFECTS OF HIS CONDUCT;
- III - ... IN NOT TAKING JUDICIAL NOTICE OF THE LETTER OF RESPONDENT THAT THE SEC HAS ISSUED A CEASE AND DESIST ORDER AGAINST THE MANILA INTERNATIONAL FUTURES EXCHANGE COMMISSION AND ALL COMMODITY TRADERS INCLUDING THE RESPONDENT.

Despite the petitioner's formulation of alleged errors, we find that the main issue is whether or not the appellate court erred in holding that petitioner is estopped from questioning the validity of the Customer's Agreement that he signed.

The essential elements of estoppel are: (1) conduct of a party amounting to false representation or concealment of material facts or at least calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (2) intent, or at least expectation, that this conduct shall be acted upon by, or at least influence, the other party; and (3) knowledge, actual or constructive, of the real facts. [23]

Here, it is uncontested that petitioner had in fact signed the Customer's Agreement in the morning of October 22, 1992, [24] knowing fully well the nature of the contract he was entering into. The Customer's Agreement was duly notarized and as a public document it is evidence of the fact, which gave rise to its execution and of the date of the latter. [25] Next, petitioner paid his investment deposit to respondent in the form of a manager's check in the amount of US\$5,000 as evidenced by PCI Bank Manager's Check No. 69007, dated October 22, 1992. [26] All these are *indicia* that petitioner treated the Customer's Agreement as a valid and binding contract.

Moreover, we agree that, on petitioner's part, there was misrepresentation of facts. He replaced the manager's check with an unendorsed traveler's check, instead of cash, while assuring Shia that respondent Queensland could sign the indorsee portion thereof. [27] As it turned out, Citibank informed respondent that only the original purchaser (i.e. the petitioner) could sign said check. When the check was returned to petitioner for his signature, he refused to sign. Then, as petitioner himself admitted in his Memorandum, [28] he used the traveler's check for his travel expenses. [29]

More significantly, petitioner already availed himself of the benefits of the Customer's Agreement whose validity he now impugns. As found by the CA, even before petitioner's initial marginal deposit (in the form of the PCI manager's check dated October 22, 1992) [30] was converted into cash, he already started trading on October 22, 1992, thereby making a net profit of P6,845.57. On October 23, he continued availing of said agreement, although this time he incurred a "floating loss" of P44,645. [31] While he claimed he had not authorized respondent to trade on those dates, this claim is belied by his signature affixed in the order forms, marked as Exhibits "G", "G-1" to "G-13". [32]

Clearly, by his own acts, petitioner is estopped from impugning the validity of the Customer's Agreement. For a party to a contract cannot deny the validity thereof after enjoying its benefits without outrage to one's sense of justice and fairness.

It appears that petitioner's reason to back out of the agreement is that he began sustaining losses from the trade. However, this alone is insufficient to nullify the contract or disregard its legal effects. By its very nature it is already a perfected, if not a consummated, contract. Courts have no power to relieve parties from obligations voluntarily assumed, simply because their contracts turned out to be disastrous or unwise investments. [33] Notably, in the Customer's Agreement, petitioner has been forewarned of the high risk involved in the foreign currency investment as stated in the "Risk Disclosure Statement," [34] located in the same box where petitioner signed.