

SPOUSES JOSIAH L. GO AND CAROLINA E. GO, PLAINTIFFS-APPELLANTS, VS. METROPOLITAN BANK & TRUST CO., DEFENDANT-APPELLEE.

Ponente: SALANDANAN-MANAHAN, J.

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SALANDANAN-MANAHAN, J.:

On Ordinary Appeal[1] is the 30 March 2012 Resolution[2] of the Regional Trial Court, Branch 226, Quezon City (trial court) in Civil Case No. Q 10-68414 for Damages, the fallo of which reads:

“WHEREFORE, in view of the foregoing, the Motion for Partial Reconsideration filed by defendant Metropolitan Bank & Trust Co., thru counsel, is GRANTED; the Resolution dated June 24, 2011 is partly reconsidered. The Amended Complaint filed by plaintiffs on August 24, 2011 is stricken from the record.

The Complaint is hereby DISMISSED.

SO ORDERED.”

The plaintiffs-appellants' Motion for Reconsideration[3] was denied for lack of merit in the trial court's 17 October 2012 Order[4].

The Facts

Civil Case No. Q 10-68414 is a torts complaint for Damages[5] instituted by the Spouses Josiah L. Go and Carolina E. Go (collectively, the “plaintiffs-appellants”) against Metropolitan Bank and Trust Co., (“defendant-appellee” for brevity) for its carelessness, negligence and imprudence in dishonoring a funded check without proper verification.

The facts are undisputed.

The plaintiffs-appellants are co-founders of the Josiah & Carolina Go Foundation, Inc. (“Foundation” for brevity). The foundation maintains an automatic savings to current transfer arrangement[6] with the defendant-appellee's Timog Branch under Account No. 007-002-18543-8.

On 28 June 2010, the plaintiffs-appellants drew and issued Metrobank Check No. 0982254168 in favor of Trina Firmalo in the amount of P45,000.00 as donation to some children in the depressed areas in Romblon.[7] However, on 16 August 2010, the payee informed the plaintiffs-appellants that their check was dishonored citing the notation, “signature differs” stamped on the instrument's face.[8]

Josiah L. Go immediately called the attention of the defendant-appellee through Donna Crame (Operations Officer) and Ester T. Varquez (Branch Manager) in view of their failure to exercise due diligence in verifying the authenticity of the signature of the check. Acting on said complaint, the defendant-appellee advised the plaintiffs-appellants that, for expediency, the check may be presented again for payment. Thus, on 20 August 2010, the check was honored and paid.[9]

In his 18 August 2010 Letter[10], Josiah L. Go elevated his complaint to the defendant-appellant's President and CEO Arthur Ty. In its 19 August 2010 and 24 August 2010 Reply Letters[11], the defendant-appellee, thru its Executive Vice President Fabian S. Dee, explained that besides the difference in signature, plaintiffs-appellants' account had been classified as dormant since May 2010. Thus, the check cannot be immediately honored unless confirmed in order to protect the customers' account.

The defendant-appellee further asserted that their failure to confirm the check is primarily due to the unavailability of the plaintiffs-appellants' contact information in its records. However, defendant-appellee admitted that there are other available records from which it can get the contact information needed to confirm the check considering that plaintiffs-appellants have another active account in the same branch.

In their 18 October 2010 Letter[12], the plaintiffs-appellants, thru counsel, made a formal demand against the defendant-appellee 'to coordinate and discuss the possible arrangement for the final settlement of the issues.' In its 04 November 2010 Reply Letter, the defendant-appellee, thru its Senior Vice-President and General Counsel Arlene G. Lapuz-Ureta, reiterated that the dishonor of plaintiffs-appellants' check is in line with its fiduciary responsibility and in accordance with its standard practice which are in place for the protection of its clients and the funds in the bank.

Failing to reach settlement, the plaintiffs-appellants filed a Complaint for Damages before the trial court on 10 December 2010. On 01 February 2011, the defendant-appellee filed a Motion to Dismiss[13] alleging that besides being non-compliant with the requirements in filing an initiatory pleading, the Complaint failed to state any cause of action considering that the spouses Go are not the real parties in interest and that the allegations in the Complaint are insufficient to warrant the award of moral and exemplary damages, and attorney's fees.

On 25 February 2011, the trial court received the plaintiffs-appellants' Opposition and Comment[14] to the Motion to Dismiss. On 25 March 2011, the defendant-appellee filed its Reply[15] thereto.

In its 24 June 2011 Resolution[16], the trial court denied the Motion to Dismiss but required the plaintiffs-appellants to implead the real party in interest under pain of dismissal should they fail to comply. The defendant-appellee filed a Motion for Partial Reconsideration[17] citing additional legal authorities to support their prayer for the outright dismissal of the Complaint. Pending action on said motion, the plaintiffs-appellants filed the Amended Complaint[18] on 24 August 2011.

On 16 September 2011, plaintiffs-appellants filed their Opposition and Comment[19] on the motion for partial reconsideration. On 10 October 2011, the defendant-appellee filed its Reply[20] while on 03 November 2011, the plaintiffs-appellants filed their Rejoinder[21] thereto.

In its 30 March 2012 Resolution[22], the Complaint was finally dismissed, the trial court saliently ruling thus:

"Here, the plaintiffs Spouses Go insists that they have a cause of action, in their own right, against the defendant bank, but they unfortunately failed to demonstrate an 'interest' or 'right' which may be enforced under the law, which only leads to the conclusion that the Complaint was not prosecuted in the name of a 'real party in interest' as required by the rules. It is only unfortunate that plaintiffs spouses Go failed to comply with basic procedural requirements. It must again be emphasized that these procedural requisites were promulgated to ensure fairness and orderly administration of justice. While the Court sometimes disregards the rules of procedure in the interest of justice, the present case does not merit such leniency. The requirement that a party must have 'real interest' in the case is essential in the administration of justice. (Omitted citation.)

WHEREFORE, in view of the foregoing, the Motion for Partial Reconsideration filed by defendant Metropolitan Bank & Trust Co., thru counsel, is GRANTED. The Resolution dated June 24, 2011 is partly reconsidered. The Amended Complaint filed by plaintiffs on August 24, 2011 is stricken off the record.

The Complaint is hereby DISMISSED.

SO ORDERED.”

The plaintiffs-appellants' Motion for Reconsideration[23], which the defendant-appellee duly opposed[24], was denied in the trial court's 17 October 2012 Order[25]. Hence, this appeal.

Assignment of Errors

I. THE TRIAL COURT ERRED IN ORDERING THE DISMISSAL OF THE CASE AFTER IT HAS PREVIOUSLY ORDERED FOR THE FILING OF THE AMENDED COMPLAINT;

II. THE TRIAL COURT ERRED IN FAILING TO CONSIDER THE PERSONAL RIGHTS OF PLAINTIFF SPOUSES IN INSTITUTING THE CASE AS THEY WERE THEMSELVES THE VICTIMS OF THE RECKLESSNESS, IMPRUDENCE AND NEGLIGENCE OF THE BANK.

Court Ruling

After going over the plaintiffs-appellants' arguments, it appears that the resolution of the instant appeal hinges on the determination of who the real parties in interest are in the Complaint instituted before the trial court.

We address the imputed errors in reverse order.

Determination of the Real Party in Interest

Despite the trial court's contrary finding, the plaintiffs-appellants insist that they are real parties in interest in the Complaint for Damages filed against the defendant-appellee.

Citing Sec. 2, Rule 3 of the 1997 Rules of Civil Procedure, they reasoned that they were impelled to institute the aforesaid complaint to protect/vindicate their “personal” interest as well as that of the Foundation from the embarrassments brought about by the dishonor of their fully funded check without due confirmation or verification of the authenticity of the signatures affixed therein.

The material allegations in the Complaint, under the heading CAUSE OF ACTION, is herein reproduced for scrutiny, to wit:

“3. That plaintiffs are clients/depositors of defendant bank in its Timog Branch under the account name JOSIAH & CAROLINA GO FOUNDATION, INC. where they were assigned with Account No. 007-002-18543-8 under the automatic saving to current transfer arrangement, where the checks issued shall be charged automatically against their savings account;

4. That on June 28, 2010, plaintiffs drew and issued Metrobank Check No. 0982254168 in favor of Trina Firmalo (who is the daughter of Romblon Governor Firmalo) in the amount of P45,000.00 as donation to some children in their depressed areas needing immediate assistance. x x x;

5. That considering the account maintained by plaintiff(s) is under the AUTOMATIC SAVINGS TO CURRENT TRANSFER ARRANGEMENT, the savings account of plaintiff(s) had sufficient funds to cover the payment of the check as shown on their passbook, x x x;

6. That sometime on August 16, 2010 or more than a month has passed when plaintiffs were surprised to receive a call from Trina Firmalo (x x x) and shamefully informed them that their check was DISHONORED for the reason 'SIGNATURE DIFFERS';

7. That without wasting any time, plaintiff JOSIAH immediately called the attention of defendant bank through DONNA CRAME (Operations Officer) and later with ESTER T. VARQUEZ (Branch Manager), and complained that the bank did not call either one of the plaintiffs to verify whether the checks were issued or

not, or, at least inform them that the check they issued was dishonored by the bank;

8. That defendant's officer ESTER T. VARQUEZ and DONNA CRAME treated the account of plaintiffs with indifference, discrimination and with gross negligence and total disregard of the standards of regulations of banks to its clients/depositors as the account was relatively small. The defendant's bank officers claim that they do not know plaintiffs' contact details, but the account bears the name of plaintiffs who maintain an active savings account with the same branch and they have other active accounts in the same bank with other branches;

9. That upon calling the attention of the said bank officers of Timog Branch over the incident, they told plaintiff JOSIAH to just redeposit the check and so plaintiffs advised Trina Firmalo that the check could be presented again for payment until it was eventually paid on August 20, 2010;

10. That because of the said eventuality, plaintiffs suffered great embarrassment, mental anguish, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injuries unjustly caused. Plaintiff JOSIAH could not fathom the fact the he being an author and speaker for that matter, and who professes in his books and lectures never to bounce any issued check, he would thereafter be victimized and penalized by his own bank of three decades, for its gross and palpable negligence in handling their account, giving him undue regard to his reputation and dignity, and dishonoring his check, knowing that it was fully funded; x x x" (Emphasis supplied.)

The plaintiffs-appellants' contention lacks merit.

Section 2, Rule 3 of the 1997 Rules of Civil Procedure states:

"SEC. 2. Parties in interest. - A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest."

In the case of *Go v. Cordero*[26], the Supreme Court explains the essence and the repercussion of non-compliance with the above-quoted Rule, viz:

"x x x The purposes of this provision are: (1) to prevent the prosecution of actions by persons without any right, title or interest in the case; (2) to require that the actual party entitled to legal relief be the one to prosecute the action; (3) to avoid a multiplicity of suits; and (4) to discourage litigation and keep it within certain bounds, pursuant to sound public policy. A case is dismissible for lack of personality to sue upon proof that the plaintiff is not the real party-in-interest, hence grounded on failure to state a cause of action." (Emphasis added.)

The trial court, in ruling that the plaintiffs-appellants are not the real parties in interest, already unequivocally explained the distinction between the legal personality of Josiah & Carolina Go Foundation, Inc. from its corporators, Josiah and Carolina Go. We expound further.

Under the Section 2 of Batas Pambansa Blg. 68, otherwise known as the Corporation Code of the Philippines, a corporation is defined as, "an artificial being created by operation of law, having a right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence."

The general rule is that a corporation is clothed with a personality separate and distinct from the persons composing it such as its stockholders or other corporations connected with it. The separate and distinct personality is a legal fiction created for convenience[27] and accordingly gives rise to its own unique powers and capacities. Relevantly, Par. 1, Section 36 of the Corporation Code provides that, "every corporation incorporated under this Code has the power and capacity to sue and be sued in its corporate name."

In the present controversy, Josiah and Carolina Go Foundation, Inc., a corporation duly organized under Philippine laws[28], is contractually related to the defendant-appellee, by virtue of their existing banking relationship. Logically, the defendant-appellee's alleged negligent conduct pertains to its obligation as depository of the Foundation's funds.

However, instead of prosecuting the action for damages under the Foundation's name, the plaintiffs-appellants filed the Complaint and maintain that they are doing so as corporate officers and as signatories of the check to protect their personal rights and interests. The plaintiffs-appellants' position finds no support in law.

First, a scrutiny of the Complaint shows that there is no board resolution or secretary's certificate authorizing the plaintiffs-appellants, as corporate officers, to file an action and to sign the necessary pleadings in relation thereto. Furthermore, there is no verification and certificate of non-forum shopping appended in the Complaint in violation of Sections 4 and 5, Rule 7 of the 1997 Rules of Civil Procedure.

Second, as an artificial being whose juridical personality is created by fiction of law, a corporation can only exercise its powers and transact its business through the instrumentalities of its board of directors, and through its officers and agents, when authorized by resolution or its by-laws.[29] The fact that the plaintiffs-appellants are signatories of the Foundation's checks is of no moment considering that their actions constitute the very action of the Foundation itself.

The Foundation's distinct juridical personality should neither be pierced without legal justification nor disregarded out of personal whims. To do otherwise will promote disarray and will engender instability on the long established principle enshrined in Article 44 of the New Civil Code, in relation to the doctrine of separate juridical personality of corporations embedded in Batas Pambansa Blg. 68, as amended.

Lastly, it bears stressing that Section 2, Rule 3 of the 1997 Rules of Civil Procedure requires that the action can only be prosecuted by the real parties in interest or in their name. That is why in *Solidbank Corporation v. Arrieta*[30], the bank's gross negligence in dishonoring a funded check makes it liable to the aggrieved depositor with whom it has a contractual relation.

Amendment of Plaintiffs-Appellant's Complaint

The plaintiffs-appellants question the propriety of the dismissal of their Complaint despite the trial court's Resolution requiring them to file a "necessary pleading" to implead the real party in interest Josiah and Carolina Go Foundation, Inc. as plaintiff. They contend that with the filing of the Amended Complaint, the procedural defect cited in defendant-appellee's Motion to Dismiss and Motion for Partial Reconsideration has been cured.

Citing Sec. 2 Rule 10 of the 1997 Rules of Civil Procedure, plaintiffs-appellants contend that they may amend their complaint once as a matter of right at any time before a responsive pleading is served. The afore-cited Rule states:

"Sec. 2. Amendments as a matter of right. - A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) days after it is served."

The ministerial nature of the trial court's duty to admit an amended complaint contemplated under Section 2, Rule 10 of the 1997 Rules of Civil Procedure (See *Araneta v. CA*[31]) is not applicable in this case.

It must be pointed out that the filing of the Amended Complaint hinged on the trial court's 24 June 2011 Resolution[32] which required the plaintiffs-appellants to implead the Foundation in accordance with its findings. In said Resolution, the trial court warned that should the plaintiffs refuse to implead the Foundation, the

Complaint may be dismissed for “failure to comply with a lawful order of the court”[33].

The trial court abandoned its 24 June 2011 Resolution after the plaintiffs-appellants insisted in their Opposition/Comment[34] that they are prosecuting the case in their own names, claiming that their personal rights and interests were directly injured due to the negligent act of the defendant-appellee. Evidently, even on appeal, the plaintiffs-appellants maintain that they have the legal personality to institute this action.

Assuming arguendo that the plaintiffs-appellants were allowed to file an amended complaint, the inclusion of the Foundation as plaintiff therein is trivialized to a mere formal compliance of affixing the Foundation's name on the caption without support from the material allegation in the body and is still in contravention to the trial court's mandate. The fact remains that the complaint fails to state a cause of action for having been prosecuted by parties lacking the quintessential legal personalities the Rules require.

We thus agree with the position of the defendant-appellee in their Brief. Citing the cases of *Oco v. Limbaring*[35] and *Tan v. CA*[36], the plaintiffs-appellants, not being real parties in interest, cannot maintain, in their personal capacity, an action reserved to the Foundation and any action filed in contravention thereto is dismissible pursuant to Section 1 (g), Rule 16 of the 1997 Rules of Civil Procedure.

WHEREFORE, the instant appeal is DENIED. The 30 March 2012 Resolution of the Regional Trial Court, Branch 226, Quezon City dismissing the Complaint docketed as Civil Case No. Q 10-68414 is hereby AFFIRMED. No costs.

SO ORDERED.

Dimaampao, (Chairperson) and Ybañez, JJ., concur.

[1] Rule 41 of the 1997 Rules of Civil Procedure.

[2] Record, P. 184. ponencia of Acting Presiding Judge Ma. Luisa C. Quijano-Padilla.

[3] Record, P. 189.

[4] Record, P. 213 ponencia of pairing judge Cleto R. Villacorta III.

[5] Record, P. 1.

[6] With checking privilege chargeable to the depositor's savings account.

[7] Record, P. 2. Par. 4 of the Complaint.

[8] Record, P. 2. Par. 6 of the Complaint.

Also See Record, P. 9. Annex “A”, machine copy of the Check.

[9] Record, P. 3. Par. 9 of the Complaint.

[10] Record, P. 13. Annex “C”.

[11] Record, Pp. 14 & 15.

[12] Record, P. 20. Annex “I”.

[13] Record, P. 27.

[14] Record, P. 55.

- [15] Record, P. 65.
- [16] Record, P. 88.
- [17] Record, P. 96.
- [18] Record, P. 126.
- [19] Record, P. 155.
- [20] Record, P. 163.
- [21] Record, P. 180.
- [22] Record, P. 187.
- [23] Record, P. 189. Filed on 28 May 2012.
- [24] Record, P. 202. Opposition filed on 07 September 2012.
- [25] Record, P. 213.
- [26] G.R. No. 164703, May 04, 2010.
- [27] *Martinez v. Court of Appeals*, G.R. No. 131673, September 10, 2004.
- [28] Record, P. 43. Amended Articles of Incorporation, Annex “B” of the Complaint.
- [29] *Air Philippines Corporation v. International Business Aviation Services Phils., Inc.*, G.R. No. 151963, September 09, 2004.
- [30] G.R. No. 152720, February 17, 2005.
- [31] G.R. No. 154096, August 22, 2008.
- [32] *Supra* at note 16.
- [33] *Id.* The trial court citing *Caruncho v. COMELEC*, 315 SCRA 693, 1999.

Also, Section 3, Rule 14 of the 1997 Rules of Civil Procedure states, “If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court’s own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.”
- [34] *Supra* at note 19.
- [35] G.R. No. 161298, January 31, 2006.
- [36] G.R. No. 127210, August 07, 2003.

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