

RITEÑANS DEVELOPMENT CORPORATION, PLAINTIFF-APPELLEE, VS. BPI/MS INSURANCE CORPORATION, DEFENDANT-APPELLANT.

Ponente: LIBREA-LEAGOGO, J.

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LIBREA-LEAGOGO, J.:

Before this Court is an appeal under Rule 41 of the Rules of Court, assailing the Decision[1] dated 06 December 2013 of the Regional Trial Court, Third Judicial Region, Branch 47, City of San Fernando, Pampanga, in the case entitled "Riteñans Development Corporation v. BPI/MS Insurance Corporation," docketed as Civil Case No. 13600, which ruled in favor of plaintiff-appellee.

Defendant-appellant filed its Appellants' Brief[2] dated 29 May 2014. Plaintiff-appellee then belatedly filed its Appellee's Brief[3] dated 12 September 2014, which was admitted in the Resolution[4] dated 26 September 2014. Defendant-appellant filed a Reply Brief[5] dated 27 October 2014. Thus, the case is submitted for decision.

FACTUAL ANTECEDENTS

A Complaint[6] dated 20 August 2008 for specific performance and damages was filed by plaintiff Riteñans Development Corporation against defendant BPI/MS Insurance Corporation, docketed as Civil Case No. 13600, before the Regional Trial Court, City of San Fernando, Pampanga, and raffled off to Branch 48.

It was alleged, inter alia, that: it is a domestic corporation duly organized and existing under Philippine laws; it is the registered owner of a Toyota Camry with Motor No. 2AZ0907079, Chassis No. ACV309000111, and Plate No. VMC-909; the said motor vehicle was carnapped on 16 May 2007 in front of KFC Dau Spillway in Mabalacat, Pampanga while it was on loan to businessman Beny Nanquil and his driver Ramy Ramos, as evidenced by a Police Incident Report; it was covered by Motor Policy No. 200PC6055399-PCP and was insured against own damage or theft for Php743,000.00 secured from the Insurance House of Pampanga Agency Corporation, an authorized agent of BPI/MS Insurance Corporation; payment of its premium was paid as shown in the official receipt issued by defendant; the fact of loss was immediately relayed to defendant's authorized agent who assured them that if within six (6) months the vehicle is not recovered, proper indemnification shall be settled subject to the presentation of a Certificate of Non-Recovery from the proper authorities; on 04 December 2007, a Certificate of Non-Recovery for Carnapped Motor Vehicle under Control No. OADI-07-12131265 was issued by Philippine National Police (PNP), Traffic Management Group in Camp Crame, Quezon City; on 13 December 2007, all the documents required by the agent were forwarded to defendant but the latter did not reply; despite repeated follow-ups including a demand letter dated 15 May 2008, defendant still refused to settle the policy coverage for own damage or theft; it was constrained to litigate and secure the services of counsel entitling it to attorney's fee of twenty five (25%) percent of whatever amount to be adjudged to its favor, litigation expenses in the amount of Php35,000.00, and costs of suit.

Defendant filed its Answer[7] dated 24 September 2008 and raised as affirmative defenses and counterclaim, that: the RTC has no jurisdiction over the subject matter of the Complaint as the same is an unsigned pleading; its verification does not conform with the Rules of Court as the affiant therein did not state that he read the Complaint, thus it should be dismissed outright; plaintiff has no valid cause of action because as stated in the

Complaint, the insured unit was on loan to businessman Beny Nanquil and his driver Ramy Ramos; such fact was not made known to it, and the driver is not plaintiff's authorized driver; there was unauthorized use of the insured unit and plaintiff violated its insurance agreement, thus, the policy is not liable for the alleged loss; without admitting liability under the policy, plaintiff failed to prove the fact of loss because in the documents submitted to them it appears that the alleged loss occurred in Dau, Mabalacat, Pampanga while in the driver's affidavit, the same occurred in Balibago, Angeles City; it never made an assurance for the settlement of plaintiff's claim; plaintiff also failed to comply with the terms and conditions of the insurance agreement as plaintiff failed to make the alleged driver of the insured unit available for interview to ascertain the true facts of the alleged loss; as counterclaim, it is entitled to recover moral damages in the amount of Php100,000.00 as it suffered besmirched reputation in the insurance industry, Php50,000.00 as attorney's fees plus the sum of Php3,500.00 for every court appearance of counsel, Php50,000.00 as litigation expenses, and costs of suit.

Plaintiff filed a Reply[8] dated 17 October 2008.

Defendant filed its Pre-Trial Brief[9] dated 07 November 2008. Plaintiff also filed its Pre-trial Brief[10] dated 28 November 2008.

Per Mediator's Report[11] dated 08 January 2009, the mediation failed. In an Order[12] dated 16 January 2009, the case was set for Judicial Dispute Resolution (JDR). For failed judicial dispute resolution, the trial court issued an Order[13] dated 04 March 2009 for the entire records of the case to be forwarded to the Office of the Executive Judge for reraffle. The case was reraffled to Branch 47.[14]

Pre-trial conference was held and a Pre-Trial Order[15] dated 05 May 2009 was issued which stated, inter alia, that defendant admitted: the capacity of the parties to sue and be sued; the ownership of Toyota Camry with Plate No. VMC-909 and its registration in the name of plaintiff corporation; the existence of Motor Vehicle Policy No. 200PC6055399-PCP subject to the qualification of proof of the amount of coverage; the effectivity of the said policy covers the period from 12 September 2006 to 12 September 2007; the existence of the Certificate of Non-Recovery, and the Alarm Report dated 16 May 2007; a demand was made by plaintiff on the defendant; and no written response was made by the defendant.

In its Order[16] dated 19 August 2009, the trial court denied the motion to declare plaintiff non-suited.

Trial ensued.

Plaintiff presented its witnesses Dante Torres ("Torres," for brevity), its Operations Manager, and Beny Nanquil ("Nanquil," for brevity). It filed its Formal Offer of Exhibits[17] dated 14 February 2011, offering its Exhibits "A" to "G" with submarkings, to which defendant filed a Comment/Objection[18] dated 16 February 2011. In the Order[19] dated 16 March 2011, the trial court admitted the plaintiff's Exhibits "A" to "G."

Defendant presented Victor Sagcal ("Sagcal," for brevity) and Arsenio Canlas ("Canlas," for brevity) as its witnesses. It filed a Formal Offer of Evidence[20] dated 23 March 2012, offering its Exhibits "1" to "10" with submarkings, to which plaintiff filed its Comment[21] dated 20 August 2012. In the Order[22] dated 24 August 2012, the trial court admitted the defendant's Exhibits "1" to "10."

Defendant filed its Memorandum[23] dated 12 March 2013.

The trial court rendered its Decision[24] dated 06 December 2013, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered for the plaintiff and against the defendant, ordering the latter to pay the former -

1)

Php743,000.00 plus the legal rate of interest from September 1, 2008, the date the complaint was filed, until the principal amount is fully paid;

2)

Php20,000.00 as attorney's fees and

Cost of suits.

SO ORDERED."[25]

Defendant filed a Notice of Appeal[26] dated 17 December 2013, which was given due course in the Order[27] dated 09 January 2014.

Hence, this appeal.

RULING

Defendant-appellant assigns the following errors, viz:

"I.

THAT THE COURT A QUO ERRED IN HOLDING THAT THE TESTIMONIES OF DANTE TORRES AND BENY NANQUIL ARE CONSIDERED PROOF OF THE FACT OF LOSS OF THE INSURED VEHICLE

II.

THAT THE COURT A QUO ERRED IN HOLDING THAT THE INCONSISTENCIES IN THE PLACE WHERE THE CARNAPPING HAPPENED WAS POSSIBLY DUE TO AN ERROR COMMITTED BY RAMY RAMOS AS SUGGESTED BY COUNSEL FOR PLAINTIFF

III.

THAT THE COURT A QUO ERRED IN NOT FINDING THAT PLAINTIFF HAS NO VALID CAUSE OF ACTION

IV.

THAT THE COURT A QUO ERRED IN NOT CONSIDERING THE COMPLAINT AS A MERE SCRAP OF PAPER

V.

THAT THE COURT A QUO ERRED IN NOT GRANTING DEFENDANT-APPELLANT'S COUNTERCLAIM"[28]

Defendant-appellant contends, inter alia, that: nothing in the testimonies of plaintiff-appellee's witnesses proved the loss of the insured vehicle; it is plaintiff-appellee's duty to prove the fact of loss of the insured vehicle as it is the one claiming for indemnity; in the Police Alarm Report the alleged loss happened in front of KFC Dau Spillway, Mabalacat Pampanga, while the Affidavit of the driver, Ramy Mendoza Ramos ("Ramos," for brevity) states the place of loss as KFC, Balibago, Angeles City; in the driver's affidavit, it was stated that "I was tasked by my manager of Riteñans Development Corporation to fetch one of their client at Balibago, Angeles City" and likewise stated in the Secretary's Certificate that "Ramy Ramos, our company driver, whose signature appear hereunder, be, as hereby authorized by the company to file the alarm sheet and complaint sheet at T.M.G. Camp Olivas," clearly contradict the stipulation of the parties during the pre-trial that Ramos is not an employee of plaintiff-appellee; Ramos was not made available by plaintiff-appellee for interview, and neither was his driver's

license produced; the trial court opined that as regards the inconsistencies in the place where the carjacking happened, it is possible that Ramos inadvertently committed an error in stating the wrong city since he is not a resident of either Angeles City or Mabalacat City but of Olongapo City; this is not only contrary to the rule that the court should decide a case on the basis of evidence presented before it and not on the basis of possibility; the place of loss not having been proven, the only logical and ordinary conclusion is that the alleged loss did not occur; plaintiff-appellee was not able to make a prima facie case in its favor because Ramos was not authorized to drive the insured unit; the "authorized driver" clause is defined in the policy; Ramos cannot be considered as an authorized driver because the "insured" is plaintiff-appellee; the phrase "on the insured's order or permission" is likewise inapplicable to Ramos because as testified to by Nanquil, to whom the insured vehicle was loaned, he hired Ramos and he instructed the latter to drive the insured vehicle to send off a foreign client who was about to leave the Philippines; their failure to produce Ramos' driver's license is sufficient to defeat its claim as provided for in the authorized driver clause which is a condition precedent to defendant-appellant's liability; plaintiff-appellee has no valid cause of action because there was no evidence to show that it denied the former's claim; even assuming that it has, the instant complaint is premature; it is not liable under the policy to indemnify plaintiff-appellee because the alleged loss did not actually happen and plaintiff-appellee did not comply with the terms and conditions of the Policy and/or violated the same; it raised in its answer that the trial court has no jurisdiction over the subject matter of the claim as the Complaint was not properly verified in accordance with the Rules of Court, hence, an unsigned pleading and a mere scrap of paper; it was unnecessarily drawn to litigation and to engage and retain the services of counsel by reason of the baseless Complaint which was filed in utter bad faith; and it suffered besmirched reputation in the insurance industry sufficient to grant its counterclaim.

Plaintiff-appellee ripostes, inter alia, that: there is no cogent reason to reverse the Decision of the trial court; the testimonies of prosecution witnesses are sufficient proof of the fact of loss of the insured vehicle as the trial court found their testimonies to be credible and trustworthy which findings are entitled to highest respect and must not be disturbed on appeal; Sagcal, the insurance adjuster, failed to dispute the fact that the vehicle was carjacked; from his investigation he was unable to locate the vehicle nor was he able to prove that the car was not stolen; the Police Alarm Report from the Mabalacat Municipal Police Station and the Certificate of Non-recovery of Carjacked Vehicle issued by the, PNP, Traffic Management Group (TMG), showing the narration of incident of loss of the vehicle and its non-recovery, are admissible in evidence to support the fact of loss; the alleged inconsistency in the place where the carjacking happened was due to the error committed by Ramos because he was unfamiliar with the place where the car was stolen; such inconsistency is insignificant to refute the fact of loss, what is important is the fact that the car was stolen; even the TMG certified to the non-recovery of the vehicle; defendant-appellant failed to disprove the fact of loss as it failed to produce the vehicle as evidence; the statement that Ramos was a company driver of plaintiff-appellee in the Secretary's Certificate was duly explained by Torres; while Ramos was not an employee of plaintiff-appellee, his employer Nanquil was a partner of plaintiff-appellee who brings foreign clients to inspect the subdivision sites owned by the plaintiff-appellee; such inconsistencies are minor or trivial which do not affect the credibility of the witness; defendant cannot evade the liability by raising the authorized driver clause when its liability falls under the theft clause; and it is ridiculous for an insurance to impose restrictions and this was never the intention of the parties, nor was it stipulated upon the insurance policy.

On procedural matter, (i)t is settled that the requirements of verification and certification against forum shopping are not jurisdictional. Verification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative. Non-compliance with the verification requirement does not necessarily render the pleading fatally defective, and is substantially complied with when signed by one who has ample knowledge of the truth of the allegations in the complaint or petition, and when

matters alleged in the petition have been made in good faith or are true and correct.[29] Indeed, the absence of a verification (or a defect therein) is not jurisdictional, but only a formal defect, which does not of itself justify a court in refusing to allow and act on a case.[30]

Stripped of verbiage, the pivotal issue in this case is whether or not the trial court erred in ordering defendant-appellant to pay the plaintiff-appellee its insurance claim.

We find in the negative.

Section 1, Rule 131 of the Rules of Court defines "burden of proof" as "the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law." [31] (In civil cases, it is a basic rule that the party making allegations has the burden of proving them by a preponderance of evidence.[32] Preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto.[33]

In the course of trial in a civil case, once plaintiff makes out a prima facie case in his favor, the duty or the burden of evidence shifts to defendant to controvert plaintiff's prima facie case, otherwise, a verdict must be returned in favor of plaintiff.[34]

To prove the fact of loss or that the insured vehicle was carnapped on 15 May 2007 and was unrecovered, plaintiff-appellee presented the Alarm Report[35] dated 16 May 2007 (Exhibit "D"), prepared by PO3 PNP Investigator Renner G. Garcia of the PNP, Pampanga Police Provincial Office, Mabalacat, Pampanga Municipal Police Station, and Certificate of Non-Recovery for Carnapped Motor Vehicle (Control No. OADI-07-12131265[36] dated 04 December 2007 (Exhibit "F"), issued by Police Chief Superintendent/Director Perfecto P. Palad of the PNP, Headquarters Traffic Management Group, Camp Crame, Quezon City. This certification carried the presumption of regularity in its issuance and (defendant-appellant) has the burden of overcoming this presumption.[37] It has been held that, (a)bsent convincing evidence to the contrary, the presumption of regularity in the performance of official functions has to be upheld.[38] Further, the presentation of said PNP Alarm Report and Certificate of Non-Recovery for Carnapped Motor Vehicle (Control Nr. OADI-07-12131265 are entries in official records,[39] which are admissible (in evidence) as exceptions to the hearsay rule[40] even if the PNP Investigator and the PNP-TMG Director were not presented before the trial court.

Moreover, the testimonies of the witnesses that plaintiff-appellee did not recover the possession of the insured vehicle were found by the trial court to be credible and trustworthy and were considered proof of fact of loss of the insured vehicle.[41] Through its observations during the entire proceedings, the trial court can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to disbelieve. Verily, findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case.[42] Based on the foregoing, plaintiff-appellee had established a prima facie case against defendant-appellant. Particularly, in insurance cases, once an insured makes out a prima facie case in its favor, the burden of evidence shifts to the insurer to controvert the insured's prima facie case.[43]

Defendant-appellant claims that there are inconsistencies as to the place where the alleged carnapping incident happened, as stated in the Alarm Report[44] and that stated in the Affidavit[45] of Ramos, the driver of the insured vehicle, at the time of loss, which is tantamount to a fraudulent claim.

We are unswayed.

It cannot be over-emphasized that fraud is a question of fact which cannot be presumed and must be proved by clear and convincing evidence by the party alleging fraud.[46] To be remembered is that mere allegation is definitely not evidence; hence, it must be proved by sufficient evidence.[47]

In the present case, aside from its bare assertion that the claim is fraudulent as the alleged loss did not actually happen due to the discrepancy as to the place of the carnapping incident (i.e. KFC Dau Spillway Mabalacat, Pampanga as stated in the Alarm Report and KFC Balibago, Angeles City as stated in the driver's Affidavit), defendant-appellant failed to present any evidence to prove its assertion of fraudulent claim which is averred as one of its affirmative defenses in its Answer, and to controvert plaintiff-appellee's prima facie case. In fact, even witness Sagcal, who is defendant-appellant's insurance adjuster, affirmed in his testimony, the narration of the carnapping incident as reflected in the Alarm Report; his findings jibe with the same and he even stated that the said carnapping incident was also reflected in the police blotter.[48]

Defendant-appellant posits that Ramos, who was driving the insured vehicle, was not an authorized driver as defined in the policy because plaintiff-appellee failed to produce Ramos' driver's license and it was not informed that the vehicle would be on loan to Nanquil and his driver Ramos; thus, plaintiff-appellee failed to comply and/or violated the terms and conditions of the policy.

We are unpersuaded.

(C)ontracts 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.[49] An insurance contract should be interpreted as to carry out the purpose for which the parties entered into the contract which is to insure against (theft) or damage to the (insured vehicle). Such interpretation should result from the natural and reasonable meaning of language in the policy.[50]

In the instant case, it is undisputed that the parties entered into a contract of insurance over a Toyota Camry vehicle, owned by plaintiff-appellee, against own damage and theft for Php743,000.00 under BPI/MS Insurance Corporation Motor Policy No. PC605399[51] (Exhibit "1"- "1-i"), covering the policy period from 12 September 2006 to 12 September 2007. The full premium in the amount of Php21,250.11 was paid by plaintiff-appellee, as evidenced by Official Receipt[52] dated 10 January 2007 (Exhibit "E-1) issued by defendant-appellant.

Pertinent portions of Section III of the Motor Policy state:

"SECTION III – LOSS OR DAMAGE

The Company will, subject to the Limits of Liability, indemnify the insured against loss of or damage to the Schedule Vehicle and its accessories and spare parts whilst thereon:

(a) by accidental collision or overturning, or collision of overturning consequent upon mechanical breakdown or consequent upon wear and tear;

(b) by fire, external explosion, self-ignition or lightning or burglary, housebreaking or theft;

x x x x

EXCEPTIONS TO SECTION III

The Company shall not be liable to pay for:

- Loss or Damage in respect of any claim or series of claims arising out of one event, the first amount of each

and every loss for each and every vehicle insured by this Policy, such amount being equal to half of one percent (0.50%) of the Insured's estimate of Fair Market Value as shown in the Policy Schedule with a minimum deductible amount of PHP2,000.00);

- Consequential loss, depreciation, wear and tear, mechanical or electrical breakdowns, failure or breakages;
- Damage to tires, unless the Scheduled Vehicle is damaged at the same time;
- Any malicious damage caused by the Insured, any member of his family or by a person in the Insured's service."[53] (Emphasis supplied)

In the instant case, the insured vehicle was in the custody of plaintiff-appellee's business partner Nanquil,[54] sales manager[55] and agent[56] in its real estate business. The said vehicle was on loan to him by the plaintiff-appellee for free for the purpose of enhancing plaintiff-appellee's business[57] as testified to by Torres and Nanquil.[58] While the said vehicle was with Nanquil, he and sometimes driver Ramos would drive the same.[59] On 15 May 2007, at about 8:00pm, Nanquil instructed Ramos to send off a client to the airport. While waiting for the said client, Ramos decided to take his dinner near KFC and when he went back to the car parked at the restaurant's parking lot, three men at gunpoint forced him inside the car and drove toward NLEX where he was dumped near San Simon, Pampanga.[60] This carjacking incident is reflected in the Alarm Report dated 16 May 2007 and in the Certificate of Non-Recovery for Carjacked Vehicle dated 04 December 2007.

Where a car is unlawfully and wrongfully taken without the owner's consent or knowledge, such taking constitutes theft and therefore, it is the "THEFT" clause, and not the "AUTHORIZED DRIVER" clause, that should apply.[61] Thus, not falling under the above-quoted exceptions in the Motor Policy, defendant-appellant is liable to indemnify plaintiff-appellee in the amount stated in the policy for the loss of the insured vehicle by theft.

(T)he risk against accident is different from the risk against theft. The "authorized driver clause" in a typical insurance policy is in contemplation or anticipation of accident in the legal sense in which it should be understood, and not in contemplation or anticipation of an event such as theft.[62] It is worthy to note that there is no causal connection between the possession of a valid driver's license and the loss of a vehicle. To rule otherwise would render car insurance practically a sham since an insurance company can easily escape liability by citing restrictions which are not applicable or germane to the claim, thereby reducing indemnity to a shadow.[63] In the instant case, there is no connection between the authorized driver clause/possession of a valid driver's license, and the loss by theft of plaintiff-appellee's insured vehicle.

When the terms of insurance contract contain limitations on liability, courts should construe them in such a way as to preclude the insurer from non-compliance with his obligation.[64] Limitations of liability should be regarded with extreme jealousy and must be construed in such a way as to preclude the insurer from non-compliance with its obligations.[65]

Further, defendant-appellant asserts that plaintiff-appellee has no valid cause of action as there is no evidence to show that it denied plaintiff-appellee's claim.

We are not convinced.

Section 241 of the Insurance Code provides that no insurance company doing business in the Philippines shall refuse without just cause to pay or settle claims arising under coverages provided by its policies. And, under Section 243, the insurer has 30 days after proof of loss is received and ascertainment of the loss or damage within which to pay the claim. If such ascertainment is not had within 60 days from receipt of evidence of loss, the insurer has 90 days to pay or settle the claim.[66] Under Section 244, a prima facie evidence of unreasonable delay in payment of the claim is created by the failure of the insurer to pay the claim within the time fixed in

Section 243.[67]

As testified to by Torres, Operations Manager of plaintiff-appellee, when Nanquil and Ramos reported the incident to their office, they went to the insurance agency, Pampanga Insurance House and reported that the car was stolen and they were required to submit certain documents (i.e. Police report, certificate of registration, policy and driver's license) needed for their claim, which plaintiff-appellee submitted, except for the driver's license. The Certification of Non-Recovery was also submitted.[68] This narration was affirmed by Canlas, Senior Manager of defendant-appellant's Pampanga Branch.[69] Plaintiff-appellee were in turn promised that within three months their insurance claim will be paid. However, no communication about the status of their claim was given to them.[70] Plaintiff-appellee decided to write defendant-appellant to demand the payment of their indemnity claim as evinced by the letter[71] dated 15 May 2008 (Exhibit "G") which was received by the defendant-appellant. However, plaintiff-appellee's claim for indemnification was not dignified by defendant-appellant.[72] During the pre-trial conference, defendant-appellant admitted that a demand was made by plaintiff-appellee, and no written response was made by the former.[73] In fact, the testimony of Canlas, Senior Manager of BPI/MS Pampanga Branch, was offered by defendant-appellant's counsel for the purpose, inter alia, "on the reasons why the claim of the plaintiff was denied by the defendant." [74] Thus, the foregoing facts belie the assertion of defendant-appellant that plaintiff-appellee has no valid cause of action as there was allegedly no evidence presented to show that it denied the latter's claim.

It bears emphasis that the business of insurance is a highly regulated commercial activity in the country, and is imbued with public interest. "An insurance contract is a contract of adhesion which must be construed liberally in favor of the insured and strictly against the insurer in order to safeguard the former's interest." [75]

Considering the foregoing disquisition, We find that no error was committed by the trial court in rendering judgment in favor of plaintiff-appellee. Its appeal being devoid of merit, defendant-appellant is clearly not entitled to its counterclaim as alleged in its Answer.

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 06 December 2013 of the Regional Trial Court, Third Judicial Region, Branch 47, City of San Fernando, Pampanga in Civil Case No. 13600, is AFFIRMED. Costs against defendant-appellant.

SO ORDERED.

Diamante, and Sadang, JJ., concur.

[1] Rollo, pp. 48-62; penned by Hon. Edgar Y. Chua

[2] Id. at 22-47

[3] Id. at 74-89

[4] Id. at 90

[5] Id. at 91-98

[6] Record, pp. 2-6

[7] Id. at 23-25

[8] Id. at 34-39

[9] Id. at 40-42

- [10] Id. at 54-56
- [11] Id. at 61
- [12] Id. at 65
- [13] Id. at 76
- [14] Id. at 80
- [15] Id. at 82-86
- [16] Id. at 101-103
- [17] Id. at 126-127
- [18] Id. at 131-132
- [19] Id. at 134
- [20] Id. at 168-169
- [21] Id. at 165-166
- [22] Id. at 205
- [23] Id. at 220-231
- [24] Id. at 234-248
- [25] Id. at 248
- [26] Id. at 249-C-250
- [27] Id. at 251
- [28] Rollo, pp. 32-33
- [29] Spouses Eugene L. Lim and Constancia Lim v. The Court of Appeals-Mindanao Station, et al., G.R. No. 192615, 30 January 2013
- [30] Prince Transport, Inc., et al. v. Diosdado Garcia, et al., G.R. No. 167291, 12 January 2011
- [31] Manolito De Leon, et al. v. Bank of the Philippine Islands, G.R. No. 184565, 20 November 2013
- [32] Cf. Dr. Filoteo A. Alano v. Zenaida Magud-Logmao, G.R. No. 175540, 14 April 2014,
- [33] Cf. Heirs of the Late Felix M. Bucton, etc. v. Spouses Gonzalo and Trinidad Go, G.R. No. 188395, 20 November 2013
- [34] Manolito De Leon, et al. v. Bank of the Philippine Islands, *supra*
- [35] Record, p 10
- [36] Id. at 13
- [37] Cf. Heirs of Luis A. Luna and Remegio A. Luna, et al. v. Ruben S. Afable, et al., G.R. No. 188299, 23 January 2013
- [38] Cf. United Merchants Corporation v. Country Bankers Insurance Corporation, G.R. No. 198588, 11 July

2012, citing *People v. Lapira*, 255 SCRA 85

[39] Section 44, Rule 130 of the Rules of Court

[40] Cf. *Malayan Insurance Co., Inc. v. Rodelio Alberto, et al.*, G.R. No. 194320, 01 February 2012

[41] Record, p. 241

[42] Cf. *People of the Philippines v. Christopher Rivera y Royo*, G.R. No. 200508, 04 September 2013

[43] Cf. *United Merchants Corporation v. Country Bankers Insurance Corporation*, *supra*

[44] Record, p. 10

[45] *Id.* at 180

[46] *Conrada O. Almagro v. Sps. Manuel Amaya, Sr., et al.*, G.R. No. 179685, 19 June 2013

[47] *Metropolitan Fabrics, Inc., et al. v. Prosperity Credit Resources Inc., et al.*, G.R. No. 154390, 17 March 2014

[48] TSN, 02 September 2011, pp. 5-6

[49] *Alpha Insurance and Surety Co. v. Arsenia Sonia Castor*, G.R. No. 198174, 02 September 2013

[50] *Id.*

[51] Record, pp. 170-179

[52] *Id.* at 12

[53] Record, p 177

[54] TSN, 18 September 2009, p. 7

[55] TSN, 14 December 2009, p. 8

[56] TSN, 21 January 2011, pp. 2-3

[57] TSNs, 14 December 2009, p. 8; 21 January 2011, p. 7

[58] TSN, 01 October 2010, p. 4

[59] *Id.* at 5

[60] Record, p. 180

[61] *Perla Compania de Seguros, Inc. v. Court of Appeals, et al.*, G.R. Nos. 96452 & 96493, 07 May 1992, 208 SCRA 487, 491

[62] *Id.* at 492

[63] *Id.*

[64] *Alpha Insurance and Surety Co. v. Arsenia Sonia Castor*, *supra*, citing *Eternal Gardens Memorial Park Corporation v. Philippine American Life Insurance Company*, G.R. No.166245, 09 April 2008, 551 SCRA 1, 13

[65] *Id.*

[66] Cf. *New World International Development (Phils.), Inc. v. NYK-FilJapan Shipping Corp.*, G.R. No. 171468, 24 August 2011

[67] Id.

[68] TSN, 18 September 2009, pp. 8-11

[69] TSN, 28 October 2011, pp. 5-6

[70] TSN, 18 September 2009, p. 11

[71] Record, p. 14

[72] TSN, 18 September 2009, p. 12

[73] Record, p. 83

[74] TSN, 28 October 2011, p. 3

[75] Manila Bankers Life Insurance Corporation v. Cresencia P. Aban, G.R. No. 175666, 29 July 2013

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