

MANUFACTURER’S BANK & TRUST CO., PETITIONER, VS. DIVERSIFIED INDUSTRIES, INC., AND ALFONSO TAN, RESPONDENTS.

G.R. No. L-33695. May 15, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

The propriety of a judgment on the pleadings is the principal issue in the case at bar. The rule is set out in Rule 19 of the Rules of Court.

SECTION 1. Judgment on the pleadings. -- Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. **.

Manufacturers Bank & Trust Co. filed a complaint with the Court of First Instance of Manila for the recovery of a sum of money against Diversified Industries, Inc. and Alfonso Tan.¹ The complaint alleged:²

2. That on December 17, 1963 the defendants were granted a loan in the form of an agreement for credit in current account in the sum of ONE HUNDRED TWENTY-FIVE THOUSAND PESOS (P125,000.00) with interest at the rate of 10% per annum computed upon average daily balances, a copy of the ** Agreement for Credit in Current Account ** (being attached) as Annex "A" **;

3. That the loan became due and payable on February 26, 1965, but the defendants failed and refused to liquidate their obligations, leaving an outstanding balance of P100,119.21 as of June 25, 1965;

4. That by reason of the unjust refusal on the part of the defendants to satisfy their just and valid obligation upon maturity, the plaintiff was compelled to engage the services of counsel for a fee equivalent to 10% of the total sum due which the defendants have expressly agreed to pay in accordance with the terms of the agreement, Annex "A."

WHEREFORE, it is most respectfully prayed ** that judgment be rendered in favor of the plaintiff ordering the defendant to pay:

- a) the sum of P100,119.27 plus interest thereon from June 26, 1965 until complete payment is made;
- b) the sum equivalent to 10% of the total sum due as attorney's fees;
- c) the costs of suit.

PLAINTIFF prays for such other remedy as this Honorable Court may deem just and equitable under the premises.

In their answer,¹ the defendants admitted the averments of paragraph 2 of the complaint (and paragraph 1 thereof relative to the parties' personal circumstances); but they professed to have no "sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraphs 3 and 4 and, therefore, ** (denied) the same."

Manufacturers Bank moved for judgment on the pleadings.² It adverted to the defendants' admissions of the parties' personal circumstances and "the fact that the defendants were granted a loan in the form of an Agreement for Credit in Current Account in the sum of P125,000.00 with interest at the rate of 10% per annum computed upon average daily balances, a copy of which agreement has been attached as Annex A of the complaint." It also branded as contrived and ineffacious the defendants' profession of lack of knowledge of "the fact that the loan was due and payable on February 26, 1965 and that the same has been unliquidated as of the time that the complaint was filed," as well as the fact "of attorney's fees equivalent to 10% of the total sum due," since -

1) the Agreement for Credit in Current Account -- which the defendants had expressly admitted -- clearly stated that the loan would automatically be due and payable on February 26, 1965 and that attorney's fees would be payable at the rate of 10% of amount due, and hence, it was not credible for them to claim to have no knowledge of the transactions in question, including the drawing they had made in virtue of the agreement; and

2) by letter dated October 18, 1966, written to Manufacturers Bank by defendant Alfonso Tan, as President of Diversified Industries (copy attached to the motion), the latter had requested that they be allowed to pay the obligation by installments at the rate of P20,000.00 every six (6) months until the same was paid in full.

The defendants, Diversified Industries and Tan, filed an opposition to the bank's motion for judgment on the pleadings.¹ They alleged that neither the amounts drawn against the overdraft account nor the current balance due from them, were within the knowledge either of Alfonso Tan -- because he was a mere "guarantor" -- or even of Diversified Industries -- because its account officer had long since resigned, and moreover, they could not be expected to know the attorney's fees that Manufacturers Bank had undertaken to pay to its attorney. They also theorized that since there was no allegation that they had in fact made drawings against the overdraft account, no obligation to pay a sum of money had been pleaded and therefore, the complaint failed to state a cause of action.

On the same date the defendants filed a motion for leave to amend their answer, and the amended answer itself.² Their motion alleged that their original pleading had failed to embody their true plea respecting every material allegation of the complaint and had failed to set forth their affirmative defenses. Their amended answer -

1) again admitted the execution of the Agreement for Credit in Current Account but stressed that (a) at time of execution and delivery of the agreement, the bank had not disbursed a single centavo, and (b) the agreement failed to reflect the true intent of the parties, which was that Tan, as "guarantor" of Diversified Industries, was merely an "accommodation party;"

2) denied (a) the claim that defendants' obligation had become due on February 26, 1965 as expressly stipulated because the bank had extended the term of payment at said defendants' behest; (b) having knowledge of the veracity of the claim that their outstanding balance was P100,119.21 as of June 25, 1961; and (c) having knowledge of Manufacturers Bank's engagement of counsel for a fee of 10% of the total amount due; and

3) set up the following "affirmative defenses:" (a) Tan was meant to be only a guarantor of Diversified Industries, with the benefit of excussion, and since this was not expressed in the agreement, the agreement failed to express the parties' real intention; (b) the term of the agreement had been renewed without Tan's consent and therefore, the guaranty had been extinguished; (c) there had been no demand for payment before suit was instituted; (d) alternatively, Tan's liability, if not that of a guarantor, was solidary only as regards payment of interest and merely joint as regards payment of the principal; and (e) the complaint fails to state a cause of action.

The Court denied the defendants' motion for leave to amend their answer and rendered judgment on the pleadings.¹ It opined that the original answer failed to tender any issue, the defendants' asserted lack of knowledge or information regarding matters principally and necessarily within their knowledge could not be considered a specific denial. It disposed of the case as follows:

"WHEREFORE, judgment is hereby rendered ordering the defendants, Diversified Industries, Inc. and Alfonso Tan to pay the plaintiff the sum of One Hundred Thousand One Hundred Nineteen Pesos and Twenty-Seven Centavos (P100,119.27), with interest thereon at the legal rate, from 26 June 1965 until fully paid, plus the sum of 110% on the amount due as and for attorney's fees. Costs against defendants."

From this judgment appeal was taken to this Court on questions of law by the defendants as well as the plaintiff, Manufacturers Bank.

Manufacturers Bank faults the Trial Court for (1) not specifying the defendants' liability to it to be joint and several; and (2) requiring payment by defendants of interest only at the legal rate instead of that stipulated in their agreement.

On the other hand, Diversified Industries and Alfonso Tan ascribe the following errors to the Court a quo: (1) refusing to admit their amended answer; (2) not dismissing the complaint for failure to state a cause of action; and (3) rendering judgment on the pleadings.

Of no little significance is the fact that the motion to amend the answer was presented only after two (2) years had lapsed from the date of its filing, and only after the plaintiff had drawn attention to its patent and grave imperfections and moved for judgment on the pleadings. Equally noteworthy is that defendants never challenged the authenticity of their letter to the bank dated October 18, 1966, advising that they had made, thru an Atty. Colayco, payment on their account and requesting that they be allowed to pay their obligation by installments at the rate of P20,000.00 every six (6) months.¹ These facts, considered conjointly with the admissions expressly made in the pleadings and those reasonably inferable therefrom, dictate a verdict in favor of the plaintiff bank.

Under the circumstances obtaining in this case, the amendment of the answer in substantial aspects was not a matter of right,² but lay in the discretion of the Court.³ Where amendment is not a matter of right, a bare assertion of a desire to amend the pleading because certain matters had not been therein alleged, or the submission of an amended one, without more, is obviously not sufficient. It is needful to state to the Court some reasonable ground justifying its exercise of discretion to allow amendment.⁴ Indeed, the Rules elsewhere provide that judicial admissions "can not be contradicted unless previously shown to have been made through palpable mistake."⁵ It is thus incumbent upon a party desiring to amend his pleading, in other words, to furnish the Court with some adequate foundation for it to grant leave to amend the pleading. This was not done by the defendants. Their motion merely declared that they had failed to include certain allegations and defenses in their original answer, but gave no explanation for their failure to do so at the time they drew up that pleading or within a reasonable time thereafter, and why they had not essayed such amendment until after two (2) years and only after their receipt of plaintiff bank's motion for judgment on the pleadings which cited certain serious defects of their answer. The absence of such an explanation, and the implicit admission of liability in their letter of October 18, 1966 requesting that they be permitted to pay in installments of P20,000.00 every six (6) months not unreasonably engendered the belief in the mind of the Court a quo that their motion had been "made with intent to delay the action"¹ by relieving them from the effects of their judicial admissions without a showing of palpable mistake, or other acceptable absolatory cause.

An analysis of the amended answer readily discloses its lack of merit if not its arrant sophistry, adding persuasiveness to the Trial Court's resolution of the controversy. The claim that defendant Tan was only an "accommodation party" or a "guarantor," or that he was solidarily bound only as regards interest, flies in the teeth of the Agreement for Credit in Current Account. The agreement clearly and categorically expresses the solidary character of the obligations of Tan and his firm, who are referred to jointly as the "First Party."

The First Party agree to be jointly and severally bound by and to comply with the following terms and

conditions:

** ** *

3. The principal and interest of this loan shall be due and become payable on demand by the Second Party (Manufacturers Bank) whether in writing or otherwise; Provided, That in any case, this loan shall automatically be due and become payable and this agreement be terminated on February 26, 1965, without necessity of demand.

The denials in the amended answer are cut from the same bolt as those in the original answer. They are sham denials, consisting of an avowed lack of knowledge of facts which could not but be clearly known to the defendants or ought to be or could quite easily have been known by them.² Their disclaimer of knowledge of the amount of their outstanding balance is implausible, but even if true, cannot be deemed a proper denial because concerning something they could very easily have learned or verified had they wished to. Their disclaimer of knowledge of the amount of the fee undertaken to be paid by the Manufacturers Bank to its attorneys is immaterial because not prayed for in the complaint, the claim being in fact for attorney's fees equivalent to 10% of the total amount due, as expressly stipulated in the contract. And the averment that their obligation was not yet due because plaintiff bank had extended the term of payment is also specious, being contrary to the defendants' written request to the bank that they be allowed to repay their loan in stated installments.

The correctness, therefore, of the Trial Court's denial of the motion to amend answer and the propriety of the assailed judgment on the pleadings, are beyond cavil. Amendment in the circumstances was clearly subject to said Court's discretion the exercise of which cannot be faulted; and the defendants' original answer in truth tendered no issue, or otherwise admitted the allegations of the complaint material and necessary to a valid decision.¹

Finally, since the Agreement for Credit on Current Account plainly declares both Diversified Industries and Alfonso Tan jointly and severally liable for both principal and interest on the loan, the interest being fixed at 10% per annum, it was error for the Trial Court to decline to so hold them both solidarily liable, and to set the interest payable at the legal rate instead of the stipulated rate of 10% of the total amount due.

WHEREFORE, the judgment of the Trial Court is **AFFIRMED WITH THE MODIFICATION** that the liability to Manufacturers Bank & Trust Co. of Diversified Industries, Inc. and Alfonso Tan is pronounced to be joint and several, and the interest payable on their obligation is fixed at 10% per annum of the total amount due, in accordance with the Agreement for Credit on Current Account, with costs against the latter.

Cruz, Griño-Aquino, and Medialdea, JJ., concur.
Gancayco, J., on leave.

¹ The complaint was filed on July 20, 1965 and was docketed as Civil Case No. 61796

² Rollo, p. 7: Record on Appeal, pp. 2-3, 49

¹ Id.: Record on Appeal, p. 8

² Id.: Record on Appeal, pp. 12-15

¹ Id.: Record on Appeal, pp. 15-20

² Id.: Record on Appeal, pp. 20-26

¹ Id.: Record on Appeal, pp. 48-52

1 SEE footnote 2 and related text, at pp. 2-3, *supra*

2 Sec. 2, Rule 10, Rules of Court

3 Sec. 3, Rule 10

4 SEE *Viray v. C.A.*, 16 SCRA 412 (1966)

5 Sec. 2, Rule 129

1 Sec. 3, Rule 10

2 *Philippine Advertising Counselors, Inc. v. Revilla*, 52 SCRA 246, citing *Capitol Motors Corporation v. Yabut*, 32 SCRA 1 and *Dahlstrom v. Gemundes*, 92 N.E. 106; *J.P. Juan & Sons, Inc. v. Lianga Industries, Inc.*, 28 SCRA 807; *Warner Barnes & Co., Ltd. v. Reyes*, 55 O.G. 3109; *New Japan Motors, Inc. v. Perucho*, L-44387, Nov. 5, 1976; *Gutierrez v. C.A.*, L-31611, Nov. 29, 1976; *Sy-Quia, etc. v. Marsman*, L-23426, March 1, 1968

1 *Id.*; Secs. 2, 3, Rule 20, and Sec. 1, Rule 19, Rules of Court

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