Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. L-22684 August 31, 1967

PHILIPPINE PHOENIX SURETY & INSURANCE, INC., plaintiff-appellee,
vs.
WOODWORKS, INC., defendant-appellant.

Zosimo Rivas for defendant-appellant.
Manuel O. Chan for plaintiff-appellee.

DIZON, *J.:*

Appeal upon a question of law taken by Woodworks, Inc. from the judgment of the Court of First Instance of Manila in Civil Case No. 50710 "ordering the defendant, Woodworks, Inc. to pay to the plaintiff, Philippine Phoenix Surety & Insurance, Inc., the sum of P3,522.09 with interest thereon at the legal rate of 6% per annum from the date of the filing of the complaint until fully paid, and costs of the suit."

Appellee Philippine Phoenix Surety & Insurance Co., Inc. commenced this action in the Municipal Court of Manila to recover from appellant Woodworks, Inc. the sum of P3,522.09, representing the unpaid balance of the premiums on a fire insurance policy issued by appellee in favor of appellant for a term of one year from April 1, 1960 to April 1, 1961. From an adverse decision of said court, Woodworks, Inc. appealed to the Court of First Instance of Manila (Civil Case No. 50710) where the parties submitted the following stipulation of facts, on the basis of which the appealed decision was rendered:

> That plaintiff and defendant are both corporations duly organized and existing under and by virtue of the laws of the Philippines;
>
> That on April 1, 1960, plaintiff issued to defendant Fire Policy No. 9652 for the amount of P300,000.00, under the terms and conditions therein set forth in said policy a copy of which is hereto attached and made a part hereof as Annex "A";
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> That the premiums of said policy as stated in Annex "A" amounted to P6,051.95; the margin fee pursuant to the adopted plan as an implementation of Republic Act 2609 amounted to P363.72, copy of said adopted plan is hereto attached as Annex "B" and made a part hereof, the documentary stamps attached to the policy was P96.42;
>
> That the defendant paid P3,000.00 on September 22, 1960 under official receipt No. 30245 of plaintiff;
>
> That plaintiff made several demands on defendant to pay the amount of P3,522.09.

In the present appeal, appellant claims that the court *a quo* committed the following errors:

> I. The lower court erred in stating that in fire insurance policies the risk attached upon the issuance and delivery of the policy to the insured.
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> II. The lower court erred in deciding that in a perfected contract of insurance non-payment of premium does not cancel the policy.
>
> III. The lower court erred in deciding that the premium in the policy was still collectible when the complaint was filed.
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> IV. The lower court erred in deciding that a partial payment of the premium made the policy effective during the whole period of the policy.

It is clear from the foregoing that on April 1, 1960 Fire Insurance Policy No. 9652 was issued by appellee and

delivered to appellant, and that on September 22 of the same year, the latter paid to the former the sum of P3,000.00 on account of the total premium of P6,051.95 due thereon. There is, consequently, no doubt at all that, as between the insurer and the insured, there was not only a perfected contract of insurance but a partially performed one as far as the payment of the agreed premium was concerned. Thereafter the obligation of the insurer to pay the insured the amount for which the policy was issued in case the conditions therefor had been complied with, arose and became binding upon it, while the obligation of the insured to pay the remainder of the total amount of the premium due became demandable.

We can not agree with appellant's theory that non-payment by it of the premium due, produced the cancellation of the contract of insurance. Such theory would place exclusively in the hands of one of the contracting parties the right to decide whether the contract should stand or not. Rather the correct view would seem to be this: as the contract had become perfected, the parties could demand from each other the performance of whatever obligations they had assumed. In the case of the insurer, it is obvious that it had the right to demand from the insured the completion of the payment of the premium due or sue for the rescission of the contract. As it chose to demand specific performance of the insured's obligation to pay the balance of the premium, the latter's duty to pay is indeed indubitable.

Having thus resolved that the fourth and last assignment of error submitted in appellant's brief is without merit, the first three assignments of error must likewise be overruled as lacking in merit.

Wherefore, the appealed decision being in accordance with law and the evidence, the same is hereby affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles and Fernando, JJ., concur.

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