Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

H.H. HOLLERO CONSTRUCTION, INC., Petitioner,	**G.R. No. 152334**
- versus -	Present:
GOVERNMENT SERVICE INSURANCE SYSTEM and POOL OF MACHINERY INSURERS, Respondents.	SERENO, *C.J.*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
	Promulgated: SEP 24 2014

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DECISION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated March 13, 2001 and the Resolution[3] dated February 21, 2002 of the Court of Appeals (CA) in CA-G.R. CV No. 63175, which set aside and reversed the Judgment[4] dated February 3, 1999 of the Regional Trial Court of Quezon City, Branch 220 (RTC) in Civil Case No. 91-10144, and dismissed petitioner H.H. Hollero Construction, Inc.'s (petitioner) Complaint for Sum of Money and Damages under the insurance policies issued by public respondent, the Government Service Insurance System (GSIS), on the ground of prescription.

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1 Erroneously titled as Petition for *Certiorari*. (*Rollo*, pp. 10-31.)

2 Id. at 34-46. Penned by Associate Justice Romeo J. Callejo, Jr. with Associate Justices Renato C. Dacudao and Josefina Guevarra-Salonga, concurring.

3 Id. at 47.

4 Id. at 211-230. Penned by Judge Prudencio Altre Castillo, Jr.

The Facts

On April 26, 1988, the GSIS and petitioner entered into a Project Agreement (Agreement) whereby the latter undertook the development of a GSIS housing project known as Modesta Village Section B (Project).[5] Petitioner obligated itself to insure the Project, including all the improvements, upon the execution of the Agreement under a Contractors' All Risks (CAR) Insurance with the GSIS General Insurance Department for an amount equal to its cost or sound value, which shall not be subject to any automatic annual reduction.[6]

Pursuant to its undertaking, petitioner secured CAR Policy No. 88/085[7] in the amount of □1,000,000.00 for land development, which was later increased to □10,000,000.00,[8] effective from May 2, 1988 to May 2, 1989.[9] Petitioner likewise secured CAR Policy No. 88/086[10] in the amount of □1,000,000.00 for the construction of twenty (20) housing units, which amount was later increased to □17,750,000.00[11] to cover the construction of another 355 new units, effective from May 2, 1988 to June 1, 1989.[12] In turn, the GSIS reinsured CAR Policy No. 88/085 with respondent Pool of Machinery Insurers (Pool).[13]

Under both policies, it was provided that: (*a*) there must be prior notice of claim for loss, damage or liability within fourteen (14) days from the occurrence of the loss or damage;[14] (*b*) all benefits thereunder shall be forfeited if no action is instituted within twelve (12) months after the rejection of the claim for loss, damage or liability;[15] and (*c*) if the sum insured is found to be less than the amount required to be insured, the amount recoverable shall be reduced to such proportion before taking into account the deductibles stated in the schedule (average clause provision).[16]

During the construction, three (3) typhoons hit the country, namely, Typhoon Biring from June 1 to June 4, 1988, Typhoon Huaning on July 29, 1988, and Typhoon Saling on October 11, 1989, which caused considerable damage to the Project.[17] Accordingly, petitioner filed several claims for

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5 Id. at 34.
6 Id. at 34-35.
7 Id. at 128-132.
8 Id. at 134-135.
9 Id. at 35-36.
10 Id. at 136-141.
11 Id. at 142-143.
12 Id. at 36.
13 Id. at 77.
14 See CAR Policies, General Conditions, paragraph 7; id. at 128 and 136 (reverse side).
15 See CAR Policies, General Conditions, paragraph 10; id.
16 See id. at 130 and 137.
17 See id. at 36-38.

indemnity with the GSIS on June 30, 1988,[18] August 25, 1988,[19] and October 18, 1989,[20] respectively.

In a letter[21] dated April 26, 1990, the GSIS rejected petitioner's indemnity claims for the damages wrought by Typhoons Biring and Huaning, finding that no amount is recoverable pursuant to the average clause provision under the policies.[22] In a letter[23] dated June 21, 1990, the GSIS similarly rejected petitioner's indemnity claim for damages wrought by Typhoon Saling on a "no loss" basis, it appearing from its records that the policies were not renewed before the onset of the said typhoon.[24]

In a letter[25] dated April 18, 1991, petitioner impugned the rejection of its claims for damages/loss on account of Typhoon Saling, and reiterated its demand for the settlement of its claims.

On September 27, 1991, petitioner filed a Complaint[26] for Sum of Money and Damages before the RTC, docketed as Civil Case No. 91-10144,[27] which was opposed by the GSIS through a Motion to Dismiss[28] dated October 25, 1991 on the ground that the causes of action stated therein are barred by the twelve-month limitation provided under the policies, *i.e.*, the complaint was filed more than one (1) year from the rejection of the indemnity claims. The RTC, in an Order[29] dated May 13, 1993, denied the said motion; hence, the GSIS filed its answer[30] with counterclaims for litigation expenses, attorney's fees, and exemplary damages. Subsequently, the GSIS filed a Third Party Complaint[31] for indemnification against Pool, the reinsurer.

The RTC Ruling

In a Judgment[32] dated February 3, 1999, the RTC granted petitioner's indemnity claims. It held that: (*a*) the average clause provision in the policies which did not contain the assent or signature of the petitioner cannot limit the GSIS' liability, for being inefficacious and contrary to public policy;[33] (*b*) petitioner has established that the damages it sustained were due

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18 Id. at 150-155.
19 Id. at 37 and 156-157.
20 Id. at 166-175.
21 Id. at 163-165.
22 Id. at 223.
23 Id. at 176.
24 Id. at 38.
25 Id. at 179-180.
26 Dated September 3, 1991. (Id. at 48-56.)
27 Id. at 38.
28 Id. at 57-59.
29 Id. at 65. Penned by Judge Ignacio D. Salvador.
30 Answer with Affirmative Defenses and Counterclaim Dated July 21, 1993. (Id. at 66-71.)
31 Dated October 11, 1993. (Id. at 76-78.)
32 Id. at 211-230.
33 Id. at 226.

to the peril insured against;[34] and (*c*) CAR Policy No. 88/086 was deemed renewed when the GSIS withheld the amount of □35,855.00 corresponding to the premium payable,[35] from the retentions it released to petitioner.[36] The RTC thereby declared the GSIS liable for petitioner's indemnity claims for the damages brought about by the said typhoons, less the stipulated deductions under the policies, plus 6% legal interest from the dates of extra-judicial demand, as well as for attorney's fees and costs of suit. It further dismissed for lack of merit GSIS's counterclaim and third party complaint.[37]

Dissatisfied, the GSIS elevated the matter to the CA.

The CA Ruling

In a Decision[38] dated March 13, 2001, the CA set aside and reversed the RTC Judgment, thereby dismissing the complaint. It ruled that the complaint filed on September 27, 1991 was barred by prescription, having been commenced beyond the twelve-month limitation provided under the policies, reckoned from the final rejection of the indemnity claims on April 26, 1990 and June 21, 1990.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA committed reversible error in dismissing the complaint on the ground of prescription.

The Court's Ruling

The petition lacks merit.

Contracts of insurance, like other contracts, are to be construed according to the sense and meaning of the terms which the parties themselves have used. If such terms are clear and unambiguous, they must be taken and understood in their plain, ordinary, and popular sense.[39]

Section 10[40] of the General Conditions of the subject CAR Policies commonly read:

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34 Id. at 227.
35 Id. at 228.
36 See Memorandum dated November 9, 1989 of the GSIS Accounting Department to the GSIS General Insurance Group; id at 178.
37 Id. at 229-230.
38 Id. at 34-46.
39 *Alpha Insurance and Surety Co. v. Castor*, G.R. No. 198174, September 2, 2013, 704 SCRA 550, 556.
40 See *rollo*, pp. 128 and 136 (reverse side).

> 10. If a claim is in any respect fraudulent, or if any false declaration is made or used in support thereof, or if any fraudulent means or devices are used by the Insured or anyone acting on his behalf to obtain any benefit under this Policy, or **if a claim is made and rejected and no action or suit is commenced within twelve months after such rejection** or, in case of arbitration taking place as provided herein, within twelve months after the Arbitrator or Arbitrators or Umpire have made their award, **all benefit under this Policy shall be forfeited**. (Emphases supplied)

In this relation, case law illumines that the prescriptive period for the insured's action for indemnity should be reckoned from the "final rejection" of the claim.[41]

Here, petitioner insists that the GSIS's letters dated April 26, 1990 and June 21, 1990 did not amount to a "final rejection" of its claims, arguing that they were mere tentative resolutions pending further action on petitioner's part or submission of proof in refutation of the reasons for rejection.[42] Hence, its causes of action for indemnity did not accrue on those dates.

The Court does not agree.

A perusal of the letter[43] dated April 26, 1990 shows that the GSIS denied petitioner's indemnity claims wrought by Typhoons Biring and Huaning, it appearing that no amount was recoverable under the policies. While the GSIS gave petitioner the opportunity to dispute its findings, neither of the parties pursued any further action on the matter; this logically shows that they deemed the said letter as a rejection of the claims. Lest it cause any confusion, the statement in that letter pertaining to any queries petitioner may have on the denial should be construed, at best, as a form of notice to the former that it had the opportunity to seek reconsideration of the GSIS's rejection. Surely, petitioner cannot construe the said letter to be a mere "tentative resolution." In fact, despite its disavowals, petitioner admitted in its pleadings[44] that the GSIS indeed denied its claim through the aforementioned letter, but tarried in commencing the necessary action in court.

The same conclusion obtains for the letter[45] dated June 21, 1990 denying petitioner's indemnity claim caused by Typhoon Saling on a "no loss" basis due to the non-renewal of the policies therefor before the onset of

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41 See *Eagle Star Ins., Co., Ltd., et al. v. Chia Yu*, 96 Phil. 696, 701-702 (1955), as cited in *Summit Guaranty and Insurance Co., Inc. v. Judge de Guzman*, 235 Phil. 389, 399 (1987) and *Travellers Insurance & Surety Corporation v. CA*, 338 Phil. 1032, 1043 (1997).

42 *Rollo*, pp. 24-25.

43 Id. at 163-165.

44 See paragraphs 7, 8, 12 and 13 of the Complaint; id. at 51-52. See also paragraph 1 of the Opposition (Re: Motion to Dismiss) dated November 13, 1991; id. at 60-61.

45 Id. at 176.

the said typhoon. The fact that petitioner filed a letter[46] of reconsideration therefrom dated April 18, 1991, considering too the inaction of the GSIS on the same similarly shows that the June 21, 1990 letter was also a final rejection of petitioner's indemnity claim.

As correctly observed by the CA, "final rejection" simply means denial by the insurer of the claims of the insured and not the rejection or denial by the insurer of the insured's motion or request for reconsideration.[47] The rejection referred to should be construed as the **rejection in the first instance**,[48] as in the two instances above-discussed.

Comparable to the foregoing is the Court's action in the case of *Sun Insurance Office, Ltd. v. CA*[49] wherein it debunked "[t]he contention of the respondents [therein] that the one-year prescriptive period does not start to run until the petition for reconsideration had been resolved by the insurer," holding that such view "runs counter to the declared purpose for requiring that an action or suit be filed in the Insurance Commission or in a court of competent jurisdiction from the denial of the claim."[50] In this regard, the Court rationalized that "uphold[ing] respondents' contention would contradict and defeat the very principle which this Court had laid down. Moreover, it can easily be used by insured persons as a scheme or device to waste time until any evidence which may be considered against them is destroyed."[51] Expounding on the matter, the Court had this to say:

> The crucial issue in this case is: When does the cause of action accrue?
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> In support of private respondent's view, two rulings of this Court have been cited, namely, the case of *Eagle Star Insurance Co. vs. Chia Yu* ([supra note 41]), where the Court held:
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> > The right of the insured to the payment of his loss accrues from the happening of the loss. However, the cause of action in an insurance contract does not accrue until the insured's claim is finally rejected by the insurer. This is because before such final rejection there is no real necessity for bringing suit.
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> and the case of *ACCFA vs. Alpha Insurance & Surety Co., Inc.* (24 SCRA 151 [1968], holding that:
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> > Since "cause of action" requires as essential elements not only a legal right of the plaintiff and a correlated obligation of the defendant in violation of the said legal right, the cause of action does not accrue until the party obligated (surety) refuses, expressly or impliedly, to comply with its duty (in this case to pay the amount of the bond)."

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46 Id. at 179-180.
47 Id. at 44.
48 See *Sun Insurance Office, Ltd. v. CA*, G.R. No. 89741, March 13, 1991, 195 SCRA 193, 199.
49 Id.
50 Id. at 198.
51 Id.

> Indisputably, the above-cited pronouncements of this Court may be taken to mean that the insured's cause of action or his right to file a claim either in the Insurance Commission or in a court of competent jurisdiction [as in this case] commences from the time of the denial of his claim by the Insurer, either expressly or impliedly.
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> But as pointed out by the petitioner insurance company, the rejection referred to should be construed as the rejection, in the first instance, for if what is being referred to is a reiterated rejection conveyed in a resolution of a petition for reconsideration, such should have been expressly stipulated.[52]

In light of the foregoing, it is thus clear that petitioner's causes of action for indemnity respectively accrued from its receipt of the letters dated April 26, 1990 and June 21, 1990, or the date the GSIS rejected its claims in the first instance. Consequently, given that it allowed more than twelve (12) months to lapse before filing the necessary complaint before the RTC on September 27, 1991, its causes of action had already prescribed.

WHEREFORE, the petition is **DENIED**. The Decision dated March 13, 2001 and the Resolution dated February 21, 2002 of the Court of Appeals (CA) in CA-G.R. CV No. 63175 are hereby **AFFIRMED**.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

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[52] Id. at 198-199.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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