



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**SAN FERNANDO REGALA
TRADING, INC.,**

Petitioner,

G.R. No. 178008

Present:

- versus -

VELASCO, JR., *J.*, *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

CARGILL PHILIPPINES, INC.,
Respondent.

X ----- X

CARGILL PHILIPPINES, INC.,
Petitioner,

G.R. No. 178042

- versus -

**SAN FERNANDO REGALA
TRADING, INC.,**
Respondent.

Promulgated:

October 9, 2013

Macapian

X ----- X

DECISION

ABAD, J.:

These cases pertain to the reciprocal obligations of the parties in a contract of sale to deliver the goods, receive them, and pay the price as stipulated and the consequent effects of breach of such obligations.

The Facts and the Case

Cargill Philippines, Inc. (Cargill) and San Fernando Regala Trading, Inc. (San Fernando) were cane molasses traders that did business with each

other for sometime. The present controversy arose when San Fernando claimed that Cargill reneged on its contractual obligations to deliver certain quantities of molasses. Cargill denied this, insisting that San Fernando actually refused to accept the delivery of the goods. This enmity resulted in Cargill's filing on March 2, 1998 a complaint for sum of money and damages against San Fernando before the Regional Trial Court (RTC) of Makati City in Civil Case 98-493.

Cargill alleged that on July 15, 1996 it entered into Contract 5026¹ covering its sale to San Fernando of 4,000 metric tons (mt) of molasses at the price of ₱3,950.00 per mt. Cargill agreed to deliver the molasses within the months of "April to May 1997" at the wharf of Union Ajinomoto, Inc. (Ajinomoto) along the Pasig River, Metro Manila. This was a risk-taking forward sale in that its execution was to take place about 10 months later when the parties did not yet know what the trading price of molasses would be.

Shortly after, Cargill also entered into Contract 5047² covering another sale to San Fernando of 5,000 mt of molasses at ₱2,750.00 per mt. The delivery period under this contract was within "October-November-December 1996," sooner than the delivery period under Contract 5026. Apparently, San Fernando had a deal with Ajinomoto for the supply of these molasses.

Cargill further alleged that it offered to deliver the 4,000 mt of molasses as required by Contract 5026 within the months of April and May 1997 but San Fernando accepted only 951 mt, refusing to accept the rest. On April 2, 1997 Dolman V, the barge carrying Cargill's 1,174 mt of molasses, arrived at the Ajinomoto wharf but San Fernando refused to accept the same. The barge stayed at the wharf for 71 days, waiting for San Fernando's unloading order. Because of the delay, the owner of the barge slapped Cargill with demurrage amounting to ₱920,000.00. Cargill also suffered ₱3,480,000.00 in damages by way of unrealized profits because it had to sell the cargo to another buyer at a loss.

Cargill further alleged that it earlier sought to deliver the molasses covered by Contract 5047 at the Ajinomoto wharf in the months of October, November, and December 1996, but San Fernando failed or refused for unjustified reasons to accept the delivery. Consequently, Cargill suffered damages by way of unrealized profits of ₱360,000.00 from this contract. Apart from asking the RTC for awards of unrealized profits, Cargill also asked for a return of the demurrage it paid, attorney's fees, and cost of litigation.

¹ Records, p. 9, Exhibit "A."

² Id. at 12, Exhibit "B."

To substantiate its claim, Cargill presented David Mozo of Dolman Transport Corp. who testified that Cargill chartered its Dolman V barge to carry molasses from Pasacao to the Ajinomoto wharf in Pasig. But the barge was unable to unload its cargo and was placed on stand-by for around 70 days, awaiting orders to unload its molasses. Consequently, Dolman Transport charged Cargill for demurrage.

Cargill also presented Arthur Gunlao, an employee, who testified that his company was unable to unload the molasses covered by Contracts 5026 and 5047 because San Fernando's President, Quirino Kehyeng, advised them to wait because Ajinomoto's storage tanks were still full and could not receive the molasses. Because of the prolonged delay in the unloading of the goods, Cargill had no choice but to sell the molasses to another buyer. At the prodding of Kehyeng, Cargill wrote San Fernando on May 14, 1997 proposing changes in the delivery periods of Contract 5026 and 5047, respectively from "April to May 1997" to "May to June 1997" and from "October-November-December 1996" to "May-June-July 1997."³ The amendments were needed to keep the contracts valid and maintain the good business relations between the two companies.

In its Answer with counterclaim, San Fernando pointed out that, except for the 951 mt of molasses that Cargill delivered in March 1997, the latter made no further deliveries for Contract 5026. Indeed, Cargill sent San Fernando a letter dated May 14, 1997 proposing a change in the delivery period for that contract from "April to May 1997" to "May to June 1997." But San Fernando rejected the change since it had a contract to sell the molasses to Ajinomoto for ₱5,300.00 per mt.⁴ San Fernando expected to earn a ₱5,400,000.00 profit out of Contract 5026.

As for Contract 5047, San Fernando maintained that Cargill delivered no amount of molasses in connection with the same. Cargill admitted its inability to deliver the goods when it wrote San Fernando a letter on May 14, 1997, proposing to move the delivery period from "October-November-December 1996" to "May-June-July 1997." But San Fernando also rejected the change since it had already contracted to sell the subject molasses to Ajinomoto for ₱4,950.00 per mt.⁵ San Fernando expected a profit of ₱11,000,000.00 under this contract.

To prove its claims, San Fernando presented its President, Kehyeng, who testified that apart from the March 1997 delivery of 951 mt of molasses under Contract 5026, Cargill made no further deliveries. He called Dennis

³ Id. at 67-68, Exhibits "4" and "5."

⁴ Id. at 408, Exhibit "6."

⁵ Id. at 413, Exhibit "8."

Seah of Cargill several times demanding delivery but nothing came of it. Subsequently, Cargill wrote San Fernando, proposing the extension of the delivery periods provided in their two contracts. But Kehyeng rejected the proposal and refused to sign his conformity at the appropriate spaces on Cargill's letter.

Kehyeng denied that San Fernando had refused to receive deliveries because it bought molasses from Cargill at prices higher than what Ajinomoto was willing to pay. Kehyeng insisted that San Fernando had always received Cargill's deliveries even on occasions when the prices fluctuated resulting in losses to his company. He claimed that, as a result of Cargill's violation of Contracts 5026 and 5047, San Fernando was entitled to rescission and awards for unrealized profits of ₱4,115,329.20 and ₱11,000,000.00, respectively, moral and exemplary damages each in the amount of ₱500,000.00, attorney's fees of ₱1,000,000.00, and litigation expenses.

On December 23, 2003 the RTC dismissed Cargill's complaint for lack of merit and granted San Fernando's counterclaims. The RTC did not give credence to Cargill's claim that San Fernando refused to accept the deliveries of molasses because Ajinomoto's tanks were full. San Fernando sufficiently proved that Ajinomoto continued receiving molasses from other suppliers during the entire time that Cargill's chartered barge was put on stand-by at the wharf, supposedly waiting for San Fernando's unloading orders.

It was incomprehensible, said the RTC, for San Fernando to refuse Cargill's deliveries, considering that Ajinomoto had already agreed to buy the molasses from it. Cargill's failure to make the required deliveries resulted in San Fernando's default on its obligations to Ajinomoto, prompting the latter to cancel its orders. As a result, San Fernando lost expected profits of ₱4,115,329.20 representing the remaining undelivered molasses under Contract 5026 and ₱11,000,000.00 under Contract 5047. The RTC awarded San Fernando its claims for unrealized profits, ₱500,000.00 in moral damages, another ₱500,000.00 in exemplary damages, attorney's fees of ₱1,000,000.00, and ₱500,000.00 as cost of litigation.

The Court of Appeals (CA) ruled on appeal, however, that Cargill was not entirely in breach of Contract 5026. Cargill made an advance delivery of 951 mt in March 1997. It then actually sent a barge containing 1,174 mt of molasses on April 2, 1997 for delivery at Ajinomoto's wharf but San Fernando refused to have the cargo unloaded. Consequently, the trial court erred in awarding San Fernando unrealized profits of ₱4,115,329.20 under Contract 5026. The CA also ruled that since San Fernando unjustifiably refused to accept the April 2, 1997 delivery, it should reimburse Cargill the ₱892,732.50 demurrage that it paid the owner of the barge.

The CA, however, found Cargill guilty of breach of Contract 5047 which called for delivery of the molasses in “October-November-December 1996.” Since San Fernando did not accede to Cargill’s request to move the delivery period back, Cargill violated the contract when it did not deliver the goods during the previously agreed period. Cargill was liable to San Fernando for unrealized profits of ₱11,000,000.00 that it would have made if it had sold them to Ajinomoto. The CA deleted the award of moral and exemplary damages in favor of San Fernando for its failure to sufficiently establish Cargill’s bad faith in complying with its obligations. The CA also deleted the awards of attorney’s fees and cost of litigation.

The CA thus ordered: 1) San Fernando to reimburse Cargill the demurrage of ₱892,732.50 that it paid, subject to 6% interest per annum computed from the date of the filing of the complaint until the finality of the decision; and 2) Cargill to pay San Fernando ₱11,000,000.00 in unrealized profits under Contract 5047. The CA deleted the award of moral and exemplary damages, attorney’s fees, and cost of litigation. This prompted both Cargill and San Fernando to appeal to this Court.

Issues for Resolution

These cases present the following issues:

1. Whether or not the CA erred in ruling that Cargill was not guilty of breach of obligation to deliver the 4,000 mt of molasses covered by Contract 5026 during the period April and May 1997;
2. Whether or not the CA erred in ruling that Cargill was guilty of breach of obligation to deliver the 5,000 mt of molasses covered by Contract 5047 during the period October, November, and December 1996; and
3. Whether or not the CA erred in deleting the award of moral and exemplary damages, attorney’s fees, and cost of suit in favor of San Fernando.

The Rulings of the Court

One. The CA held that Cargill committed no breach of Contract 5026 because it had earlier delivered 951 mt of molasses in March 1997⁶ and sent a barge containing 1,174 mt of the goods on April 2, 1997 at the

⁶ This delivery has already been paid for by San Fernando.

Ajinomoto's wharf. It was actually San Fernando that refused to accept this delivery on April 2.

But Contract 5026 required Cargill to deliver 4,000 mt of molasses during the period "April to May 1997." Thus, anything less than that quantity constitutes breach of the agreement. And since Cargill only delivered a total of 2,125 mt of molasses during the agreed period, Cargill should be regarded as having violated Contract 5026 with respect to the undelivered balance of 1,875 mt of molasses.

Notably, Chargill's chartered barge showed up with 1,174 mt of molasses at the Ajinomoto wharf on April 27, 1997. The barge stayed there for around 70 days, awaiting orders to unload the cargo. David Mozo of Dolman Transport Corp. attested to this. Dolman V was put on stand-by at the wharf while other barges queued to unload their molasses into Ajinomoto's storage tanks.⁷ In failing to accept delivery of Cargill's 1,174 molasses, San Fernando should reimburse Cargill the ₱892,732.50 demurrage that it paid.

Ultimately, what are the liabilities of the parties under Contract 5026? Had San Fernando accepted the delivery of 1,174 mt of molasses on April 27, 1997 Cargill would have been entitled to payment of their price of ₱4,637,300.00 at ₱3,950.00 per mt. But, since Cargill succeeded in selling that 1,174 mt of molasses to Schuurmans & Van Ginneken for ₱1,861.92 per mt.⁸ Cargill's unrealized profit then amounted to only ₱2,451,405.59. Thus:

$$\begin{aligned} & \text{₱3,950 per mt} - \text{₱1,861.92 per mt} = \text{₱2,088.09} \times 1,174 \\ \text{mt} &= \text{₱2,451,405.59} \end{aligned}$$

Since Cargill failed, however, to deliver the balance of 1,875 mt of molasses under Contract 5026, it must pay San Fernando the ₱2,531,250.00, representing the latter's unrealized profits had it been able to sell that 1,875 mt of molasses to Ajinomoto. Thus:

$$\begin{aligned} & \text{₱5,300 per mt selling price at Ajinomoto} - \text{₱3,950} \\ & \text{acquisition cost} = \text{₱1,350 profit per mt} \end{aligned}$$

$$\begin{aligned} & \text{₱1,350.00 profit margin per mt} \times 1,875 \text{ mt} = \\ & \text{₱2,531,250.00} \end{aligned}$$

Cargill, of course, claimed that it had sufficient inventories of molasses to complete its deliveries, implying that had San Fernando

⁷ TSN, October 12, 1999, pp. 8-10.

⁸ TSN, January 18, 2000, pp. 11-12.

accepted its initial delivery of 1,174 mt it would have continued delivering the rest. But it is not enough for a seller to show that he is capable of delivering the goods on the date he agreed to make the delivery. He has to bring his goods and deliver them at the place their agreement called for, *i.e.*, at the Ajinomoto Pasig River wharf.

A stipulation designating the place and manner of delivery is controlling on the contracting parties.⁹ The thing sold can only be understood as delivered to the buyer when it is placed in the buyer's control and possession at the agreed place of delivery.¹⁰ Cargill presented no evidence that it attempted to make other deliveries to complete the balance of Contract 5026.

Two. The CA correctly ruled that Cargill was in breach of Contract 5047 which provided for delivery of the molasses within the months of October, November, and December 1996. Thus, when Cargill wrote San Fernando on May 14, 1997 proposing to move the delivery dates of this contract to May, June, and July, 1997, it was already in default. San Fernando's refusal to signify its conformity at the proper space on Cargill's letter-proposal regarding Contract 5047 signifies that it was not amenable to the change.

San Fernando had good reason for this: it had already agreed to supply Ajinomoto the molasses covered by Contract 5047 at the rate of ₱4,950.00 per mt.¹¹ Consequently, Cargill's failure to deliver the 5,000 mt of molasses on "October-November-December 1996" makes it liable to San Fernando for ₱11,000,000.00 in unrealized profits. Thus:

$$\begin{aligned} &\text{₱4,950 per mt selling price to Ajinomoto} - \text{₱2,750} \\ &\text{acquisition cost} = \text{₱2,200 profit per mt} \end{aligned}$$

$$\text{₱2,200 per mt} \times 5,000 \text{ mt} = \text{₱11,000,000.00}$$

In failing to make any delivery under Contract 5047, Cargill should pay San Fernando the profit that it lost because of such breach. Cargill of course points out that San Fernando never wrote a demand letter respecting its failure to make any delivery under that contract. But demand was not necessary since Cargill's obligation under the contract specified the date and place of delivery, *i.e.*, "October-November-December 1996," at the Ajinomoto wharf in Pasig.¹²

⁹ CIVIL CODE, Art. 1521.

¹⁰ *Id.*, Art. 1497.

¹¹ *Supra* note 5.

¹² See CIVIL CODE, Art. 1169 (1).

Three. The Court concurs with the CA's deletion of the RTC's award of moral damages to San Fernando. As a rule, moral damages are not awarded to a corporation unless it enjoyed good reputation that the offender debased and besmirched by his actuations.¹³ San Fernando failed to prove by sufficient evidence that it fell within this exception. Besides, moral damages are, as a rule, also not recoverable in *culpa contractual* except when bad faith had been proved.¹⁴ San Fernando failed to show that Cargill was motivated by bad faith or ill will when it failed to deliver the molasses as agreed.

The Court rules that the CA correctly deleted the award of exemplary damages to San Fernando. In breach of contract, the court may only award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.¹⁵ The evidence has not sufficiently established that Cargill's failure to deliver the molasses on time was attended by such wickedness.

Lastly, the CA correctly deleted the award of attorney's fees and cost of litigation to San Fernando. Attorney's fees and expenses of litigation under Article 2208 of the Civil Code are proper only when exemplary damages are awarded. Here, the Court has ruled that San Fernando is not entitled to an award of exemplary damages. Both parties actually committed shortcomings in complying with their contractual obligations. San Fernando failed in Contract 5026 to accept Cargill's delivery of 1,174 mt of molasses; Cargill only complied partially with its undertakings under Contract 5026 and altogether breached its obligations under Contract 5047. For these, they must bear their own expenses of litigation.

WHEREFORE, the Court **PARTIALLY GRANTS** the petitions and **MODIFIES** the Court of Appeals Decision on January 19, 2007 in CA-G.R. CV 81993 as follows:

1. San Fernando Regala Trading, Inc. is **ORDERED** to pay Cargill Philippines, Inc. (a) ₱892,732.50 representing the demurrage that the latter incurred and (b) ₱2,451,405.59 representing its unrealized profit on the rejected delivery of 1,174 mt of molasses, both under Contract 5026, for a total of ₱3,344,138.09, with interest at 6% per annum computed from the date of the filing of the complaint until the same is fully paid; and

2. Cargill Philippines, Inc. is **ORDERED** to pay San Fernando Regala Trading, Inc. the latter's unrealized profits of ₱2,531,250.00 for the breach of Contract 5026 and ₱11,000,000.00 for the breach of Contract

¹³ *ABS-CBN Broadcasting Corp. v. Court of Appeals*, 361 Phil. 499, 530 (1999).


¹⁴ *Yobido v. Court of Appeals*, 346 Phil. 1, 13 (1997).

¹⁵ CIVIL CODE, Art. 2232.

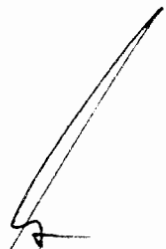
5047, for a total of ₱13,531,250.00, with interest at 6% per annum computed from the date of the filing of the answer with counterclaim until the same is fully paid.

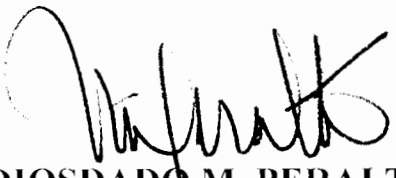
The Court of Appeals' deletion of the awards of moral and exemplary damages, attorney's fees, and costs of litigation stands.


SO ORDERED.


ROBERTO A. ABAD
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

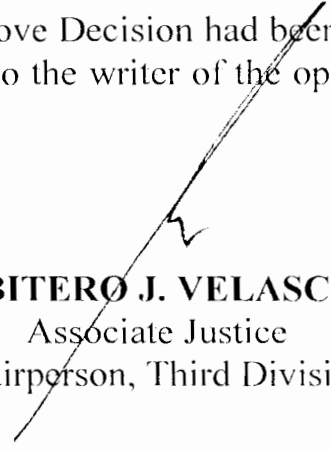

DIOSDADO M. PERALTA
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice