

THIRD DIVISION

[G.R. No. 120730, October 28, 1996]

RAMON J. BERNARDO, SR., AND RAMON XAVIER C. BERNARDO, JR., PETITIONERS, VS. COURT OF APPEALS AND MASTER COMMODITIES FUTURES, INC., RESPONDENTS.

DECISION

DAVIDE, JR., J.:

The issue in this case is whether respondent Court of Appeals committed reversible error in its decision^[1] of 29 December 1994 in CA-G.R. CV No. 34168, affirming the decision^[2] of 22 February 1991 of Branch 58 of the Regional Trial Court of Makati which dismissed Civil Case No. 88-1644 for lack of jurisdiction over the subject matter, it being vested in the Securities and Exchange Commission (SEC).

The original complaint^[3] in Civil Case No. 88-1644 was filed on 12 August 1988 by petitioner Ramon J. Bernardo, Sr., in his capacity "as the natural guardian of minor XAVIER C. BERNARDO, JR." against private respondent Master Commodities Futures, Inc. On 28 December 1988, an amended complaint^[4] was filed impleading Ramon Xavier C. Bernardo, Jr., as party plaintiff and V.R. Bautista and Gloria Cadiente de Pedro as additional party defendants. The following material facts were alleged in the amended complaint:

2. That, on May 16, 1988, Ramon Bernardo, Sr. and minor Ramon C. Bernardo, Jr. with the assistance of his natural father Ramon J. Bernardo, Sr. entered into a trading commodity agreement, captioned by defendant as Rules for Commodity Trading & Customer's Agreement with the defendant, whereby plaintiff minor and his father made initial deposit[s] of P60,000.00 in cash and P40,000.00 in check, or the total margin deposit of P100,000.00 as security for all commodities bought or sold according to the market, brand, delivery month and quantity of commodity, collectively referred to as Trading Contracts, and for the purchase and/or sale of commodity futures, in accordance with the terms and conditions of said agreement, a photocopy of said agreement is attached herewith as Annex "A", while the margin deposits are attached as Annexes "B" and "C" hereof;

3. That the margin deposits in the amount of 100,000 which came into the possession of the defendant and allegedly used by it in the purchased [sic] of soybeans through purchase and sale orders without instructions from the plaintiff, Ramon Bernardo, Sr., knowing fully well that the latter gave oral instructions not to purchase and sell commodities without his approval, and execute one transaction only, in violation on par. 6 of the Rules for Commodity Trading and Customer's Agreement which requires clear instruction[s] from the customer before a [sic] purchase or sell

orders are made;

4. That after the execution of the said agreement (Annex "A" hereof) and the payment of the margin deposits in the amount of 100,000 which came from Ramon Bernardo, Sr., defendants through insidious machinations required the minor, Ramon Xavier Bernardo, Jr. to sign blank instructions of sale and purchase, without the knowledge, intervention, or approval of the plaintiff, Ramon Bernardo, Sr., the natural guardian of [the] minor, Ramon Bernardo, Jr., knowing fully well that the minor Bernardo, Jr. has no legal capacity to enter into contract without the assistance of the father, Ramon Bernardo, Sr., and aggravated by the fact that plaintiff, Ramon Bernardo, Sr., gave very clear verbal instruction to the defendant not to execute sale or purchase orders without his approval; furthermore, the purchase or sell orders signed by Ramon Xavier Bernanrdo are voidable considering that he is a minor, that the acts committed by the defendants in securing the blank signatures of Ramon Bernardo, Jr., without the assistance of his father, Bernardo, Sr. were made to insure the monetary benefit and advantage of the defendants to the prejudice of the plaintiffs.

5. That a certain V.R. Bautista, an alleged authorized agent of the defendant, without any authority from the plaintiff, Ramon Bernardo, Sr., signed the Instruction of Purchase annex "E", Instructions of Sale annexes "G", "I", thus fraudulently depriving the plaintiffs the amount of 100,000, thus paving way for the alleged transactions wherein according to the defendants, the plaintiffs allegedly lost their money;

6. That the defendant knowing fully well that Ramon Bernardo, Jr. is a minor and had no capacity to contract, through insidious machinations induced and required him to sign Instructions of Purchase, annexes "D", "F", Instructions of Sale, annex "H", inspite of the clear instruction of the father that purchase and sale orders will have to be approved by him, thereby taking advantage of the minority and inexperience of the plaintiff, Ramon Bernardo, Jr.; furthermore, the plaintiff, Ramon Bernardo, Sr. informed the defendant beforehand that the defendant is a minor, and this is the reason that he signed the commodity agreement, and yet defendant in bad faith still required the minor to sign the Instructions of Purchase and Instructions of Sale;

7. That the defendant, Gloria Cadiente de Pedro was the one who received the Margin Deposit in the amount of 100,000, as shown by the margin receipts no. 0322, 032, which the plaintiffs up to now did not know the reason why it was lost, and it is the duty of defendant de Pedro to account on [sic] where the money went, and if she is unable to do so to return the same to the plaintiffs;

8. That the plaintiff, Ramon Bernardo, Sr. as owner of the money in his personal capacity, and as a guardian of Ramon Bernardo, Jr. is entitled to the return of the amount of 100,000, the total margin deposits made by the minor Bernardo to the defendant after fraudulent inducements, and exploitation of his minority, plus damages;

9. That defendants are guilty of fraudulent schemes, machinations, imaginary transactions or other similar deceits to the prejudice of Ramon Bernardo, Sr. and minor Ramon Bernardo, Jr., resulting to [sic] mental anguish and serious anxiety on the part of the plaintiffs, who are fully convinced that they were defrauded of their money given to defendant Master Investments, hence, defendants should be adjudge to pay plaintiffs...

The petitioners as plaintiffs therein then prayed for a judgment: (a) declaring null and void the Instruction of Sale and purchases signed by minor Ramon Xavier C. Bernardo, Jr., and V.R. Bautista and the commodity agreement signed by Ramon Xavier C. Bernardo, Jr., and, (b) ordering the defendant to pay the plaintiffs (1) P100,000.00 representing the total margin deposits made by the minor Bernardo, Jr., (2) P200,000.00, from each of the defendant, as exemplary damages, (3) P200,000.00, from each of the defendants, as moral damages, and (4) a sum equivalent to 25% of the total amount due as attorney's fees, plus the costs of the suit.

In its answers,^[5] defendant (private respondent) Master Commodities Futures, Inc. (hereinafter MASTER) denied the material allegations in the amended complaint, especially the claim that Ramon Xavier C. Bernardo, Jr., was a minor, since in the Rules of Commodity Trading and Customer's Agreement which both father and son signed, they represented that they were both of legal age. Further, it raised the following defenses:

7. This Honorable Court has no jurisdiction over the subject matter;
8. The complaint states no cause of action;
9. Plaintiff has not complied with the legal requirements before it can sue as an alleged "natural guardian" of his son;
10. Plaintiff and son are in estoppel and barred by laches, and their claims have been waived, abandoned or otherwise extinguished^[6]

and set up counterclaims for damages and attorney's fees.

In their separate answer,^[7] defendants V.R. Bautista and Gloria Cadiente de Pedro practically reiterated the answer and defenses of MASTER.

Issues having been joined, the trial court conducted a pre-trial conference. Thereafter, trial on the merits ensued with the petitioners testifying on their behalf and calling defendant V.R. Bautista as a hostile witness. They offered documentary exhibits consisting of the Commodity Agreement (Exhibit "A"); Instruction to Purchase dated 17 May 1988 (Exhibit "B"); Instruction of Sale dated 23 May 1988 (Exhibit "C"); Instruction of Sale dated 25 May 1988 (Exhibit "D"); Instruction of Sale dated 23 May 1988 (Exhibit "E"); Instruction of Purchase dated 2 June 1988 (Exhibit "F"); Margin Receipt No. 0323 (Exhibit "G"); Margin Receipt No. 0322 (Exhibit "G-1"); Letter of Demand (Exhibit "H"); Notice of Additional Margin (Exhibit "I"); and the Birth Certificate of Ramon Xavier C. Bernardo, Jr. (Exhibit "J") which was offered to prove that he was a minor at the time he signed the assailed transactions.^[8] While the defendants presented Ms. Jocelyn A. Lim, Teresita Briones, Alfredo Albao, and George Chua as their witness,^[9] with Briones identifying several documentary exhibits (Exhibits "3" to "21", inclusive).^[10]

After the conclusion of the trial, the parties submitted their respective memoranda as required. In their *Statement of the Case* in their Memorandum, the petitioners expounded on their allegations of fraud and fraudulent inducements, misrepresentations, and deceptions allegedly committed by MASTER, as follows:

This is a case of a minor, fraudulently induced by the defendant Master's Commodities to invest in commodities futures. Deception was employed. The minor was made to believe, that once he invest in commodities futures, he will surely make a big profit. The explanation was made in very technical manner. Statistics were shown. A market chart was shown. All these instruments were designed to convince the minor that there was no way that he could lose his money.

The minor was fraudulently convinced. He convinced his father, Ramon Bernardo, Sr. To give him the money. His father was in serious doubt about the investment. The minor insisted, that it became an enigma for the father whether to give in to the wishes of the son. The father talked to the representatives of the defendant, Masters Commodities. They also deceived him by the same explanation that they gave to the son. They made it appear that the investment will surely make money.

Since the minor could not sign the contract, the defendants induced the father to sign it, to validate whatever infirmity the agreement had with respect to the acts of the minor. To give in to the wishes of his son, the father agreed to sign the agreement, on the condition that there should only be one transaction, and that the purchase and sale orders be cleared with him.

After the agreement was signed, that father was no longer ask to sign the purchase and sale orders. In spite of defendant Master's knowledge that Ramon Bernardo, Jr. Was a minor, it fraudulently asked him to sign the subsequent purchase and sale orders. It avoided the father. It was easier for the defendant Masters to deceive the minor son than the father. The subsequent orders were either signed by the minor, Ramon Bernardo, Jr. Or V.R. Bautista, an officer of the defendant Masters. All these orders were illegal, because they were not authorized by Ramon Bernardo, Sr.

The plaintiffs after the foregoing misrepresentations, invested money. It bought soybeans futures, because the indication was that the price was going up. It was the minor's consent that was obtained. Just four days later, the price went down. The market went against the defendants Masters judgement. Plaintiffs immediately lost money, contrary to expectations. They were advised to short sell allegedly to cut losses. This was based on the assumption that the price will go down. But again, the defendant committed another fraudulent inducement. The market went up, against the advise of the defendant Masters.

It was deception after deception. When the market was going up, the plaintiff minor was advise to sell. The market went against the advise. When minor was advised to short sell, the market went up. Even the

market average went against the advise. When the advise to sell was made, there was no chance for the plaintiff to recover. There were misrepresentations as to the true situation of the market. There were fraudulent deceptions. These were not simple errors. These were clear tortious and fraudulent acts.

The plaintiffs were literally trapped. The moment they gave their money, they lost control of it. It was the defendant Master's that decided on what to do with money. The money transfer was legalized by the agreement. But after money transfer, it was the defendant Master's that decided the faith of the margin deposit. The Father was not consulted anymore. All of these fraudulent acts were justified under a highly technical and one sided contract, whose provisions are even contrary to law. no ordinary layman could fully understand its provisions, especially if fraudulent misrepresentations were made.

The defendant Masters alleged that it bought soybeans. But it does not know where the soybeans were? Defendant Masters don't no, even know from show it bought the soybeans? It said that it was in the warehouse, but it does not even know where the warehouse was located. The most logical conclusion is that there really a transaction? The evidence did not show that the soybeans and the seller really existed. Where did the money go? Definitely in the hands of the defendants Masters, but as to how it was spent, that is where the fraud lies.^[11]

In its decision^[12] dated 22 February 1991, the trial court dismissed the case for want of jurisdiction:

It is apparent from plaintiffs complaint specifically paragraph 9 thereof, that plaintiffs accuse defendants, among others of employing fraudulent schemes, machinations and other acts similar thereto which accusation is within the coverage of Sec. 5 of Presidential Decree No. 902-A the pertinent portion of which reads as follows:

Sec. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall original and exclusive jurisdiction to hear and decide cases involving:

a. Devices or schemes employed by or any acts. of the board of director, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission.^[13]

On the appeal, the Court of Appeals (CA-G.R. CV No. 34168) affirmed^[14] the trial court and held:

Plaintiff-appellant's claim that the fraud committed by defendant-appellee in the instant case is the fraud under Arts. 1330, 1338, and/or 1339 of the Civil Code and not those alluded to in Sec. 5a of P.D. 902-A has no