429 Phil. 634

THIRD DIVISION

[G.R. No. 104047, April 03, 2002]

MC ENGINEERING, INC., PETITIONER, VS. THE COURT OF APPEALS, GERENT BUILDERS, INC. AND STRONGHOLD INSURANCE CO., INC., RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking the reversal of the decision of the Court of Appeals dated November 14, 1991[1] and its resolution dated February 5, 1992.[2] The Court of Appeals reversed the decision dated July 15, 1989 of the Regional Trial Court, Branch 85, [3] Quezon City, in Civil Case No. Q-44392 dismissing the Complaint for Sum of Money With Preliminary Attachment and Damages filed by respondent Gerent Builders, Inc. ("respondent Gerent" for brevity) against petitioner MC Engineering, Inc., ("petitioner" for brevity). The trial court ordered respondents Gerent and Stronghold Surety and Insurance Company ("respondent Surety" for brevity) to pay petitioner, jointly and severally, damages and attorney's fees.

The Facts

The undisputed facts in this case as found by the trial court and quoted by the Court of Appeals in its assailed decision are as follows:

> "x x x On October 29, 1984, Mc Engineering, Inc. and Surigao Coconut Development Corporation (Sucodeco, for short) signed a contract (Exh. B, also Exh. 5), for the restoration of the latter's building, land improvement, electrical, and mechanical equipment located at Lipata, Surigao City, which was damaged by typhoon Nitang. The agreed consideration was P5,150,000.00[*] of which P2,500,000.00[**] was for the restoration of the damaged buildings and land improvement, while the P3,000,000.00 was for the restoration of the electrical and mechanical works.
>
> The next day, on October 30, 1984 defendant Mc Engineering and plaintiff Gerent Builders, Inc. entered into an agreement wherein defendant subcontracted to plaintiff the restoration of the buildings and land improvement phase of its contract with Sucodeco but defendant retained for itself the restoration of the electrical and mechanical works. The subcontracted work covered the restoration of the buildings and improvement for P1,665,000.00 (Exh. C, also Exh. 6).
>
> Two (2) months later, on December 3, 1984, Sucodeco and defendant Mc Engineering entered into an agreement amending provision No. VII, par 1 of their contract dated October 29, 1984, by increasing the price of the civil works from P2,250,000.00 to P3,104,851.51, or an increase of P854,851.51, with the express proviso that 'except for the amendment above specified, all the other

provisions of the original contract shall remain the same' (Exh. L).

The civil work aspect consisting of the building restoration and land improvement from which plaintiff would get P1,665,000.00 was completed (TSN., p. 14, July 30, 1986) and the corresponding certificate of acceptance was executed (Exh. F), but the electrical works were cancelled (Tsn., p. 8, July 30, 1986; Tsn., p. 19, Feb. 11, 1987). On January 2, 1985, plaintiff received from defendant the amount of P1,339,720.00[*] as full payment of the sub-contract price, after deducting earlier payments made by defendant to plaintiff, as evidenced by the affidavit executed by plaintiff's president, Mr. Narciso C. Roque (Exh. 1), wherein the latter acknowledged complete satisfaction for such payment on the basis of the Statement of Account (Exh. 2, 2-a & 2-b) which plaintiff had earlier forwarded to defendant.

Nevertheless, plaintiff is still claiming from defendant the sum of P632,590.13 as its share in the adjusted contract cost in the amount of P854,851.51, alleging that the sub-contract is subject to the readjustment provided for in Section VII of the agreement, and also the sum of P166,252.00 in payment for additional electrical and civil works outside the scope of the sub- contract."[4]

Petitioner refused to pay respondent Gerent. Thus, on March 21, 1985, respondent Gerent filed the complaint against petitioner. On March 28, 1985, the trial court issued the corresponding writ of preliminary attachment upon the filing by respondent Gerent of a P632,590.13 bond issued by respondent Surety.[5] On April 24, 1985, petitioner moved to quash the writ on the ground that it was improperly issued. The trial court denied the motion.

Petitioner assailed the denial in a petition for certiorari[6] filed with the Court of Appeals. In a resolution dated October 17, 1986, the Court of Appeals[7] rendered a decision granting the petition, as follows:

"Wherefore, finding merit to the petition, the writ of attachment dated March 28, 1985, and the order dated August 14, 1985, denying the motion to quash writ of attachment should be as it is hereby declared null and void, and the execution made by respondent Deputy Sheriff Cristobal C. Florendo, under the writ of attachment issued should be as it is hereby nullified. The respondent Sheriff is hereby directed to restore ownership of the properties heretofore seized and attached to petitioner. No pronouncement as to costs."[8]

On July 13, 1987, the trial court ordered the return of petitioner's properties that deputy sheriff Cristobal C. Florendo attached and seized. The sheriff reported to the court that he never seized a single property of petitioner but merely conducted a "paper levy".

On January 5, 1988, petitioner filed an application against the attachment bond to recover damages it suffered due to the wrongful issuance of the writ of attachment. Respondent Surety opposed the application.

In its Answer, petitioner vigorously denied respondent Gerent's causes of action. Petitioner counterclaimed for damages and attorney's fees due to the improper issuance of the writ of attachment.

On July 15, 1989, after trial on the merits, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered against the plaintiff and in favor of the defendant, as follows:

1. Dismissing the instant case;

2. Ordering the plaintiff and Stronghold Surety And Insurance Company to pay defendant M.C. Engineering, Inc., jointly and severally, the sum of P70,000.00 as moral damages; P30,000.00 as exemplary damages; and P50,000.00 as attorney's fees, plus costs.

SO ORDERED."[9]

From the foregoing decision, respondents filed separate notices of appeal on September 5, 1989 and November 2, 1989, respectively.[10]

The Court of Appeals rendered the assailed Decision on November 14, 1991.[11] On February 5, 1992, the Court of Appeals denied petitioner's motion for reconsideration.[12]

The Ruling of the Court of Appeals

The Court of Appeals ruled respondent Gerent's claim meritorious, declaring that Gerent is entitled to share 74% of the price increase in the civil works portion of the main contract.

First, the Court of Appeals found that the price increase arose from a second detailed estimate of the costs of civil works allegedly submitted by respondent Gerent to petitioner. Thus, the Court of Appeals stated:

"xxx. To obtain an adjustment in the contract price, it appears that plaintiff-appellant, as sub-contractor, submitted a second detailed estimate of the costs of civil works (Exh. D) to appellee which, after marking up the figures therein to reflect its share, attached the same to its letter of proposal for an increase in the contract price eventually submitted to SUCODECO. On the basis of the estimates, the latter agreed to increase the cost for the full restoration of its typhoon damaged buildings and land improvement (civil works) from P2,250,000.00 to P3,104,851.51 (Exh. L). Payment of this adjustment was made by SUCODECO on December 27, 1984 (Exh. N). It is from this increase of P854,851.51 that plaintiff-appellant sought to recover its share from the appellee."[13]

"Appellee denies the submission of the second detailed estimates by plaintiff-appellant. It must be observed, however, that appellee is an electro-mechanical engineering firm which becomes an accredited civil contractor only for as long as it has civil engineers to do the civil works. Thus, in the SUCODECO project, appellee hired plaintiff-appellant, an undisputed civil contractor, to furnish civil engineering services. Taking into account the technical expertise required to draw up such a detailed estimate of civil works as Exh. D and the absence of proof that other civil contractors apart from plaintiff-appellant was ever engaged by appellee, it is undoubtedly plausible that plaintiff-appellant made the estimates which appellee submitted to SUCODECO, with the corresponding adjustments in the costs."[14]

Second, the Court of Appeals noted that the price increase preceded the cancellation of petitioner's electrical and mechanical works portion of the main contract.

Petitioner's president, Mario Cruel, testified that on December 3, 1984, Sucodeco approved the price increase for the civil works portion of the main contract. A week later, or on

December 14, 1984, Sucodeco wrote to petitioner canceling the electrical and mechanical works portion of the main contract.[15] The Court of Appeals thus reasoned:

> "From the foregoing, it is apparent that the adjustment in the price of civil works preceded the cancellation of the electro-mechanical works. If it is indeed true that the adjustment was for the sole benefit of appellee for its preparatory expenses and lost profits, the increase would have been effected simultaneously with or after the cancellation of the electrical and mechanical works. The fact that the amendment in the contract was made before the cancellation could only mean that SUCODECO agreed to increase the cost of the civil works not to compensate appellee for the then still subsisting original agreement but as a result of the higher estimates submitted by the contractor and subcontractor on the expenses for the civil works."[16]

Third, the Court of Appeals did not consider the absence of an itemized listing of material and labor costs relevant to respondent Gerent's right to a share in the price increase.

The Court of Appeals ruled that it is Sucodeco, the project owner, and not petitioner who can question the true value of the material and labor costs. Since Sucodeco did not raise any question, it must have agreed to the price increase even without the submission of the true value. Consequently, the Court of Appeals held that it was petitioner's obligation to pay respondent Gerent its share of the price increase in accordance with the subcontract. [17]

Fourth, the Court of Appeals found no evidence that petitioner spent substantial amounts on the electrical and mechanical portion of the main contract to justify petitioner's claim to the entire price increase.

The Court of Appeals rejected petitioner's claim that the price increase was intended to compensate petitioner for the losses it suffered due to the cancellation of the electrical and mechanical portion of the main contract. The Court of Appeals stated that:

> "It is important to note that despite appellee's posturing that it incurred expenses prior to the cancellation of its contract, thus entitling it to the whole adjustment price, the records are bereft of proof showing substantial amounts expended by appellee. To justify its entitlement to the whole amount, it could have presented receipts reflecting purchases of materials, drawing plans of engineering designs, detailed estimates of electrical and mechanical works and testimonies of engineers allegedly mobilized to start the planning. As it is, the most that appellee could produce were three (3) purchase invoices totaling P110,000.00. xxx."[18]

Fifth, the Court of Appeals found the quitclaim executed by respondent Gerent on January 2, 1985 vitiated with fraud since petitioner intentionally withheld from Gerent the information that on December 3, 1984 Sucodeco had already agreed to the price increase. The Court of Appeals ruled:

> "xxx. The mere fact that an affidavit or quitclaim was executed by Mr. Roque on behalf of his company does not preclude or estop plaintiff-appellant from recovering its just share for it appears that appellee intentionally withheld from Mr. Roque a vital information. Had he known, it is highly unlikely that he will sign the quitclaim. We are more apt to believe Mr. Roque's protestations that he did not know about the adjustment. His testimony is straightforward, consistent and unwavering. Moreover, a prudent man engaged in the business of construction for decades and whose interests are amply protected by a written instrument will not be easily convinced to acquiesce to have appellee get P1.4M

of the whole contractual price. Appellee apparently led Mr. Roque to believe that no adjustment was made to hide its big share in the contract. Considering the fraud employed against plaintiff-appellant, the quitclaim is not binding at all."[19]

Thus, in the dispositive portion of the assailed decision the Court of Appeals decreed:

"WHEREFORE, premises considered, judgment is hereby rendered setting aside the appealed decision of the lower court, and in lieu thereof defendant-appellee is ordered to pay plaintiff-appellant the sum of P632,590.13 representing the increased contract price in the sub-contract agreement, with the civil works by SUCODECO, and attorney's fees equivalent to 25% of P632,590.13. Plaintiff-appellant and the surety-appellant are hereby adjudged to solidarily pay appellee the sum of P5,000.00 as attorney's fees, in connection with the wrongful obtention of the writ of attachment. With costs against defendant-appellee.

SO ORDERED."

Hence, this petition.

The Issues

In its Memorandum, petitioner raises the following issues:

1. WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND GROSSLY ERRED IN HOLDING THAT RESPONDENT GERENT IS ENTITLED TO P632,590.13 OR 74% OF THE PRICE INCREASE IN THE CIVIL WORKS PORTION OF THE MAIN CONTRACT BETWEEN PETITIONER AND SUCODECO.

2. WHETHER OR NOT THE QUITCLAIM EXECUTED BY GERENT WAS VITIATED WITH FRAUD.

3. WHETHER OR NOT PETITIONER IS ENTITLED TO ACTUAL, MORAL, AND EXEMPLARY DAMAGES DUE TO THE WRONGFUL ISSUANCE OF THE WRIT OF PRELIMINARY ATTACHMENT.

4. WHETHER OR NOT THE AMOUNT OF P5,000.00 AS ATTORNEY'S FEES IS SUFFICIENT.

5. WHETHER OR NOT RESPONDENT GERENT IS ENTITLED TO ATTORNEY'S FEES IN THE AMOUNT EQUIVALENT TO TWENTY FIVE PERCENT (25%) OF P632,590.13.

The Ruling of the Court

The Court finds for petitioner MC Engineering, Inc.

The Quitclaim of Respondent Gerent

We begin with the issue of whether the so-called quitclaim executed by respondent Gerent is valid. If the quitclaim is valid, then the quitclaim settles with finality all the claims of respondent Gerent, rendering its complaint against petitioner without any legal basis. If fraud vitiated the quitclaim, then it becomes necessary to determine if petitioner still owes respondent Gerent any amount under their subcontract.

The quitclaim is embodied in the Affidavit executed on January 2, 1985 by respondent