330 Phil. 171

THIRD DIVISION

[G.R. No. 118509, September 05, 1996]

LIMKETKAI SONS MILLING, INC., PETITIONER, VS. COURT OF APPEALS, BANK OF THE PHILIPPINE ISLANDS AND NATIONAL BOOK STORE, RESPONDENTS.

R E S O L U T I O N

FRANCISCO, J.:

Motion of petitioner Limketkai Sons Milling, Inc., for reconsideration of the Court's resolution of March 29, 1996, which set aside the Court's December 1, 1995 decision and affirmed in toto the Court of Appeals' decision dated August 12, 1994.

It is argued, albeit erroneously, that the case should be referred to the Court En Banc as the doctrines laid down in *Abrenica v. Gonda and De Gracia, 34 Phil. 739, Talosig v. Vda. de Nieba, 43 SCRA 473, and Villonco Realty Co. v. Bormaheco, Inc., et. al., 65 SCRA 352,* have been modified or reversed. A more circumspect analysis of these cases vis-a-vis the case at bench would inevitably lead petitioner to the conclusion that there was neither reversal nor modification of the doctrines laid down in the ***Abrenica, Talosig*** and ***Villonco*** cases. In fact, the inapplicability of the principle enunciated in ***Abrenica*** and ***Talosig*** to this case has already been extensively discussed in the Court's resolution, hence the same will not be addressed anew. As regards the case of ***Villonco,*** petitioner mistakenly assumes that its case has a similar factual milieu with the former. The Court finds no further need to elaborate on the issue, but will simply point out the significant fact that the offer of the buyer in ***Villonco,*** unlike in this case, was accepted by the seller, Bormaheco, Inc.; and ***Villonco*** involves a perfected contract, a factor crucially absent in the instant case as there was no meeting of the minds between the parties.

What petitioner bewails the most is the present composition of the Third Division which deliberated on private respondents' motions for reconsideration and by a majority vote reversed the unanimous decision of December 1, 1995. More specifically, petitioner questions the assumption of Chief Justice Narvasa of the chairmanship of the Third Division and arrogantly rams its idea on how each Division should be chaired, i.e., the First Division should have been chaired by Chief Justice Narvasa, the Second Division by Mr. Justice Padilla, the next senior Justice and the Third Division by Mr. Justice Regalado, the third in line. We need only to stress that the change in the membership of the three divisions of the Court was inevitable by reason of Mr. Justice Feliciano's retirement. Such reorganization is purely an internal matter of the Court to which petitioner certainly has no business at all. In fact, the current "staggered" set-up in the chairmanships of the Divisions is similar to that adopted in 1988. In that year, the Court's Third Division was likewise chaired by then Chief Justice Fernan, while the First and Second Divisions were headed by the next senior Justices--Justices Narvasa and Melencio-Herrera,

respectively.

Moreover, the Court invites the petitioner's attention to its **Manifestation and Motion for Voluntary Inhibition,** dated March 8, 1996 (Rollo, pp. 386-388), where it noted, without objection, the transfer of Mr. Chief Justice Narvasa, Mr. Justice Davide, Jr., and Mr. Justice Francisco to the Court's Third Division. In this **Manifestation,** petitioner merely moved for the inhibition of the Chief Justice on the ground that the Chief Justice previously acted as counsel for one of the respondents, which allegation the Chief Justice vehemently denied by saying that the information upon which the petitioner relied "is utterly without foundation in fact and is nothing but pure speculation or wistful yearning."[1] It was only after the rendition of the Court's March 29, 1996 resolution when petitioner unprecedentedly objected to the composition of the Third Division. Suffice it to say that the Court with its new membership is not obliged to follow blindly a decision upholding a party's case when, after its re-examination, the same calls for a rectification. "Indeed", said the Court in *Kilosbayan, Inc. v. Morato, et. al.,* 250 SCRA 130, 136, "a change in the composition of the Court could prove the means of undoing an erroneous decision". And it is precisely in recognition of the fact that the Court is far from infallible that parties are duly accorded a remedy under the Rules of Court to bring to the Court's attention any error in the judgment by way of, among others, a motion for reconsideration. "More important than anything else", in the words of Mr. Justice Malcolm, "is that the court should be right" and to render justice where justice is due. It is therefore unfair, if not uncalled for, to brand the instant case as "one of utmost uniqueness in the annals of our judiciary."[2]

Counsel for the petitioner additionally insinuates that the ponente employed a "double standard" in deciding the case and professes bewilderment at the ponente's act of purportedly taking a position in the ponencia contrary to ponente's stand in his book.[3] It is quite unfortunate that to strengthen his unmeritorious posture, the counsel for the petitioner would resort to such unfounded insinuations, conduct which to the ponente's mind borders on contempt and is inappropriate for one who belongs to the legal profession. Be that as it may, the ponente wishes to state that he has not and has never "used a double standard"[4] in his entire career in the judiciary in the adjudication of cases. And contrary to petitioner's misimpression, the ponente never took a "questionable position in his ponencia"[5] different from "his authoritative reference and textbook"[6] which cited the case of *Abrenica v. Gonda and De Gracia* precisely because of the inherent factual differences of this case with that of ***Abrenica.*** Had counsel for the petitioner been meticulous, he would not have overlooked the fact that counsels for the other party never waived their right to object to the admission of an inadmissible evidence. The fact is that counsels for private respondents raised their persistent objections as early as the initial hearing and, when unceremoniously rebuffed for no apparent reason, registered their continuing objections. This is borne out by the records which the Court in its March 29, 1996 resolution cited. Thus:

> "ATTY. VARGAS:
>
> Before I proceed with the cross-examination of the witness, your Honor, may we object to the particular portion of the affidavit which attempt to prove the existence of a verbal contract to sell more specifically the answers contained in page 3. Par. 1, the whole of the answer.

"x x x x x x x x x

"COURT:

Objection overruled.

"ATTY. VARGAS:

Your Honor, what has been denied by the Court was the motion for preliminary hearing on affirmative defenses. The statement made by the witness to prove that there was a verbal contract to sell is inadmissible in evidence in this case because an agreement must be in writing.

"COURT:

Go ahead, that has been already overruled.

"ATTY. VARGAS:

So may we reiterate our objection with regards to all other portions of the affidavit which deal on the verbal contract. (TSN, Feb. 28, 1989, pp. 3-5: Emphasis supplied.)"[7]

"x x x x x x x x x

"ATTY. CORNAGO:

Before we proceed, we would like to make of record our continuing objection in so far as questions and answers propounded to Pedro Revilla dated February 27, 1989, in so far as questions would illicit (sic) answers which would be violative of the best evidence rule in relation to Art. 1403. I refer to questions nos. 8, 13, 16 and 19 of the affidavit of this witness which is considered as his direct testimony." (T.S.N., June 29, 1990, p.2)

"ATTY. CORNAGO:

May we make of record our continued objection on the testimony which is violative of the best evidence rule in relation to Art. 1403 as contained in the affidavit particularly questions Nos. 12, 14, 19 and 20 of the affidavit of Alfonso Lim executed on February 24, 1989. xxx." (T.S.N., June 28, 1990, p. 8)."[8]

Petitioner may not now feign ignorance of these pertinent objections. The Court finds no cogent reason to depart from its ruling in its March 29, 1996 resolution. To reiterate:

"Corollarily, as the petitioner's exhibits failed to establish the perfection of the contract of sale, oral testimony cannot take their place without violating the parol evidence rule.[9] It was therefore irregular for the trial court to have admitted in evidence testimony to prove the existence of a