

## FIRST DIVISION

[ G.R. No. 110340, May 28, 2001 ]

**WESTERN SHIPYARD SERVICES, INC., PETITIONER, VS. COURT OF APPEALS AND SANTIAGO LIGHTERAGE CORPORATION, RESPONDENTS.**

### D E C I S I O N

**PARDO, J.:**

#### The Case

What is before the Court is an appeal<sup>[1]</sup> from the resolution of the Court of Appeals<sup>[2]</sup> amending its earlier decision<sup>[3]</sup> which resolution reduced the amount awarded by the court for payment for services<sup>[4]</sup> rendered by petitioner Western Shipyard Services, Inc. (hereafter, "WSSI") on a cargo vessel that respondent Santiago Lighterage Corp. (hereafter, "SLC") owned and which reversed the decision of the Regional Trial Court, Branch 113, Pasay City.<sup>[5]</sup>

#### The Facts

SLC was the owner of a 229-foot general cargo vessel, known as "Dinky," which had an actual value of four million pesos (P4,000,000.00).<sup>[6]</sup>

On February 14, 1983, SLC entered into a contract of services with WSSI for the conversion of "Dinky" into an LCT, to be known as "Loadmaster" which involved the lengthening of the ship to 268 feet, the extension of the vessel's moulded breadth to 54 feet and moulded depth to 14 feet.<sup>[7]</sup>

In accordance with the contract of services, SLC paid WSSI two hundred thousand pesos (P200,000.00).<sup>[8]</sup>

On or about February 28, 1983, the vessel was docked at WSSI's shipyard.<sup>[9]</sup>

Under the contract of services, completion and delivery to SLC of the renovated vessel shall be within one hundred thirty (130) calendar days from the docking of the vessel and WSSI had the obligation to pay demurrage to SLC in the amount of P10,000.00, a day for everyday of delay beyond the 130 calendar day period.<sup>[10]</sup>

On January 30, 1986, SLC filed with the Regional Trial Court, Pasay City a complaint against WSSI for "rescission of contract with damages and replevin."<sup>[11]</sup> SLC alleged that: First, even after repeated demands, WSSI defaulted on its commitment to deliver the vessel to SLC after the stipulated period. Second, WSSI violated the terms and conditions of the "contract of services," with respect to the scope of work

to be accomplished and the quality thereof. Third, the vessel has been in the continued possession of WSSI and has suffered deterioration due to exposure to the elements; and Fourth, due to the delay or demurrage incurred by WSSI, SLC has suffered unrealized profits the non-operation of the vessel at the minimum rate of four hundred thousand pesos (P400,000.00) a month.<sup>[12]</sup>

Apparently there were two contracts for services, Annex "A" attached to SLC's complaint and Annex "1" attached to WSSI's answer. Doubt existed as to which of the two contracts was to be applied. A perusal of the two contracts of services show that they essentially have the same provisions except for the following, quoted verbatim:<sup>[13]</sup>

"ANNEX "A"

ANNEX "1"

"A. HULL CONVERSION, ALTERATIONS & REMODELING

"No. 7 Laydays at P537.00 /day No. lay days. No. 7 Fabricate install main propulsion engines, auxiliaries and other necessary accessories mountings and install same properly, including installation of all deck machineries.

No. 8 Undertake sea trials of the vessel upon completion and to test for proper functioning of all mechanical and electrical machineries of the vessel installed to the satisfaction of the shipowner.

Cost of Conversion with reference to Quotation WS-000186-82 dated December 15, 1982, revised as follows:

"1. Towing of the vessel from Batangas to shipyard and out of Navotas River mouth after completion of mouthwork...P18,280.00

1. Towing of the vessel from Batangas to shipyard and out of Navotas River after completion of work....P14,624.00

"2. Sandblasting to bare metal all exterior surface to include original side shell and exterior surface and deck of superstructure to include one coat of epoxy paint at...P4.50/SF/coat.

2. Sandblast to bare metal all exterior surface to include P/S original side shell P/S one exterior surface and deck of superstructure, to include one (1) coat of epoxy paint at P3.50/SF/coat.

"8. Installation of pipe railings at pilot house at the FWD portion using 1 ½" dia. B. I. Pipe Sch. 40 at P8.40/LF.

8. Installation of pipe railings at the pilot and house and at FWD portion, using 1 ½" dia., G.I. pipe Sch. 40 at P8.40/LF.

"9. Installation of angle bar 5 framings at P29.50/LF.

9. Installation of 3 x angle bar 3 x 5 framings at P14.00 LF.

10. Furnish to Owner Five (5) copies of approved plans the Phil. Coast Guard & ABS Classification Office....P35,000.00

10. Furnish to Owner Five (5) copies of by approval plan by the Phil. Coast Guard & Crop cutting of all steel materials....Free.

"D. Completion and delivery owner shall be within one Hundred Thirty (130) calendar effective upon docking of the vessel; and with a demurrage of P10,000.00 per day of delay.

D. Completion and to delivery to owner shall be within One days, Hundred Twenty (120) working days effective upon docking of the vessel."

On April 25, 1990, after trial, the trial court rendered decision reasoning that both contracts were prepared by WSSI, hence, the contracts shall be interpreted against it, as it caused the obscurity.<sup>[14]</sup> Prescinding from this, the trial court held that Annex "A" shall govern. The trial court then rescinded the contract and ordered WSSI to pay SLC liquidated damages, attorney's fees and costs. The trial court found that the contract of services provided for a period of one hundred thirty (130) calendar days from the time of the docking of the vessel to its complete reconstruction and renovation and that WSSI had the obligation to renovate it within the time stipulated, its failure to do so constituted a breach thereof. We quote the dispositive portion of the decision:<sup>[15]</sup>

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

"1. The contract is declared rescinded;

"2. Ordering the defendant to pay plaintiff the sum of P4,000,000.00 (Four Million Pesos); by way of liquidated damages;

"3. Ordering the defendant to pay plaintiff the sum of P30,000.00 by way of attorney's fees; and

"4. To pay the costs.

"SO ORDERED."

In time, WSSI appealed to the Court of Appeals.<sup>[16]</sup> WSSI argued that the trial court erred in ruling that Annex "A" governs.

On February 7, 1992, contrary to the ruling of the trial court, the Court of Appeals promulgated its decision ruling that there was nothing obscure or ambiguous about the two contracts, hence, there was no justification for construing them against

WSSI. According to the Court of Appeals, the trial court had the duty to determine which of the two contracts expressed the parties' true intentions.<sup>[17]</sup> Examining the transcripts of the testimonies of witnesses and documents, the Court of Appeals held that Annex "1" superseded Annex "A" and that SLC was to be faulted for the delay.<sup>[18]</sup> The Court of Appeals decided thus:<sup>[19]</sup>

"PREMISES CONSIDERED, the decision being appealed from is hereby SET ASIDE and in lieu thereof another rendered:

"1. Dismissing the complaint;

"2. Ordering plaintiff to pay defendant the following amounts for services rendered;

"a. P1,253,498.88 with legal interest from the filing of the Answer on March 19, 1986 until fully paid for work accomplished on the vessel "Dinky/LCT Loadstar";

"b. P352,617.16 with legal interest from the filing of the Answer on March 19, 1986 until fully paid for work accomplished on the LCT Placer.

"3. Ordering plaintiff to pay defendant the sum of P25,000.00 by way of attorney's fees and litigation expenses.

"4. Ordering plaintiff to pay the costs.

SO ORDERED."

On February 29, 1992, SLC moved for reconsideration of the afore-quoted decision questioning the amounts granted by the Court of Appeals to WSSI.<sup>[20]</sup>

On January 28, 1993, after re-examining the evidence, the Court of Appeals issued a resolution amending its decision of February 7, 1992, effectively reducing the amounts to be awarded to WSSI, to wit:<sup>[21]</sup>

"WHEREFORE, in view of the foregoing, the decision dated February 7, 1992 is hereby correspondingly AMENDED and the dispositive portion thereof AMENDED to read as follows:

"(1) Dismissing the complaint;

"(2) Ordering the plaintiff to pay defendant the amount of ONE MILLION SIXTY SEVEN THOUSAND TWO HUNDRED TWENTY EIGHT & 73/100 (P1,067,228.73) with legal interest from the filing of the answer on March 19, 1986, until fully paid for work accomplished on the vessel "Dinky"/"LCT Loadstar";